

2009 SENATE FINANCE AND TAXATION

SCR 4030

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

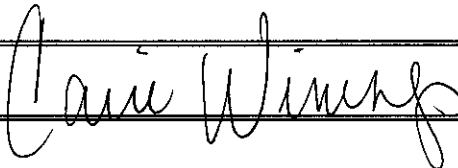
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9907

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on SCR 4030.

Senator Constance Triplett, District 18: Appeared as sponsor and in support of the resolution, and explained the resolution. I am less concerned about the number and specific than I am about just getting this done. I think that having a certain part of the oil money set aside is very important and we need to have some kind of a structure to be able to do that. Oil revenues are very volatile and unpredictable. We need to have a structure in order to manage the money and use the money being respectful of that fact. We have to do something instead of having it too near to us right now to spend. We as legislators need to not have it as accessible to spend. We have used the money fairly freely in the last legislative session in large chunks. I gave the impression to the citizens that we might just use it all at once. It promotes the kind of activity that encourages spending the money or to do things like get rid of property tax all together. My hope is that we will dull the desire to alter the basic tax structure that we have come to rely on in this state. They may have gotten out of balance with each other, but we do not need to drastically change it. I want us to consider the ideas that are in the other two resolutions that deal with the same issue and come out of this session with one resolution that people will be able to understand.

5.23 Chairman Cook: The concept of this one is that the principle can never be used. Not even with a two thirds vote. Could we not accomplish the same thing by just putting 25% of the oil into the permanent school trust fund?

Senator Triplett: Yes, that would be another way of doing it except for the fact that is only available to K-12 as far as I understand and this one adds higher education.

Chairman Cook: The constant in our existing statutory oil trust fund is the amount of revenue that goes to the state general fund, so that because of the volatility of this industry the income that is derived to the state of North Dakota is fairly constant all the time. Here you have the constant as 25%, is that a wise thing to do?

Senator Triplett: That is possible, and that may be one of the things that we need to look at as a committee.

Chairman Cook: Is there one of the three resolutions that you like better than the others?

Senator Triplett: I like some ideas in each one that are worth considering.

7.20 Senator Tracy Potter, District 35: Testified in support of the resolution. See Attachment #1 for testimony. We may want to consider some kind of sunset into this in order to look at this again in the future.

13.58 Senator David Hogue, District 38: Testified in support of the bill. It is a moral imperative to me. We often don't think of our taxing and spending measures as having any moral implications at all, but I think in this particular area there is. When we tax natural resources to raise revenue especially deplete able ones, and use that revenue for current expenditures we are in that sense depriving the future generations of that lost revenue. I like this resolution because it puts aside revenue for all generations. I am a fiscal conservative and this measure in my view will tend to restrain future spending. It sets it aside some of the money and makes it untouchable by future legislative bodies. It acts as a governor on our

impulse as a legislative body to spend money. We tend to spend what we have in current revenue.

16.02 **Senator Oehlke:** How do you feel about the perpetuity?

Senator Hogue: There should be a way to reexamine this again without having to re-amend the constitution. A sunset clause to do that would be something I could support. A mandatory provision to put it back on the ballot would be a good way to do that.

17.40 **Representative Kathy Hawken, District 46:** Testified t in support of the bill. I don't have much more to add over the other presenters. I have felt that we needed to do something a little differently than what we did last session.

19.35 **Senator Tim Flakoll, District 44:** Testified in support of the bill. See Attachment #2 as part of the testimony.

22.43 **Senator Triplett:** Were you suggesting that instead of setting up a separate fund, proposing to put more money into this or are you suggesting that we re-allocate how the interest of this fund is being used.

Senator Flakoll: It is an option. It is already in place in one manner and all you would have to do is say that instead of going to the general fund that it would go to the funds as intended for the purposes discussed in the resolution.

Senator Triplett: Thank you.

23.55 **Chairman Cook:** Further testimony? (N0) Closed hearing on SCR 4030.

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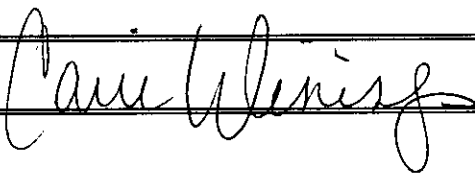
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9972

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SCR 4030. (Passed out copies of HCR 3054 and HCR 3059 which are similar in intent to compare.)

Senator Triplett: Mentioned that there are 4 topics that need to be discussed. 1. Where to draw the money off the stream. 2. The percentage, a set percent or a ratcheted percentage. 3. Whether the principle should be expended or not by 2/3 or locked away as a trust fund. 4. Whether the interest payment should be dedicated for a specific purpose or if they should just be tossed back into the general fund.

Chairman Cook: Mentioned that the fifth point should be any effort to keep the revenue to the state constant.

Discussion: A discussion occurred between the committee members comparing the three resolutions and the different ideas presented by all of them and the pros and cons of each one in regards to the points Senator Triplett and Senator Cook brought up. It was pointed out that if all three do not pass then the state does have a permanent oil trust fund. The history of the oil trust fund was discussed. The committee members weighed in on what resolution that they preferred. Some felt that it would not be worth doing if it was not going to be a true trust fund. There was concern expressed over making it too complex for the people of the state to

understand and grasp what exactly was being done. They want to make it as simple as possible for the voters. The committee also expressed concern over spending too much of the excess in the budget for the future. The market is not stable at this time and the future is very questionable. Some felt that the dedicated portion of the funds was like giving money to the general fund and in effect that was generally meaningless. It was agreed that it would not be bad to take the specific allocation of the money out of 4030, and let the money go to the general fund. There really is no way to see what the needs will be down the road. In essence all of the resolutions are quite a bit the same. There was also discussion over what some of the other states have done in this situation. Some specific ideas were thrown out that would be options to do with the funding and how to allocate it and where to draw the money off and how much to draw off and where, and what guaranteed amount would be. Most preferred to take the money off the top to permanent, untouchable trust fund. The second thing should be a guaranteed amount to the state (preferred \$100,000 by some). Senator Hogue opposed to \$100,000. Chairman Cook stated that he preferred it the way that it is right now and leave it that way. Some discussion on the interest and what would happen if it dropped down. The idea that the rest of the money after the 25% off the top could be determined by where the legislature decides for it to go. It was commented that no one from education testified on this bill and must not have been concerned about the dedicated money to higher education. They came to the conclusion that 25% off the top and the rest to the general fund would be the rest. The committee decided to change the name to Legacy Fund.

Senator Hogue: Proposed that the bill be amended to: Page 1, Line 21, after the word expended, remove the period and put a comma and say "except revenue derived after December 31, 2040 may be expended if appropriated by a 2/3 vote of the legislative assembly."

Senator Hogue: Moved that amendment.

Senator Triplett: Seconded.

Chairman Cook: Discussion?

A voice vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).

Chairman Cook: Asks Senator Triplett what amendments she would offer.

Senator Triplett: I think that in Section 2, we have the amount come off the top.

Chairman Cook: Line 15, take state's share out of there, 25% of the revenue derived from taxes on oil and gas production or extraction must be transferred by the state treasurer to a special fund in the state treasury known as the oil and tax trust fund. Why don't we call it the legacy fund? It does say may be appropriated, I would be alright with that. You would eliminate section 2 wouldn't you?

Senator Triplett: Yes.

Chairman Cook: Checks with committee on those changes.

Senator Triplett: Prefers to take out of 3054 page 2, lines 5, 6, and 7. I would like to put that in this one. I like the notion of it being invested by the state investment board.

Senator Hogue: Wanted to know who is on the state investment board.

Chairman Cook: We can get that. Why don't we get those amendments drafted and meet back here in a bit and get this done?

Committee: Agrees.

Chairman Cook: Suspended until 4:15 PM.

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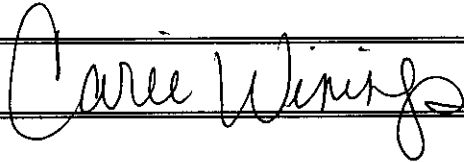
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9999

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SCR 4030. Passes out attachment #1 – proposed amendments.

Committee Reviews amendments presented.

Senator Triplett: Moved the amendments.

Senator Anderson: Seconded.

Chairman Cook: Discussion?

Senator Dotzenrod: This doesn't foreclose us from being good savers and using the trust funds that we currently have. It just means that there is going to be the future planners know that we have locked up a certain amount of it. These other trust funds that we have can still perform some 90 day fund sort of objectives and satisfied some savings and I think it is probably not a bad idea to have a trust fund that is permanent that this one would be and have the other ones functioning there as well.

A voice vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).

Senator Triplett: Moved a Do Pass As Amended.

Senator Anderson: Seconded.

A Roll Call vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).

Senator Hogue will carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

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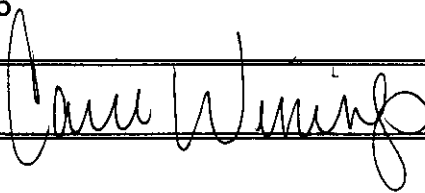
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/09/2009

Recorder Job Number: 10446

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SCR 4030. The amendment failed by a margin of 3 votes on the Senate floor and the bill was referred back to committee. Asked the committee what they would like to do with the resolution. (See Attachment #1 for additional information to the committee)

Discussion: A discussion occurred among the committee members on whether or not the committee could send the bill back up close to what it already was. One of the biggest concerns on the floor was the pecking order. Some explanation of what happened when it went to the Senate floor for a vote was given to those in the committee that were not present. The idea that the bill could be brought back to the floor as is and see if the vote comes out with the members that were absent. Senator Dotzenrod expressed that he heard a lot of concern by the interests that are mentioned at the end of the bill were not getting a fair shake. They are offended. Senator Triplett brought up the fact that there isn't anything written in stone about what they get. They first had percentages, those percentages were capped, and then the caps were left on for 20 years and now in the last couple of sessions we have been adjusting the caps a little bit. There is not a solid commitment about what they will get. The idea of "recommending" that the next legislature look at the local share and make them whole. That

was decided to be an option, but some don't like recommendations like that. The committee reviewed what happened during the hearing, and brought up the fact that no one testified on the part of education in favor of the bill. They agreed that that part of the bill was probably not of concern, and that those in education are good at taking care of the funds provided to them. The idea that the perception that the committee took the bill back suggested that something was going to be done with it was discussed as well.

Chairman Cook: Talked to each committee member about whether they would still support the bill on the floor. Asked Senator Triplett to look at what amendments on the recommended language suggested that could be offered in place of the other ones and suspended the discussion.

2009 SENATE STANDING COMMITTEE MINUTES

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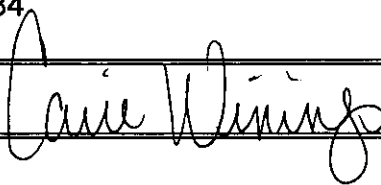
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/09/2009

Recorder Job Number: 10484

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SCR 4030. Asked the committee what can be done with this resolution to get it out and back on the floor?

Committee Discussion: A discussion occurred between all committee members regarding the amendments that did not pass on the Senate floor and what could be done to get the bill through. The options were to leave it as is or to make some changes. They also debated if the amendments should be presented as they were and hope for a do pass as the vote on the floor was very close, or to slightly change the amendments to make them more likeable. Senator Dotzenrod was very concerned about concerns that were placed to him on the pecking order of the funds. The biggest concern being that the money that is going to a permanent fund coming right off the top first.

Chairman Cook: Asked the Senator Triplett and Senator Dotzenrod to come back with amendments they would like to see and at that time the committee would make a decision.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

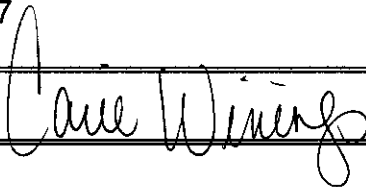
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/10/2009

Recorder Job Number: 10607

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SCR 4030.

Senator Triplett: See Attachment #1 for proposed amendments.

Chairman Cook: Let's see what the committee thinks.

Senator Dotzenrod: See Attachment #2 for proposed amendments.

Committee: Reviews both amendments and compares the differences.

Chairman Cook: Ask John Walstad of the tax department if he had a chance to put any amendments together about using the extraction tax.

9.25 John Walstad, Tax Department: I have looked at the idea, but I have not put anything together.

Chairman Cook: Right now we have a trigger and if the trigger kicks in we have zero dollars, zero extraction tax, correct?

John Walstad: On some production, yes.

Chairman Cook: On the production tax?

John Walstad: The extraction tax on some oil production.

Chairman Cook: Have you looked at the barrels of oil that are being produced right now, are there a way to know how many of them are subject to the trigger if it were to kick on?

John Walstad: I do not know that right now, it could be determined.

Chairman Cook: I would like to pursue looking at that in depth. We will be having a resolution coming over from the House, 3054, that maybe we can deal with 4030 now and prepare for that one.

12.00 **Senator Hogue:** On the other funds, the common schools trust fund, the foundation aid stabilization fund, and the sinking fund for the southwest water pipeline, are any of those constitutional or are they imbedded in statute?

John Walstad: They all are constitutional.

Chairman Cook: Could we go ahead of them then?

John Walstad: They are going to get 20%, unless this measure would also amend those measures and say that this funding gets priority over that. What would be the advantage?

Senator Triplett: If we just focus on the extraction tax so that we are not dealing with the local governments which seem more subject to change, I don't know if it would be necessary to talk about being ahead of them or behind them, just beside them. I like the idea of avoiding the conversation with the local governments.

Senator Dotzenrod: The 60% part of the 6.5% is any of that constitutional?

John Walstad: None of that is they are statutory.

Senator Dotzenrod: I do like the idea of not messing with the 5%.

15.45 **John Walstad:** The beauty of staying on the extraction tax side is that you stay away from the local governments; the unfortunate part is that every time we have provided an exemption of any kind it has also fallen on that extraction tax side for the same reason.

Chairman Cook: See Attachment #3 for additional information.

Jeff Engelson, Land Department: See Attachment #4 for information handed to committee.

Chairman Cook: Do you recognize the various trust funds that we have here and the balances in Attachment #3? There are 14 of them.

Jeff Engelson: This is our December 2008 balances in each of those trust funds from a report that goes to the land board every quarter.

Chairman Cook: How come 2008 is less than 2007? Is that because it is invested and it did not do very well?

Jeff Engelson: Yes that is correct. We did less bad than most people, but that is correct.

Chairman Cook: All of this money that is in here, 100% comes from royalties off of our state owned oil wells?

Jeff Engelson: There are royalties, land, oil, investments, and the tobacco class action law suit.

Chairman Cook: All of the money the state of North Dakota gets from royalties, 100% of that does it all go into these 14 trust funds?

Jeff Engelson: Yes that and the land and minerals trust fund.

Chairman Cook: Basically right now 100% of the royalties gets socked away in a trust?

Jeff Engelson: Yes.

Chairman Cook: How much was that last year?

Jeff Engelson: Around \$75,000,000, this year it will be a lot less.

Senator Dotzenrod: Do the earnings get reinvested?

Jeff Engelson: Yes the interest and income is distributed.

Chairman Cook: Are the royalties all divided evenly?

Jeff Engelson: It depends on who owns the minerals.

Senator Dotzenrod: It sounds to me that all these institutions don't benefit.

Chairman Cook: The interest does.

Senator Triplett: Where does the land come from?

Jeff Engelson: These came in the form of land grants from becoming a state.

Chairman Cook: What do we want to do?

Senator Triplett: I wouldn't mind having Mr. Walstad having a go at this.

Chairman Cook: Then that is what we will do. Closed discussion.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

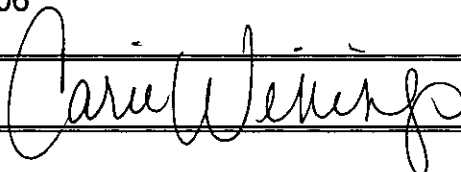
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/11/2009

Recorder Job Number: 10706

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SCR 4030. See Attachment #1 for another set of amendments proposed. (Explains amendments)

Chairman Cook: We have 3 options on the table. (1.) To leave it as we had it. (2.) Is this new amendment. (3.) Is to do Senator Dotzenrod's option.

Senator Dotzenrod: I would prefer this new amendment to mine from prior suggestion.

Chairman Cook: So we have 2 options.

3.29 **Senator Hogue:** There are about 9 different provisions where the extraction tax is suspended.

Chairman Cook: There will be a little bit of oil extraction tax, but of course at low prices that 20% is not going to take on much money. This is a far cry different from the 25% off the top.

Senator Oehlke: It is 20% of the state's share?

Chairman Cook: It is 20% of the total 6.5% oil extraction tax that the state collects. It is going to make the state's share only 40%.

Vice Chairman Miller: Makes it difficult to for anyone to oppose.

Chairman Cook: It just reduces what goes into the permanent oil trust fund, assuming that we always reach \$71 million. Personally I like the 25% off the top better. I would be content if we did nothing.

Senator Anderson: You are saying that the 25% off the top would be the best?

Chairman Cook: Yes.

Senator Hogue: I have the same preferences as you.

6.45 Chairman Cook: Is there anyone else that thinks that the original is better than this one?

Senator Triplett: The concern I have is that this is quite a significant reduction in terms of what we were talking about putting in. Even though the 6.5% looks like it would be a higher number than the 5%, the truth of it is all the exemptions are in that section. This is a dramatic reduction in what we are talking about putting away. It would be well under half. This does take away the concerns, but I would like it to be a bigger number.

Senator Dotzenrod: I like that it does leave room for the legislature to put more into it. I don't know when we will get back to good oil prices.

Chairman Cook: What if we go to 30%?

Discussion: The committee discusses what the 30% will do and they also look at all the options of the amendments and discuss which one would be the best option.

Senator Hogue: Gives the idea to take a step back and look at Senator Triplett's amendments and really remember what then intent of this was.

Senator Hogue: Moved amendment .0203.

Senator Triplett: Seconded.

Chairman Cook: I agree with you. (Mentions that the resolutions that the House passed out will be in this committee, and will have to be dealt with) I suggest we fight for the amendment.

Senator Dotzenrod: So this amendment is off the top?

Chairman Cook: Yes.

Senator Oehlke: If you give us the money we will spend every dime. We need permanency – there won't be a legacy, it will be wasted.

A Roll Call vote was taken: Yea 6, Nay 1, Absent 0.

Motion passed.

Vice Chairman Miller: Moved a Do Pass As Amended.

Senator Triplett: Seconded.

Chairman Cook: Discussion?

Discussion: Committee clarified what was being done.

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Senator Hogue will carry the bill.

FISCAL NOTE

Requested by Legislative Council
02/26/2009

Bill/Resolution No.: SCR4030

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SCR 4030 establishes an oil tax trust fund.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted and approved by the voters, SCR 4030 will create an oil tax trust fund that will receive twenty-five percent of the state's share of all oil tax revenues each biennium. Interest earnings from this fund may be appropriated in support of elementary, secondary and higher education.

Upon enactment and approval of the voters, this will become effective on oil production beginning July 1, 2011. There is no forecast of oil tax revenues for the 2011-13 biennium, so this impact cannot be computed.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/27/2009

March 2, 2009

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4030

Page 1, line 2, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota"

Page 1, line 3, remove "student scholarship fund"

Page 1, line 5, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota student scholarship fund"

Page 1, line 6, replace "funds" with "fund"

Page 1, line 15, replace "1. Twenty-five" with "The first twenty-five" and replace "the state's share of" with "all"

Page 1, line 17, replace "oil tax fund" with "legacy"

Page 1, line 18, replace "oil tax fund" with "legacy"

Page 1, line 21, replace "oil tax trust" with "legacy" and after "expended" insert ", except revenue derived after December 31, 2040, may be expended if appropriated by a two-thirds vote of each house of the legislative assembly. The state investment board shall invest the principal of the legacy fund. The state treasurer shall transfer earnings of the legacy fund to the state general fund at the end of each fiscal year"

Page 1, remove lines 22 through 25

Page 2, remove lines 1 through 3

Renumber accordingly

Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 1032

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee Amendments proposed

Legislative Council Amendment Number

Action Taken

☐ Do Pass

☐ Do Not Pass

☐ Amended

Motion Made By

Motion Made By Senator Triplett Seconded By Senator Anderson

Seconded By[illegible]

Total: Yes

Yes

No

Absent

Floor Assignment

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

Roll Call Vote #: 2

BILL/RESOLUTION NO. :

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

☒ Do Pass

☐ Do Not Pass

☒ Amended

Motion Made By

Motion Made By Senator Triplett Seconded By Senator Anderson

Seconded By[illegible]

Total: Yes 6 No 0

Absent

Absent 1 Miller

Floor Assignment

Floor Assignment Senator ~~Wright~~ Hogue

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

REPORT OF STANDING COMMITTEE

SCR 4030: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4030 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota"

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Renumber accordingly

March 10, 2009

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4030

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Page 1, line 5, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota student scholarship fund"

Page 1, line 6, replace "funds" with "fund"

Page 1, line 15, replace "1. Twenty-five" with "Not less than twenty", remove "the state's share of", remove "derived", after "from" insert "oil extraction", and replace "on oil and" with "from taxable oil produced in this state"

Page 1, line 16, remove "gas production or extraction"

Page 1, line 17, replace "oil tax trust" with "legacy"

Page 1, line 18, replace "oil tax trust" with "legacy"

Page 1, line 21, replace "oil tax trust" with "legacy" and after "expended" insert ", except revenue deposited in the legacy fund after December 31, 2040, may be expended if appropriated by a two-thirds vote of each house of the legislative assembly. The state investment board shall invest the principal of the legacy fund"

Page 1, remove lines 22 through 25

Page 2, remove lines 1 through 3

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4030

Page 1, line 2, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota"

Page 1, line 3, remove "student scholarship fund"

Page 1, line 5, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota student scholarship fund"

Page 1, line 6, replace "funds" with "fund"

Page 1, line 15, replace "1. Twenty-five" with "The first twenty-five" and replace "the state's share of" with "all"

Page 1, line 17, replace "oil tax fund" with "legacy"

Page 1, line 18, replace "oil tax fund" with "legacy"

Page 1, line 21, replace "oil tax trust" with "legacy" and after "expended" insert ", except revenue derived after December 31, 2040, may be expended if appropriated by a two-thirds vote of each house of the legislative assembly. The state investment board shall invest the principal of the legacy fund. The state treasurer shall transfer earnings of the legacy fund to the state general fund at the end of each fiscal year"

Page 1, remove lines 22 through 25

Page 2, remove lines 1 through 3

Page 2, after line 5, insert:

"SECTION 3. LEGISLATIVE INTENT. This section is adopted as a statement of intent and the secretary of state shall exclude this section when sections 1 and 2 of this measure are submitted to the qualified electors of North Dakota at the general election to be held in 2010. It is the intent of the Sixty-first Legislative Assembly that if sections 1 and 2 of this measure are approved by the qualified electors of North Dakota, the Sixty-second Legislative Assembly shall develop and enact legislation necessary to avoid any reduction in the relative shares of oil and gas production and extraction tax revenues which existed at the time of the 2010 general election for impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments and the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund."

Renumber accordingly

Date: 03/11/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: 4030

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Amendments
93029 .0203

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Senator Hogue Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod		✓
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 6 No 1

Absent 0

Floor Assignment _____

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

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4030

Page 1, line 2, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota"

Page 1, line 3, remove "student scholarship fund"

Page 1, line 5, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota student scholarship fund"

Page 1, line 6, replace "funds" with "fund"

Page 1, line 15, replace "1. Twenty-five" with "The first twenty-five" and replace "the state's share of" with "all"

Page 1, line 17, replace "oil tax trust" with "legacy"

Page 1, line 18, replace "oil tax trust" with "legacy"

Page 1, line 21, replace "oil tax trust" with "legacy" and after "expended" insert ", except revenue derived after December 31, 2040, may be expended if appropriated by a two-thirds vote of each house of the legislative assembly. The state investment board shall invest the principal of the legacy fund. The state treasurer shall transfer earnings of the legacy fund to the state general fund at the end of each fiscal year"

Page 1, remove lines 22 through 25

Page 2, replace lines 1 through 3 with:

"SECTION 2. LEGISLATIVE INTENT. This section is adopted as a statement of intent and the secretary of state shall exclude this section when sections 1 and 2 of this measure are submitted to the qualified electors of North Dakota at the general election to be held in 2010. It is the intent of the Sixty-first Legislative Assembly that if sections 1 and 2 of this measure are approved by the qualified electors of North Dakota, the Sixty-second Legislative Assembly shall develop and enact legislation necessary to avoid any reduction in the relative shares of oil and gas production and extraction tax revenues which existed at the time of the 2010 general election for impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments and the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund."

Renumber accordingly

Date: 03/11/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 4030

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ^{AS}

Motion Made By Senator Miller Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 7 No 0

Absent 0

Floor Assignment Senator Hogue

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

REPORT OF STANDING COMMITTEE

SCR 4030: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4030 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota"

Page 1, line 3, remove "student scholarship fund"

Page 1, line 5, replace "an oil tax trust" with "a legacy" and remove "and a North Dakota student scholarship fund"

Page 1, line 6, replace "funds" with "fund"

Page 1, line 15, replace "1. Twenty-five" with "The first twenty-five" and replace "the state's share of" with "all"

Page 1, line 17, replace "oil tax trust" with "legacy"

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Page 1, line 21, replace "oil tax trust" with "legacy" and after "expended" insert ", except revenue derived after December 31, 2040, may be expended if appropriated by a two-thirds vote of each house of the legislative assembly. The state investment board shall invest the principal of the legacy fund. The state treasurer shall transfer earnings of the legacy fund to the state general fund at the end of each fiscal year"

Page 1, remove lines 22 through 25

Page 2, replace lines 1 through 3 with:

"SECTION 2. LEGISLATIVE INTENT. This section is adopted as a statement of intent and the secretary of state shall exclude this section when sections 1 and 2 of this measure are submitted to the qualified electors of North Dakota at the general election to be held in 2010. It is the intent of the Sixty-first Legislative Assembly that if sections 1 and 2 of this measure are approved by the qualified electors of North Dakota, the Sixty-second Legislative Assembly shall develop and enact legislation necessary to avoid any reduction in the relative shares of oil and gas production and extraction tax revenues which existed at the time of the 2010 general election for impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments and the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund."

Renumber accordingly

2009 HOUSE CONSTITUTIONAL REVISION

SCR 4030

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

House Constitutional Revision Committee

☐ Check here for Conference Committee

Hearing Date: 03/23/09

Recorder Job Number: 11425

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Koppelman opened the hearing on SCR 4030.

Sen. Connie Triplett: (Sen. Triplett introduces the bill. Various portions of this testimony are inaudible.) My name is Connie Triplett, senator from District 18 in Grand Forks. I am the prime sponsor on SCR 4030 which is one of the three separate resolutions relating to creating a legacy fund from the oil and gas taxes. All three of them use 25% which comes from places (inaudible). This is a way of putting some of the money away. We are trying to preserve something for future generations. What this resolution does is that it is different from the others. It puts the money aside for a generation. It is locked up for 30 years until the year 2040 at which time after that, revenue that goes into a constitutional trust fund and could be expended by a 2/3 majority of both houses. The interest earnings are for elementary and secondary education and higher education for scholarships. The last thing that makes this one different from the other one is where the stream of revenue comes from. It seems to me that the problem with the other ones is that it is referring to all special funds that are already in the statute. Subsequent legislatures could increase the dollar amount or percentage amount that goes into this special fund without (inaudible) the constitutional measure. The committee agreed to amend the original version of this to change that and take the money off the top and

then you get to that criticism and complaints from people who have a vested interest in the special fund and so we put the intent on page 2. This legislative session will be asking the next legislative session to develop and enact legislation to avoid reduction in the relative shares of the taxes at that time. Part of the problem with the special funds is that there is a sense of a moral obligation on the part of the legislature to (inaudible) to the cities and counties what they paid off in property taxes. There is no agreement and there's never been a statement of what they get. It's always been negotiable. As we've seen in the last couple of legislative session, the legislature is willing to negotiate with them so I don't think they would want to be locked into any number for the long term. This statement of legislative intent is to say that the constitutional measure would not be the thing that changed what they would get, that we would adjust the numbers to make them whole.

Rep. Conrad: Do you have a breakdown how the spending will be? You'll give 20% to (inaudible) and 20% for water. So we're talking about 25% of both of those. It's very confusing. I think you're going to have to explain all of this to the voters.

Sen. Triplett: This is the simplest one to explain to the voters in the sense of what the constitutional measure will do.

Chairman Koppelman: As I read this, and as I've listened to your explanation, the first 25% of all revenue derived from these sources would go into this legacy fund according to this, and then the legislative intent language seems to kind of back that off in a way to say that the legislature needs to make sure that these others are made whole. What if those two conflict? What if it takes more than 25% to ensure that?

Sen. Triplett: I don't see this being in conflict that way. What I think is that it would mean less for the general fund.

Chairman Koppelman: The primary other funds we are talking about are the common schools trust fund and the foundation aid stabilization fund.

Sen. Triplett: The water research fund. There are six altogether.

Chairman Koppelman: Obviously you took the attack I the senate in amending this that it would be better and simpler to just start out with a flat percentage. We defeated a measure in the house with the 25% on it in favor of the one we sent you. However it dealt with 25% after the funds versus before. I suspect that this would come out to be a much larger number. Have you looked into that? Do you know what this would translate to at today's production levels?

Sen. Triplett: I do not, but I could get that number for you.

Sen. David Hogue offered testimony in support of SCR 4030. See Attachment #1.

Sen. Hogue: I want to follow up on that last question. I have asked Mr. Knutson to divide (inaudible) with all of the revenue that has been generated from the oil extraction taxes since 1981. I've also asked him to do a computation of the amounts of revenue that would generate based on the fact that the measure asks that the state investment board invest this money and turn over the interest to the general fund. I don't know when I'll get that computation. I do want to highlight for the committee why I think a constitutional amendment is necessary because we have a permanent oil tax trust fund and my last page of testimony tells you how we've been dealing with that. I would submit that this statutory oil trust fund is not functioning the way a trust fund should function. We need to have greater safeguards. This resolution says the principal cannot be touched. There are no 2/3 or supermajority of the legislative assembly that can invade that fund. We do permit, after 30 years that new revenue derived after 30 years can be appropriated by 2/3 majority. The concept is to put that money away for a good generation and a half.

Rep. Conrad: We have two types of trust funds now. We have one that can't be touched, and we have one that is more like a savings account. That's what we call the permanent oil trust fund. Where would we have gotten the money for the Centers of Excellence or the MMIS system if we hadn't had that in those bienniums. In those bienniums where we did not have oil income where would we have gotten the money for those?

Rep. Hogue: I think it's called the budget stabilization fund. It's another statutory stabilization fund. I think it makes sense to talk about these funds that we set aside money that we don't need for the current biennium in terms of whether they are statutory or where they are constitutionally. The constitutional ones are very difficult to access whereas statutory ones are not. It takes a 51% vote in each house and the signature of the governor. The education fund that was referenced earlier that takes 20% of the oil extraction tax. That comes right off the oil extraction tax. That's a fund that's worked well. I think it's worked well because we can't access it. This measure is about setting aside a certain percentage of the revenue from taxing natural resources that are finite. We have a fiscal obligation to do that and a moral obligation to do that because these are finite resources. Why should taxpayers from this generation give subsidy from these finite natural resources.

Rep. Glassheim: I'm Eliot Glassheim, District 18, Grand Forks. I testify in favor of SCR 4030. I especially want to point to a couple of the items of 4030 that I think should be part of any final measure that goes on the ballot. To me the most important part is 25%. One reason, it's clear and simple. I want whatever we put on the ballot related to the permanent oil trust fund in the constitution. I want it to pass. I opposed the last one because I felt it was excessive and locked up too much. The 25% also is a number which I got from the two states which are best known for their oil trust funds: Wyoming and Alaska. The second point is I believe most states, if they have huge surpluses in a particular year, they make a legislative decision, put

them into a trust fund, and it can't be taken out. Had there been a trust fund, a 25% trust fund, we could have voted \$200 million to put into the trust fund if we felt comfortable. You could put more than just the amount that's mandated. One important reason to me to have the 25% is a sense of balance and what you do when you have extra. Some you put in long term savings. Some you put in short term savings. Some you put into investments. Some you put into operating expenses. (Inaudible) I'm looking at needing \$300 million for a long time. I would feel a lot more comfortable if I knew we had \$300 million in the foreseeable future in the spendable oil trust fund. That's where it's coming from. We need that money. Another thing that's happening which seems to hit us this year, I don't know the numbers, but there's somewhere between \$30 and \$100 million being requested by west to take care of the folks in oil development. You need to look ahead and having (inaudible) not locked up. You need to have money in that fund so you're able to spend it. I think the 25% is really the best idea that I see because you've already taken at least 25% in these other funds. Roughly 20 to 30% of the oil revenues are already being given out in these other funds. What we have remaining is not as much as it would be if you did give (inaudible). I think the idea of taking the interest earnings off what is locked up and returning it to the general fund. We're taking our long-term non-removing source and we're able to use some of that to defer other kinds of taxes. You're locking up the principal and having to have 2/3. Something says we're not going to take these things back to vote to have a higher percentage for the general fund. Another thing that costs us money is new incentives for drilling. We have to have a steady surplus in order to give tax incentives and to take care of the roads and for investing in other things which will grow the economy and not just save it. We've come to see that saving money in a lock box and investing it in Wall Street sometimes is really good and sometimes not. I have a lot more faith in investing money, spending if you will, but if you invest it in pipelines which deliver the oil and

give it value, in transition lines in cooperation with private sector groups and making things possible. Making new wealth-producing things possible, that's a better investment than putting it into Wall Street which is what you do when you lock up too much.

Chairman Koppelman: You talked about this provision that is in the permanent oil trust funds, or whatever they call them in these other states, which you talked about the 25%. But you also talked about the provision that, in times of large surpluses, allows the legislature to invest more in those funds and then lock them up. Is there anything in this measure that does that or authorizes that?

Rep. Glassheim: It's clearly not mentioned. If you went forward with this in conference committee, I would think that would be a good thing to have. The legislature may put money into this fund.

Rep. Conrad: The 25% is we just take that 5% tax for production (inaudible) the first 25% off? You're taking this first 25% for this lock box. So then do they get 20% of what's left or 20% of the original amount?

Sen. Triplett: That was the point of the legislative intent. Statutorily we would have to change the percentages.

Rep. Conrad: Rep. Glassheim, your point is we need to have some of that (inaudible) so that we can survive or invest in the pipelines and all the industrial stuff. How much do you think is going to be left when we take off the first 25% here and then we take off the 20, 40, it's getting down to what's going to be left.

Rep. Glassheim: So the first 25% would go to (inaudible). \$75 million we then give 20%, roughly 25% for these other funds.

Chairman Koppelman: Of those other funds, do you know which ones are constitutional versus statutory.

Sen. Triplett: The common schools trust fund is constitutional. That's the only one.

Chairman Koppelman: Further testimony in support of SCR 4030. Seeing none, testimony in opposition to SCR 4030.

Robert Harms offers testimony in opposition to SCR 4030. See Attachment #2.

Rep. Conrad: I'm not sure where we have it in the constitution that the common schools trust fund and the foundation aid stabilization fund, do you know where it is in the constitution?

Mr. Harms: I don't know.

Rep. Conrad: Seventy-five is not available right? You already have 20% of 6.5% is tied up in the common schools trust fund, and you have 20% tied up in the water resource fund. You're saying 75% is available. That isn't really true, is it?

Mr. Harms: You are right. You will pay \$795 million in severance tax in this biennium, and we end up with \$475 in the permanent oil trust fund at the end of this biennium. You are right.

Chairman Koppelman: Do you have an opinion on the areas of the measure before us.

There are two things that I see that are new. One is the concern about it being the first 25% versus a later portion left over. And secondly, the one that talks about the principal actually being locked away for a generation. Some of the other states we sort of envy that have had this for a generation. We've talked about we should have done that, and we didn't. Now what do we do? This says let's play catch up and put it away for this next generation. Do you have opinions on that?

Mr. Harms: I do. I like that provision. There are a couple provisions in SCR 4030 that I like. I like the idea of revisiting the fund in 2040. I like the idea that we could access that revenue. I like the idea of building the fund, saving the interest, and letting it grow. In the same token, during the campaign on Measure 1 we heard pretty clearly, and that's the way HCR 3054 is framed with the idea of a lock box. I think there's some merit to the idea of being able to get

into the principal with 2/3 majority vote because there are things at the last minute that come up. From a policy prospective, I think that's probably a good idea.

Chairman Koppelman: Further testimony in opposition to SCR 4030? Any neutral testimony on SCR 4030. Seeing none we'll close the hearing on SCR 4030.

At the request of Rep. Eliot Glassheim, Kathy Strombeck, Tax Department Analyst, provided information via email and a spreadsheet regarding a comparison of forecasted oil tax revenues. See Attachment # 3.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

House Constitutional Revision Committee

☐ Check here for Conference Committee

Hearing Date: 04/01/09

Recorder Job Number: 11616

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Koppelman opened the hearing on SCR 4030.

Chairman Koppelman: I also have asked the clerk to pass out an email with an attachment, spreadsheet. Apparently this was the result of the request that the committee made to have some sort of a spreadsheet run on the differences between these various oil trust fund resolutions or legacy fund resolutions that we've looked at. As I understand it, they are looking at what happens under current law, and both this biennium and the last are shown there. As you can see there's about \$428 million dollars from this biennium and an estimated \$663 million for the next biennium under current law that would go into the state general fund and the permanent oil trust fund. That would be moveable of course by legislative action so we could spend any of it.

Chairman Koppelman: Let me further explain the differences here. If you look at the general fund, that first column, and you look at 3054, which is the one we passed out, and 4030 which is the one before us, \$365 million would go into the general fund under 3054. \$497 million would go into the general fund under 4030. If you slide over then to the legacy fund, which is your second column to the right on the bottom two, it shows just the inverse. It's roughly \$130 million dollars difference. \$130 million more would be put away in the legacy fund under 3054,

and \$130 million less would go into it under 4030, and the same amount then additional would go into the general fund under 4030 and less in the general fund under 3054. I guess if you think more should be put away, you probably like the one we've already passed. If you think less should be put away, you might like this one. The other permutations and differences are that this takes the first 25% and the other one allows the amounts that currently come out to come out first.

Rep. Hatlestad: Aren't those six funds percentages?

Chairman Koppelman: I believe they are.

Rep. Hatlestad: How can they come up with numbers? You're taking 25 off the top. How can it be the same as if the other one, they get their money first?

Chairman Koppelman: I think the percentages are still figured on the total number, not the amount left over after you draw it down. In other words, if you have \$100 and you take the first 25%, you get \$25. If you take the last 25% of the \$100, you still get \$25. It doesn't matter what comes first.

Rep. Kretschmar: It seems to me that some of those other funds get a percentage of the 5%, and some get a percentage of the 6.5%.

Rep. Conrad: The production is 5%, and the extraction is 6.5%. The impact funds only come out of the production.

Rep. Kretschmar: Under this resolution, 25% comes out of both.

Rep. Hatlestad: Do you take a percentage of what's left?

Rep. Conrad: That's what I understand.

Rep. Hatlestad: I understand that's what you would have to do.

Chairman Koppelman: Would you prefer that we get someone here to answer some of these questions? Either from the Tax Department or from Legislative Council fiscal staff?

Rep. Kretschmar: I would like to propose a small amendment to this. On line 16 I would like to delete the word interest because down below they don't talk about interest earnings. They just talk about earnings.

Chairman Koppelman: There's a motion to amend the resolution by deleting the word "interest" on line 16. Is there a second?

Rep. Griffin: Second.

Chairman Koppelman: Moved and seconded. Any discussion on that amendment?

A voice vote was taken. The motion carries and was adopted.

Chairman Koppelman: What are the wishes of the committee.

Rep. Kretschmar: I would like to see both of those resolutions stay alive. I think there are some things in this resolution I like, and there's some things in the other. I would like to see them melded together.

Rep. Meier: I think that is a very good idea.

Chairman Koppelman: The question is two-fold. As long as both don't get killed, we'll have a vehicle. We have a couple options with this resolution. One is if you see things in this resolution you don't like and/or things in the other resolution that you prefer, we could amend those into this one. Further thoughts.

Chairman Koppelman closed the hearing on SCR 4030.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

House Constitutional Revision Committee

☐ Check here for Conference Committee

Hearing Date: 04/06/09

Recorder Job Number: 11753

Committee Clerk Signature

Lori Engelson

Minutes:

Chairman Koppelman opened the hearing on SCR 4030.

Chairman Koppelman: What are the wishes of the committee?

Rep. Schatz: I'd like to move amendments to SCR 4030. Basically this is the language out of 3054. I guess we've already gone through it.

Chairman Koppelman: I have not seen this in written form. I think there is one thing we did change. Under item 5 on the lower part of page 1 in the last paragraph, there is language in there that says "the legislative assembly may transfer funds from any source into the legacy fund, and such transfers will become part of the principal of the legacy fund." That language came from the discussion that we had on this bill during our hearing. One of the unique features of 4030 also is that they lock this up for 30 years, and in talking about that they said that in other states that have an oil trust fund like this, they also allow the legislature, in times of excess revenue, they put money into that fund that would then become part of the fund so that we wouldn't have to have a separate permanent oil trust fund like we do now. We do that by legislative vote. We could have it in one place. It's constitutionally protected. We put it there by a vote of the legislature, but it becomes part of it. It's not one of those funds that we can transfer at will. Rep. Schatz has moved the amendment. Is there a second?

Rep. Meirr: Second.

Chairman Koppelman: Moved and seconded. Any discussion? Both of these are probably going to be conference.

Rep. Kretschmar: There are portions of both of these resolutions that I like. I hope we will get into conference, and I would certainly be supportive of the house amending the senate resolution with Rep. Schatz's amendment.

Chairman Koppelman: All I in favor of the Schatz' amendments signify by saying aye. Those opposed, nay. Motion carries. So we have the amended resolution before us. Any discussion?

Rep. Griffin: Is there any point to having two conference committees?

Chairman Koppelman: I think what you probably would want to do is throw these into the same conference committee.

Rep. Schatz: I move a do pass on the amended version of 4030.

Rep. Hatlestad: Second.

Rep. Kretschmar: I think at this point in time, I think it's wise to keep them both alive and see what develops. I hope they'll be in conference, and I hope we can come up with a melded version.

Rep. Conrad: I like the senate version better. So I will be voting against the bill.

Chairman Koppelman: Further discussion. I'll ask the clerk to take the roll on a do pass recommendation on the amended version of SCR 4030.

The roll was taken by the clerk.

8 yes, 1 no, 0 absent and not voting. Rep. Schatz was assigned to carry the resolution.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4030

House Constitutional Revision Committee

☐ Check here for Conference Committee

Hearing Date: 04/13/09

Recorder Job Number: 11841

Committee Clerk Signature

Lori Engleson

Minutes:

Chairman Koppelman opened the hearing on SCR 4030.

Chairman Koppelman: The reason we're back here is that there was a motion to rerefer action on SCR 4030 to the Constitutional Revision Committee. We've been having some discussion about the resolution, and before we can take it up, we will need a motion to reconsider our actions.

Rep. Kretschmar: I will so move.

Rep. Griffin: Second.

Chairman Koppelman: All those in favor signify by saying aye. Motion carried. We have the resolution before us again. This is the senate version of the legacy fund or permanent oil trust fund. When we acted on this, we were on our deadline to move it out of committee. The senate still had HCR 3054, our legacy fund resolution. They amended this original language into ours which we didn't like. We thought it had been acted on the senate, but we weren't positive. So we amended our language back into theirs. My concern is that we had a vehicle. Although we thought the senate acted on it that day, it was still up in the air. We have a couple of options. We could have passed this on the floor, and we could have ended up with two vehicles, and we probably could have gone into conference committee. What has occurred

since then is that senate passed their resolution over to us. We are in possession of it now. I have not concurred with their amendments, and we've appointed a conference committee on 3054. We really don't need 4030 anymore. Just to simplify our work, it was my thought maybe we should just bring this back and put a do not pass on it and get rid of it.

Rep. Griffin: I move to remove the amendment.

Chairman Koppelman: So you make that motion that we remove the amendment that we adopted and restore it to its original form?

Rep. Schneider: Second.

Chairman Koppelman: Moved and seconded. Further discussion on that? All those in favor of that motion signify by saying aye. Those opposed, no. Motion carried. We have 4030 before us in its original form.

Rep. Schatz: I move a do not pass on SCR 4030.

Rep. Griffin: Second.

Chairman Koppelman: Moved and seconded for a do not pass on SCR 4030. Any further discussion.

A roll call vote was taken by the clerk.

7 yes, 1 no, 1 absent and not voting. Rep. Schatz was assigned to carry the resolution.

Date: 04/01/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4030

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ DP ☐ DNP ☐ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Kretschmar Seconded By Griffin

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Conrad		
Vice Chairman Kretschmar			Rep. Griffin		
Rep. Hatlestad			Rep. Schneider		
Rep. Meier					
Rep. Schatz					
Rep. Uglem					

Total Yes _____ No _____

Absent _____

Floor Carrier: _____

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

A amendment carries on voice vote
1.16 interest

VR
4/6/09
1082

PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4030

Page 1, line 1, after "resolution" replace the remainder of the resolution with "to create and enact a new section to article X of the Constitution of North Dakota, relating to establishment and use of a North Dakota legacy fund; and to provide an effective date.

STATEMENT OF INTENT

This measure establishes a North Dakota legacy fund, provides for deposit of certain oil and gas tax revenues in the fund, and imposes limitations on use of moneys in the fund.

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

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2010, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

Revenue derived from taxes on oil and gas production or extraction except those revenues allocated by constitutional or statutory provisions to impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments, the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund must be allocated during each biennium as follows:

1. The first one hundred million dollars, eighty percent to the state general fund and twenty percent to the North Dakota legacy fund.
2. The next one hundred million dollars, seventy percent to the state general fund and thirty percent to the North Dakota legacy fund.
3. The next one hundred million dollars, sixty percent to the state general fund and forty percent to the North Dakota legacy fund.
4. The next one hundred million dollars, fifty percent to the state general fund and fifty percent to the North Dakota legacy fund.
5. All revenues exceeding four hundred million dollars, forty percent to the state general fund and sixty percent to the North Dakota legacy fund.

The state investment board shall invest the principal of the North Dakota legacy fund. The state treasurer shall transfer earnings of the North Dakota legacy fund to the state general fund at the end of each fiscal year. The legislative assembly may transfer funds from any source into the legacy fund and such transfers become part of the principal of the legacy fund. The principal of the North Dakota legacy fund may not be expended except upon a vote of two-thirds of the members elected to each house of the legislative assembly and not more than twenty percent of the principal may be expended during any biennium.

2 of 2

SECTION 2. EFFECTIVE DATE. If approved by the voters, this measure becomes effective for oil and gas produced after June 30, 2011."

Renumber accordingly

Date: 04/06/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4030

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ DP ☐ DNP ☐ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Schatz Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Conrad		
Vice Chairman Kretschmar			Rep. Griffin		
Rep. Hatlestad			Rep. Schneider		
Rep. Meier					
Rep. Schatz					
Rep. Uglem					

Total Yes _____ No _____

Absent _____

Floor Carrier: _____

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

Amendments
not carries

Date: 04/06/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4030

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ DP ☐ DNP ☒ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Schatz Seconded By Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Conrad		✓
Vice Chairman Kretschmar	✓		Rep. Griffin	✓	
Rep. Hatlestad	✓		Rep. Schneider	✓	
Rep. Meier	✓				
Rep. Schatz	✓				
Rep. Uglem	✓				

Total Yes 8 No 1

Absent _____

Floor Carrier: Schatz

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

REPORT OF STANDING COMMITTEE

SCR 4030, as engrossed: Constitutional Revision Committee (Rep. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SCR 4030 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "to create and enact a new section to article X of the Constitution of North Dakota, relating to establishment and use of a North Dakota legacy fund; and to provide an effective date.

STATEMENT OF INTENT

This measure establishes a North Dakota legacy fund, provides for deposit of certain oil and gas tax revenues in the fund, and imposes limitations on use of moneys in the fund.

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

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2010, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

Revenue derived from taxes on oil and gas production or extraction except those revenues allocated by constitutional or statutory provisions to impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments, the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund must be allocated during each biennium as follows:

1. The first one hundred million dollars, eighty percent to the state general fund and twenty percent to the North Dakota legacy fund.
2. The next one hundred million dollars, seventy percent to the state general fund and thirty percent to the North Dakota legacy fund.
3. The next one hundred million dollars, sixty percent to the state general fund and forty percent to the North Dakota legacy fund.
4. The next one hundred million dollars, fifty percent to the state general fund and fifty percent to the North Dakota legacy fund.
5. All revenues exceeding four hundred million dollars, forty percent to the state general fund and sixty percent to the North Dakota legacy fund.

The state investment board shall invest the principal of the North Dakota legacy fund. The state treasurer shall transfer earnings of the North Dakota legacy fund to the state general fund at the end of each fiscal year. The legislative assembly may transfer funds from any source into the legacy fund and such transfers become part of the principal of the legacy fund. The principal of the North Dakota legacy fund may not be expended except upon a vote of two-thirds of the members elected to each house of the legislative assembly and not more than twenty percent of the principal may be expended during any biennium.

SECTION 2. EFFECTIVE DATE. If approved by the voters, this measure becomes effective for oil and gas produced after June 30, 2011."

Renumber accordingly

13
Date: 04/30/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4030

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ DP ☐ DNP ☐ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Kutsch Seconded By Griffin

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Conrad		
Vice Chairman Kretschmar			Rep. Griffin		
Rep. Hatlestad			Rep. Schneider		
Rep. Meier					
Rep. Schatz					
Rep. Uglem					

Total Yes _____ No _____

Absent _____

Floor Carrier: _____

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

*Reconsideration not comes
on voice vote*

Date:

Roll Call Vote #:

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

Legislative Council Amendment Number

Action Taken

☐ DP

☐ **DNP**

☐ DP AS AMEND

☐ DNF AS AMEND

Motion Made By

Seconded By

[illegible]**Total**

Yes

No

Absent

Floor Carrier:

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

reconsider amendment
voice vote pass

April 13, 2009

VR
4/14/09

PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4030

In lieu of the amendments adopted by the House as printed on pages 1252 and 1253 of the House Journal, Engrossed Senate Concurrent Resolution No. 4030 is amended as follows:

Page 1, line 16, replace "Interest earnings" with "Earnings"

Renumber accordingly

Date: 04/13/09
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4030

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ DP ☐ DNP ☐ DP AS AMEND ☒ DNP AS AMEND

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Conrad		✓
Vice Chairman Kretschmar	✓		Rep. Griffin	✓	
Rep. Hatlestad	✓		Rep. Schneider	✓	
Rep. Meier					
Rep. Schatz	✓				
Rep. Uglem	✓				

Total Yes 7 No 1

Absent 1

Floor Carrier: Schatz

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

REPORT OF STANDING COMMITTEE

SCR 4030, as engrossed: Constitutional Revision Committee (Rep. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed SCR 4030 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 1252 and 1253 of the House Journal, Engrossed Senate Concurrent Resolution No. 4030 is amended as follows:

Page 1, line 16, replace "Interest earnings" with "Earnings"

Renumber accordingly

2009 TESTIMONY

SCR 4030

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2007-09 AND 2009-11 BIENNIUMS (REFLECTING THE 2009-11 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2007-09 Biennium	2009-11 Biennium
Beginning balance - July 1, 2007		
Add estimated revenues		\$68,020,635
Oil extraction tax allocations	\$39,010,797 ¹	\$47,358,500 ¹
Total available	39,010,797	47,358,500
Less estimated expenditures and transfers		
Transfer to foundation aid program	\$0 ²	\$0 ²
Estimated ending balance - June 30, 2009	\$68,020,635	\$115,379,135

¹Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through January 26, 2009, and estimated allocations for the remainder of the 2007-09 biennium and the 2009-11 biennium per the December 2008 executive revenue forecast.

²Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated for the 2007-09 biennium or the 2009-11 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 money from a fund must be allotted on a uniform percentage basis, except that appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund.

Article X, Section 24, of the Constitution of North Dakota provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2007, through December 31, 2008, \$1,077,645 of interest from the foundation aid stabilization fund has been allocated to the general fund.

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS

	2005-07 Biennium	2007-09 Biennium
Beginning balance		\$28,132,745
Add estimated revenues		
Oil extraction tax allocations	\$12,034,360 ¹	\$16,990,581 ³
Total available		45,123,326
Less estimated expenditures and transfers		
Transfer to foundation aid program	\$0 ²	\$0 ²
Estimated ending balance	\$28,132,745	\$45,123,326

¹2005-07 estimated revenues - Based on actual oil extraction tax allocations through April 2007 and estimated allocations for the remainder of the 2005-07 biennium (per the February 2007 revenue forecast).

²Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated for the 2005-07 or 2007-09 biennium.

³2007-09 estimated revenues - Based on the estimated allocations for the 2007-09 biennium per the February 2007 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 general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2005, through April 30, 2007, \$850,574 of interest from the foundation aid stabilization fund has been allocated to the general fund.

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2003-05 AND 2005-07 BIENNIUMS

	2003-05 Biennium	2005-07 Biennium
Beginning balance	\$8,991,303	\$15,872,228
Add estimated revenues		
Oil extraction tax allocations	\$6,880,925 ¹	\$8,217,778 ³
Total available	\$15,872,228	\$24,090,006
Less estimated expenditures		
Transfer to foundation aid program	\$0 ²	\$0 ²
Estimated ending balance	\$15,872,228	\$24,090,006

¹2003-05 estimated revenues - Based on actual oil extraction tax allocations through March 2005 and estimated allocations for the remainder of the 2003-05 biennium (per the March 2005 executive revenue forecast).

²Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated for the 2003-05 or 2005-07 biennium.

³2005-07 estimated revenues - Based on the estimated allocations for the 2005-07 biennium reflecting the March 2005 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 2003-05 biennium, through March 2005, \$1,476,394 of interest from the foundation aid stabilization fund has been allocated to the state general fund.

#1

Testimony on SCR 4030, Senator Tracy Potter, D-35

Attacks on Measure 1, 2008

Too much being set aside – only \$100 million available to legislative purposes

Too difficult to access trust fund – $\frac{3}{4}$ vote in both houses

Trust fund for what? - no purpose of fund outlined

Putting a specific number (\$100 million) in the constitution

SCR 4030 answers

2007-09 biennium revenue projected to \$518 million (\$388.9 through December), meaning \$129 million would be deposited in trust and \$389 available for sustained property tax relief and other purposes.

Not just difficult to access principle, impossible without further amending Constitution, but interest will be available for education

Fund is for something – education

Replaces a number with a percentage.

#4

Agency Overview

The Land Grant to the State from the federal government and the State Constitution provides that the Board shall manage land, minerals and proceeds from the land for the exclusive benefit of the institutions for which they were granted. The income earned is to be distributed according to N.D.C.C. ch. 15.03-05.2, again, for the exclusive benefit of those trust beneficiaries. (See "Schedule of Net Asset Balances" and "Schedule of Distributions by Trust", page 19.)

This income is generated through prudent management of trust assets, consisting of approximately 708,000 surface acres, over 2.5 million mineral acres, and over \$947 million of financial assets. The surface acres are leased to ranchers and farmers across the state. The 2.5 million mineral acres are offered for oil, gas, coal, gravel and scoria leasing. Revenues from all sources are deposited in trust funds and are invested in the Farm Loan Pool administered by the Bank of North Dakota, U.S. Treasury notes and bonds, and corporate bonds and stocks. The income from these investments, together with surface and mineral rentals, is distributable to schools (public grades K-12), educational and other public institutions at specified intervals throughout the biennium. (See "Investments", pages 14-18, and "Surface Management", pages 9-11.)

The following is a list of beneficiaries of the various trust funds administered by the Land Department pursuant to Article IX of the North Dakota Constitution:

- | | |
|----------------------------------|--------------------------------|
| 1) Common Schools | 8) Mayville State University |
| 2) North Dakota State University | 9) Industrial School |
| 3) School for the Blind | 10) State College of Science |
| 4) School of the Deaf | 11) Schools of Mines |
| 5) State Hospital | 12) Veterans Home |
| 6) Ellendale State College* | 13) University of North Dakota |
| 7) Valley City State University | 14) Capitol Building |

** The beneficiaries of this trust are now Dickinson State University, Minot State University, MSU-Bottineau, Veterans Home, School of the Blind, State Hospital, and the State College of Science.*

Common Schools Trust Fund

The largest trust administered by the Land Department is the Common Schools Trust Fund. Distributions from the Common Schools Trust Funds are a part of the tuition apportionment payments made to the various school districts each year. Distributions during the 2005-2007 biennium were approximately \$306 per student per year for each child in kindergarten through grade 12.

Besides the sources of revenue listed above, the Common Schools Trust Fund receives 10 percent of the oil and gas extraction tax (ND Constitution Article X, Section 24) amounting to approximately \$6.57 million per year, which is invested according to the policy of the Board in the permanent funds of that trust fund. (See "Schedule of Permanent Fund Receipts by Trust", page 19.)

The Common Schools Trust Fund also receives 45 percent of the proceeds from the tobacco class-action lawsuit settlement (N.D.C.C. § 54-27-25). These funds become part of the permanent funds and are invested according to the policy of the Board. (See "Schedule of Permanent Fund Receipts by Trust", page 19.)

Lands and Minerals Trust Fund

The Land Department manages the Lands and Minerals Trust Fund created by N.D.C.C. ch. 15-08.1 and § 61-33-07. This trust fund consists of approximately 704,750 mineral acres formerly owned by the Bank of North Dakota, and the minerals located under navigable streams, rivers, and lakes, which are owned by North Dakota as a sovereign state. All monies collected in this fund are subject to legislative appropriation each biennium. This fund serves as a collection vehicle for repayment of the developmentally disabled facilities loans funded by the Common Schools Trust. The Bank of North Dakota administers the loans. The principal and interest payable to the Common Schools Trust is appropriated from the Land and Minerals Trust Fund. (See "Schedule of Other Funds", page 19.)

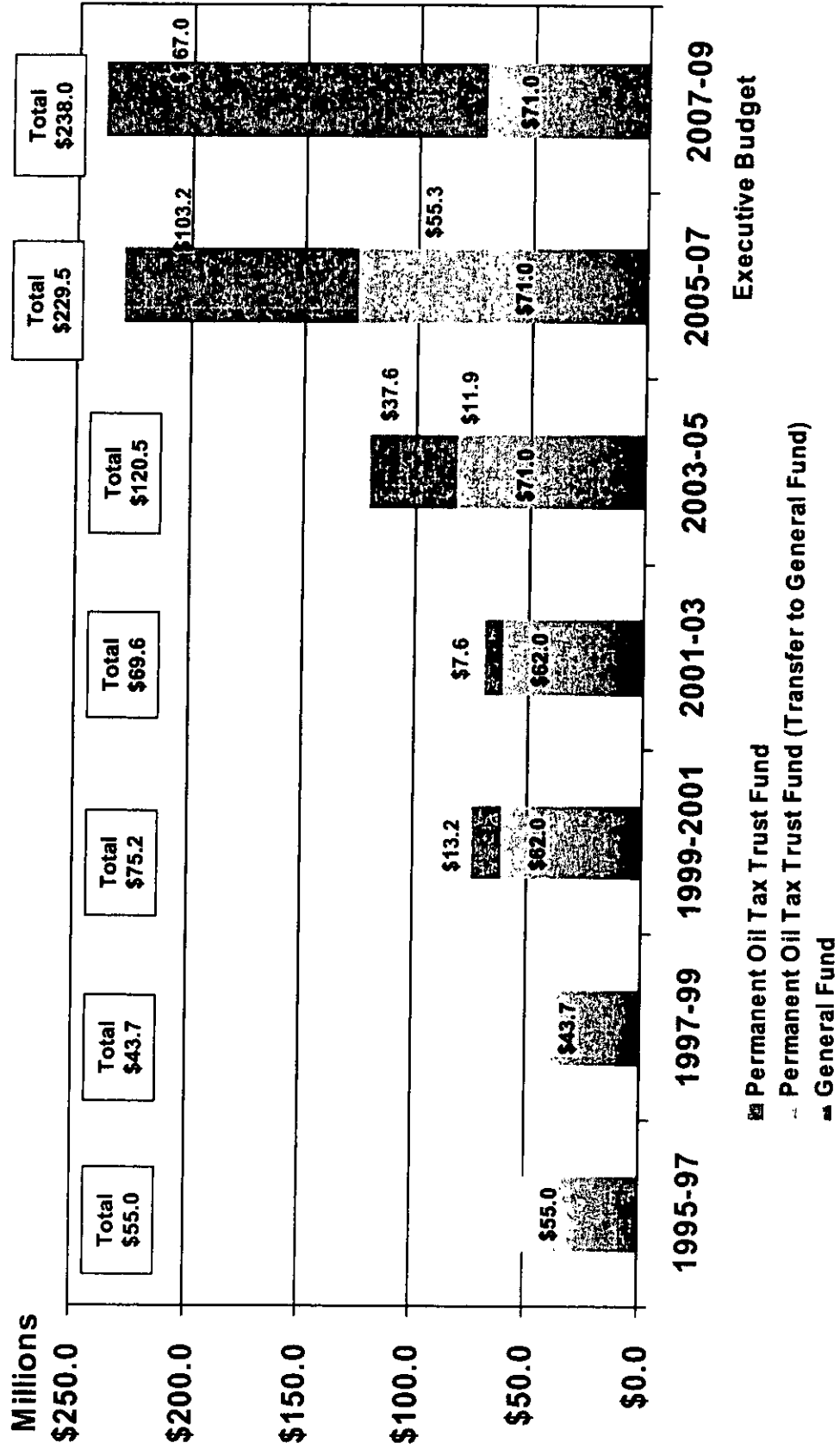
#3

Assets by Trust:		Assets by Type:	
	December 31, 2008	December 31, 2008	December 31, 2007
Common Schools	776,981,754.54	Cash	\$1,353,844
North Dakota State University	12,473,607	Receivables	16,282,372
School for the Blind	1,878,538	Investments	822,717,185
School for the Deaf	4,044,079	Farm Real Estate	790,777
State Hospital	5,196,300	*Grant Land @\$10/Acre	7,033,975
Ellendale	1,782,862	Office Building (Net of Depreciation)	737,507
Valley City State University	2,419,219	Farm Loans	36,598,731
Mayville State University	1,610,008	Developmentally Disabled Loans	1,312,164
Industrial School	4,102,119	Energy Development Impact Loans	5,284,414
Science School	4,302,163	School Construction Loans	34,208,389
School of Mines	5,311,445	Due from Other Trusts and Agencies	1,863,806
Veterans Home	2,176,425		
University of North Dakota	6,224,042		
Capitol Building	1,544,514		
Lands and Minerals	36,287,875		
Coal Development	61,347,499		
Indian Cultural Education Trust	500,512		
Total	\$928,182,963	Total	\$1,048,210,995
			\$10,159,151
			12,784,191
			939,880,390
			890,308
			7,033,949
			777,875
			30,614,652
			1,970,814
			5,602,932
			35,604,457
			2,882,277

*Grant land is valued at \$10.00 per acre. The estimated fair value of the land is \$158,458,589 as of June, 2008.

Oil & Gas Production Tax and Oil Extraction Tax Revenues

Based on Executive Budget Revenue Forecast)



Permanent Oil Tax Trust Fund

Status Statement

	2005-2007	2007-2009
Beginning Balance	\$50,369,096 ¹¹	\$135,177,443
Revenue	165,426,167 ¹²	146,017,945 ¹³
Expenditures and Transfers:		
- Appropriation for Peace Garden Music Camp	(\$350,000)	
- Appropriation for Centers of Excellence	(16,000,000)	
- Additional appropriation for Centers of Excellence	(5,300,000)	
- Department of Human Services MMIS	(3,667,820)	
- Higher education		
- Grants to tribal colleges		(7,783,315)
- Veterans Home facility		(700,000)
- Agricultural research and extension		(6,483,226)
- Transfer to the general fund		(750,000)
Total Expenditures and Transfers	(55,300,000)	(115,000,000)
Ending Balance	(80,617,820)	(145,716,541)
	<u>\$135,177,443</u>	<u>\$135,478,847</u>

¹¹ Actual July 1, 2005, beginning balance. All other amounts shown are estimates.

¹² Estimated oil extraction and production taxes in excess of the current statutory cap of \$71.0 million (North Dakota Century Code 57-51.1-07.2), based on actual collections through April 30, 2007 and the May 2007 legislative revenue forecast for the remainder of the biennium.

¹³ Estimated oil extraction and production taxes in excess of the current statutory cap of \$71.0 million (North Dakota Century Code 57-51.1-07.2), based on the May 2007 legislative revenue forecast.

Notes:

North Dakota Century Code 57-51.1-07.2 establishes the permanent oil tax trust fund. This section provides that all oil extraction and production taxes collected and deposited in the general fund in excess of \$71.0 million must be transferred to the permanent oil tax trust fund. The State Treasurer shall transfer interest earnings of the trust fund to the general fund at the end of each fiscal year. The principal may only be spent upon approval of two-thirds of the members of each house of the Legislative Assembly.

The 2007 Legislative Assembly passed House Concurrent Resolution No. 3045, which if approved by the voters, enacts a new section to Article X of the Constitution of North Dakota. This new section would provide that after \$100 million each biennium has been deposited in the general fund from oil taxes, any additional oil tax revenue will be deposited in the permanent oil tax trust fund. Beginning in 2011, the \$100 million threshold is adjusted for changes in the consumer price index. Interest earnings are to be transferred annually to the general fund. The principal can only be spent upon approval of 75 percent of the members of each house of the Legislative Assembly and no more than 20 percent of the principal balance may be spent during any biennium.

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1 legislature and governor to spend the principal with a super majority or
2 unanimous consent. In this way, the Legacy Fund will act as a true trust fund.

3 Second, SCR 4030 takes its 25% from all revenue. I realize the House had
4 two measures similar to SCR 4030 that would have set aside only revenue from
5 the "state's share" of oil revenue, but the supporters of SCR 4030 rejected this
6 reasoning. The reasoning was rejected because it made too easy for future
7 legislatures to circumvent the intent of the constitutional amendment by
8 changing in statute the state's share.

9 The question arises why we should establish this legacy fund within the
10 constitution. My answer is that we amend the constitution when we want to
11 restrain future legislative assemblies. Why should we restrain future legislative
12 assemblies? An attachment to my testimony answers that question in part.

13 Mr. Chairman, as you and Committee members are no doubt aware, we do
14 have a fund called the Permanent Oil Tax Trust Fund (the "Fund") that was
15 created by statute. The Fund has not functioned as a trust fund in my judgment.
16 For the 2005-2007 biennium, we transferred \$80.6 million from the Fund. For the
17 current biennium, we transferred \$145.7 million out of the Fund without a
18 defining principle to guide those expenditures from the Fund.

1 Mr. Chairman, I also support SCR 4030 because it's the right thing to do.
2 We often don't think of tax bills as having moral implications but this bill does.
3 We all know that petroleum is a plentiful but limited natural resource. Given the
4 finite supply of the natural resource, it stands to reason that the tax revenues to
5 be derived from this natural resource are likewise limited. Those revenues should
6 be available to all generations of North Dakotans, not only the generations whose
7 taxes are subsidized from the current stream of revenue.

8 I ask this Committee to give SCR 4030 favorable consideration. Chairman
9 Koppelman, I would be happy to try and respond to the questions of the
10 Committee.

11

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March 23, 2009
 Constitutional Revision Committee
 ND House of Representatives
 OPPOSE: SCR 4030

History

The permanent oil tax trust fund (POTTF) was created in 1995 under Governor Ed Schafer, initially calling for deposits of gross production and extraction taxes in the Permanent Oil Tax Trust Fund. Initially the general fund received \$62 million before the POTTF was funded.

Then in 2003, in Section 26 of the OMB Appropriations bill (SB 2015) we raised that threshold from \$62 million to \$71 million to be deposited to the general fund before any deposits were made to the POTTF.

Governor Schafer's vision was to preserve oil revenues, rather than base spending on a declining revenue stream that was based upon a depletable natural resource.

USE OF POTTF

The current statutory structure has been marginally successful in accomplishing its goal. Certainly it has accumulated funds in recent years. But, the POTTF has been used as a short term savings account to withdraw for special projects and spending that has doubled in the last 3 biennium. Some of those uses include:

2005-07

\$350,000	Peace Garden Music Camp	
\$21,300,000	Centers of Excellence	
\$3,667,820	Department of Human Service (MMIS)	
\$55,300	General Fund	
<u>(\$80,617,820)</u>	<u>Total transfers</u>	<u>POTTF Balance: \$135,177,443</u>

2007-09

\$15,000,000	Centers of Excellence	
\$7,783,315	Higher Education	
\$ 700,000	Grants to Tribal Colleges	
\$6,483,226	Veterans Home	
\$ 750,000	Ag Research and Extension	
\$115,000,000	Transfer to General Fund (Property tax rebate)	
<u>(\$145,716,541)</u>	<u>Total transfers</u>	<u>POTTF Balance: \$135,478,847*</u>
*Feb 9, 2009 Rev. Forecast shows:		POTTF Balance: \$475,091,147

2009-11

\$300,000,000	Property tax rebate to school districts
<u>POTTF Balance (6/30/2011)</u>	<u>\$602,668,814*</u>

*Includes revenues of \$427,577,667 for 2009-11 biennium.

POLICY: What purposes should a permanent oil trust fund provide?

- To save a part of a non-renewable resource, to share the wealth with future generations
- To avoid creating a spending dependency on a revenue stream that is not sustainable. Whether it's this year, or the next-- oil revenues will decline sometime in our future.
- To convert a non-renewable resource to a fund that will provide long term benefits to future generations of North Dakota citizens (thus the name "Legacy Fund").

Reasons to oppose SCR 4030:

-Practical: Because the 25% provision in the bill comes before all other groups have come to have an expectation of funding from 11.5% severance taxes on gross revenues we impose on this industry. Accordingly, we may create a natural opposition to oppose the bill as written.

-Policy: I also oppose the bill for the following policy reasons:

1. The interest in the bill may be allocated for education, which will then create an expectation of that community from the next legislative assembly.

2. The bill also duplicates funding for education that is already provided from oil revenues (the common schools trust fund and, foundation aid stabilization fund, and schools---all of which get funding directly from the extraction tax, or gross production tax.

3. The Legislative intent provision, if abided by, again creates an expectation and reliance upon oil revenues---creating an obligation to "make whole" those constituencies mentioned in Section 2.

4. Finally, and most importantly, SCR fails in a key manner---to avoid creating reliance upon an unstable funding source, by providing the general fund with 75% of oil revenues to be used for ongoing funding obligations and programs. We should more of a non-renewable resource than what we spend each year.

For these reasons, I oppose SCR 4030.

Robert W. Harms
815 Mandan Street
Bismarck, ND

Glassheim, Eliot A.

From: Walstad, John M.
Sent: Wednesday, April 01, 2009 12:35 PM
Subject: Glassheim, Eliot A.
Attachments: FW: HCR 3054 and SCR 4030
const meas.xls

Eliot- Kathy prepared a comparison of the trust fund measures. I hope this is timely.

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

From: Strombeck, Kathy L.
Sent: Wednesday, April 01, 2009 10:48 AM
To: Walstad, John M.
Subject: HCR 3054 and SCR 4030

John;

Attached is a comparison of the distribution of oil revenues under the provisions of the measures. As we discussed, an official forecast for the 2011-13 biennium does not exist, so I made one up using a \$62.50 oil price and 225,000 BOPD production forecast. Both are reasonable, given today's environment.

You had mentioned that the locals got hurt under these proposals. Perhaps I'm missing something, because it looks to me like both proposals seek to keep all distributions whole, except of course the State General Fund and the Legacy Fund. How they accomplish this and whether this is possible remains to be seen. On the attachment, I assumed this was accomplished, and I kept all the distributions at the current law level.

If you wish to assume something else, such as keeping the distributions at the 2009-11 level, just let me know and I will modify the spreadsheet.

Kathy

**Comparison of Forecasted Oil Tax Revenues
For the 2009-11 and 2011-13 Biennia
Under Current Law Distributions and Under the Provisions of HCR 3054 and SCR 4030**

2009-11 Biennium			Resources	Education	Impact		Research	
Current Law Dist		SGF/POTIF	Trust Fund	Funds	Grant Fnd	Subdivisions	Fund	Total
Oil Ext Tax	FY 10	\$ 37,395,000	\$ 12,719,000	\$ 12,719,000			\$ 763,000	\$ 63,596,000
	FY 11	111,195,000	37,065,000	37,065,000				185,325,000
	FY 10	117,932,000			6,000,000	41,047,000	2,237,000	167,216,000
	FY 11	161,218,000				32,164,000		193,382,000
Biennial Total		\$ 427,740,000	\$ 49,784,000	\$ 49,784,000	\$ 6,000,000	\$ 73,211,000	\$ 3,000,000	\$ 609,519,000
2011-13 Biennium			Resources	Education	Impact		Research	
Current Law Dist (1)		SGF/POTIF	Trust Fund	Funds	Grant Fnd	Subdivisions	Fund	Total
Oil Ext Tax	FY 12	\$ 133,999,000	\$ 45,333,000	\$ 45,333,000			\$ 2,000,000	\$ 226,665,000
	FY 13	147,332,000	49,111,000	49,111,000				245,554,000
	FY 12	171,103,000			6,000,000	58,417,000	1,000,000	236,520,000
	FY 13	210,467,000				45,763,000		256,230,000
Biennial Total		\$ 662,901,000	\$ 94,444,000	\$ 94,444,000	\$ 6,000,000	\$ 104,180,000	\$ 3,000,000	\$ 964,969,000
2011-13 Biennium			Resources	Education	Impact		Research	
HCR 3054 (2)		SGF	Trust Fund	Funds	Grant Fnd	Subdivisions	Fund	Total
Oil Ext Tax	FY 12	\$ 103,799,300	\$ 45,333,000	\$ 45,333,000			\$ 2,000,000	\$ 226,665,000
	FY 13	94,998,601	49,111,000	49,111,000				245,554,000
	FY 12	106,200,700			6,000,000	58,417,000	1,000,000	236,520,000
	FY 13	60,161,799				45,763,000		256,230,000
Biennial Total		\$ 365,160,400	\$ 94,444,000	\$ 94,444,000	\$ 6,000,000	\$ 104,180,000	\$ 3,000,000	\$ 964,969,000
2011-13 Biennium			Resources	Education	Impact		Research	
SCR 4030 (2)		SGF	Trust Fund	Funds	Grant Fnd	Subdivisions	Fund	Total
Oil Ext Tax	FY 12	\$ 100,499,250	\$ 45,333,000	\$ 45,333,000			\$ 2,000,000	\$ 226,665,000
	FY 13	110,499,000	49,111,000	49,111,000				245,554,000
	FY 12	128,327,250			6,000,000	58,417,000	1,000,000	236,520,000
	FY 13	157,850,250				45,763,000		256,230,000
Biennial Total		\$ 497,175,750	\$ 94,444,000	\$ 94,444,000	\$ 6,000,000	\$ 104,180,000	\$ 3,000,000	\$ 964,969,000

(1) An official forecast for the 2011-13 biennium does not exist. This version assumes an average price of \$62.50 and average production of 225,000 BOPD.

(2) The distributions under the proposed concurrent resolutions assume legislation is enacted that holds all other distributions constant with current law.