

**2011 HOUSE APPROPRIATIONS**

**HB 1451**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
1/27/11  
13526

☐ Conference Committee

Committee Clerk Signature

*Meredith Trachsel*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** The committee will come back to order. We'll open the hearing on HB 1451, and the clerk will read the title.

**Representative Al Carlson, District 41, House Majority Leader:** The bill is pretty straightforward. Please go to page 30 in the little green book (Analysis of State Trust Funds Reflecting the 2011-13 Biennium Executive Budget Recommendation). That tells the uses and future uses of the permanent oil trust fund. The best explanation is that the first \$71 million of the taxes we have on oil was to go into the general fund, then the balance was to go into the permanent oil trust fund. When we passed a measure last election cycle that dealt with the legacy fund, it now says 30% of that oil revenue is going to go automatically into the legacy fund, which in the future could be used, but there is a limited amount of it that can be taken out, and not until 2017. The reason for this bill is, looking at the 11-13 budget, looking at the moneys being removed from this for property tax relief, transfers to the general fund...by the way, we had to do that first transfer \$140 million last time, just to balance the books, our spending was not in line. I have affectionately called this general fund 2. We go in there for everything extra that we need, and appropriate out of it. I think it skews the trackable amount of money you're really spending, because it takes it offline. The same thing happens with the land and minerals trust fund. We put all our other taxes in the general fund. The proper place for this money, now we have the legacy fund established, is to move it into the general fund, and then appropriate it out to whatever is needed.

**Representative Williams:** I'm just looking at the section to repeal. This would have no effect on the legacy fund, correct?

**Representative Carlson:** It can't have and it does not. Instead of that \$71 million, we now put everything that is not legacy fund money into the general fund.

**Representative Bellew:** If we do this, what will prevent the legislature from appropriating these funds on an ongoing basis?

**Representative Carlson:** Nothing anymore than a sales tax we appropriate, it just adds to our total revenue picture. I think it gives a clearer picture of what we're really spending.

**Representative Kaldor:** I think I agree that when you look at the budget and expenditures, it is more clear that way. But isn't it true that it requires a 2/3 vote?

**Chairman Delzer:** When it was originally set up it did, but every legislature can change the 2/3 to half.

**Representative Kaldor:** I think we've always passed these measures by 2/3.

**Representative Kroeber:** On page 30, if you read the last sentence, it takes 2/3 vote of each house.

**Representative Carlson:** That law is only worth the paper it's written on. By a simple majority you can override a 2/3 law. It's not constitutional, it's statutory.

**Representative Williams:** Last time it was \$295 million for property and income tax relief that we took out of these funds. If we put them directly in there, I'm concerned from a perception standpoint with the sustainability of what we're doing, that this might have the effect of inflating the general fund budget and the expenditures.

**Chairman Delzer:** My thought on this is we need to look at a number of things. We should not be spending a fair share of the oil money before it's actually in the bank. There may be some amendments that come forward that actually try to set aside money and try to set out language that speak to this. That discussion needs to be had.

**Representative Carlson:** On public perception, to advertise that we've only had a 5% increase in this biennium's budget is not being honest. In reality, if you add all the spending from special funds, it's really about 23%. If we're ashamed of that, then we should leave the money in the permanent oil. On the other hand, it does one thing that is important. We base our budget stabilization fund on 10% of our general fund spending. It puts \$50-some million more in our budget stabilization fund, which operates our state government for 70 days, if we had to go to it. If you don't like putting money away, it's obviously not positive. If you do, it's a very positive thing to account for those monies. Last time, on the budget, we tried really hard to identify one-time expenditures. About half of those are back – that's not one time expenditures. This is transparent. It shows what we're going to spend and what we're doing with that money. I think it's a good thing to do.

**Representative Monson:** I call this bill my 'truth in budgeting and spending' bill, for the reasons we've already been discussing. If we're spending all this money anyway, why aren't we being honest with ourselves and the public? The budget stabilization fund is being shorted by 10% of the oil money by running it through the oil trust fund instead of the general fund. This puts everything out on the table and makes it a lot less confusing.

**Representative Kaldor:** How big should the budget stabilization fund be?

**Representative Monson:** It was set up to be 10% of the general fund, and that's where it will remain. Before the permanent oil trust fund got to be a big item, the 10% was relevant. With this, it would be 10% of a more honest number.

**Representative Kaldor:** The net effect of this, as I see it, is taking 10% of what the permanent oil tax trust fund now has available off the table.

**Representative Monson:** That would possibly be, if we don't put it into some other fund. Just because we put it into the general fund doesn't mean we have to spend it all. It's 10% of what we actually budget and plan to spend.

**Representative Kaldor:** If we do increase, as a result of this, the general fund appropriation level, by consequence we have to increase the budget stabilization fund amount. So it has to have an effect on the current budget.

**Representative Monson:** Yes, it will have an effect. Based on preliminary numbers, we estimate approximately \$50 million.

**Representative Kreidt:** I like what 1451 does here. Through the budgeting process, when we're looking for money to put into a bill, we like to stay away from the general fund, but we'll take it out of the permanent oil trust fund. That's really not general fund money. I think we'd be more apprehensive about using general fund money than trust fund money.

**Representative Skarphol:** As I recall, the last few sessions, we made it a practice when we took from the oil tax trust fund, to transfer the monies to the general fund and then appropriate it. We've made a practice of doing what you fear, so it doesn't change anything if we transfer it to the general fund now and we don't appropriate it. There's no net change.

**Chairman Delzer:** That's where we're trying to go, to make sure we have transparency and truth in budgeting.

**Representative Kaldor:** That's how we've done it. In this budget, though, we're not doing it that way.

**Representative Skarphol:** I understand that. But our budget isn't done yet.

**Chairman Delzer:** The plan is to do it that way.

**Representative Kaldor:** That's why it has an effect. From the current budget, based on going back to the traditional methodology, this will have an effect on the budget.

**Representative Monson:** If we ran it from the permanent oil trust fund into the general fund, then it got recorded as a general fund expenditure, then the 10% did go into the budget stabilization fund. If we didn't, though, for one-time spending things, that is lost.

**Chairman Delzer:** All these transfers in the governor's budget are in 2015.

**Representative Carlson:** There is obviously a philosophical difference here. What we have is not a revenue problem, it's a spending problem. We need to account for it. There's still money left over besides the budget stabilization fund. By the way, the property tax relief got put into a special property tax relief fund, so that is \$295 million that was not run through and was not credited to the budget stabilization fund. It's not that we've shortchanged anyone, we're accounting for the money we spend, and I'm glad it does build up the stabilization fund. This is good business practice.

**Allen Knudson, Legislative Council:** The property tax was paid through the general fund last time, it was a transfer from the permanent oil trust fund to the general fund.

**Representative Carlson:** And that was counted in our \$2.9 billion of spending. So that would be no different this time.

**Chairman Delzer:** This time it's out of the property tax relief fund, we'll have to shift that.

**Representative Carlson:** We've got to also move the next payments out of there, which is already done? Or is it taken directly from permanent oil?

**Chairman Delzer:** It's taken directly

**Knudson:** The proposal in the executive budget is that it be paid out of the property tax relief sustainability fund.

**Representative Carlson:** But how about the money for the next \$340 million?

**Knudson:** That's being set aside for 13-15.

**Representative Carlson:** So that wouldn't run through the general fund?

**Knudson:** Not the way it's set up.

**Chairman Delzer:** Not the way it exists. I think, committee members, we may end up with a subcommittee on this bill, because there are issues that need to be looked at. Further testimony on 1451, in support or opposition?

**Representative Kroeber:** If you look through our list, it is basically one-time funding, very little has to be moved forward, except for the property tax. Keep in mind the future \$388 million. Those dollars are being put away not for this biennium, but the next.

**Chairman Delzer:** The 232 is a direct move from the permanent oil to the general fund, from the governor's standpoint, and that is not a one-time. He's considering that revenue.

**Chairman Delzer:** Further testimony on 1451? Any opposition?

**Representative Glassheim:** Could LC provide us with some history on the budget stabilization fund and our use of it in the past. I think the percentage may be excessive.

Secondly, I think keeping it in the separate fund took into account our uncertainty about that tax revenue coming in. Sales and income, we kind of know where that will be. We've tried to use that fund, in our minds, for one-time expenditures. If we take things like property tax relief out of a separate fund, rather than the general fund, I think it's easier for the public to see why that might change if oil revenues change, rather than having it be a general fund obligation. The change is our understanding of the permanence of oil revenues continuing to come in at a large level.

**Chairman Delzer:** One of the reasons this needs to go to subcommittee is to make the decision on how reliant we want to be on oil tax money in general. That will be discussed.

**Representative Carlson:** We're missing the point of what the legacy fund was for. We're assuming this is all the money, but there is 30% that is set aside that with a 2/3 vote of our chambers, if we're dire straits, we can go in and get a percentage of in 2017. That is the permanence of the oil taxes, to guarantee there's something that can be used in the future. To have two funds makes no sense, and to call it permanent is even worse, when we have established a legacy fund with an orderly plan for helping us when we need it.

**Chairman Delzer:** The revenue on the interest of the legacy fund, after a certain point in time, comes to the general fund. Further testimony?

**Representative Skarphol:** I'm assuming we'll track it, the same as in the past, and it will be reported on OMB's reports as production and extraction tax, so in all reality it will still exist as an entity out there, it will just be in a different location. It's really not a change at all, it's just semantics.

**Chairman Delzer:** We'll close the hearing on HB 1451.

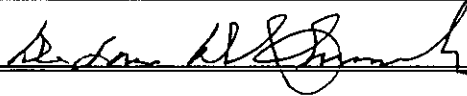
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
2/22/11  
Job #14767 & 14789

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

Proposed amendment

Chairman Delzer: Opened discussion on HB 1451. (See proposed amendment.) The bill the way it sets before us would repeal the term oil trust fund send any money that would currently be set to go to the term oil after the legacy fund and all other changes would go to the general fund. The amendment I handed out would change; look on middle of page 3, the first three sections of the bill has to do with the developmental disable facility loan that is because it is currently coming out of the lands and minerals trust fund. If we rename the lands and minerals trust fund this would have to be taken care of and my understanding that this is going to go to the Bank of North Dakota. I think in the Senate they are already moving it from the lands and minerals trust fund to the Bank of North Dakota taking over those loans. It needs to be in this bill. This bill also renames the lands and minerals trust fund. On the middle #3 it would say the \$300 million would go to the general fund; the next \$300 million that currently goes to the term oil the property tax fund to set it aside so there is money to cover property tax relief in the future. Anything above that would go to the state infrastructure fund. The lands and minerals fund would all be part of the state infrastructure fund which currently goes in there and then there is language on the bottom of page 2 and top of 3 for one time expenditures relating to improving legislative intent. It is intended that money's in the fund may be included in draft appropriations by OMB and maybe appropriated by the legislative assembly but only to the extent that money's are estimated to be available at the beginning of the biennium and which appropriations are authorized. We are trying to have money there for the infrastructure before we spend it. There is a date issued on this so this amendment would change it from August 1 to June 30<sup>th</sup>. At the end of July any money remaining in the proven oil tax trust fund at the end of the biennium which is really 30 days after June 30<sup>th</sup> so at the end of July any money remaining in this fund would be transferred to the general fund.

Rep. Monson: What is the amount of money we have going into the property tax relief fund. It was \$300 million by the amendment. I know that isn't enough to sustain us at the level that we have been doing property tax relief. I am not so sure we need to keep calling it property tax relief because the proper thing to do moving forward would be to fund K-12

at the level that we don't need to have property tax raised at the local level by the schools. I am not opposed to having a fund to help provide that property tax relief using the school foundation aid as our vehicle to provide that in the future as we did last time and as we are go to go forward with it at this time. I am wondering if \$300 million is enough.

Chairman Delzer: If 1451 goes forward in any way, shape or form I don't think whatever goes forward is going to be the end. There has to be more discussion on the property tax relief in the second half. The issue of whether we do away with perm oil and change the land and minerals to an infrastructure fund or anything there will certainly be a lot of discussion on that.

Rep. Williams: The first 30% of this oil money will still go into the Legacy Fund, right?

Chairman Delzer: Yes. This does change the \$71 million that by statue goes to the general fund. This does change the land and minerals trust fund to the state infrastructure. It simply does away with the perm oil trust fund.

Rep. Kreidt: I think the changes in this bill; there is not much resemblance to the original bill and I think quite a few people in here talk about real open government and I think is what we should have is a hearing on this bill.

Rep. Glassheim: Do you know how much in the last session or the governor's budget was anticipated to be used out of the permanent oil trust fund?

Chairman Delzer: I think it is \$232 out of the perm oil trust fund and \$239 out of the land and minerals trust fund.

Allan Knutson, LC: Those are the amounts the governor recommended are transferred to the general fund. The total spending out of those two funds in 0911 was about \$760 million and projection for 1113 is \$996 million.

Rep. Glassheim: Under your formula the first \$300 of the \$996 would go into the general fund; \$300 would go into the other and then about \$400 million would go into the general fund.

Chairman Delzer: No the amounts do not match at all with what is going forward because of the Legacy Fund. The current amount was without the Legacy Fund. In the future the Legacy Fund takes that 30% which is roughly \$600 some million dollars which would not be available on the backside.

Rep. Glassheim: It does say in the 1113 biennium approximately \$1 billion is to be spent after the Legacy Fund. That is after the Legacy Fund.

Chairman Delzer: It is money that is currently there. \$600 some million of that is beginning balance.

Rep. Wieland: The projected revenue for 1113 for going into the permanent oil tax trust fund is \$607 million so under this amendment \$300 million would go to the general fund;



\$300 million property tax fund and there would be \$7 million left that would go to the infrastructure fund.

Rep. Kaldor: I probably don't have any objections to this in many respects. There are some major policy shifts. One of them is going from the \$71 million into the general fund to the \$300 million is a big change. For council the other bills that are out there that utilize the permanent oil tax trust fund. They would obviously be affected by this legislation and I need clarification again.

Legislative Council: Before the end of session all of that would have to be reconciled. If the permanent oil tax trust fund is no longer there; we have a lot going on now we need to check.

Rep. Kaldor: It would have been nice to had Pam Sharp give us an indication of what they believe the impact of this is.

Chairman Delzer: We have to come in this afternoon after floor session. I have no problem with stopping right here. In the Governor's current budget there is \$341 million going into the property relief fund. This would add \$300 on top of that and I am not sure totally that is what I meant to do in the future for that to be funded.

Allan Knutson, LC: The money going into the property tax relief sustainability fund in the governor's budget comes out of the permanent tax trust fund so when that fund is gone that is not going to happen. It is part of the \$1 billion that comes out of the perm oil trust fund.

Chairman Belter: change the number to \$300 and it would put \$300 into the infrastructure fund.

Allen Knutson, LC: \$300 would go to the general fund rather than the \$71 million to the general fund. \$300 million to the property tax fund and then there would be about \$77 million that would go into the infrastructure fund.

Chairman Delzer: Then if you have a shift in the \$341 that is in the Governor's budget does not go in there would end up in the infrastructure fund, would it not?

Allen Knutson, LC: There wouldn't be any money to transfer to the infrastructure fund. The ending balance in the perm oil fund is \$630 million; where the beginning balances in the next biennium. That \$630 million will go into the general fund.

Chairman Delzer: Part of the reason this bill came forward is to get transparency in our spending instead of running things through funds and have it called not general fund. Part of the reason for changing the lands and minerals to infrastructure fund is we should have the opportunity in the future to take care of some infrastructure, but in essence when we are doing that it should be a onetime expenditures and it should be a case of doing it where we have the money instead of banking on money coming and if something would happen to that revenue source it would go away.

Rep. Monson: I was my understanding that the \$300 million to the property tax relief fund would be the majority of what is in the governor's budget. It would not be on top of what is in the governor's budget. There would be no permanent trust oil fund anymore so I was thinking the \$300 million in here would take the place of the \$341 whether that is the right number or not.

Chairman Delzer: That is what it is meant to do.

Rep. Glassheim: My concern on the up side as oil revenue increase, you are locking everything over \$600 million to infrastructure. While infrastructure is important it ties the hands and flexibility of the legislature to build a diesel mechanic's building or do this or to do that. I cap it as the moneys go up and only direct it to infrastructure takes away a lot of flexibility.

Chairman Delzer: If you pass this it is only for two years. We can't tie the hands of the next legislature. They can do anything they want.

Rep. Kroeber: That is an important point about the permanent oil trust fund. I agree with Rep. Carlson when he said take out the word permanent. I think we have been careful with the dollars we have spent from that fund not to put them into dollars that have to be continually appropriated. That is why I like the separation of it.

Rep. Williams: The last time it was \$295 I think for property tax relief; this time it is \$341. I am curious. We look at 1451 and then the amendment. I do not know based on what we have done to supplement the general fund in the last couple of budgets how I feel about this. It is your amendment; you offered it, how do you really feel about it?

Chairman Delzer: I think we have spent about \$300 million on going expenditures out perm oil the last few years. No I don't agree with what we are doing there, but if it is the will of the body to do it I think we should set the money aside to do it. The rest puts that into a fund that would have a little better recognition of what it is than the perm oil trust fund. Do I expect this to be the end, no. I think it is probably a pretty decent amendment to start looking at.

Rep. Monson: The original bill was simply to put it into the general fund; which in essence this amendment does pretty much what we had been doing historically. We put the \$341 million away into a property tax relief fund. This is \$300 million; we are doing the same percentage. We are just not calling it perm oil trust fund and we are putting it into the same funds that we actually set up last session.

Chairman Delzer: One of the concerns of changing it from the perm oil to general fund is you ends up with a very high beginning, ending fund balance here. There is much more thought that it could be spent on ongoing expenditures instead of one time expenditures. I personally have some concerns about just doing away with perm oil completely. We have the suggestions from Rep. Carlson about the points on the budget. Everyone have a copy of this.

Recess.

Job #14789

Chairman Delzer: reopened the hearing on HB 1451. If this bill goes forward it is not going to be the end no matter how it goes forward.

Representative Skarphol: I move amend .01003 to HB 1451.

Representative Monson: second

Chairman Delzer: Discussed amend .01003.

Representative Hawken: I don't know whether know whether this is a good idea or a bad idea. It's hard to be real trusting about some of this stuff. I need a better description of the thought process here, and why we would do this at this point. We talk a lot about having flexibility in the legislature, and to me this would codify things to the point where there is very little room.

Chairman Delzer: Discussion on the perm oil fund. It was suppose to put it away for future generations so that the interest can help with their burden at that time for costs. The perm oil gets treated a lot like general fund anyway and yet we have to move it into the general fund so we have an honest picture of what we are spending. I think the \$300 million comes because that is basically the last couple of bienniums about what we have spent out of this fund on budgeting items. If we are going to have oil there is a certain amount of it that we need to consider that we are using for ongoing expenditures. The property tax relief fund we have to have somehow if we are going to continue in that. There are a number of us that would like to not continue that the way it is. That money should be set aside until the legislature makes that decision. I don't perceive this being over; I don't know what the Senate will say about this.

Representative Williams: I understand how we've used the trust fund money. It's not really a trust in the true sense of the word. We have used it every session since I have been back. I am hesitant to bleed it into the general fund because I fear it may disappear, and we'll lose a crutch to lean on. I don't see a great advantage.

Chairman Delzer: That's why I brought forward the amendment. The original bill just puts it all in the general fund.

Representative Nelson: What ramifications does this have on the budget stabilization fund?

Chairman Delzer: I don't know that it makes all that much difference, because if this bill dies and we still move all our funding into general fund money to reach the 10% on the budget stabilization fund we would need to have a \$52 million transfer to it. Sometime you would have to transfer a little money from the perm oil trust fund to the ending balance of this time to reach that and this would do that.

Allen Knudson, Legislative Council: At this point the budget stabilization fund is at the maximum balance based on the executive budget recommendation there was going to be about \$4 million transferred into the budget stabilization fund so until we know what the ending general fund appropriations are we are not going to know what that 10% amount is. With the revised revenue forecast it brought \$42 million more in revenues in this biennium.

Chairman Delzer: If we switch it from perm oil to general they are all in OMB so that is where they would have to be taken care of.

Representative Nelson: If this bill passes are there some transfers that take place now out of the permanent oil trust fund that aren't part of the budget stabilization definition that would be if this passes?

Chairman Delzer: They would just be the bills that are pulling at other perm oil trust fund like I think the Indian Tribal Colleges pulls money and there is on other that passed the house and those two would probably not be talked about yet. That would be a pretty small amount.

Representative Nelson: But the property tax relief does flow through the general fund?

Chairman Delzer: It doesn't yet. That is my understanding is the Senate was going to make those transfers so it would flow into the general fund.

Representative Nelson: That is a significant \$300 million amount.

Chairman Delzer: That plus the 232 from the perm oil that the governor is proposing to move over and I think there is also some of the land and minerals trust fund that will probably switch over. It basically changes it from the \$3.2 billion dollar budget to a \$4 billion dollar budget of general fund.

Voice vote carried.

Do Pass As Amended by Rep. Skarphol; Seconded by Rep. Monson

Vote: 15 Yes 6 No 0 Absent Carrier: Chairman Delzer

Hearing closed.

**FISCAL NOTE**  
Requested by Legislative Council  
04/11/2011

Amendment to: Engrossed  
HB 1451

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$129,000,000	(\$129,000,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

Engrossed HB 1451 with Senate Amendments makes some changes to the lands and minerals trust fund and the permanent 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, engrossed HB 1451 with Senate Amendments will limit the amount of revenue being deposited into the lands and minerals trust fund to \$150 million per biennium. The remaining revenue, if any, will go to the permanent oil tax trust fund. This provision is not expected to impact revenues in the 2011-13 biennium.

The amount of oil tax revenue that remains in the state general fund is increased from \$71 million to \$200 million, an increase of \$129 million as shown above. Section 2 also deposits \$385 million of the state's share of oil revenues from the permanent oil tax trust fund to the property tax relief sustainability fund. Compared to current law distributions, these impact "other funds" and cancel each other out and are therefore, not shown in the revenue boxes above.

**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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	04/11/2011

**FISCAL NOTE**  
Requested by Legislative Council  
03/30/2011

Amendment to: Engrossed  
HB 1451

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$568,102,000	(\$568,102,000)	\$129,000,000	(\$129,000,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

Engrossed HB 1451 with Senate Amendments eliminates the permanent 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, engrossed HB 1451 with Senate Amendments eliminates the permanent oil tax trust fund. At the end of the current 2009-11 biennium, Section 5 of the bill transfers \$52 million to the Legacy Fund, and the balance of the permanent oil tax trust fund to the state general fund. This amount is estimated to be \$568.102 million to be transferred to the general fund at the close of the current 2009-11 biennium.

In the next (2011-13) biennium, the amount of oil tax revenue that remains in the state general fund is increased from \$71 million to \$200 million, an increase of \$129 million as shown above. Section 3 also deposits \$350 million of the state's share of oil revenues from the permanent oil tax trust fund to the property tax relief sustainability fund. Any remaining revenue goes to the state infrastructure fund. Compared to current law distributions, all of these impact "other funds" and cancel each other out and are therefore, not shown in the revenue boxes above.

Section 1 of the bill limits deposits in the lands and minerals trust fund to \$150 million per biennium with any excess revenue going to the Legacy Fund. This provision is not expected to impact revenues in the 2011-13 biennium.

**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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	03/30/2011



**FISCAL NOTE**  
Requested by Legislative Council  
02/24/2011

Amendment to: HB 1451

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$620,101,000	(\$620,101,000)	\$229,000,000	(\$229,000,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

Engrossed HB 1451 eliminates the permanent 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, engrossed HB 1451 renames the land and mineral trust fund to the state infrastructure fund. At the end of the current 2009-11 biennium, Section 10 the bill transfers the balance of the permanent oil tax trust fund to the state general fund. This amount is estimated to be \$620.101 million. In the next (2011-13) biennium, the amount of oil tax revenue that remains in the state general fund is increased from \$71 million to \$300 million, an increase of \$229 million.

**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:	03/11/2011

VK  
2/22/11  
104

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1451

Page 1, line 1, after "to" insert "create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to deposit of oil and gas tax revenue; to"

Page 1, line 1, replace "section" with "sections 6-09.6-01.1, 6-09.6-01.2, 6-09.6-03, 15-08.1-08, 15-08.1-09,"

Page 1, line 1, after "57-51.1-07.3" insert ", and 61-33-07"

Page 1, line 2, after the first "to" insert "the lands and minerals trust fund and"

Page 1, line 4, remove "and"

Page 1, line 4, after "date" insert "; and to declare an emergency"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Section 6-09.6-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.1. Developmentally disabled facility loan fund program no. 2.**

There is hereby created a developmentally disabled facility loan fund program no. 2 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed five million dollars from the common schools trust fund to finance the program. The loan must be repaid from any moneys in the ~~lands and minerals trust~~ state infrastructure fund not otherwise appropriated. Any interest earned by the loan fund before loans are made must be credited by the Bank to the ~~lands and minerals trust~~ state infrastructure fund. The loan fund program must be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the ~~lands and minerals trust~~ state infrastructure fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 2. AMENDMENT.** Section 6-09.6-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.2. Developmentally disabled facility loan fund program no. 3.**

There is hereby created a developmentally disabled facility loan fund program no. 3 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The

284

loan fund may borrow an amount not to exceed four million nine hundred fifty-one thousand one hundred forty-five dollars from the common schools trust fund to finance the program. The loan fund program shall be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 3. AMENDMENT.** Section 6-09.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-03. Amount of loan - Terms and conditions.**

Loans in an amount not exceeding three-fourths of project costs, including the cost of construction, reconstruction, acquisition, furnishings, equipment, and administrative costs related to the establishment of the project, and the cost or value of real estate upon which the facility is located, must be made by the Bank of North Dakota from the fund maintained pursuant to sections 6-09.6-01, 6-09.6-01.1, and 6-09.6-01.2. Such loans must bear interest at a rate of ten and one-half percent for loans relating to facilities for developmentally disabled persons and five percent for loans relating to facilities for physically disabled persons and chronically mentally ill persons and are repayable in the manner prescribed by the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of a loan under this chapter, each nonprofit corporation shall execute a contract with the state to operate the facility in accordance with the standards prescribed for the licensing of the facility by the department of human services. The contract shall also provide that if the use of the facility is discontinued or diverted to purposes other than those proposed in the loan application without the express consent of the department of human services, the full amount of the loan provided under this chapter immediately becomes due and payable. The Bank of North Dakota may annually deduct, as a service fee for administering the revolving fund maintained under section 6-09.6-01, one-half of one percent of the principal balance of the outstanding loans from the revolving fund. Payments of interest and principal on loans made under section 6-09.6-01 must be made to the Bank of North Dakota and credited to the revolving fund. Payments of principal and interest on loans made under sections 6-09.6-01.1 and 6-09.6-01.2 must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 4. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-08. Income - Expenses - Reimbursement - Creation of ~~lands and minerals trust~~state infrastructure fund - Legislative intent.**

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the ~~lands and minerals trust~~state infrastructure fund. The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to

improving state infrastructure. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized.

**SECTION 5. AMENDMENT.** Section 15-08.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-09. ~~Lands and minerals trust~~State infrastructure fund - Continuing appropriation.**

There is appropriated annually the amount necessary to pay from the ~~lands and minerals trust~~state infrastructure fund all principal and interest to the common schools trust fund on any loans made from the fund to the developmentally disabled loan fund program nos. 2 and 3. This authority is ineffective after all loans are repaid."

Page 1, line 11, remove the overstrike over "or the"

Page 1, line 11, after "trust" insert "state infrastructure"

Page 1, line 11, remove the overstrike over "fund"

Page 1, after line 15, insert:

**"SECTION 7.** A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

**State share of oil and gas taxes - Deposits.**

The state treasurer shall deposit the first three hundred million dollars of the state general fund share of revenue derived from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 into the general fund, the next three hundred million dollars of the state general fund share of revenue from these taxes into the property tax relief sustainability fund, and any additional state general fund share of revenue from these taxes into the state infrastructure fund.

**SECTION 8. AMENDMENT.** Section 61-33-07 of the North Dakota Century Code is amended and reenacted as follows:

**61-33-07. Deposit of income.**

All income derived from the lease and management of the lands acquired by the state engineer and board of university and school lands pursuant to this chapter and not belonging to other trust funds must be deposited in the ~~lands and minerals trust~~state infrastructure fund."

Page 1, line 17, after "repealed" insert "at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For purposes of this section, at the end of the biennium means after cancellation of unexpended appropriations under section 54-44.1-11 but before any transfers to the budget stabilization fund under section 54-27.2-02"

Page 1, line 18, replace "On August 1, 2011" with "At the end of the biennium beginning July 1, 2009, and ending June 30, 2011"

464

Page 1, line 19, after the period insert "For purposes of this section, at the end of the biennium means after cancellation of unexpended appropriations under section 54-44.1-11 but before any transfers to the budget stabilization fund under section 54-27.2-02."

Page 1, line 20, replace "August" with "July"

Page 1, after line 20, insert:

**"SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2/22  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1451

House Appropriations Committee

Legislative Council Amendment Number 01003

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

01003

voice vote carries

Date: 2/22  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1451

House Appropriations Committee

Legislative Council Amendment Number 01003

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim		X
Representative Bellew	X		Representative Kaldor		X
Representative Brandenburg	X		Representative Kroeber		X
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams		X
Representative Hawken		X			
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson		X			
Representative Monson	X				

Total (Yes) 15 No 6

Absent 0

Floor Assignment Rep. Delzer

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

**REPORT OF STANDING COMMITTEE**

**HB 1451: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1451 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to deposit of oil and gas tax revenue; to"

Page 1, line 1, replace "section" with "sections 6-09.6-01.1, 6-09.6-01.2, 6-09.6-03, 15-08.1-08, 15-08.1-09,"

Page 1, line 1, after "57-51.1-07.3" insert ", and 61-33-07"

Page 1, line 2, after the first "to" insert "the lands and minerals trust fund and"

Page 1, line 4, remove "and"

Page 1, line 4, after "date" insert "; and to declare an emergency"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Section 6-09.6-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.1. Developmentally disabled facility loan fund program no. 2.**

There is hereby created a developmentally disabled facility loan fund program no. 2 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed five million dollars from the common schools trust fund to finance the program. The loan must be repaid from any moneys in the ~~lands and minerals trust~~state infrastructure fund not otherwise appropriated. Any interest earned by the loan fund before loans are made must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure fund. The loan fund program must be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 2. AMENDMENT.** Section 6-09.6-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.2. Developmentally disabled facility loan fund program no. 3.**

There is hereby created a developmentally disabled facility loan fund program no. 3 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed four million nine hundred fifty-one thousand one hundred forty-five dollars from the common schools trust fund to finance the program. The loan fund program shall be administered by the Bank of North Dakota in the same manner the Bank administers the program



established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 3. AMENDMENT.** Section 6-09.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-03. Amount of loan - Terms and conditions.**

Loans in an amount not exceeding three-fourths of project costs, including the cost of construction, reconstruction, acquisition, furnishings, equipment, and administrative costs related to the establishment of the project, and the cost or value of real estate upon which the facility is located, must be made by the Bank of North Dakota from the fund maintained pursuant to sections 6-09.6-01, 6-09.6-01.1, and 6-09.6-01.2. Such loans must bear interest at a rate of ten and one-half percent for loans relating to facilities for developmentally disabled persons and five percent for loans relating to facilities for physically disabled persons and chronically mentally ill persons and are repayable in the manner prescribed by the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of a loan under this chapter, each nonprofit corporation shall execute a contract with the state to operate the facility in accordance with the standards prescribed for the licensing of the facility by the department of human services. The contract shall also provide that if the use of the facility is discontinued or diverted to purposes other than those proposed in the loan application without the express consent of the department of human services, the full amount of the loan provided under this chapter immediately becomes due and payable. The Bank of North Dakota may annually deduct, as a service fee for administering the revolving fund maintained under section 6-09.6-01, one-half of one percent of the principal balance of the outstanding loans from the revolving fund. Payments of interest and principal on loans made under section 6-09.6-01 must be made to the Bank of North Dakota and credited to the revolving fund. Payments of principal and interest on loans made under sections 6-09.6-01.1 and 6-09.6-01.2 must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 4. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-08. Income - Expenses - Reimbursement - Creation of ~~lands and minerals trust~~state infrastructure fund - Legislative intent.**

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the ~~lands and minerals trust~~state infrastructure fund. The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized.

**SECTION 5. AMENDMENT.** Section 15-08.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-09. ~~Lands and minerals trust~~State infrastructure fund -  
Continuing appropriation.**

There is appropriated annually the amount necessary to pay from the ~~lands and minerals trust~~state infrastructure fund all principal and interest to the common schools trust fund on any loans made from the fund to the developmentally disabled loan fund program nos. 2 and 3. This authority is ineffective after all loans are repaid."

Page 1, line 11, remove the overstrike over "or the"

Page 1, line 11, after "trust" insert "state infrastructure"

Page 1, line 11, remove the overstrike over "fund"

Page 1, after line 15, insert:

**"SECTION 7.** A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

**State share of oil and gas taxes - Deposits.**

The state treasurer shall deposit the first three hundred million dollars of the state general fund share of revenue derived from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 into the general fund, the next three hundred million dollars of the state general fund share of revenue from these taxes into the property tax relief sustainability fund, and any additional state general fund share of revenue from these taxes into the state infrastructure fund.

**SECTION 8. AMENDMENT.** Section 61-33-07 of the North Dakota Century Code is amended and reenacted as follows:

**61-33-07. Deposit of income.**

All income derived from the lease and management of the lands acquired by the state engineer and board of university and school lands pursuant to this chapter and not belonging to other trust funds must be deposited in the ~~lands and minerals trust~~state infrastructure fund."

Page 1, line 17, after "repealed" insert "at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For purposes of this section, at the end of the biennium means after cancellation of unexpended appropriations under section 54-44.1-11 but before any transfers to the budget stabilization fund under section 54-27.2-02"

Page 1, line 18, replace "On August 1, 2011" with "At the end of the biennium beginning July 1, 2009, and ending June 30, 2011"

Page 1, line 19, after the period insert "For purposes of this section, at the end of the biennium means after cancellation of unexpended appropriations under section 54-44.1-11 but before any transfers to the budget stabilization fund under section 54-27.2-02."

Page 1, line 20, replace "August" with "July"

Page 1, after line 20, insert:

**"SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2011 SENATE FINANCE AND TAXATION**

**HB 1451**

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

HB 1451  
3/22/2011  
Job Number 15787

☐ Conference Committee

*A. R. Miller*

## **Explanation or reason for introduction of bill/resolution:**

Relating to deposits of oil and gas tax revenue; relating to the lands and minerals trust fund and the oil and gas research fund; relating to elimination of the permanent oil tax trust fund; to provide for a transfer

## **Minutes:**

Written Testimony Attached

**Chairman Cook** opened discussion on HB 1451.

**Representative Monson** – Just to give you a heads up this bill was hog housed after I introduced it. The content of this bill has changed quite a bit and Representative Delzer is here and he can get in to the meat and potatoes of it but the reason I put this bill in and it still has that same intent is that, for a long time now we have been fondly calling the permanent oil trust fund general fund too. Since we've got the legacy fund now that is a permanent oil trust fund and what we had before the permanent oil trust fund we just kept dipping into and using it for one time spending and the like, so I put this bill in with the idea that we would get some discussion on the need for having the old permanent oil trust fund and thus the bill is before you.

**Senator Triplett** – Do you like the bill the way it is now?

**Representative Monson** – I'm fine with it. There are a lot of changes and a few things I don't understand all the workings of it but yes, the intent is still there.

**Representative Delzer** – (See attached testimony A in favor of HB 1451)

**Vice Chairman Miller** – I wondered if in section 7 if you wanted to talk a little bit more about how you picked those numbers.

**Representative Delzer** – Currently the way the oil taxes work, all the constitutional, all the statutory stuff comes out, the legacy fund now comes out, and it leaves I think there is expected to be \$619 million in the forecast to go in to the permanent oil trust fund.

**Senator Triplett** – On page 3 section 4 of the bill, lines 24-27 you are saying that the legislative assembly can provide for one time expenditures but it's the intent that those monies may be included only to the extent that monies are estimated to be available at the beginning of the biennium. I'm wondering why you picked that time since we have a tradition of getting pretty significantly updated numbers by mid or late February generally. Would there be an argument that we should use that February forecast as the one time expenditure limitation?

**Representative Delzer** – That in essence is what this would be. It would be the estimate, the best case estimate at the end of the session as to what is going to be in that fund at the start of the next session.

**Senator Triplett** – You are referring to the beginning of the next biennium?

**Representative Delzer** – Right

**Senator Triplett** – Under section 7, can you speak to why you chose the order that you did having the \$300 million going into the general fund first and then the next \$300 million to property tax relief? Would there be some argument to flip those around if we are really promising sustainable property tax relief over the long term.

**Representative Delzer** – You could certainly make that argument if you want. Sustainable property tax is a great thing as long as we have the money. Right now everything goes to the permanent oil and the only way we put any money into the property tax relief fund is by legislative action.

**Senator Hogue** – What does this bill do to the budget stabilization fund and do you have the same concern? If we maintain the budget stabilization fund, say it's at \$300 million now, aren't we in the same position with that fund as far as truth in budgeting, the future legislature could take money out of that fund and sort of skew how much we are actually spending if that's not part of the general fund.

**Representative Delzer** – They certainly could. That's up to each legislative assembly on the budget stabilization fund. The essence is that we are trying to keep 10% of our general fund expenditures in that fund.

**Vice Chairman Miller** – When it says infrastructure, how do you interpret that?

**Representative Delzer** – I would interpret the type of things that we've done this session for infrastructure. A lot of the roads, both in and out of oil counties. Some of the impact dollars that are going out.

**Senator Dotzenrod** – Section 9 that repeals these 2 sections of the century code. The first one of those is the establishment in the century code of the permanent oil tax trust fund. That section that you are repealing has this requirement of the 2/3 vote in it and it appears that in the replacement language that you've developed that there is no longer any requirement for 2/3. Can I just assume that your view in this is that we've become

accustom to using that fund to such a degree that there's really no reason to have that 2/3 requirement in there anymore?

**Representative Delzer** – That is pretty much the truth because any time there is a statutory requirement all you have to do is change the requirement for one session to spend it so 51% can change it. That's been in there ever since I've been here and we've never slowed down a bit in how we've spent permanent oil money. That's really what the legacy fund does for us, makes it a 2/3 vote.

**Senator Dotzenrod** – The second one you've repealed there is a separate allocation of state share of collections from reservations development and that is a fairly short provision. There are 2 sentences and it just says that the State Treasurer shall transfer to the permanent oil trust fund the first \$700,000 of the state share of tax revenues from oil produced from wells within the exterior boundaries of the Fort Berthold Reservation. If we repeal this, those revenues that the state receives from those oil wells, do they just go into the infrastructure fund?

**Representative Delzer** – They would just become part of the oil revenue and would fall wherever they would.

**Representative Carlson** – A couple things about this bill. Representative Delzer did a great job of explaining why we did it in the House. We have spent in the last 3 biennium's \$1.8 billion from the permanent oil trust fund. There is nothing permanent about the permanent oil trust fund. We have done it for all sorts of different things whether it be college buildings or roads or tax relief for our citizens anything that we could come up with we spent out of there. This time we expanded that to take basically \$230 million from the land and minerals trust fund which is the royalties and leasing dollars of state owned lands and we have spent that money as well. If you were to look at the permanent oil trust fund today there is a \$25 million balance at the end of 2013 assuming all the projections of the Governors \$2 billion worth of oil revenue collected. We need to make sure we are properly accounting for this money. The infrastructure fund is crucial. If you looked at the Governors budget he funded the infrastructure for basically a 2 year timeframe and they are talking about a 20 year play in the oil field. We need to make sure we are not coming back here with infrastructure problems and we have spent the money and have no way to fix them in years to come. Can you make a better definition like Vice Chairman Miller said? This is infrastructure fund, it doesn't say just the oil patch it says infrastructure in the state and we are using oil money for a designated purpose to keep everything from our oil field roads to our farm to market roads in shape around the state.

**Chairman Cook** asked for testimony opposed to HB 1451. No one came forward.

**Chairman Cook** asked for neutral testimony for HB 1451. No one came forward.

**Chairman Cook** closed the hearing on HB 1451.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1451  
3/28/2011  
Job Number 16036

☐ Conference Committee

*A. B. Miller*

### Explanation or reason for introduction of bill/resolution:

Relating to deposits of oil and gas tax revenue; relating to the lands and minerals trust fund and the oil and gas research fund; relating to elimination of the permanent oil tax trust fund; to provide for a transfer

### Minutes:

Committee Work

**Chairman Cook** opened discussion on HB 1451.

**Chairman Cook** asked John Walstad, Legislative Council to explain how SB 2129 works with the amendments put on in the House and how that may affect HB 1451.

**Chairman Cook** – These current dollars would be subject to the transfer language here in subsection 7?

**John Walstad, Legislative Council** – That would be my reading.

**Chairman Cook** – What does that do to another bill that we have around here, probably the property tax bill, or else it was the DPI funding bill where we already transfer money from the permanent oil trust fund into the property tax trust fund that we have for next biennium's property tax.

**John Walstad, Legislative Council** – I think an adjustment needs to be made because otherwise we would end up with \$650 million in the property tax sustainability fund.

**Senator Triplett** – Can you tell me what 11 and 12 mean read together? We have an effective date of July 1 but it also declaring it to be an emergency. What's the intention there?

**John Walstad, Legislative Council** – The emergency clause is necessary to make this effective July 1 because the bill does not change any tax rates which would make it July 1 and it does not appropriate any money, it's got a transfer but not an appropriation. The 2 things in a constitution that would speed it up to July 1, appropriation or a tax change aren't here so it's an emergency just so it can be effective July 1.

**Chairman Cook** – On the land and minerals trust fund, I know Vice Chairman Miller has been working with one situation in which there is another requirement on that money in the land and mineral trust fund and I think you were working on amendments to withhold \$53 million.

**Vice Chairman Miller** – We've got to hold so much money in that fund.

**Chairman Cook** – How much is that?

**Vice Chairman Miller** – We have to have at least \$12.5 million in there but probably lawfully there has to be about \$50 million in that fund at any given time based upon what the language is. We also are required to hold about \$53 million in that fund just because of some errors that might be in royalties paid. Until that ironed out there's got to be money there to make sure there isn't default or something like that.

**Chairman Cook** – I don't have a real big problem with eliminating the permanent oil trust fund. I have a little bit more of a problem with eliminating the land and minerals trust fund because of some of these other situations that we have here. However, just as an idea, the balances that we have here I would certainly be open to taking dollars that come in to the land and minerals trust fund and putting a cap on those dollars at which point money would then instead of staying in the land and minerals trust fund be automatically transferred to the legacy fund. I'm thinking like \$200 million a year.

**Senator Dotzenrod** – The land and minerals trust fund, I'm not sure if I know off the top of my head here the obligations that are against that land and minerals trust fund. We had a proposal in the legislature this time to take the oil and gas, that impact fund which had been \$8 million several biennia and then change it to \$100 million which is a big increase. I'm not exactly sure where that \$100 million is going to come from.

**Chairman Cook** – That is what Vice Chairman Miller brought up is some of those obligations. I'm not sure of all of the obligations which is why I'm reluctant to eliminate it. At least I'd like to keep \$200 million in there and transfer the rest of the money somewhere where it's secure.

**Vice Chairman Miller** – Changing the name isn't necessarily going to create any major problem, I think if we change it to the infrastructure fund or whatever it will more or less guarantee that it's the intent of where that money should be spent in the end. Not on general fund obligations that get transferred over to that fund.

**John Walstad, Legislative Council** – I'm pretty much ignorant about the lands and minerals trust fund as well, but I believe that is not necessarily a pot of money sitting there. I think that money is invested and I don't know if there is a problem with liquidity. That's an issue I think we need to find out about.

**Chairman Cook** – And that would be an issue relative to when that money might be even available to be transferred.

**John Walstad, Legislative Council** – Yes, when that fund could even be closed out.



**Chairman Cook** – I'm not talking about moving any of the money that is in the current land and minerals trust fund that would be invested. I'm talking about the new dollars that would come in, in the next biennium. That the first \$200 million would go into the land and minerals trust fund and after a certain point, whatever it is, after a certain point that money no longer goes, so instead of eliminating it we just leave a portion of it there and we take the rest of the money and send it somewhere else.

**John Walstad, Legislative Council** – Just cap how much can stay.

**Senator Triplett** – OMB regularly does reports on all of these trust funds, I'm wondering if we could have Alex try to drudge up the most recent copy of the report on that.

**Senator Dotzenrod** – When the sponsors introduced HB 1451 when they explained this to us I got the impression that really the way that money is being used for onetime expenses and being budgeted that it was confusing to have a number of these different funds and that the whole idea was to simplify this, reduce it down so that you had money from the oil revenues flowing into the general fund and the property tax relief and then into the state infrastructure fund.

**Carlee McLeod, Deputy State Treasurer** – I think a certain percentage of the overall general fund spending has to go into the budget stabilization fund and so if you eliminate the permanent oil trust fund all the spending that use to happen out of there will be included in the bigger pot of spending so it will increase that.

**Chairman Cook** – The percentage I was reaching for...

**Senator Triplett** – 10%

**Carlee McLeod, Deputy State Treasurer** – I think that's correct.

**Chairman Cook** – The benefit of putting all of this money that was being spent out of the permanent oil trust fund but it was missing the 10% requirement that it goes into the budget stabilization fund.

**Senator Dotzenrod** – So adoption of HB 1451 would have the effect of making the budget stabilization satisfied, just a bigger number every biennium. One of the things that we have followed the last few years is that \$71 million. There is a certain share when the oil revenues come in I think it might be just on the production tax.

**Senator Triplett** made note that the land and minerals trust fund has pending legislation that relates to this fund and it would be pretty dangerous at this point to throw that fund out.

**Chairman Cook** closed discussion on HB 1451.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1451  
3/28/2011  
Job Number 16090

☐ Conference Committee



### Explanation or reason for introduction of bill/resolution:

Relating to deposits of oil and gas tax revenue; relating to the lands and minerals trust fund and the oil and gas research fund; relating to elimination of the permanent oil tax trust fund; to provide for a transfer

### Minutes:

Committee Work

**Chairman Cook** opened discussion on HB 1451.

**Senator Hogue** – If we did actually spend that \$600 million in the permanent oil trust fund I think that's pretty good evidence that we should be taking part out of the mineral trust fund and putting it into the legacy fund and trying to get \$52 million into the legacy fund as well.

**Vice Chairman Miller** – The memo I have already shows that there is 10 bills that pull money from the permanent oil trust fund.

**Senator Triplett** – I think maybe we are being a bit premature here. I'm not entirely sure that we know what we are doing here, quite frankly. That's my concern, is that there are so many other bills out there and possibly more coming. We don't know what Appropriations is doing day by day. It seems we might be working at cross purposes with other committees and with ourselves in a sense by trying to do this before we have a sense of what's happening. The constitutional legacy fund doesn't kick in and start until the beginning of the next biennium and just maybe in 2 years from now might be a better time to be getting rid of the permanent oil trust fund after you can sort of see how this session works. I'm not comfortable voting for this just yet.

**Chairman Cook** – You're not comfortable with putting any money in to the legacy fund at this time is that what you're saying?

**Senator Triplett** – Not to say that I might not be, near to the end of the session, but at the moment I'm not.

**Chairman Cook** – I'm not comfortable with the number we put, but unfortunately, that is why I say conceptually we are talking about getting some money in there. We won't know

the number until the end of the session but today's the day we have to speak to the concept.

**Senator Dotzenrod** – From my reading of what we've got here is that the money that the state collects from the 5% and the 6.5% is not the money that is going to end up in this lands and minerals trust fund.

**Chairman Cook** – That money ends up in the permanent oil trust fund.

**Senator Dotzenrod** – And then under the plan that is in this bill it will flow at some point it becomes in the infrastructure fund and there is really no caps or limits or places where money has to be diverted to a different place because once it goes to the general fund and that property tax relief fund and then there is that share of the general fund that gets set aside for the budget stabilization fund which we don't really have in this bill. I would be concerned if we were taking money, that, somehow we were capping some fund that is derived from the 5% and the 6.5% and then taking excesses above that cap and putting it in the legacy fund. I think the commitment we have to the legacy fund, we are making that commitment with 30% from all revenues and I'm pretty satisfied with that. And the infrastructure fund I really believe personally that the kinds of problems we are going to have in North Dakota in the eastern side, and maybe all over the state with flooding and road damage, and I think we've got some cities that are really getting in big trouble financially.

**Chairman Cook** – I think it's safe to say that the \$150 million could be reached in the next biennium because we have generated more money into the land and minerals trust fund this biennium than \$150 million, it looks like we are somewhere around \$190 million.

**Chairman Cook** – Explain the question we had regarding the ending fund balance of the permanent oil trust fund and where the money is now.

**John Walstad, Legislative Council** – With the elimination of the permanent oil trust fund and the fact that it is eliminated at the end of the biennium, that means Appropriations that appropriate money from that fund will go to that fund and find nothing there. The Appropriations Committees are well aware of that, they have a list of the appropriations that need to be changed if this bill is enacted. They are poised and ready to do that depending on what happens to this bill.

**Chairman Cook** – They are poised to deal with that; in other words, they are going to take all of those budget bills out of the general fund?

**John Walstad, Legislative Council** – I assume that is the decision they would make that it would just be general fund instead of permanent oil.

**Chairman Cook** – We don't have any idea how much money would be left unspent at this time.

**Pam Sharp, OMB** – There is double counting for transfers to the property tax sustainability fund but what we don't have showing anywhere at all are the infrastructure payments for

the state roads in oil country and for the county and township roads and that's about \$270 million. The infrastructure I'm taking about is the 2 that were in the Governor's budget.

**Vice Chairman Miller** – If we created an infrastructure fund you could fund these road payments out of the infrastructure fund.

**Senator Triplett** – You had mentioned this morning you had done some projections, could you just explain where those numbers came from.

**Jeff Engleson, North Dakota State Land Department** – We did some actual detailed projections that were based on dozens and dozens of assumptions and then I made some guesses based on broad things and we came within a couple million bucks so we stayed with the simple projections. We got some information from the Industrial Commission on their expectations. We've lowered the lease bonus to what amounts to \$5 million per lease sale. The issue is we are running out of land to lease. By the time we are done we will be over \$200 million during the current biennium, that's one time money with the lease bonus, they drill it, and then we will start getting royalties so there will be more money coming but the big money that comes all at once happened this current biennium.

**Chairman Cook** – So you're only looking at \$115 million coming into the land and minerals trust fund coming in to the 2013-15 biennium?

**Jeff Engleson, North Dakota State Land Department** – That is approximately right.

**Senator Triplett** – But if the production numbers end up being higher than what are being estimated right now then it would go up proportionately right?

**Jeff Engleson, North Dakota State Land Department** – Correct, this is based on the Industrial Commission.

**Senator Hogue** – I'm supportive of the amendments but now that when we've got the balance broke out from the actual income and the amendments relate to the income, don't they? I would think that the amount that should spill over to the legacy fund would be anything over \$100 million because if you look at the 2011-13 biennium it would be about \$11 million and for the 2013-15 biennium it would be about \$15 million so I would think that would be the right threshold at least for the next 2 biennia.

**Senator Dotzenrod** – There could be some dollars in terms of the number of barrels being off, we could end up with some number, the transfer to the legacy fund if you use \$100 million could be fairly large if the extra revenues are there.

**Senator Oehlke** – It's great to say "load it up" but you have to remember that you're only going to be able to get the interest out and without a 2/3 majority and then only 15% more than that, just to be on the safe side a little bit.

**Vice Chairman Miller** explained an amendment he had drafted and discussion followed.

**Vice Chairman Miller** – I'll move the Cook amendments .02005.

Seconded **Senator Hogue**.

**Chairman Cook** – All in favor signify by saying yea, opposed? (7-0-0)

**Senator Oehlke** – I'll move a Do Pass as Amended and rerefer to Appropriations.

Seconded by **Vice Chairman Miller**.

**Chairman Cook** – Ask the clerk to take the roll. (7-0-0)

Carried by **Vice Chairman Miller**.

March 28, 2011

*JB*  
3-29-11  
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1451

Page 1, line 3, remove "6-09.6-01.1, 6-09.6-01.2, 6-09.6-03,"

Page 1, line 3, replace ", 15-08.1-09," with "and"

Page 1, line 3, remove ", and 61-33-07"

Page 1, line 4, after "fund" insert ", legacy fund, state infrastructure fund,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 14

Page 3, line 17, remove the overstrike over "~~lands and minerals~~"

Page 3, line 18, remove the overstrike over "~~trust~~"

Page 3, line 18, remove "state infrastructure"

Page 3, line 18, remove "- Legislative intent"

Page 3, line 22, remove the overstrike over "~~lands and minerals trust~~"

Page 3, line 22, remove "state infrastructure"

Page 3, line 22, after the period insert "Deposits in the lands and minerals trust fund are limited to one hundred fifty million dollars during a biennium and any amounts exceeding this limitation must be deposited in the legacy fund."

Page 3, line 23, overstrike "such" and insert immediately thereafter "the lands and minerals"

Page 3, line 23, after "trust" insert "fund"

Page 3, line 23, remove "for"

Page 3, remove lines 24 through 27

Page 3, line 28, remove "appropriations are authorized"

Page 3, remove lines 29 and 30

Page 4, remove lines 1 through 6

Page 4, line 12, after the first "fund" insert ", property tax relief sustainability fund,"

Page 4, line 20, replace "three" with "two"

Page 4, line 22, after "hundred" insert "fifty"

Page 4, remove lines 26 through 31

Page 5, line 6, replace "TRANSFER" with "TRANSFERS - PERMANENT OIL TAX TRUST  
FUND TO LEGACY FUND AND GENERAL FUND"

2012

Page 5, line 6, replace "At" with "As soon as practicable after"

Page 5, line 7, after "transfer" insert "\$52,000,000 from the permanent oil tax trust fund to the legacy fund and"

Page 5, line 8, after the second "fund" insert "and then shall close out the permanent oil tax trust fund"

Renumber accordingly

Date: 3-28-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1461

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

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

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

Verbal vote on amendment . 02005



Date: 3-28-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1451

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod	X	
Joe Miller – Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Miller

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

**REPORT OF STANDING COMMITTEE**

**HB 1451, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1451 was placed on the Sixth order on the calendar.**

Page 1, line 3, remove "6-09.6-01.1, 6-09.6-01.2, 6-09.6-03,"

Page 1, line 3, replace ", 15-08.1-09," with "and"

Page 1, line 3, remove ", and 61-33-07"

Page 1, line 4, after "fund" insert ", legacy fund, state infrastructure fund,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 14

Page 3, line 17, remove the overstrike over "~~lands and minerals~~"

Page 3, line 18, remove the overstrike over "~~trust~~"

Page 3, line 18, remove "state infrastructure"

Page 3, line 18, remove "~~- Legislative intent~~"

Page 3, line 22, remove the overstrike over "~~lands and minerals trust~~"

Page 3, line 22, remove "state infrastructure"

Page 3, line 22, after the period insert "Deposits in the lands and minerals trust fund are limited to one hundred fifty million dollars during a biennium and any amounts exceeding this limitation must be deposited in the legacy fund."

Page 3, line 23, overstrike "such" and insert immediately thereafter "the lands and minerals"

Page 3, line 23, after "trust" insert "fund"

Page 3, line 23, remove "for"

Page 3, remove lines 24 through 27

Page 3, line 28, remove "appropriations are authorized"

Page 3, remove lines 29 and 30

Page 4, remove lines 1 through 6

Page 4, line 12, after the first "fund" insert ", property tax relief sustainability fund."

Page 4, line 20, replace "three" with "two"

Page 4, line 22, after "hundred" insert "fifty"

Page 4, remove lines 26 through 31

Page 5, line 6, replace "TRANSFER" with "TRANSFERS - PERMANENT OIL TAX TRUST  
FUND TO LEGACY FUND AND GENERAL FUND"

Page 5, line 6, replace "At" with "As soon as practicable after"

Page 5, line 7, after "transfer" insert "\$52,000,000 from the permanent oil tax trust fund to  
the legacy fund and"

Page 5, line 8, after the second "fund" insert "and then shall close out the permanent oil tax  
trust fund"

Renumber accordingly

**2011 HOUSE APPROPRIATIONS**

**CONFERENCE COMMITTEE**

**HB 1451**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/14/11  
16604

☒ Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the conference committee to order. Roll was called and all were present. This bill as it started out was going to remove the permanent oil (PO) trust fund. It has evolved into several other things. The House passed a version of it that the Senate reviewed and made some changes to. Senator Cook, please explain what you did in the Senate when you worked the bill over.

**Senator Cook:** When this bill came to the Senate finance and tax (F&T) committee, we had a quite a conversation over what you're trying to do with the PO and land and minerals (L&M) trust funds. We (F&T) passed the bill out where the only two major changes were keeping the L&M trust fund, but we looked at what the projected revenue was going to be coming into that fund for the next two bienniums. It appears to be projected revenue around \$111 million during each of the next two bienniums, so then we set a ceiling at \$150 million, keeping the L&M trust fund. We kept it because it seems like there's six other situations out there that are dependent or somehow tied to the L&M trust fund, but anything over \$150 million we had going into the legacy fund. We also took what we perceived to be left of the PO trust fund with all the bills taking money out of there this session, there will be about \$52 million, and put that in the legacy fund. Then appropriations did even more work, which is the final bill version here. They kept the L&M trust fund, instead of putting anything over \$150 million into the legacy fund, they started sending that money to the general fund and the infrastructure fund, and I believe they kept the PO trust fund. What we need to craft out is how we're going to look at this oil revenue, to what degree do we save it and where do we put it. Some of the real concerns seem to focus around this infrastructure fund.

**Chairman Carlson:** As you know the oil and gas taxes are distributed many different ways, when you look at them in the formula. When we're all done, we've cleaned everything out except for putting a large chunk of it into the PO trust fund, which all of us know is not permanent. In the last 3 bienniums, we have spent almost \$2 billion dollars of

that money on various things around state government. It's really become general fund 2. We thought it would be better to have a little truth in budgeting by putting that money, or as much of it as possible, into the general fund, and then reflect the actual spending we're doing. Our plan was to put some money, the first \$300 million oil revenue, into the general fund; the second \$300 million was to go into the property tax relief fund; the balance was to go to the state infrastructure fund. These are all kind of interconnected. L&M trust fund really does not have a designated purpose. We took \$238 million this time and spent it on various things. It is a fund that doesn't have usage restrictions on it. Obviously we had a real bonus on the leasing of the land we had out there for mineral rights. That is the people's land, it's our royalties and leasing fees off the land that the people of ND own. The governor had a two year plan for infrastructure in his proposed budget. We thought it needed to be longer term. If it's a 20 year oil play, the damage will continue to be done. We thought we should use some of the oil revenue and set it aside into an infrastructure fund, meant to be used for protecting the infrastructure not only in the oil patch, but across the state. We can craft whatever definitions we want, and put whatever name we want on that fund. As an example, in this budget, we added \$22 million for damage caused by inundated roads across the state, which probably won't be nearly enough by the time this spring's flooding is done. That wasn't in anybody's budget. We also added \$60 million in the DOT budget for the non-oil producing counties. We think it makes sense to have a designated purpose for these infrastructure dollars. Where the rest of the money goes, we can push it here...we aren't nuts about the legacy fund, putting any more money in that, because it's projected that by the end of the biennium we could already have \$600 billion in there. That's set aside so we can't spend it until 2017, which is a good thing. We have made a commitment in this legislature to property tax relief, but we have funded it every time out of oil revenue. If we're going to continue that plan, we'd better have the ability to have a funding source for that. Our differences are not that great. We're all trying to do the right thing in terms of using the money logically. Obviously \$110 oil today is shooting more revenue in there than we anticipated. Hopefully we haven't found a way to spend what we don't have yet. I put together a spreadsheet of what we see as a logical use for these funds, combining some of what the Senate did in their amendments and some of what we did in the House. See attachments 1 and 2, and proposed amendment .02007.

**Allen Knudson, Legislative Council:** Went over attachments 1 and 2.

**Representative Delzer:** Your \$187 million, that's assuming \$109 million carryover in L&M?

**Knudson:** No, that's the estimated revenues into the L&M trust fund for next time. There would be a beginning balance, but we're not dealing with that as part of this allocation.

**Representative Delzer:** If the money came in slower than anticipated, the first one not to get any more would be the general fund, then the state disaster relief fund, then the infrastructure fund.

**Knudson:** Correct.

**Representative Delzer:** And any additional amount would go out to the general fund.

**Knudson:** Correct.

**Senator Cook:** If for some reason we didn't realize the anticipated revenue coming in from the taxes on the oil and gas that would make up the \$682 million, let's say we didn't receive enough to put \$300 million into the property tax sustainability fund, I assume then it would tap into the money in the L&M trust fund to bring that up to \$300 million before anything went into the state infrastructure fund?

**Knudson:** No, that's not correct. There are two sources of money. One is oil and gas tax revenues, the other is the revenue that has been going into the L&M trust fund. The money wouldn't flow backwards from L&M back up to property tax relief, any money that would come from the current L&M trust fund would stay in the infrastructure fund, up to the \$100 million.

**Senator Cook:** It's possible we could have money going into the state infrastructure fund without having a full \$300 million into the property tax sustainability fund, is that correct?

**Knudson:** That's correct.

**Representative Delzer:** The last one to come out of the Senate was .04000, correct? On the PO fund, they highlighted again that the 2/3 vote of members elected is still there. Did they have any comment about that when it came to the floor?

**Senator Cook:** I don't recall any comment on that when it came to the floor.

**Representative Delzer:** What came out of F&T was 200, 350 and then 52 to legacy; what came out of appropriations was 200, 385 and the rest into PO.

**Senator Cook:** I believe that's correct.

**Chairman Carlson:** Was that changed on the floor, or in committee?

**Senator Cook:** In their committee.

**Representative Kroeber:** One of the problems I had with the original bill was the elimination of the PO trust fund. As I mentioned then, I think we've been very prudent there to basically use the dollars from the PO trust for one-time types of funding, in the majority of cases anyway. I think that's a very good thing to do. You were just talking about the L&M trust fund, which we have really used for a number of different processes and haven't kept it that separate. I still have my same concerns with the way we're talking about breaking this up now and eliminating the PO trust fund.

**Chairman Carlson:** I just am still trying to find the permanent part about it.

**Representative Kroeber:** Semi-permanent oil trust fund.

**Chairman Carlson:** General fund 2, we could name it lots of things. It's all about the name and what you use it for. We've used it for property tax, higher ed projects, balancing

our budget, in the past. It's easy to say you had a 6% per year increase in government, but it's really 23.6% when you add in all the one-time spending. Let's just run it through the right accounts and be smart about saving this. This resource could go away as fast as it came. Right now we're pretty hooked on that money. I'm not sure how we'd balance the books without the oil money today.

**Representative Delzer:** When the appropriations committee on the House side had the discussion about the \$300 million going to the general fund to start with, we're estimated to be about \$2 billion. That's roughly 15% of that. It's also the addition of the \$71 million and the \$232 million that the governor too this time. It's slightly more than what we had to use last time of the \$71 million plus the \$140 million that Representative Carlson said. \$2 billion is about 7.5-10% of our budget, which isn't necessarily a bad thing to use oil money for, a certain portion certainly can be used for ongoing expenditures, but if we get more reliant on it than that, we pose some real problems for ourselves in the future, if the oil should dry up. That was one of the reasons for the \$300 million. I think we need to decide how we're going to handle property tax, I think that's the issue both sides have talked about.

**Chairman Carlson:** Whatever we do on this bill spins off on so many other things because, like Senator Cook mentioned, there are five or six other budgets that have language in them that deal with the L&M or the PO trust fund as their funding source. In this biennium, we've spent \$600,000 on the department of commerce for Nekoma site acquisition, \$239 million for transfer to the general fund, continuing appropriation for career and technical education and academic scholarships programs of \$10 million, which I think people hope will continue, and another \$6.25 million available to the Bank of North Dakota to maintain a guaranteed reserve fund for fuel production facility loans. Those are the ones I've identified, and there might be more out there. In the PO trust fund, we have over \$1 billion that we have taken, two different payments for the property tax relief fund, which takes us out to 2015, I think. How long have we set aside money for property tax relief?

**Knudson:** The plan was to set aside for the 2013-2015 biennium, but right now, it's being set aside twice in two different budgets.

**Chairman Carlson:** So we need to get rid of one of those.

**Senator Cook:** In F&T, the one issue we brought to the table was transferring money into the legacy fund, and I'd be remiss if I did not again bring that to the table here. You have talked over and over about how all of these trust funds we have are nothing more than a general fund 1, 2, and that it really is not a means of saving money. We couldn't agree more with you, which is why if you really want to save money, there is one place where we have a true savings account, and that is the legacy fund. If the voters of ND had embraced the first constitutional resolution about that, we would already be putting a whole lot of money into that legacy fund that would not be here on the table for us to spend. Starting next session, we are going to be putting money in that, and we're going to have to sustain ourselves without the complete addiction we have created now for this money. I would argue and suggest that the policy we discussed in the F&T committee is wise to consider if we want to actually condition ourselves for the next session. We have, and the voters gave us the right, to put more money into the legacy fund than what is required in the constitution



now. I would say there could be some great wisdom in us preparing ourselves, by putting some in this session also.

**Chairman Carlson:** That isn't the way it passed to us, though, from the Senate floor, was it?

**Senator Cook:** No, but you have one from the committee on the conference committees.

**Chairman Carlson:** I'm glad you're here. I think one thing that we did different that isn't in either of these bills is on the right hand side (of attachments 1 and 2), and that's putting a set amount of money into the state disaster relief fund. In the past, when we didn't have cash, we'd allow the adjutant general to borrow money, and then we would deficiency appropriate at the end of the biennium. In my opinion, that's a good savings account, because it appears the disasters are not going to stop, and we should keep a certain level in there. It's a hard point to argue, that we should put some aside into the legacy fund, but I'm not sure what the number should be, but I do think it's prudent to put some in disaster relief, if we have the money available, instead of borrowing it and paying it back later.

**Senator Cook:** Whether we call it the state disaster relief fund, the state infrastructure fund, the property tax relief sustainability fund, what does it mean? What are the definitions? We can say whatever we want about this. I would argue that the property tax relief sustainability fund, if we were extremely short on revenue in a future session, that you would find the will, or at least the desire to find the will, to reach into that fund and fund some other program rather than offer the property tax relief. It's all in the name. You could call it Christmas 1, Christmas 2, and Christmas 3.

**Chairman Carlson:** I disagree a little bit with that, because I don't think if you're going to establish an infrastructure fund you're going to go into that and deal with foundation aid or disaster relief. But is it prudent to set it aside or put it in general fund? There's some that argue you don't want a large ending fund balance, because you'll just spend it all. Well, I guess that requires a little self-discipline on our part. We're the ones responsible for balancing and spending the money. Unless there is any other discussion, we can go and mull these things over, and our first proposal is on the table in response to the bill we got from the Senate. We'd be happy to hear your ideas on where you want this to go. If there's nothing else, we're adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451

4/15/11

16680

☒ Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the conference committee to order. Roll was called and all were present. We're disappointed Senator Stenehjem chose not to continue with us on this committee; Senator Hogue is taking his place. I have another hand out for you, see attachment 1. This is similar to the chart from the other day, it talks about what in essence what 1451 does, and we'll have Legislative Council (LC) walk us through it.

**Allen Knudson, LC:** Went over attachment 1.

**Chairman Carlson:** Last time there was some discussion about the infrastructure fund. Right now we use the permanent oil (PO) trust fund as a source for one-time funding, and sometimes phase 2 and phase 3 of one-time funding. The bill that came to you put that money from the PO trust fund into these different funds. This is an expansion on that. Further work could be done on the definition. I asked LC to go through our legislation so far, because we have doubled up the property tax relief in two bills, this bill, and in 1047. When you look at our balance sheet, it shows us \$380 million in the hole. We need to reconcile this at some point to balance the books.

**Knudson:** Went over attachment 2. Before we're all done, to get the general fund above zero, there will potentially have to be some money moved over from PO. If you want to set aside \$385 million for property tax relief, you could eliminate the \$342 million transfer, which would put the general fund and PO fund balance at about a negative \$10 million. If you want to set aside the \$341 for property tax relief, that means you could eliminate the \$385 million transfer, which would leave a balance in those two funds of about \$35 million.

**Chairman Carlson:** Any questions?

**Representative Delzer:** 1451 when it passed the House was at \$300 million for property tax. If we did that we'd end up around \$70 million.

**Knudson:** That's correct, including both general fund and PO.

**Chairman Carlson:** If we closed the books today, based on the flowchart in attachment 1, what would that bottom number be?

**Knudson:** That would be similar to what Representative Delzer referred to. You'd only be setting aside \$300 million for property tax relief, rather than the 341 or 385, so you'd be up around \$70-75 million.

**Representative Delzer:** That's also triggering everything the way it stands today. The difference between the House and the Senate, overall, if you split it in half, would it be about a wash?

**Knudson:** Pretty close. It's within \$2-3 million overall.

**Representative Delzer:** Do you know how many conference bills have been settled?

**Knudson:** We have that information, but I don't know off the top of my head.

**Representative Delzer:** Everything that was settled through yesterday is in your budget status report for today (attachment 2)?

**Knudson:** That's right. I should also mention, when you asked about your version of HB 1451, the only additional item is that you were planning on having an additional \$100 million in the strategic investment infrastructure fund, which would have to come from PO or lands and minerals (L&M) and needs to be factored into those ending balances. Right now there's a large transfer from L&M trust fund to the general fund. That would affect the ending balance of \$70 million, if you're going to try to keep \$100 million in infrastructure.

**Chairman Carlson:** So that would put us upside down again. The only reason I bring this forward, is this is the nuts and bolts of what makes all the numbers work. We've got to move some money to make things work when we get to the end. Last time we had to transfer \$140 million out of PO trust fund when we settled the OMB bill. That same thing will have to happen again if there's money in there. What are your responses to this?

**Senator Cook:** I want to make sure I understand this. When we started this session, we had \$295 million in the tax relief sustainability fund, correct?

**Knudson:** Correct.

**Senator Cook:** HB 1047 transfers that \$295 million out of the tax relief sustainability fund, and takes \$46,790,000 out of the general fund to fund the projected cost of the current property tax relief from 1047.

**Knudson:** It takes the \$46 million out of the PO trust fund and moves it into the general fund for property tax relief.

**Senator Cook:** Into the general fund, yes, plus it transfers what's in the relief sustainability fund. Then there's another transfer of \$341,790,000 from the PO trust fund and puts that into the property tax relief fund for the next biennium. Then we find out, looking at this flowchart (attachment 1), that we put another \$300 million into the property tax relief sustainability fund. If we took the \$300 million out of this flowchart, the way it should really read is there would be nothing in the property tax relief sustainability fund for this next biennium; the strategic investment and infrastructure fund would get capped at \$100 million; there would be \$222 million coming up here to be added to the \$109 million. So we would have quite a lot more money left in the general fund then, than the \$65 million this shows.

**Knudson:** The only issue with that would be that under 1451 as the House passed it, they repealed the PO tax trust fund, so there would be no...you couldn't transfer the \$341 million in 1047 to property tax relief, because the fund would be repealed. Their intent was that this \$300 million would replace the \$341 million.

**Senator Cook:** When are they repealing it?

**Knudson:** At the end of the 09-11 biennium.

**Chairman Carlson:** So we would set up the new structure for the beginning of the 11-13 biennium. Right now, we have funded property tax relief through the years 14-15 with the money we have pulled out of the PO trust fund and into the property tax sustainability fund.

**Senator Cook:** Because of the double.

**Chairman Carlson:** No, when you take the double away, you're still covered to 14-15.

**Knudson:** That's right.

**Representative Delzer:** The way 1451 sits, it's 385 that's doubled on top of the 341. When the House passed 1451, we had intent language to say that the intention was that whatever money went into the state infrastructure fund, we would only spend the cash that was there at the start of each biennium. Is that in the Senate 1451, or your proposal for the conference committee?

**Chairman Carlson:** My proposal was moving the money, it wasn't talking about the wording.

**Knudson:** As it passed the Senate, that language was not in there, because as the Senate passed it there was no infrastructure funding set up, they kept the PO tax trust fund. In the amendment Representative Carlson passed out yesterday, that language is still in the engrossed bill and was not changed.

**Representative Delzer:** Because the conference committee would remove the Senate's amendment and further amend, if we come to an agreement to amend.

**Knudson:** Right.

**Representative Delzer:** One other thing, the DD stuff is taken care of in the bill that passed, so any amendment we propose would need to remove the DD language.

**Knudson:** We should check with the land department to make sure. SB 2121 dealt with that, and I think that is effective August 1. I'm not sure if the month of July is an issue.

**Senator Cook:** How much of this money in your flow chart would actually put money into the budget stabilization fund? Just \$300 million?

**Chairman Carlson:** The budget stabilization fund is separate from this because that number is generated by what we do to the general fund. Had we rolled all the money into the general fund, that would be about \$360 million.

**Senator Cook:** But you're only running \$300 million through.

**Chairman Carlson:** If you run \$300 million through there and add it onto our base level of spending, how much more money would go into the budget stabilization fund?

**Knudson:** If you look at the budget status report (attachment 2), at the very end of that it shows the budget stabilization fund. The governor recommended \$330 million; right now, based on current spending levels it would be \$368 million; if you would repeal the PO tax trust fund and put that money in the general fund before the end of this biennium, there potentially would be another \$30 or \$40 million that would go into the stabilization fund.

**Chairman Carlson:** We had considered the idea that at some point in time we should deal with the top limit we want in that fund, and we had the discussion that maybe \$350 million was the right number to keep in there. That will obviously keep growing, and we're accused of stockpiling money here and there. We need to find out what level is the comfort level of the people, how much money should be left sitting there to help keep state government running. That can be discussed as well.

**Representative Delzer:** I would also like to mention that the 300 in the flow chart doesn't make any difference, because that happens next biennium. It's whatever we end up with in the general fund at the end of this biennium.

**Senator Cook:** I asked myself what would happen if we didn't pass 1451, left it just as it is, and I had LC fix me a flow chart, as well, see attachment 3. That's where I pick up on the \$71 million (general fund) versus the \$300 million, and I'm trying to figure out what we are really accomplishing.

**Chairman Carlson:** We understand this is a major change from the way we are doing it. Obviously the House has some concerns about continuing to throw money in and then rolling it out and spending it. If we don't have it there, I don't know what's going to happen to some of these things we've become hooked to spending it on.

**Senator Cook:** I couldn't agree more. When you look at putting a cap on the budget stabilization fund, I don't know why we'd want to do that, but I can understand looking at it

and saying we have enough money to fund government for so many months, or a certain percentage of what the total budget is.

**Chairman Carlson:** We actually like the 10%, but we get accused of not holding money, that's the only reason I brought it up. I wouldn't mind if it was the 398, it's not off the table. I think what we should do is think this over and get back together.

**Senator Cook:** I brought this up last time, but just food for thought, in 2007 when we went home, we put before the voters a little constitutional amendment that put the first \$100 million, and everything else would have gone into the legacy fund. Most of us here supported that resolution. How much money would we have in the legacy fund today if that had passed, and how different would our decisions on our spending have been this session? There's some of us in this room that think it is very wise to save some money, put it someplace where it is safe, if nothing else to prepare us for the savings we're going to start doing next session.

**Chairman Carlson:** Looking at the comparison from last time, general fund we had 300, you had 200; PO, we had 0, you had 93 million; research fund we both had 4 million; property tax sustainability we had 300, you had 385; infrastructure we had 78, you had 0; L&M we had 0 because we put it in the infrastructure fund, you left it. We're talking the exact same amount of money between the two of us. The legacy fund is worth discussing. I look at the numbers that are going to be in there by the end of the biennium, and it's already shocking. There will be, in 14 years, \$6-8 billion in the legacy fund, which is a good piece of business on the voters' part to put some of that aside. It's good we can't get at it for a little while. If you'll look at the differences between the two versions, there's not as many differences as you would think. We should try to work out the differences on those and see what we can do as we move forward on this bill. With that, we'll reschedule, and we're adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/16/11  
16696

☒ Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the committee to order. Roll was called. So far we're not going anywhere here, we have some new committee members here today.

**Senator Cook:** I have a couple questions. The big change you made yesterday was to change the name of the infrastructure fund, to the strategic investment and infrastructure fund. Are you married to that name?

**Chairman Carlson:** No. The most important things to us are...the permanent oil (PO) trust fund is not by any means permanent; it's been used as a general fund for the last four bienniums, and because of that we can say we didn't increase general fund spending very much, but we have one-time spending that approaches \$700-800 million a biennium. We have made a commitment to property tax relief. I'm convinced we have long term needs on infrastructure, and it's only fitting it be set up out of PO. The concern I had was that if you just call it the infrastructure fund, everybody will have their hands out for it, in spite of other monies they receive through distributions. You could call it the one-time fund, or one-time funding fund, you can call it whatever you want. But there should be some intent to be for infrastructure, since I think that will be an ongoing need. To just assume that next time if we have the money we'll continue to fix it is a mistake, I think you should earmark some money for it. We're married to the concept we should have a little truth in budgeting and if you're going to spend all this money on general fund expenditures, then move it or a portion of it over there; and if you're going to continue to do property tax relief, then continue to set it aside in that fund; and if there are other programs you feel are important ongoing needs, like infrastructure or disaster relief, then you should do something. This is trying to take that money and direct it so we're tracking it a little better and funding the things we think are necessary for the future.

**Senator Cook:** When you look at your income boxes (attachment 1 from April 15) most of those numbers in a future biennium could be larger or smaller than that. If they become

quite larger than that, your ending basket is currently the general fund. Currently, it's \$65 million. But it could get a lot larger than that. Is it your intent that no matter how much revenue comes in, it all gets dumped in the general fund in the end?

**Chairman Carlson:** Yes, because what we do now is just leave it all in the PO trust fund and spend it all. In the governor's proposal when we started out the budget, he said we've increased general fund spending 5.3% per year. I can show you in many ways that's far from the number, because when you add in everything, it's more like 23.6%. If you don't want to show that, it's a good place to put it, but the point is, it's creating ongoing encumbrances for the state.

**Representative Kelsh:** I think you mentioned we have had one-time spending requests that are totaling 700, 800 million dollars. I can agree that we should probably set up an infrastructure fund, I don't know if capping it at \$100 million is enough. The 700-800 million is not much more than what these two funds have brought in. What I'm trying to say is that money is needed out there. We have left our infrastructure untouched for way too long. We're fortunate to have the money to try to work on it. To encumber some of those other dollars so we can't spend them, I have some trouble with that. We have the legacy fund, which is about the same size as the PO trust fund. That's a savings. We tried to double our savings a few years ago, 2008, and the voters turned it down, they said we had too many needs out there. I think they were right. I think it's wrong to try to get it so we can't spend this money.

**Representative Delzer:** Part of the problem we have is that over the last 2-3 sessions, we've increased our ongoing expenditures. We're apt to end up in a position where we don't have the extra money to spend on that, which is a real shame. The next legislature will make the decision about the level of property tax relief. The \$300 million to the general fund, I don't know how we'll come close to continuing our ongoing expenditures for next time if we don't make that available. I don't agree with it personally, I think it's too much, but if we hide that, I don't know. The essence of capping the infrastructure fund or the strategic fund, we're open to calling it whatever you want. We're open to talking about the levels of it. Hopefully we end up with much more money than we're talking about here, but on the same token, we have to work within the revenue forecast we have, and that's what these numbers are. And you always have to be prepared for whatever might happen.

**Representative Kelsh:** I guess that's my point. I want to make sure we have the money for some one-time spending available. Hopefully soon we'll quit having 100 inch snow winters. We have the money. Let's not tie it up so we can't get at it for those one-time funding needs.

**Chairman Carlson:** My point is we're not tying it up. When the money is going to the general fund, obviously that's where the governor builds his budget. When you move the money to property tax sustainability fund, if you don't like that, we could free up \$340 million in a hurry. But once we put it in there, it's not spendable except for that purpose. We did that to ourselves. We're taking \$1.019 billion out of PO this time. There are transfers to the general fund for \$232 million, and \$388 million for property tax relief out to the years 2014-2015. We're taking money for higher education building projects, tribal assistance grants, department of mineral resources employees, the research fund,



Medicaid management information, and they total \$1.019 billion. We've made those commitments already, so I don't view this as not holding money. I think it's easier to follow when we don't just put it in the PO tax trust fund and say what are we going to do with it. If it's in general funds you can do the same thing. The only unattached money is the land and minerals (L&M) trust fund. That money, of which \$239 million was taken this time, was spent on one-time projects. I say, let's change the name and attach some of that money to deal with the very thing you're talking about, and that's that the roads and infrastructure drive the state, so we need to make sure they're in good shape.

**Representative Kelsh:** I was told there was another proposal that would put a bunch more into the legacy fund. That's part of my concern. The PO trust fund has served us pretty well. Yes, we're using it for general fund spending and other things, and I'm trying to figure out the reason for changing that, other than saying we're having 15% increase in spending instead of 5%.

**Chairman Carlson:** Today we're at 18% on general fund equivalent spending increasing over the last budget. That's not counting one-time money. I've tracked the history of the PO trust fund. A lot of the money has been put to good use, but it hasn't been one-time spending. We have to keep refunding, and I want us to account it. Will we spend less money by doing this? I don't think we have the will to spend less. But is it easier to track? Yes, it is.

**Senator Cook:** We've got some thoughts and concerns, but that doesn't mean that what you're trying to do here doesn't have some merit in our eyes. I would argue the biggest cause of runaway spending is runaway revenues, or windfall revenues. What would we do if, all of a sudden, we had revenues much greater than projected? If we come down here to the \$65 million at the end, into the general fund, and if the revenues are much greater, we're going to end up with a lot of money down here in the general fund, and we'll have the same motivator to have some runaway spending. So would it not be wise for us to have a discussion of what we would do if the general fund box was at \$100 million? How would we handle excess dollars over 100 million? Would some of it be streamed up to the property tax sustainability fund, or the strategic investment fund, or would it be wise to take, say, 30% of anything over \$100 million and put it into the legacy fund?

**Chairman Carlson:** I think that discussion is worth having. I understand that when you have the money it is much harder to stop spending. We're fortunate, a lot of states don't have the luxury of this discussion. My point still, though, is we have done the spending. It wasn't forced on us. It wasn't in the general fund, and we didn't show much restraint when it was in the PO trust fund. I do think caps are reasonable in some areas, to make sure you don't overextend what you're going to put back for spendable money. Going back to the bill, there are not a lot of differences between the two houses on this. If concentrate on what happens if the revenues continue to grow, then it's not hard for us to resolve this and be done with it. It would be nice if we could, because there are so many other bills that spin off of this.

**Senator Christmann:** Regarding the first column, the third and fourth boxes, there are some people that are not that happy about the way we're doing property tax relief, but until we find a better way, based on this we intend to keep doing this, so shouldn't taking care of

our property tax relief fund come before we start pouring it into the general fund, perhaps flip those two?

**Chairman Carlson:** Or you could increase the property tax to what it really is. We're concerned in the House, too, because we're not getting the bang for the buck we thought we would.

**Representative Kelsh:** I have the question, what is runaway spending? I don't think either property tax relief or DOT spending is. I have a problem taking care of the needs of the state of ND and calling it runaway spending. If we get beyond some of these figures, I have no problem putting some more money away, but I don't like hearing us say we've 'runaway spent' because we've tried to take care of some of the needs of the state. There are still things we need to take care of. As you said, we're fortunate, every other state would love to be in the position we're in. But let's not say we're doing this wrong because we're spending money where it's needed.

**Chairman Carlson:** I don't want to turn this into a budget debate, but 100% increase in spending in five bienniums, with 30,000 more people, there's those that could question our spending levels.

**Senator Taylor:** Looking at the similarities of the bill so we can come to a resolution on the bill before us, we want to make sure the dollars are available to handle the growth that is in ND, whatever name we call the fund. Property tax is an aside that we've made a commitment to. We didn't get those dollars for free from the oil patch, it comes at a cost. If the debate does move into going beyond the 30% of oil revenues the voters asked for to go into the legacy fund, then we're moving beyond the differences between the two versions of the bill. If we refine our talks to property tax relief, and the cost of growth, we're just really looking at accounting and names, in my estimation.

**Chairman Carlson:** The House is firmly convinced we need to make some kind of longer-term commitment to infrastructure. That is a big deal that won't go away, because we're hoping the economic activity doesn't go away, and that activity drives our needs.

**Senator Cook:** When this bill came out of the Senate finance and tax committee, all the dollars in the L&M trust fund over \$150 million was going into the legacy fund.

**Chairman Carlson:** That's where the discussion began. On our side we didn't do it, but that same discussion was held. Where do you put the money, where do you stop, and what are the right priorities to fund? This is an accounting measure more than anything. I would hope when we meet again, we can address the differences between us. We've laid out what we thought, we'd like something back from you saying where you think it should go. Let's take care of this and move on to the other budgets.

**Representative Delzer:** I would like to mention that when this came out of House appropriations, part of the issue of the \$300 million to the general fund is, the first \$300 million, currently we're doing 71 and if we pass any version of this bill, that goes away. In essence, it's trying to set up how much of the oil money we think should be spent on ongoing expenditures. Over and above that, the appropriations committee's thought was a

good share of that should be put into a fund that we try to use the money after it's in the fund, so we're using cash money to do our infrastructure work, instead of basing infrastructure work on hopeful revenues. That's part of the problem you have when budgeting for two years and using everything we expect to come in over that time.

**Chairman Carlson:** We often agree, but not on that point. I say everything we do is based on what's going to be collected. But Senators, we'd like to have a counter-proposal from you and see if we can resolve this.

**Senator Christmann:** I have a suggestion for your fund name. The Strategic Largesse Uncommitted Senate and House fund.

**Chairman Carlson:** I was trying to be more diplomatic, but it's hard to disagree with that. Any other comments? We'll meet Monday.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/18/11  
16705

☒ Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the meeting to order. Roll was called and there was a quorum. We've talked about the difference between the two versions and where we want to head.

**Senator Cook:** I had mentioned to you some other legislation out there dealing with land and minerals (L&M) trust fund, SB 2150 I know has \$10 million for scholarship funds. There are others, too. You said that would all get reconciled at the end, but I'd like to see it. It would be nice to know what other pieces of legislation are involved and spending some of that money.

**Chairman Carlson:** Legislative Council (LC) has been tracking where everything is at. Can you tell us what effect this bill would have, other than changing the source? I think the monies are all accounted for, it's a matter of what they're called and where they come from.

**Allen Knudson, LC:** We did a memo that shows all the impacted bills, see attachment 1.

**Senator Cook:** If it's going to come out of some other fund, we should know that. The other thing I hope we have a discussion on is, what if we have greater revenues than projected, as we discussed on Saturday (April 16). I think at some point the amount into the general fund should be capped and the revenues directed somewhere else. I'd like to see a percentage of them going into the legacy fund, or some of the other funds.

**Knudson:** Went over attachment 1. This lists the bills that are under consideration that spend money from the permanent oil (PO) tax trust fund or the L&M trust fund, or make transfers. The bottom one in the top box, on 2015, the \$388 million, that is now gone due to House actions. If you repeal the PO tax trust fund and change the name of the L&M trust fund, these are the other bills that are out there that will have to be reconciled before action on them is completed.

**Chairman Carlson:** Remind me again about the \$239 million in 2015 (bottom box)?

**Knudson:** That's the amount the governor included in 2015 as a transfer to the general fund from the L&M trust fund. That is still in the bill.

**Senator Cook:** Some of these transfers out of the funds are transfers, I believe, out of the funds as they exist this biennium, correct? This flowchart deals with next biennium. For example, in the bottom box, the \$10 million for 2150, is that transferring out of what is projected to come in during the next biennium, or is it transferring money out of funds that are there right now?

**Knudson:** It's transferring it during the next biennium. There is a beginning balance coming into that fund for next biennium, as well as income during next biennium, so it's coming out of funds available in that fund during the next biennium.

**Chairman Carlson:** But this is all for 11-13.

**Knudson:** That's right.

**Representative Delzer:** This \$109 million on the flowchart is after the \$10 million has been spent, correct?

**Knudson:** No, the \$10 million would come out of the \$109 million.

**Chairman Carlson:** So we're still talking about moving the same amount of money, it has a different name.

**Knudson:** It's a matter of how you reflect in these other bills where the money is coming from, whether it's from L&M trust fund, PO tax trust fund, or the strategic investment and infrastructure fund or the general fund. That's what needs to be determined, based on what action you take here.

**Chairman Carlson:** So we're assuming the revenues are \$682 million, that's our forecast for the biennium, and then we're taking automatically by statute \$4 million to the research fund. We're saying after that point, we're down to \$678 million, and it's the division of that revenue for next biennium we need to deal with.

**Senator Cook:** Do we not have beginning balances for these two funds?

**Knudson:** There are, the PO tax trust fund beginning balance is about \$615 million, and the beginning balance in L&M is around \$161 million.

**Representative Delzer:** That 600-some is the start of this biennium though, and mostly expended.

**Chairman Carlson:** Would it help if we cleaned this up and put starting balances on here and where everything is going? We're trying to build a picture of the future, but we get confused by our past commitments. LC, can you guide us a little more? My estimation of

this is it's all about the next time, what we're doing with the money when we start the new biennium.

**Knudson:** That's correct. The way the bill passed the House, let's talk about it in that context. The \$615 million that is the ending balance for this current biennium, or the beginning balance for next biennium, would have been transferred to the general fund at the end of this biennium. That's what would have happened to the beginning balance money. The L&M trust fund, about \$161 million, would have remained in that fund. The \$239 million at the bottom of the page from SB 2015, if you add the 161 and the 109, there's about \$270 million available, and the \$239 million that was going to be transferred to the general fund would come out of that balance, as well as the \$10 million, leaving about \$15-20 million in the L&M trust fund at the end of the biennium.

**Chairman Carlson:** I think we're getting bogged down on what we've spent and what we haven't spent, when what we really need to do is figure out how we're going to spend what we take in. Of the money we take in, we want to put some of it in the general fund, and if I look at the differences between the two chambers, House wanted \$300 million in and Senate wanted \$200 million, it's \$100 million. The \$4 million we all agree on, the property tax sustainability is somewhere \$300-380 million, and if we want to move that to the high end, I have no problem with that. In the end we'll have to see how it reconciles in the books. Out of that \$682 million, if you do that, it's basically gone.

**Knudson:** It would match the 682, because of the 378 for property tax relief, 4 for research, and 300 to the general fund.

**Chairman Carlson:** We'd make it balance out, so that would be 378 instead of 380?

**Knudson:** Right, the first 4 million goes to oil and gas research fund, the next 300 to the general fund, 300 to property tax, and 78 to-

**Chairman Carlson:** And that 378 would be for the years 14-15. We're already taking the 341 out prior to that, out of carryover

**Knudson:** Right, you carried over \$295 million into this biennium, and you're adding \$46 million to that to provide the \$341 million which you're spending this time, and then whatever amount you decide to set aside for 14-15.

**Chairman Carlson:** We'd already set it aside last time, but it was going to be short, so we added the \$41 million. Then what we're doing the next time is the 378 for what we're anticipating the growth in that money. If that was acceptable, then you'd deal with the strategic investment fund, which is going to be the money from L&M, correct? So we need to sort out how we get the money from L&M into the strategic investment fund.

**Knudson:** If you change the name of the L&M trust fund to the strategic investment fund, all those monies would just roll into the new fund.

**Chairman Carlson:** So that bottom box (on attachment 1 from April 15) would be gone, because there would be no \$78 million left over. We're putting the \$78 million now up into property tax relief.

**Knudson:** Depending on what level you want to put in for property tax relief.

**Chairman Carlson:** If we move that to 378, that bottom box is out of there, there is no extra money rolling over into the strategic fund, and now the other box deals with the L&M trust fund, so we need to try to keep these separate if we can. Nothing's going to roll over if we put it all in property tax. We're still back to Senator Cook's question, what happens to what we started with as a balance? We just need to understand on both funds what happened to the money prior to the money we anticipate collecting in the upcoming biennium. If we can sort that out, it would be easier for all of us to understand, and what commitments we've made along the way that we would have to adjust.

**Knudson:** We could certainly do that. It would help if we knew what amount you wanted to set aside for property tax relief, the 300 or the 378.

**Chairman Carlson:** I would prefer it show the 378, the full commitment.

**Knudson:** The Senate had 385.

**Chairman Carlson:** So if we're at 200 to 300 and 300 to 385 for the big changes on that side of the PO trust fund, and then understanding the commitments we have with the L&M funds, and what happens with the beginning fund balance, would that help us get to the end of the road?

**Senator Stenehjem:** You're still going to have to have all those boxes underneath there in your flowchart, even if it's zero, in case revenues are higher than projected, so there is some place and a final destination for the money to go.

**Chairman Carlson:** I agree. We're basing our projections on \$72 barrels, and today it's over \$100, obviously there will be some extra money at the end of the biennium that needs to go somewhere. So another question would be, where should that money go? If we're going to meet again, if we could have LC put together that information, that would help us resolve where we're going with this. Any additional information requests?

**Senator Stenehjem:** No, but we're talking about in this chart and all these dollars about what happens if oil keeps going just like it is, the rosy side of the picture; you don't know what's going to happen from the federal government end of things, and what happens if all of a sudden we have an anti-fracking movement or something like that, what happens to the revenues, so we need to be careful.

**Chairman Carlson:** I agree, the what-if has only been on the positive side, but what happens if none of those boxes are filled? Then you have a problem.

**Senator Cook:** I believe the property tax sustainability and the general fund boxes should be flipped. I would hope if there was a shortfall of revenue, that dollars went into the property tax sustainability fund before they went into the general fund.

**Representative Delzer:** Currently there's a certain amount that goes to the general fund first, and then we have always, as a legislative issue, put the money into the sustainability fund. I'm not sure you'd want to flip that totally, you might want to split it somehow.

**Chairman Carlson:** Even if you left the language the same, the first 71, and the next money to the property up to 380, and the balance to the general fund up to 300, that makes sense, because it's protecting us to the level we were protected before on those.

**Senator Stenehjem:** I might add if for some reason things are bad in the state, and you have \$250 million into the property tax sustainability fund and you had nothing more, there would certainly be a huge discussion that session of the legislature if that money's in property tax relief or where it's going to go. We're not strung like it's in the legacy fund, that we can't move it around legislatively if we have to.

**Chairman Carlson:** I agree with that, that does make some sense. Everything we do is a two year time frame, anything we do, we can undo the next time around if we have to. I think we're on the right track here. I'm still very committed to the fact that we should be setting aside some amount of money for future infrastructure needs.

**Senator Cook:** I would like, ahead of all the boxes, to start with what our current practice is in this biennium: what we actually started with as far as tax revenue into the PO trust fund, where did that money go, what is the ending fund balance, and we can then add the 682. I'd like to do the same for the legacy fund.

**Chairman Carlson:** LC has that information, so they will put that together for us. We'll get together again tomorrow morning. We're adjourned.



# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/19/11  
16747, 16779

☒ Conference Committee

Committee Clerk Signature

*Meredith Trachsel*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the committee to order. Roll was called and all were present.

**Allen Knudson, Legislative Council:** Went over attachment 1.

**Representative Delzer:** The only two in your center box that this 2011 session has done are the \$4.2 million for property tax deficiency and the \$22 million for state disaster relief?

**Knudson:** Right.

**Representative Delzer:** Where did the 22 we put in there, the 43 we put in there last time, did that come from general fund? Or did that not come from permanent oil (PO)?

**Knudson:** That actually happened in the 07-09 biennium, and I'm not sure if that was general fund or PO. Continued on attachment 1, page 1 right column. In regard to the \$168.5 million ending balance, from page 1 lands and minerals (L&M) trust fund, that doesn't really show up on the second page because we're just dealing with revenues, but that would be in the strategic investment and infrastructure fund. Keep in mind the governor recommended a \$239 million transfer from L&M trust fund to balance the general fund. If you're going to continue to count on that money to balance the general fund, that \$239 million will have to come from somewhere.

**Chairman Carlson:** Any questions?

**Senator Cook:** What other ongoing commitments do we have for the L&M trust fund? Isn't the guarantee for the ethanol plants backed by the L&M trust fund?

**Knudson:** The second handout, see attachment 2, indicates the bills under consideration this session as far as spending from the PO tax trust fund at the top of the page, and L&M

at the bottom; SB 2306 is the guarantee you're referring to. There are also things in SB 2013 and 2015. Those are the three items; two of those could be considered ongoing.

**Senator Cook:** That's it? I thought there were more.

**Knudson:** There had been other bills that had been in and out of the L&M trust fund, but some of those other ones have been defeated and this is where we're at right now.

**Chairman Carlson:** If you were to transfer the 09-11 money to the second page (of attachment 1), what would it look like? Is there anything that transfers over? The numbers don't look right.

**Knudson:** The way the amendments are written, as it passed the House, it only deals with revenues to the fund each biennium. That's why the beginning balance does not show up.

**Chairman Carlson:** So where does that go?

**Knudson:** For the PO tax trust fund, the ending balance would go to the general fund, under your version of the amendments.

**Chairman Carlson:** What would that number be?

**Knudson:** \$615 million from the bottom of page 1, that would be transferred to the general fund at the end of this biennium.

**Chairman Carlson:** Everything else is committed then. L&M, is that the same thing?

**Knudson:** It would go into the strategic investment and infrastructure fund.

**Chairman Carlson:** So that would have, instead of a balance of \$100 million (on page 2), a \$268 million balance.

**Knudson:** That is correct. The only thing to keep in mind is the governor, in SB 2015 there is still a transfer of \$239 million from L&M to the general fund. That's considered in the budget status report right now as revenues to the general fund.

**Chairman Carlson:** And we need those to balance the budget.

**Knudson:** Right.

**Chairman Carlson:** So how do we reflect those things if we're going to carry it all the way through to the bottom line? We're looking for where everything ends up when we're all done. The mechanics make sense; the question is, as you transition, what money is required to balance the books, and what money will be left over when the books are balanced? Is that hard to do?

**Knudson:** We could do that, but there are many things still up in the air.

**Chairman Carlson:** We realize it's a moving target, but if we took what we had in front of us today on the budgets...the only way I can understand this is to look at a snapshot of today.

**Knudson:** We can try to do a schedule on that. Look at attachment 2, with the other bills affecting the general fund. If you would be transferring that ending balance to the general fund, and you're going to repeal the PO tax trust fund, the \$701.9 million shown on attachment 2 for appropriations out of the PO trust fund would need to be changed to the general fund. Since you're only transferring in \$615 million, you're going to be short about \$85 million.

**Chairman Carlson:** Does that take out the duplication on the property tax relief?

**Knudson:** No, that is still duplicated.

**Chairman Carlson:** We need to move one of those out of there, and at that point it would not be negative.

**Knudson:** Right. If you were to set aside the \$378 million, you could take off the \$342 million transfer that shows up here. You'd be down to spending of about \$360 million that would transfer into general fund spending. Right now you have a \$350 million negative balance in the general fund, so it's kind of a wash.

**Chairman Carlson:** We'd still be about \$9 million upside down, but at least it's not \$368 million upside down. I would like to see how it looks in a snapshot if you took the 341 out, and then, the way the bill lays before us, how that's going to look when we're all done with these transfers.

**Senator Cook:** I'm comfortable with that. I have some questions as far as taking the money out of HB 1047, but we have to take it out somewhere. Also, we need to have some language in here that actually closes out the PO trust fund.

**Knudson:** That is in the latest set of amendments, version .02007, has language closing out the L&M trust fund in section 12. The original bill had language relating to PO.

**Representative Delzer:** We end up going back to the House version and amending from that, correct?

**Knudson:** Right.

**Representative Delzer:** If you're going to do the flowchart like Representative Carlson asked, could you do that on L&M, too?

**Knudson:** We could do that.

**Representative Delzer:** The way I see it right now there's not enough money in there to do everything we need to do, either.

**Knudson:** Right, if you want to leave \$100 million in there, you would not have enough money right now to do that.

**Representative Delzer:** But even if you just wanted to cover the things that we need to do, would there be enough?

**Knudson:** You've got the 168 million coming forward plus the 107, so you've got \$275 million total, and you're taking out \$255 million, so you've got about an extra \$20 million that would remain in there.

**Chairman Carlson:** Let's get that additional information from Legislative Council. We'll reschedule for later in the day.

Second recording, 16779

**Chairman Carlson:** Called the meeting back to order. We were talking about the status of selected funds and how 1451 would affect those.

**Knudson:** Went over attachment 3.

**Chairman Carlson:** The increased transfer to the budget stabilization fund is due to moving the money to general fund?

**Knudson:** That's right, moving those general fund expenditures and transferring in the PO balance at the beginning of the biennium. Continued on attachment 3 page 1.

**Chairman Carlson:** Both of those numbers (ending balances page 1) have the duplication of the property tax out of them?

**Knudson:** Right.

**Senator Stenehjem:** The \$75 million you have down there for the western area water supply, is that saying you would take the money out of the PO tax trust fund?

**Knudson:** That money right now is coming out of PO, but this would say you would take that \$75 million out of the general fund.

**Senator Stenehjem:** Because the PO tax trust fund has been transferred to the general fund.

**Knudson:** Correct. Continued on attachment 3 page 2.

**Senator Stenehjem:** You have the \$10 million for the scholarship program, is that what's in SB 2013 on the first page?

**Knudson:** That's right, the reason it shows on the first page is if 1451 passes, that would change to a general fund appropriation; right now, in current budget status, it is being spent out of L&M.

**Representative Kroeber:** In L&M, how are you handling the restricted fund income from the high water mark, that \$53 million that has been put away and has to be kept?

**Knudson:** Those amounts are not reflected in here, they are still reserved and set aside. Basically, we're not showing them as revenues on this.

**Representative Kroeber:** That will have to continue to grow, will it not?

**Knudson:** That will, yes. That will be a part of the balance.

**Representative Kroeber:** Of what?

**Knudson:** Of the strategic investment infrastructure fund. L&M is basically changing names.

**Representative Kroeber:** So that is going to be part of that infrastructure fund, but will it be kept separate somehow?

**Knudson:** Yes, as it's shown on the L&M trust fund, it's shown as reserved for contingency. We would handle it the same way, without it being able to be spent.

**Representative Delzer:** It's not part of these numbers that you have here?

**Knudson:** Correct, we left it off. The beginning balance is really \$221 million, where we're showing \$168 million for L&M, because of the \$53 million that's reserved. Continued on attachment 3 page 2. The main differences between the governor's ending balance of \$940 million and your \$780 million (on page 3) are that you left \$60 million in the bank, you reduced income taxes by about \$60 million more than the governor, and you put about \$40 million more into the budget stabilization fund. That's the \$160 million difference.

**Representative Delzer:** The current budget status is the 60 difference on tax relief.

**Knudson:** Right, because we're reflecting the Senate version right now.

**Chairman Carlson:** Any thoughts on where we're at, committee members?

**Senator Stenehjem:** We're broke.

**Chairman Carlson:** You noticed that. If we went back to the status of where the bill is at and the amendments are at, how does it relate to all of this?

**Knudson:** The flowchart from this morning, version .05000 (attachment 1), is what this (attachment 3) is based on.

**Chairman Carlson:** What happens now with additional revenue that comes in?

**Knudson:** Right now in the flowchart, excess revenues flow to the general fund. Right now we're showing about \$7 million going into the disaster relief fund, that could go up to \$22 million, based on the amendments you passed out the other day. Anything over that would flow to the general fund.

**Chairman Carlson:** So if we didn't want that to go to the general fund, we could put it in another fund along the way? I don't think we have language other than it just would standard flow right to the general fund, is that correct?

**Knudson:** That's correct.

**Representative Delzer:** I'd feel uncomfortable with it all going to the general fund. I think we should look at it going back up to the strategic fund, to a certain level, and deciding how much of that can be used in the budget next time, and look at building it a little bit more, if we ended up with that big a number. Just something to think about in the conversation.

**Representative Kroeber:** Would this all close out at the end of this biennium, and everything start in the next biennium without the PO, L&M trust funds?

**Knudson:** Yes, those funds would be repealed at the end of this biennium, and the new fund would take effect on July 1 for the next biennium.

**Representative Kroeber:** How would that affect the drawing up of the budget for the 13-15 biennium, compared to what we have now?

**Knudson:** Now, the first \$71 million goes into the general fund, and anything over that into PO, so when OMB builds their budget they use that as their basis for the amount of general fund revenues. Now, they would be using the \$300 million, so that would provide additional ongoing general fund revenues. Funds would automatically go into the property tax relief sustainability fund, where now we have a transfer to get more money in there. The funds would automatically be put into these various funds, rather than making separate decisions on how much is going to go in each time. It would be more of a formula based system.

**Representative Kroeber:** The main thing we're doing here is getting more dollars into the budget stabilization fund. Is that our main emphasis? What are we really accomplishing by making these changes?

**Representative Delzer:** This is just my thought, but to me, we're doing a number of things. We'd be putting more money into the budget stabilization fund, but we can do without getting rid of the PO fund. That gets done by shifting things through the general fund and having the money available at the start of the biennium. This bill says, we think we should be using the oil money for ongoing expenditures, it sets aside money for the property tax, which is an issue for the next legislature, and it puts money into the strategic investment, which is more or less our one-time things, the things we want to fund if we have the money. Personally, I think we should cap how much of that the governor puts into his budget at some dollar figure. We also put some money into the disaster relief fund, to prevent the need to deficiency appropriate funds.

**Representative Kroeber:** I think that's basically what we have done with the, I don't want to use the word permanent anymore, oil tax fund; I think we have been diligent with those one-time expenses out of that fund. L&M, that's a completely different situation; we have used that for a number of different things, many of which could be considered continuing. The infrastructure fund would accomplish approximately that same thing. As we run more of this through the general fund, it will be very important to keep track of one-time expenditures we do.

**Senator Stenehjem:** I'd be interested to have Legislative Council dig up some information to see exactly what we've spent money out of PO tax trust fund in the past. I'm not sure if we've really only been spending it on one-time expenditures. Bottom line, the way this is developing, let's look at this from the tough side. Let's say the revenues aren't there. Let's work backwards: if the revenues aren't there, your state disaster relief fund isn't going to have money, the strategic investment and reserve fund is not going to have money in it. You'll work your way all the way up, and some day in the future if things are tough and the money isn't there, we're going to have to look at not funding some of these things. Maybe one of them will be the property tax relief fund. All the dollars are still there to be spent, it just depends on where you're spending them from.

**Chairman Carlson:** Going back to the budget stabilization fund, by doing this, that was kind of an unintended consequence, but that's what happens. When you actually roll everything you're spending through the general fund and we base our formula on 10% of that, it really puts some daylight on how much that jumps by the level of your spending.

**Senator Stenehjem:** All the money is still there, depending on which fund you're in, and the budget stabilization fund is no more permanent than the PO tax trust fund. If we get back into the legislature and the money is not there, there will be the votes to take the money out of that fund to fund whatever it is we have to do. They are there, it's not like they disappear.

**Chairman Carlson:** In 99 we spent \$13 million out of that fund, 01 \$12 million, 05-07 \$143 million, 07-09 \$489 million, 09-11 \$615 million.

**Senator Stenehjem:** Didn't we last session alone transfer \$140 million out of PO into the general fund just to make the obligations of what we did last session? That certainly wasn't just one-time projects, it was part of the whole budget process.

**Chairman Carlson:** That's the only way we could close the books. One thing we should talk about is, if we took these numbers, and added 8% for the growth of government next biennium, how would it look? The reality is, when we start these things, we usually have to fund them again. We've gathered a lot of information here, I don't know if we need to gather any more. It's a concept change. Maybe we need to look at the order of our boxes on our flowchart, and Senator Cook's idea of putting money into property tax before the general fund is a good one to consider.

**Senator Cook:** I agree and hope we would consider that. It would be the first \$71 million the general fund, then the property tax relief, and then fill the general fund up to \$300

million. We also need to have a good discussion about what we do at the end of the flowchart if the revenues are unexpectedly high.

**Chairman Carlson:** That's why I brought it up, it's important how we deal with that number. Otherwise it becomes free game for continued spending.

**Representative Kroeber:** I do think we need to keep in mind, in addition to the increased amount we're putting into the budget stabilization fund, we have the \$619 million legacy fund that is available, we have \$60 million in Bank of North Dakota, we have \$100 million the foundation aid stabilization fund, and we have \$100 million going into the common schools trust fund. I think we've been quite prudent in our use of the dollars, and obviously we want to go forward doing the same, but there are dollars in the budget.

**Chairman Carlson:** The problem is most of those dollars are not spendable.

**Senator Stenehjem:** I think there are some of these boxes in the flow chart you may want to look at, such as the state disaster relief fund. Some have caps, some don't, and we need to make sure it flows down the chart smoothly and in the correct order.

**Chairman Carlson:** I agree with that. Let's meet again tomorrow. Bring some ideas and some motions, and let's see if we can move this off center. We're adjourned.



# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/20/11  
16804

☒ Conference Committee

Committee Clerk Signature

*Meredith Trachsel*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the committee to order. All members were present. We've gone over the logistics many times already, and we're hoping somebody has something new to share so we can conclude this.

**Senator Stenehjem:** I just received a report about where we've been spending the permanent oil (PO) tax trust fund. See attachment 1.

**Chairman Carlson:** Transfers to the general fund seem to be growing.

**Representative Delzer:** I asked for some spreadsheets that show the current thing with some small changes, and then if we estimated receiving \$40 million a month, instead of the anticipated \$26-30 million a month for the next two years. This is just so we could see how things would flow, if there was more money there. One issue Legislative Council (LC) brought up was, the Senate had brought up doing the \$71 million into the general fund, then property tax relief, then into the general fund again. LC reminded me that if revenues went away, we'd have money in property tax relief and possibly end up in a deficit situation in our general fund, at which point we'd have to take money out of the budget stabilization fund. The flowcharts I have are built on \$200 million to the general fund first, then the property tax, then another \$100 million back to the general fund. I'm not set on those numbers, I just wanted us to look at it in the flowchart. We also set these out two different ways, one where monies flow into the infrastructure fund and disaster relief, then back up to the infrastructure fund; one has excess monies going right to the strategic fund so that state disaster relief was handled before it went to the investment fund. The first one we'll hand out, version .07000, see attachment 2, shows our current flow, based on estimated monthly revenues of \$26 million and then \$30 million for the two years of this upcoming biennium.

**Allen Knudson, LC:** Went over attachment 2.

**Representative Delzer:** With this, there would be \$0 going to disaster relief?

**Knudson:** No, there would be \$7 million, because we're capping the investment fund at \$100 million.

**Senator Cook:** The numbers in the fund boxes are accurate numbers, kind of like caps, except for the property tax relief sustainability fund. Could the number there change by the time we go home, to reflect what is actually appropriated? It's 378 right now, but it could be more or less depending on how some other legislation is decided. That is not determined by us here to balance that out, it will be based on what we actually think it will cost.

**Representative Delzer:** My understanding is it would be up to us to set that number.

**Chairman Carlson:** Isn't this money we're setting aside for 2014-2015?

**Knudson:** Yes.

**Representative Delzer:** I have another flowchart, version .09000, that shows the same boxes, using the \$40 million per month guestimate, see attachment 3.

**Knudson:** Went over attachment 3.

**Representative Delzer:** I think one thing we should say, we're talking about capping it at \$100 million here, but perhaps going forward we should put in language that says, we put \$100 million there, when it reaches \$100 million, the next \$22 million goes to the state disaster relief fund, and then the remainder back into that fund, instead of a cap type situation. I think the language we have in the existing bill says that the only amount that should be appropriated is the cash money that's there.

**Representative Kroeber:** We're talking about the \$100 million being in addition to the \$56-57 million in the unrestricted funds. Should we have something in here that says 100 million unrestricted dollars, so it's clear that the \$57 million from the high water mark dollars are separate and don't apply to the \$100 million?

**Representative Delzer:** We could ask LC, but I don't know that we need to do that, there is other existing language that says that has to be set aside.

**Knudson:** To make it clear those are to be excluded, we could add something when we do the amendment.

**Chairman Carlson:** I think that would be a good move on our part, to make sure that money is not included.

**Representative Delzer:** Also the \$6.25 million set aside for the loan guarantee.

**Senator Cook:** Should we add a box or boxes to the flowchart that identifies the \$6.25 million, and the \$10 million for scholarships?

**Knudson:** It could be handled that way, or out of the general fund, it's your call.

**Chairman Carlson:** My thought was that it would move over to be general fund appropriations to keep track of what we're doing with it, but that's also the purpose of this.

**Representative Delzer:** Then we have another flowchart looking just at the oil side, version .06000, see attachment 4.

**Knudson:** Went over attachment 4.

**Representative Delzer:** We also have the same flowchart with the higher revenues, version .08000, see attachment 5. Again, the increased expected revenue is just for purposes of showing what would happen if there was that much money coming in, we're not by any means saying we expect that or don't expect it or anything else.

**Knudson:** Went over attachment 5.

**Chairman Carlson:** Comments or questions?

**Representative Kroeber:** I realize on our 5% gross production tax we're talking about the box that goes to the right, but the one that goes to the left on the oil impact fund, we haven't shown any of that, but I'm assuming that's all still there, the \$100 million?

**Knudson:** That would be taken out before we get to the \$682 million in the top box.

**Representative Kroeber:** But that's still there, and that box is still there before? Okay.

**Representative Delzer:** Is that \$100 million in permanent law, or is it a session law?

**Knudson:** I believe that went into permanent law, but I will double check.

**Chairman Carlson:** My understanding was, this was the money that, after all distributions, was left as revenue, and that's why we're moving it as we wish. It was not adjusting any of the other formulas or distributions that were along the line.

**Representative Kroeber:** On the state disaster relief fund, we have \$7 million, another shows \$22 million; one flowchart shows excess going to the general fund, another to the strategic investment fund. What is the number that will be capped at before it can flow? Do we have to set a cap on that? What determines that amount?

**Representative Delzer:** That would depend strictly on what kind of revenue we have. If we fill the boxes up, it will get to \$22 million.

**Representative Kroeber:** So there is a cap of \$22 million? Okay.

**Chairman Carlson:** Some people have questioned why we have that, and I've been here long enough to understand that every session we've either had deficiency appropriations,

or we've had to add extra money during the session to cover disasters. I thought it wouldn't be a bad idea if we planned ahead and had some of that setting aside there. We've been trying to do that for two or three bienniums now, instead of coming back and deficiency appropriating for the expenses.

**Representative Delzer:** That actually would not be a cap, if there was money enough to flow in there, it would be \$22 million additional to whatever existed in there, and the way it is set up, it has to be appropriated every two years. If the next legislature wanted it to build more, they could.

**Representative Kroeber:** For this time, right now, we're talking about a cap of \$22 million, so that it will at that point flow either into the general fund or another fund?

**Representative Delzer:** Right.

**Senator Stenehjem:** Whatever you have as the last box, like the strategic investment fund, looks like nothing more than another PO tax trust fund, unless you cap it at something and move it over to the general fund.

**Chairman Carlson:** We're trying to make sure those expenses we're running through are accounted for. Obviously we're also building a stronger base for our budget stabilization fund by doing this. I like that idea.

**Senator Stenehjem:** I have another name to suggest, the strategic investment and improvement fund.

**Chairman Carlson:** I have no trouble with the name, it's the concept. My whole intention was to make sure that if we're going to have impact out in these areas where we're expecting a lot of economic development that we have more than a two year plan to try to fix that infrastructure. The name doesn't mean a lot to me, but the concept does.

**Senator Cook:** If we're going to have name contest, I hope Senator Christmann's SLUSH fund is still in contention. I appreciate the what-if scenario we got to look at today. I think we need to do one more, looking at the lands and minerals (L&M) trust fund money. What if that was more, how then would that flow? Would it continue to just end up in the strategic investment fund, or is it wise for us to have a discussion about also transferring that money somewhere else, including possibly the legacy fund?

**Representative Delzer:** The way it currently would be set up, if there was a large amount in the infrastructure fund or whatever we want to call it, it would stay there. I have no problems if you want to set a number and everything above that gets reconsidered. If you set it at something like 350, I don't know that we'd ever get that high, but it's a possibility, and that's something we might prepare for. I don't know that I would like to send it to the general fund, because I think this sets what we think we should be spending out of oil money for general ongoing expenditures.

**Senator Cook:** Policy-wise, I think the best time to have the discussion on 'what would you do if--' is at a time when you're not there. Once you get there, and the money is on the table, you have an entirely different conversation then you would have right now.

**Chairman Carlson:** I would think the L&M would mirror, in a smaller version, what's happening on the PO trust fund, as far as growth of revenue. We had a huge hit this last time with some of the leases we put on the land, because it was really a one-time harvest on some of that, but I don't know if we have projections we could plug in or not.

**Knudson:** We could work with the land department and see if they have any numbers they could help us with on that.

**Chairman Carlson:** You could question the order of the boxes; I don't think anybody is going to complain at this point in time that if we've made a commitment to property tax we should probably fill the box. We need to come to some resolution so we can draft some amendments and try to move this forward.

**Senator Cook:** The projections I've seen from the land department was around \$111 million for this next biennium and \$111 million for 14-15.

**Chairman Carlson:** So not a lot of change.

**Senator Cook:** Not a lot of change. But that doesn't mean it couldn't be a lot more.

**Knudson:** On the oil and gas impact fund, that change going to \$100 million is in statute, in permanent law.

**Senator Dotzenrod:** I was thinking of the \$22 million, is that something that we have to set in this session, or does that also refer back to some law that we've used in the past.

**Chairman Carlson:** I don't think there's anything on the books anywhere for that.

**Representative Delzer:** We put \$43 million in it in the 2012 budget last time, and we're putting \$22 million in it this time in 2369.

**Senator Dotzenrod:** The \$40 million estimate per month, what's the basis for that?

**Representative Delzer:** It's just a number out of the air, to show one scenario.

**Chairman Carlson:** We were just trying to play with some what-ifs. It's better to address the what-ifs now instead of later, saying I never expected it to be at that level. Where do you want to go from here, committee? Are there any of these we can prepare some amendments on?

**Senator Cook:** I'd like to have a discussion on the what-if on the L&M trust fund, and then I think we'll be ready to vote.

**Chairman Carlson:** Alright. We'll adjourn and meet again tomorrow.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/21/11  
16835

☒ Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the committee to order. There was a quorum. We have an amendment from Representative Delzer. It does incorporate Senator Stenehjem's name idea for the fund, now the strategic investment and improvements fund.

**Representative Delzer:** I have passed out amendment .02009, as well as a marked up version of the bill showing the amendment. This deals with what we talked about yesterday.

**Allen Knudson, Legislative Council:** Went over the marked up version of the bill with amendment .02009.

**Chairman Carlson:** Comments, questions, discussion?

**Representative Delzer:** This is pretty much what we talked about yesterday afternoon. I do personally have a couple items that I'm not sure I agree with, but I can live with them. The first is putting \$200 million into the general fund and then \$378 million into property tax, then \$100 million into the general fund; I guess that's okay, but it splits it up one extra time. The portion going to the legacy fund, if that's this committee's wishes, so be it, but I did have some discussion with some House members and did not find as much support that idea as I thought I would.

**Chairman Carlson:** Because that was a 25% number on anything over \$400 million, the other 75% to the infrastructure fund.

**Representative Delzer:** It's such that if the strategic fund was sitting at 440, whatever would come in the next month would be split 25/75, not 25% of everything over \$400 million in that fund going to the legacy fund.

**Senator Cook:** Maybe I should understand those concerns, but I would ask how much money the state has to have on the table to spend before we'll put some money in the savings account for the future generations. Do those who indicate they don't like the idea understand how much money would have to be on the table in these funds before that ever happened? I think the \$400 million is too high.

**Chairman Carlson:** We could figure that out, how much would be there if it got to that level, to the 400.

**Senator Cook:** I think it would be over \$1 billion.

**Chairman Carlson:** That would be my guess.

**Knudson:** The way the funding flow from oil revenues works, that's where all the oil money is going to end up, over the limits that you've set. There really wouldn't be any oil money specifically going to any other state funds, like it does now to permanent oil, this is where it's going to end up.

**Representative Delzer:** We're scheduled to have 639 or whatever that number is off of our revenue, so that much would be available no matter what you say, because that would not put anything but just a little bit to the disaster fund. To end up at over 400, you'd be well over a billion dollars, before you hit that.

**Senator Cook:** You're going to have \$300 million in the general fund; \$378 in property tax relief, that's 678; \$4 million in oil and gas, that's 682; \$22 million for disaster relief, that's 704; then 400 more. That's \$1104 million, \$1.1 billion, that you would have put in silos, available to spend, before anything would go into the legacy fund.

**Chairman Carlson:** This idea was rejected in the Senate when it came to the floor. What's going to be the reaction when it comes back? We're not disagreeing with you about this point, but we know where it was defeated in the first place.

**Senator Stenehjem:** It could be a new day in the Senate, you never know.

**Representative Kroeber:** I'm concerned about putting the money in the legacy fund because if all these dollars come in at this high a rate from oil, the 30% is going to go into the legacy fund first, and that fund is going to be much higher than what we're predicting, too. So legacy fund is going to go up right off the top, if our projections are low for the oil, there are already additional dollars going into that. I'm also concerned about the extra \$80 million that is now off the table to go into the budget stabilization fund.

**Senator Dotzenrod:** I recall the debate in the Senate when we had this up, and there was great concern about the legacy fund. I think if we were to have this measure separated out, the question of the legacy fund as a separate vote instead of part of this bill, from what I saw earlier I would guess it would probably not pass. I think part of the problem is the uncertainty about the future – flooding, infrastructure needs, etc. This has contributed to the sense that we're living up to our obligation to the legacy fund under our current 30%, and this idea of having these revenues not off the table but available for some options if

they're needed. I agree that we're talking a lot of money here, but at the same time, the money becomes unavailable if it goes in the legacy fund.

**Senator Stenehjem:** If I recall the debate correctly, it was taking \$52 million out of this stream and throwing it into the legacy fund, that's where the argument was. It would take an extreme amount of money to come in before anything ever happened in there, and it's not even anticipated that it would happen in the next couple of bienniums, anyway. This isn't even a fair comparison of talking about what's going into the legacy fund, it is very different from the previous Senate discussion.

**Senator Cook:** That's exactly right, before when we had the debate it was \$52 million out of this biennium, and we also had one on if the lands and minerals trust fund ever exceeded \$150 million, all of that would go into the legacy fund. I was never able to stand up and say, this would not happen unless we had \$1100 million, \$1.1 billion. I would like to suggest that if we reduce the 400 to 300, we have a nice even number in all the silos, and the total is \$1 billion.

**Chairman Carlson:** We kind of like the 400. We changed the name already for you, we're trying to get along.

**Senator Stenehjem:** Thank you very much.

**Chairman Carlson:** You want to meet tomorrow morning and try to move this out, after reviewing the amendments? Any other comments?

**Senator Cook:** 2129 was kicked out of conference this morning, that's related to this, and that was Senate accede to House amendments, and further amend. I also understand there's an amendment offered on the educational funding bill that takes \$5 million out of lands and minerals trust fund.

**Chairman Carlson:** I believe it comes out of the impact fund. I'll double check.

**Senator Stenehjem:** Is this chart exactly as it was in .06000, are we sure the \$4 million for the oil and gas research fund is there? I also think we should have a chart that shows the \$57 million.

**Chairman Carlson:** It probably wouldn't hurt if we had a side-box that showed that was protected funds, so people understand that money is not gone or rolled in to anything.

**Representative Delzer:** I think that's a good thing, because I think both sides would like to be able to hand that chart out before floor discussion.

**Chairman Carlson:** I sure think that would be an easier way to explain the bill.

**Senator Stenehjem:** That will be important to my senators.

**Senator Dotzenrod:** On page 4 line 23, that reference to guarantee reserve fund requirements, can you go over that again?



**Knudson:** That was SB 2306, the Bank of North Dakota loan guarantee of \$6.25 million on the ethanol plant out of the lands and minerals trust fund. This section says that in determining the amounts in the flow chart, you can't consider that guaranteed reserve, as well as any appropriations or transfers, or any designated fund balance reserve.

**Representative Kroeber:** The new chart will also show the legacy fund and transfer box?

**Chairman Carlson:** It will show a box that says if it goes over X amount of dollars, it would move to that. Anything else? We'll get together in the morning.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1451  
4/22/11  
16843

☒ Conference Committee

Committee Clerk Signature

*Meredith Trachsel*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the oil and gas research fund; to elimination of the permanent oil tax trust fund; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Carlson:** Called the committee to order. Roll was called and all were present. We have a new handout, see attachment 1.

**Allen Knudson, Legislative Council (LC):** Went over attachment 1.

**Chairman Carlson:** When I look at this, I'd make three recommendations. On the property tax relief, that that number be the \$341,790,000. I would change the box on the strategic investment fund where it said go to 400 make it 300. Lastly, because of all the movement of money, I would reduce the percentage from 10% to 9.5% for budget stabilization. We're open for discussion.

**Senator Dotzenrod:** The \$400 million number, you propose that should be \$300 million?

**Chairman Carlson:** Correct, realizing that if we get to that level, we've already put \$1 billion worth of revenue into this chart.

**Senator Dotzenrod:** And the distribution if it goes over that is 25% to legacy and 75% does not go to the strategic investment fund, it goes to the general?

**Chairman Carlson:** I may have said that wrong. It is 75% to the strategic investment fund. As far as the \$341 million into property tax relief, if that's a little off in 2014-2015, we'll do what we did this time and add some money into it to make it whole.

**Senator Stenehjem:** I think if we get to the point where we have the extra \$300 million, I think the 75% that doesn't go into the legacy fund needs to go to the general fund. All you're doing is inventing another fund that's going to be offline; you'll be taking money out of it that doesn't go through the general fund, just like the permanent oil tax trust fund today.

**Representative Delzer:** I'd prefer it stayed in the strategic investment fund. I think we've set what we think should be ongoing expenditures out of the general fund, and if you put it back in there, I think that changes the view of how it's used.

**Chairman Carlson:** I'm hoping we have to deal with that problem, that we get that much extra money. This is a big what-if here. If we put it in the wrong place, we can always move it around next time. It's not a point of contention with me as to which fund it goes into.

**Senator Cook:** I was under the impression it was going into the general fund, but really the only difference that makes is to the budget stabilization fund. And we were talking about reducing that from 10% to 9.5%.

**Chairman Carlson:** Yes. I know that Representative Kroeber has some concerns about the rapid growth of that, and obviously that will continue to grow even at 9.5%; next time our budget will be higher than this time. Even though it's great to have it, at 9.5% on that big number would be fine with me.

**Senator Cook:** I'd be happy with that. I think the most important thing we're doing is moving that 400 to 300, I certainly support that. You guys can fight out what you want to do with the 75%. The only other question I have, the \$212,000 we're going to see as a shortfall for the property tax relief fund for this biennium, were we going to fix that here or the OMB bill?

**Chairman Carlson:** In OMB, I think. And we do understand that that is laying out there for some of these districts to deal with. That's a hard fix.

**Senator Stenehjem:** What is the logic for having the additional excessive revenues flow into the strategic investment and improvements fund?

**Chairman Carlson:** It depends on, when it all balances out, where your ongoing level of spending is at in terms of the revenue you need to balance the books. In the end it will come from one of those two places to balance the books, if necessary. It's not a big point of contention for me.

**Representative Delzer:** My thought on that is that the strategic investment fund is looking at what we can do over and above what we normally do; the general fund is what we normally consider ongoing revenue and spend all the time. I'm not sure this is ongoing revenue. We should consider this, not necessarily a windfall, but something we shouldn't bank on having all the time, because we never know what's going to happen with our oil industry.

**Senator Stenehjem:** That's kind of what we're doing with all of this. We're making contingency plans for all this money coming in. I don't have a problem with that. But when you get down to the strategic investment fund, whatever level you want to set it at, remember how we got into the permanent oil tax trust fund situation that we're in. The first \$71 million went into the general fund and the rest sat in that fund, so then we went to the

permanent oil tax trust fund and took money out of there to do everything from one-time to ongoing programs. That's what I'm worried about, the same thing happening with the strategic investment fund. I don't mind that the money's there. If we get that big a windfall, put it even into the budget stabilization fund, so all that stuff is online, so it basically runs through the general fund, so it isn't offline money.

**Representative Delzer:** I don't think the next legislature will spend it as offline money, I think they will run it through the general fund when they do it, but the difference is how you look at it when you start, so you look at it as something you might not have again. Whatever you throw in the general fund, we seem to say right away we're going to spend, instead of looking at this money as over and above what we should be expecting. We will spend it, but hopefully on the right priorities. I don't have a major hang-up if that's what it takes to get this bill out. Whatever it takes.

**Senator Cook:** Let me offer a compromise. Put it in the tax relief sustainability fund.

**Representative Delzer:** I don't see that as a very good compromise, because I don't think we want to continue to grow that unless we change how we do that.

**Senator Cook:** I didn't say property tax relief sustainability, I said the tax relief sustainability.

**Representative Delzer:** Oh, create another one then.

**Chairman Carlson:** Change the name a little bit, is what he means

**Senator Cook:** I mean if you got to the place where you had the silos all full. What's wrong with tying some of that extra money into tax relief?

**Chairman Carlson:** If I'm adding this up right, you got the 4 million, 200 million, 378, 100, 100, 22, 107. How much is that, if they're all full?

**Knudson:** It's close to \$1 billion.

**Chairman Carlson:** It's \$1 billion of oil revenue that we've put in various places. Most of it accessible to spending. Let's resolve this and move on, because we're arguing over something that may never end up in the pot.

**Senator Stenehjem:** You're absolutely correct. But I would venture to say, if all these silos were full, just for example, I would bet a large amount of my own money that we could find a way to invest all the money in the strategic investment and improvements fund; that is my concern.

**Chairman Carlson:** I'm not going to argue with that.

**Senator Stenehjem:** We spent \$700 million in DOT's budget.

**Representative Delzer:** I'm sure we will, but it's how you look at pulling it out and spending it on strategic investments, as compared to spending it on general funding; I don't know whether we will or not. Make a motion on how you want it.

**Senator Stenehjem:** I'm happy to live with that. It's a decent compromise; if you want it to go back into the strategic investment and improvements fund, that's fine. Time will tell.

**Representative Kroeber:** Would you explain again that first arrow to the right off of the first strategic investment and improvement fund box (attachment 1 page 2)?

**Knudson:** As the money comes in, once the general fund gets its next \$100 million, then the next \$100 million would go to the strategic investment fund. Then, if there was still additional oil money coming in, the next \$22 million would go to the state disaster relief fund. Anything above that would continue to go to the strategic investment fund. So really, it's just separated by that money that would go to the state disaster relief fund.

**Chairman Carlson:** We've almost forgotten that the lands and minerals trust fund is putting money into this system as well. We haven't talked a lot about that, but that's the basis for starting that fund, and then the excess goes over there.

**Representative Kroeber:** Have you run the numbers on how much the 9.5% reduces the total going to budget stabilization, that had been \$410,976,000?

**Knudson:** It would be about \$20 million. The budget is about \$4 billion, so each 1% would be \$40 million; half a percent would be \$20 million.

**Senator Cook:** If you look at the white boxes on the fund on page 1, those represent policy that is in code. You can see the legacy fund is in grey; I would like to see the common schools trust fund and foundation aid stabilization fund also made grey, because they are constitutional requirements. That way, when you share this with somebody, white represents what we have in law, and it takes a law to change the law; the grey would be what is constitutional law; all the other colored boxes are basically unobligated money, they are silos with intent on them that a future legislature determines how to spend.

**Chairman Carlson:** That's a pretty good explanation of what they are. I'm looking for a motion.

**Senator Stenehjem:** I move that.

**Senator Cook:** Second.

**Chairman Carlson:** Could you be just a little more specific about what you're moving? I'm with you, I think.

**Senator Stenehjem:** \$341,790,000 into the property tax relief sustainability fund; change the \$400 million that's in the strategic investment and improvements fund unobligated balance to \$300 million; leave the 25% to legacy fund, and have the 75% revert to the

strategic investment and improvements fund; and lower the amount of money going into the budget stabilization fund from 10% to 9.5%.

**Chairman Carlson:** And you're moving the rest of the amendment as it was before us?

**Senator Stenehjem:** Correct.

**Chairman Carlson:** We have a motion to adopt amendment .02009, as amended by Senator Stenehjem. Any further discussion? We'll call the roll. Motion carries 5-1. Now we need to make the proper motion on the conference committee action. The motion needs to be that the Senate recede from their amendments, and the conference committee further amend as follows.

**Senator Stenehjem:** I so move.

**Senator Cook:** Second.

**Chairman Carlson:** Any other discussion? If not, we'll call the roll on the motion to have the Senate recede from Senate amendments, and amend as follows, as stated by Senator Stenehjem. Motion carries 5-1. Representative Delzer will explain this on the floor.

**Representative Delzer:** I don't know about that; the chairman is the first one up to speak on the floor.

**Chairman Carlson:** We're adjourned.

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations

Bill/Resolution No. 1451 as (re) engrossed

Date: 4/14

Roll Call Vote #: \_\_\_\_\_

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) \_\_\_\_\_

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

((Re) Engrossed) 1451 was placed on the Seventh order of business on the calendar

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Representatives	H/J		Yes	No		Senators	H/J		Yes	No
Carlson (Chair)	X					Cook	X			
Delzer	X					Stenehjem	X			
Kroeber	X					Dotzenrod	X			

Vote Count Yes: \_\_\_\_\_ No: \_\_\_\_\_ Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations  
 Bill/Resolution No. 1451 as (re)engrossed  
 Date: 4/15  
 Roll Call Vote #: \_\_\_\_\_

- Action Taken**
- ☐ HOUSE accede to Senate amendments
  - ☐ HOUSE accede to Senate amendments and further amend
  - ☐ SENATE recede from Senate amendments
  - ☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) \_\_\_\_\_

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

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

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Representatives	4/15		Yes	No		Senators	4/15		Yes	No
Carlson	X					Cook	X			
Delzer	X					Hogue	X			
Kroeber	X					Dotzenrod	X			

Vote Count Yes: \_\_\_\_\_ No: \_\_\_\_\_ Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment



# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations

Bill/Resolution No. 1451 as (re) engrossed

Date: 4/16

Roll Call Vote #: \_\_\_\_\_

- Action Taken**
- ☐ HOUSE accede to Senate amendments
  - ☐ HOUSE accede to Senate amendments and further amend
  - ☐ SENATE recede from Senate amendments
  - ☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) \_\_\_\_\_

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

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

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Representatives				Yes	No		Senators				Yes	No
Carlson, Chair	X						Cook	X				
Delzer	X						Christmann	X				
J. Kelsh	X						Taylor	X				

Vote Count Yes: \_\_\_\_\_ No: \_\_\_\_\_ Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations

Bill/Resolution No. 1451 as (re) engrossed

Date: 4/18 - 4/20

Roll Call Vote #: \_\_\_\_\_

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

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

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

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Representatives	4/18	4/19	4/20	Yes	No		Senators	4/18	4/19	4/20	Yes	No
Carlson, Chair	X	X	X				Cook	X	X	X		
Delzer	X	X	X				Stenehjem	X	X	X		
Kroeber		X	X				Dotzenrod	X	X	X		

Vote Count Yes: \_\_\_\_\_ No: \_\_\_\_\_ Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

April 21, 2011

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1451

That the Senate recede from its amendments as printed on page 1586 of the House Journal and pages 1349 and 1350 of the Senate Journal and that Engrossed House Bill No. 1451 be amended as follows:

Page 1, line 3, after the third comma insert "6-09.7-05,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 1, line 19, replace "state infrastructure" with "strategic investment and improvements"

Page 1, line 21, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 1, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 17, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 12, replace "state infrastructure" with "strategic investment and improvements"

Page 3, after line 14, insert:

**"SECTION 4. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.7-05. Establishment and maintenance of adequate guarantee funds -  
Use of ~~lands and minerals trust~~strategic investment and improvements fund.**

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the ~~lands and minerals trust~~strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the ~~lands and minerals trust~~strategic investment and improvements fund to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 3, line 18, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 18, after "intent" insert "- Contingent transfer to legacy fund"

Page 3, line 22, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 24, after "infrastructure" insert "or for initiatives to improve the efficiency and effectiveness of state government"

Page 3, line 28, after the period insert "If the unobligated balance in the fund at the end of any month exceeds four hundred million dollars, twenty-five percent of any revenues

received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases."

Page 4, line 1, replace "State infrastructure" with "**Strategic investment and improvements**"

Page 4, line 4, replace "state infrastructure" with "strategic investment and improvements"

Page 4, line 12, after "fund" insert ", property tax relief sustainability, strategic investment and improvements fund,"

Page 4, line 12, replace "infrastructure" with "disaster relief"

Page 4, replace lines 20 through 25 with:

"From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. The next three hundred seventy-eight million dollars into the property tax relief sustainability fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund; and
6. Any additional revenues into the strategic investment and improvements fund."

Page 4, line 31, replace "state infrastructure" with "strategic investment and improvements"

Page 5, after line 10, insert:

**"SECTION 12. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer shall close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund."

Renumber accordingly

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations

Bill/Resolution No. 1451 as (re)engrossed

Date: 4/22

Roll Call Vote #: 1

- Action Taken**
- ☐ HOUSE accede to Senate amendments
  - ☐ HOUSE accede to Senate amendments and further amend
  - ☐ SENATE recede from Senate amendments
  - ☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

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

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

Motion Made by: Sen. Stenehjem Seconded by: Sen. Cook

Representatives	4/21	4/22	Yes	No		Senators	4/21	4/22	Yes	No
Carlson, chair	X	X	X			Cook	X	X	X	
Delzer	X	X	X			Stenehjem	X	X	X	
Krueber	X	X		X		Dotzenrod	X	X	X	

Vote Count Yes: 5 No: 1 Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

02009 → 341,710,000 into prop. tax relief fund  
 400 → 300 ending unobligated balance  
 75% reverts to strategic investment fund  
 chg budget stab. to 9.5%

VR  
4/25/11  
143

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1451

That the Senate recede from its amendments as printed on page 1586 of the House Journal and pages 1349 and 1350 of the Senate Journal and that Engrossed House Bill No. 1451 be amended as follows:

Page 1, line 3, after the third comma insert "6-09.7-05,"

Page 1, line 3, after the fifth comma insert "54-27.2-01,"

Page 1, line 4, after "fund" insert ", the budget stabilization fund,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 1, line 19, replace "state infrastructure" with "strategic investment and improvements"

Page 1, line 21, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 1, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 17, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 12, replace "state infrastructure" with "strategic investment and improvements"

Page 3, after line 14, insert:

**"SECTION 4. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.7-05. Establishment and maintenance of adequate guarantee funds -  
Use of lands and minerals trust strategic investment and improvements fund.**

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the ~~lands and minerals trust~~ strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the ~~lands and minerals trust~~ strategic investment and improvements fund to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 3, line 18, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 18, after "intent" insert "- Contingent transfer to legacy fund"

Page 3, line 22, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 24, after "infrastructure" insert "or for initiatives to improve the efficiency and effectiveness of state government"

Page 3, line 28, after the period insert "If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases."

Page 4, line 1, replace "**State infrastructure**" with "**Strategic investment and improvements**"

Page 4, line 4, replace "state infrastructure" with "strategic investment and improvements"

Page 4, after line 6, insert:

**"SECTION 7. AMENDMENT.** Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-27.2-01. (Effective through June 30, 2009) Budget stabilization fund.**

The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than five percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund.

**(Effective after June 30, 2009) Budget stabilization fund.** The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than ~~ten~~ nine and one-half percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund."

Page 4, line 12, after "fund" insert ", property tax relief sustainability, strategic investment and improvements fund,"

Page 4, line 12, replace "infrastructure" with "disaster relief"

Page 4, replace lines 20 through 25 with "From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. The next three hundred forty-one million seven hundred ninety thousand dollars into the property tax relief sustainability fund;

3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund; and
6. Any additional revenues into the strategic investment and improvements fund."

Page 4, line 31, replace "state infrastructure" with "strategic investment and improvements"

Page 5, after line 10, insert:

**"SECTION 13. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer shall close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund."

Renumber accordingly



# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations

Bill/Resolution No. 1451 as (re) engrossed

Date: 4/22

Roll Call Vote #: 2

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1586 -- 1586

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

((Re) Engrossed) 1451 was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Stenehjem Seconded by: Sen. Cook

Representatives				Yes	No		Senators				Yes	No
Carlson, Chair				X			Cook				X	
Deizer				X			Stenehjem				X	
Kroeker					X		Dotzenrod				X	

Vote Count Yes: 5 No: 1 Absent:

House Carrier  Senate Carrier

LC Number 11.0639 . 02010 of amendment

LC Number  .  of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1451, as engrossed:** Your conference committee (Sens. Cook, Stenehjem, Dotzenrod and Reps. Carlson, Delzer, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1586, adopt amendments as follows, and place HB 1451 on the Seventh order:

That the Senate recede from its amendments as printed on page 1586 of the House Journal and pages 1349 and 1350 of the Senate Journal and that Engrossed House Bill No. 1451 be amended as follows:

Page 1, line 3, after the third comma insert "6-09.7-05,"

Page 1, line 3, after the fifth comma insert "54-27.2-01,"

Page 1, line 4, after "fund" insert ", the budget stabilization fund,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 1, line 19, replace "state infrastructure" with "strategic investment and improvements"

Page 1, line 21, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 1, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 17, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 12, replace "state infrastructure" with "strategic investment and improvements"

Page 3, after line 14, insert:

**"SECTION 4. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.7-05. Establishment and maintenance of adequate guarantee funds**  
**- ~~Use of lands and minerals trust~~strategic investment and improvements fund.**

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the ~~lands and minerals trust~~strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the ~~lands and minerals trust~~strategic investment and improvements fund to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 3, line 18, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 18, after "intent" insert "- Contingent transfer to legacy fund"

Page 3, line 22, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 24, after "infrastructure" insert "or for initiatives to improve the efficiency and effectiveness of state government"

Page 3, line 28, after the period insert "If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases."

Page 4, line 1, replace "**State infrastructure**" with "**Strategic investment and improvements**"

Page 4, line 4, replace "state infrastructure" with "strategic investment and improvements"

Page 4, after line 6, insert:

**"SECTION 7. AMENDMENT.** Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-27.2-01. (Effective through June 30, 2009) Budget stabilization fund.**

The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than five percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund.

**(Effective after June 30, 2009) Budget stabilization fund.** The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than ~~ten~~nine and one-half percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund."

Page 4, line 12, after "fund" insert ", property tax relief sustainability, strategic investment and improvements fund,"

Page 4, line 12, replace "infrastructure" with "disaster relief"

Page 4, replace lines 20 through 25 with "From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. The next three hundred forty-one million seven hundred ninety thousand dollars into the property tax relief sustainability fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;

5. The next twenty-two million dollars into the state disaster relief fund; and
6. Any additional revenues into the strategic investment and improvements fund."

Page 4, line 31, replace "state infrastructure" with "strategic investment and improvements"

Page 5, after line 10, insert:

**"SECTION 13. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer shall close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund."

Renumber accordingly

Engrossed HB 1451 was placed on the Seventh order of business on the calendar.

2011 SENATE APPROPRIATIONS

HB 1451

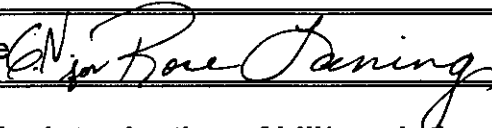
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1451  
April 7, 2011  
Job # 16428

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A bill relating to deposit of oil and gas tax revenue and relating to elimination of the permanent oil tax trust fund.

### Minutes:

See attached testimony # 1.

**Chairman Holmberg** called the committee hearing to order on HB 1451. Roll call was taken. **Becky J. Keller & Allen H. Knudson** – Legislative Council; **Tad H. Torgerson** – OMB.

**Chairman Holmberg** we will be voting only on HB 1451. Senator Wardner will later explain amendments for 1206. HB 1289 – eliminate contingent transfer to the Legacy Fund, but what level of money do they feel appropriate. Asked Senator Wardner 2010 (Insurance Commissioner) changes were minor. \$34,000 difference and a plus of \$50,000 for a difference of \$8,000 between Senate and House. Senator Wardner replied that they will concur. Wardner will carry the bill.

They came and talked about both those things, they are fine.....the \$34 is money we didn't take out when we took the FTEs out. We concur..

SB 2002 – Sec. of State – recommend do concur. Budget for the Secretary of State ....suggest (as Senator Wardner) that we concur. There were \$5.5M for mainframe mitigation computer project....their language says it is one time funding for the mainframe computer project and can't be used for any other purpose and is cancelled on June 30, 2013. Left everything else the same.

**Speaker unidentified:** That means it is not considered an ongoing appropriation, but can be re-considered if \_\_\_\_ (speaker interrupted)

On Game & Fish (SB 2017) - We do not concur, they made a number of changes.  
Subcommittee: Senator Christmann, Senator Wanzek, Senator O'Connell.

**Chairman Holmberg:** Next is Allen Knudson the new balance sheet, the status summary, request for walking through that because the number went up to \$515M .

**Speaker unidentified:** Reason it shot up so high, because of your action here.

**Chairman Holmberg:** The bill came over from eliminating from royal trust fund ....the senate added amendments that the cap related to the Land and Mineral Trust Fund ....came from the Senate. Allen Knudson could you go thru 1451?

**Allen Knudson:** If you have first engrossment with Senate amendments, section one is the section dealing with Lands, Minerals, and Trust Fund it caps fund at \$150M of revenue each biennium and anything over goes to the legacy fund. Section 2 talks about how the money gets to oil and gas research fund before transfers to the general fund .....the infrastructure fund....Section 3 is key part of bill. Deposit the 1<sup>st</sup> \$200M of oil revenue of the state share of oil revenue into the general fund. The next \$350M Property tax relief sustainability fund. Any additional monies into the state infrastructure fund. Repeal is relating to eliminating of the Oil and Tax Trust Fund. Section 5, page 2 prior to the end of this biennium they are proposing \$52M transfer from the permanent oil tax trust fund to legacy fund .....this is a summary of the Senate Finance and Tax.

**Chairman Holmberg:** If we were to amend the bill and take out the elimination of the Permanent Oil Trust Fund (POTF) and the transfer of the \$52M to legacy fund and left in section 1 to do with capping the minerals trust fund to \$150M and put a period after that, where would that money go that was over \$150M?

**Allen Knudson:** Based on what came from the Senate Finance and Tax, it will go to the legacy fund.

**Chairman Holmberg:** No, put a period after the word dollars and eliminate the rest of the sentence.

**Allen Knudson:** You would have to indicate where you wanted the money to go.

**Chairman Holmberg:** Automatically go to the General Fund

**Allen Knudson:** It would be unclear....there are some legal interpretation if is silent, it would go to the general fund.....better if you indicate.

**Senator Wardner:** We've been working on HB 1206 the WAWS bill. We'd like to have this money from the state's perspective. First of all, I know that Senator Warner agrees, we're not for bonding. We do have the money in the state. We can lend the money to the project and we'll send that interest. The idea the interest on that money would come back to resources trust fund (instead of going to the bond company) it would come back and they would continue to put money into resource's trust fund. They would have the authority and we would still have a person from the state water commission would be on their board. The Resource Trust Fund out of the water commission will give them \$25, with this they are around \$75; we would still have to pick up another \$23M to get to the \$100M for the coming biennium. That is the reason for keeping this money. Therefore, keeping it out of legacy fund.

**Chairman Holmberg:** Many heads nodding.

**Senator Warner** I support that concept. That is a dynamic success investment strategy is much more beneficial in the long run.

**Chairman Holmberg:** You have idea of what that concept is of what we will look at later today?

**Senator O'Connell:** It would be used like revolving fund if we wanted to in the future?

**Senator Wardner:** The earnings in that fund are going to pay it back to whatever we call the fund ....Permanent Oil Trust Fund or find another name for it. Earnings are going to the resources trust fund to help with other water projects around the state. It's money being used to help an entity around state plus the state will get a return on their investment.

**Senator Warner:** Clarification: We are talking about principal going back to POTF or the interest would go to the Resource Trust Fund. I'm not clear. Does the state have an ongoing participation in the company after we have received a portion of the net receipts after has been paid, principals been returned after the interest has been paid off, the state has to participation within the projects that there is an ongoing obligation of the new company to return money to the resources trust fund?

**Chairman Wardner:** That is what we are thinking ....the idea is to have someone from the State Water Commission would be on that authority...a part of that board....partners forever.

**Chairman Holmberg:** Did you get enough information on HB 1206.....what the big picture is? Going back to HB 1451. If the cap was put on the minerals trust fund at \$150M as policy committee did. And we decided as a committee not to eliminate the POTF and put the money into the POTF...would that be accessible under your scenario?

**Senator Wardner:** Yes. If the permanent oil trust fund is still in existence. The way we are writing the language right now is to take it out of the permanent oil trust fund. It's still up in the air.

**Chairman Holmberg:** We have to go forward from here consistently in both of those two bills because we want them some kind of a monster.

**Allen Knudson:** That would work fine because the permanent oil would still be there .....the estimated for income to the lands/minerals trust fund next biennium is \$110M.....unless the revenues would go up substantially, there wouldn't be any additional money moved into POTF from lands and minerals.

**Chairman Holmberg:** That's where it would go if it came in. We'll have Legislative Council to prepare those amendments and vote later.

**Senator Krebsbach:** Clarification: You want to leave the in just section 1. What about section 3?

**Chairman Holmberg:** Section 3 came from the Senate to the House

**Allen Knudson:** House included it, but had different numbers. The Senate Finance and Tax changed the numbers. As it came from the House, the first \$300M was deposited in the



general fund Next \$300M to the property tax relief fund and left over to the infrastructure fund Senate changed it to the first \$200M of the General Fund and next \$350M to the property tax (?) fund. If you would remove section three, it would go back to current law which says the first \$71M goes to the General fund....anything over that to the POTF.

**Senator Bowman:** I think that's the way we should leave it. We're already geared in this policy.....we know there will be \$71M in the general fund. From past experience, we have different requests coming out of the POTF. We're set up that way; we're just changing something that is going to have the same results. I don't know if it was originally designed that way. You would think permanent means permanent for some reason it is an easy cookie jar. Does it matter if we leave it the way it is and the money that goes for the water project comes out of the POTF .....everything else stays the same....will we have a problem with that if we leave section 1 the way it is and kill the rest of the bill?

**Chairman Holmberg:** Allen includes what would be if we remove section 3 also, what happens to property tax relief sustainability fund? Does that go to zero?

**Senator Wardner:** Before answering that, I have a chart to hand out because all the questions being asked, people are wondering where all these funds are (audio stopped) Across the top, there are three areas of revenue that come from oil. First there is a lease royalty – (Talking from State Oil Revenue Chart – see attached #1) Oil and gas bonuses, production tax, oil and gas gross production tax at 5%, oil and gas extraction tax 6.5%. Keep in mind the way it is set up, with the exception of the counties, the first 30% goes into that legacy fund. Senator Bowman had a bill that said we have to make sure that the oil and gas counties get their money first. That is what that shows....shows it coming out of the gross production tax 4% of the 5% .....it goes to there and the remainder goes down to the legacy fund. Look at the 1% of the 5% of oil and gas gross production tax....it goes to the legacy fund....gets its 30%, then to the energy impact fund.....if any left, it goes to the oil and gas research fund. Next oil and gas extraction tax, 30% goes into the legacy.....remaining, 20% goes to the resources trust, 10% foundation stabilization fund.....10% to the common schools and 60% to oil and gas research fund when it is capped at \$4M ....that will fill quickly and go right general fund. The general fund presently sits, \$200m cap ....when that fills up, it goes down to the property tax sustainability fund.....that is capped at \$350M and at the end this is the POTF (called now). The proposed name is to be called the State Infrastructure Fund. When you refer to the POTF, it is on the bottom. The leases in royalty, it goes to the lands and minerals \$50M cap....we are projecting \$108M (red numbers are the projections). Anything that goes over \$150M goes to the legacy fund, the rest stays in the lands and minerals trust. When people ask, now you know the funds they are talking about.

**Chairman Holmberg:** When you look at Lands and minerals (HB 1451) and cap at \$150M and send the rest into legacy fund and the rest into the State Infrastructure Fund – also the known as the POTF.

**Allen Knudson:** Looking at the chart, this bill deals with the bottom three boxes. How much is going to be in the general fund, property tax sustainability fund, infrastructure fund or are you going to take property tax sustainability fund and infrastructure fund out and replace it with the permanent tax fund. All dealing with the same money and same 3 bottom boxes.....how much do you want to put in the general fund, how much to perm oil, or property tax and

infrastructure? It's the same dollars. If you take out sustainability fund out, what is the effect of that? In statute, there is no mechanism to get money into property tax sustainability, you passed HB 1047, it has the transfer from perm oil to the property tax fund, so would still be getting money through that mechanism rather than a statutory formula putting money into it....needed to be acted upon by each legislature to do the transfer.

**Senator Christmann:** I think chart is helpful and generally a good plan. One flaw, the property tax sustainability fund. It's costing us \$350M now to pay property tax relief. We are fooling ourselves that would be the cost would continue for next time that could just as well be \$375 or \$400M for next time. Seems to me that if we like plan that was discussed where it says "State Infrastructure Fund" (Audio stopped)

**Chairman Holmberg:** What is the amount of general fund money in this bill that has to go in the budget stabilization fund if we leave it as it is?

**Senator Grindberg:** Explain

**Chairman Holmberg:** What amount has to go into budget stabilization fund? If we leave this bill the way it is, there's additional money available for POTF, but a number there (maybe difference up to \$200M) ....is it \$20M or somewhere below that would have to go the budget stabilization?

**Allen Knudson:** The POTF balance gets transferred to general fund before end of biennium. It would increase the beginning balance ...the balance is determined for putting money in the budget stabilization fund. That is capped at 10% of your spending, since we don't know what that will be, it is difficult to say.... right now our general fund appropriation is about \$4B dollars. Cap the fund at \$400M which is putting \$365M more than what the governor had balance – you could transfer another \$30-40 M into budget stabilization.

**Chairman Holmberg:** This flows very well, but there was another implication of this of \$30-40M?

**Senator Warner:** What is considered and definition of state infrastructure? Does it include flood control, water projects.... how does (if it includes highway money) it relate to DOT's formulas. Are we creating unnecessary confusion? I would like clarity. What kinds of projects could be funded out of state infrastructure funds? Is there clarity of intent?

**Senator Wardner:** The name is changed but still used the same as before. They might take money from here if the legislature goes along with it.

**Senator Warner:** Cultural projects included?

**Senator Kilzer:** The naming of the fund – leave it as it is. The source from which the money comes is oil – just retain the name.

**Senator Wardner:** I'd like to leave it the same. The word "permanent" creates confusion. Why is it permanent – It's not permanent. We've lived with it this long – we know what it is.

**Senator Christmann:** I think the desire on name – I don't know if anyone had definition - we're NOT talking about doing a program to do this for this group of people and always continue forever and will always need "x" amount of dollars from that fund. ...it is about building something. I think that's what they had in mind.

**Senator Wardner:** I know we have to make an amendment. Leave it alone and leave the name the same. And the money transferred to the legacy fund remains in the permanent oil trust fund.

**Chairman Holmberg:** Would you include the cap that is put on lands and minerals trust, because that was a factor that the chairman of F&T very interested in having that a limit.

**Senator Wardner:** The cap at \$150M is good; I'll put it in there.

**Chairman Holmberg:** It would go to the POTF. Amendments writers "parrot" it back how you interpret how this amendment would be.

**Allen Knudson:** First engrossment with senate amendments. Only section 1 remains and the cap of \$150M would remain and anything over \$150M would be deposited in the POTF .....the rest of the bill would be gone so as we look at this, do hog house amendment and do section one?

**Chairman Holmberg:** Because of what we did on HB 1047, there is a mechanism for property tax relief which comes out of the POTF that these amendments would continue?

**Allen Knudson:** That is correct.

**Chairman Holmberg:** Are setting up any inconsistencies?

**Tad H. Torgerson:** With DOT bill, if there's not going to be transfer from the tax trust fund, to close that fund out, that \$370.6M was appropriated out of the general fund. If the amendment talked about – there'd be no mechanism for the transfer to the general fund...

**Allen Knudson:** The transfer from POTF is in SB 2015 that the House has at \$232M ....you can always add another transfer section to another bill or wait and deal with transfer later.

**Chairman Holmberg:** Will be the last bill..... Who knows tortuous route this will take before it's done – I wouldn't want to amend what is taken care of in SB 2015.....that will be back.

**Senator Christmann:** Now I am more confused. I think we need section 3. That was key point from tax committee. The money is supposed to be going to the general fund first. That was point of the bill and don't know if we should be leaving that part out?

**Senator Wardner:** I agree. I wasn't thinking about how the funds fill, but \$52M not going to the legacy fund but staying with the POTF and anything over \$150M in lands and minerals would go to the POTF, so wouldn't we need section 3

**Chairman Holmberg:** Are you saying they are putting \$200M cap on the general fund coming out there and eliminate the bottom two boxes and call it POTF. The money would filter down those two boxes.

**Senator Wardner:** Don't we want to set money aside for the property tax?

**Chairman Holmberg:** Property tax is already taken out of the POTF

**Allen Knudson:** There is a transfer in HB 1047 from perm oil to property tax relief. That mechanism is there....the difference is you have to do that each biennium, where if you do it in statute, the money would automatically transfer into the fund. Either way is covered.

**Senator Wardner:** I like the way it flows down....would like to leave it in there you fill up the property tax relief fund and then what is left is POTF money.

**Senator Christmann:** I think that's so important. We are dug in so deep in property tax relief. Continue. I think Section 3 is good – don't know about Section 4.

**Chairman Holmberg:** That is the POTF. Let's ask Allen H. Knudson, the amendment would do L&M Trust and anything over \$150M leftover would go into the POTF. Then you have your flow of the first \$200M is capped to general fund .....the next \$350 is in property tax sustainability fund. Anything over that goes into POTF. The only change in that bottom part in section 3 is to change state infrastructure fund. (undefined to POTF) Do writers understand? We'll look at it this afternoon.

**Senator Grindberg:** That other little thing....is \$350M the amount in the property tax relief fund or should we plan property taxes might go up across the state?

**Chairman Holmberg:** We are doing our job and making sure budget flows properly. The F&T says \$350M. Do we want to increase it and by what amount. \$350M is guess and it's low.

**Senator Christmann:** Put it at \$385M and assume 10% increase.

**Senator Wardner:** Be realistic. Everyone is going to be looking at the POTF .....at the end they are going to be looking at the amount of money and it will be deceitful and we are going to have to take money out of there as we have to take money out of there to shore up the property tax if that happens. Senator Christmann is right. I was thinking \$380, but \$385 is fine. If there is more than enough, it doesn't matter....we'll use it for the next biennium or transfer it back.

**Chairman Holmberg:** Allen, could you put it at \$385 before it triggers? We'll have it back this afternoon. How does this make any difference to HB 1047? Are you going to have a "blip" tomorrow in your reports and how is it rectified?

**Allen Knudson:** If you pass today and House takes transfer out of SB 2015, we're still going to have the transfer in HB 1047 and this transfer in this allocation in this bill....it will be doubled up. In essence, the balance in the POTF will be in the negative quite substantially because they won't get as much revenue coming in and be coming out twice again.

**Chairman Holmberg:** What do you think?

**Pam Sharp:** House appropriation government opts just passed an amendment on SB 2015 eliminating that transfer to the property tax sustainability fund, now it shouldn't be duplicate. Only in HB 1047.

**Chairman Holmberg:** Reached consensus what we will see this afternoon. The other working item was HB 1206 and Senator Wardner explained and those amendments have been asked for – working with IBL. HB 1289 will work on that this afternoon.

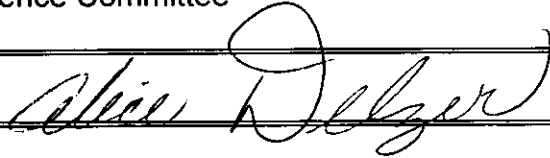
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1451  
04-07-2011  
Job # 16434

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A ROLL CALL VOTE FOR A DO PASS AS AMENDED RE: OIL AND GAS TAX REVENUE;  
MINERALS TRUST FUND

### Minutes:

See attached testimony."

**Chairman Holmberg** called the committee to order in reference to HB 1451. Tad Torgerson, OMB and Becky J. Keller, Legislative Council were also present.

**Chairman Holmberg:** Does everyone have a copy of the amendments? # 11.0639.02006. A version comparison prepared by the Legislative Council was presented in hearing-Testimony attached # 1. This is a Version Comparison between the Senate finance and tax version, our committee's version, the House version, and the executive recommendation. They all total \$790,047,496.

**Senator Wardner:** Looks like just exactly we talked about. I moved the amendment # .02006. Seconded by Senator O'Connell.

**Chairman Holmberg:** This does everything that the finance and tax committee did except it doesn't put money in the legacy fund, the big points are that; increasing the amount of money in the property tax fund to \$385M and putting the rest of the funds into the permanent oil trust fund, which we keep, and the \$52M goes into the permanent oil trust fund. That in essence is what we did.

**Senator Christmann:** I see it referenced in the footnote, but on the Senate Finance & Taxation Committee version, where's the \$52M that ultimately winds up in the legacy fund?

**Allen Knudson, Legislative Council:** That was going to be transferred out prior to the end of this biennium so prior to June 30, the \$52M is going to be transferred so it would have come out of the beginning balance of permanent oil trust fund so it doesn't show up on the numbers. This is just for revenue for the next biennium.

**V. Chair Bowman:** This will go into effect next session of next biennium. If we have a problem with any part of this by legislative action we can correct that problem in the next biennium, can't we?

**Allen Knudson:** Right. You can change the allocations to whatever you wanted to next biennium .

**Chairman Holmberg:** Call the roll on amendments to 1451 # 11.0639.02006.

**A roll call vote was taken on the amendment # .02006: Yea: 13. Motion carried.**

**Senator Robinson moved Do Pass as Amended. Seconded by Senator Erbele**

**Chairman Holmberg:** Call the roll on a DO PASS AS AMENDED ON HB 1451.

**A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON HB 1451; YEA: 13; NAY:0; ABSENT:0. Senator Wardner will carry the bill.**

The hearing was closed on HB 1451.

Chairman Holmberg: I have an appointment that I can make. If you recall 2298 was a bill for support for child care facilities who take children with special needs. House Appropriations took out all the money and we've had a request for an Appropriations member to be on that conference committee and I am wondering if Senator Erbele if you have interest in that particular item or is there someone who wants to volunteer? Senator Krebsbach volunteered to be on that conference committee

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1451**

In lieu of the amendments adopted by the Senate as printed on pages 923 and 924 of the Senate Journal, Engrossed House Bill No. 1451 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15-08.1-08 and 57-51.1-07.2 of the North Dakota Century Code, relating to the lands and minerals trust fund and the permanent oil tax trust fund; to provide an effective date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-08. Income - Expenses - Reimbursement - Creation of lands and minerals trust.**

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the lands and minerals trust fund. Deposits in the lands and minerals trust fund are limited to one hundred fifty million dollars during a biennium and any amounts exceeding this limitation must be deposited in the permanent oil tax trust fund. The corpus and interest of ~~such~~the lands and minerals trust fund may be expended as the legislative assembly may provide.

**SECTION 2. AMENDMENT.** Section 57-51.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.2. Permanent oil tax trust fund - Deposits - Interest—~~Adjustment of distribution formula.~~**

The state treasurer shall deposit ~~seventy-one million dollars~~the first two hundred million dollars of the state general fund share of revenue derived from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 into the general fund, the next three hundred eighty-five million dollars of the state general fund share of revenue from these taxes into the property tax relief sustainability fund, and any additional state general fund share of revenue from these taxes into the permanent oil tax trust fund. ~~Revenue exceeding seventy-one million dollars must be deposited by the state treasurer in the permanent oil tax trust fund. Interest earnings of the permanent oil tax trust fund must be credited to the general fund.~~ The principal of the permanent oil tax trust fund may not be expended except upon a two-thirds vote of the members elected to each house of the legislative assembly.

~~If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after June 30, 1997, the director of the budget shall adjust the seventy-one million dollar amount in this section by the same percentage increase or decrease in~~



~~the amount of revenue allocable to the general fund after the change in the allocation formula, and transfers to the permanent oil tax trust fund shall thereafter be made using that adjusted figure so that the dollar amount of the transfers to the permanent oil tax trust fund is not increased or decreased merely because of changes in the distribution formulas.~~

**SECTION 3. EFFECTIVE DATE.** This Act is effective July 1, 2011.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 4-7-11Roll Call Vote # 1

## 2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1451Senate APPROPRIATIONS Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number Amendment 11.0639.02006Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Wardner Seconded By O'Connell

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek					

Total (Yes) 13 No 0Absent 0

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

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

Date: 4-7-11Roll Call Vote # 2

## 2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1451Senate APPROPRIATIONS Committee☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Robinson Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0Absent 0Floor Assignment Wardner

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

**REPORT OF STANDING COMMITTEE**

**HB 1451, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1451, as amended, was placed on the Sixth order on the calendar.**

In lieu of the amendments adopted by the Senate as printed on pages 923 and 924 of the Senate Journal, Engrossed House Bill No. 1451 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15-08.1-08 and 57-51.1-07.2 of the North Dakota Century Code, relating to the lands and minerals trust fund and the permanent oil tax trust fund; to provide an effective date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-08. Income - Expenses - Reimbursement - Creation of lands and minerals trust.**

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the lands and minerals trust fund. Deposits in the lands and minerals trust fund are limited to one hundred fifty million dollars during a biennium and any amounts exceeding this limitation must be deposited in the permanent oil tax trust fund. The corpus and interest of ~~such~~the lands and minerals trust fund may be expended as the legislative assembly may provide.

**SECTION 2. AMENDMENT.** Section 57-51.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.2. Permanent oil tax trust fund - Deposits - Interest-  
Adjustment of distribution formula.**

The state treasurer shall deposit ~~seventy-one million dollars~~the first two hundred million dollars of the state general fund share of revenue derived from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 into the general fund, the next three hundred eighty-five million dollars of the state general fund share of revenue from these taxes into the property tax relief sustainability fund, and any additional state general fund share of revenue from these taxes into the permanent oil tax trust fund. ~~Revenue exceeding seventy-one million dollars must be deposited by the state treasurer in the permanent oil tax trust fund. Interest earnings of the permanent oil tax trust fund must be credited to the general fund. The principal of the permanent oil tax trust fund may not be expended except upon a two-thirds vote of the members elected to each house of the legislative assembly.~~

~~If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after June 30, 1997, the director of the budget shall adjust the seventy-one million dollar amount in this section by the same percentage increase or decrease in the amount of revenue allocable to the general fund after the change in the allocation formula, and transfers to the permanent oil tax trust fund shall thereafter be made using that adjusted figure so that the dollar amount of the transfers to the permanent oil tax trust fund is not increased or decreased merely because of changes in the distribution formulas.~~

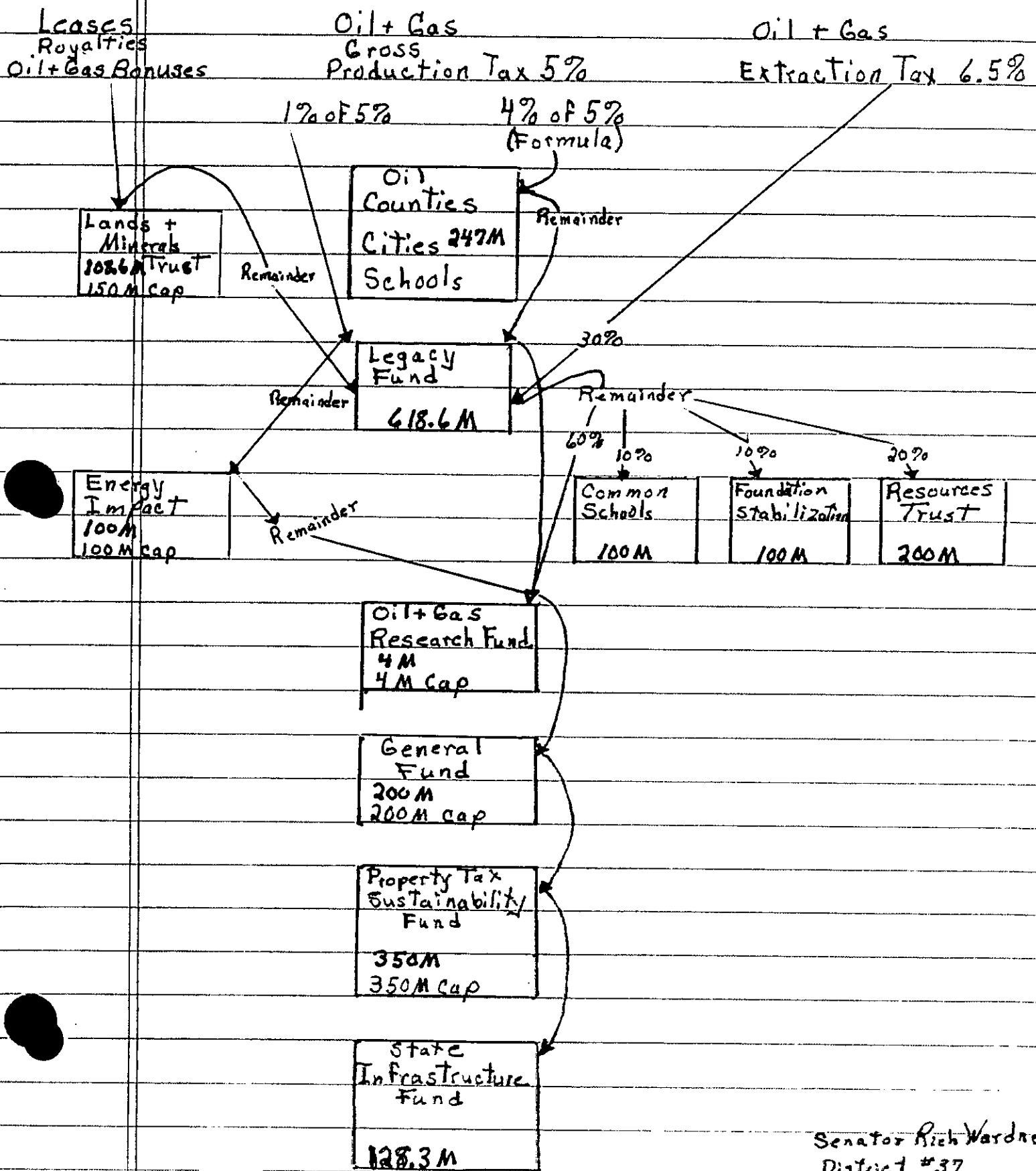
**SECTION 3. EFFECTIVE DATE.** This Act is effective July 1, 2011.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

# State Oil Revenue

1. Filling Order of Funds.
2. 2011-13 Estimated Revenue



Senator Rich Wardner  
District #37

April 2011

**ENGROSSED HOUSE BILL NO. 1451 - VERSION COMPARISON**

Engrossed House Bill No. 1451 as passed by the House repeals the permanent oil tax trust fund and changes the distribution of the state share of oil and gas tax revenues. The bill deposits the first \$300 million of the state's share of oil and gas tax revenues in the general fund each biennium, the next \$300 million in the property tax relief sustainability fund, and any additional revenues in the newly created state infrastructure fund, formerly the lands and minerals trust fund.

The Senate Finance and Taxation Committee version provides that the state share of oil and gas tax revenues be deposited as follows:

- General fund - The first \$200 million.
- Property tax relief sustainability fund - Next \$350 million.
- State infrastructure fund - Any additional revenues.

The Senate Finance and Taxation Committee version also does not change the lands and minerals trust fund to a state infrastructure fund but limits revenues being deposited in the lands and minerals trust fund to \$150 million per biennium with any

additional revenues to be deposited in the legacy fund.

The Senate Appropriations Committee version provides that the state share of oil and gas tax revenues be deposited as follows:

- General fund - The first \$200 million.
- Property tax relief sustainability fund - Next \$385 million.
- Permanent oil tax trust fund - Any additional revenues.

The Senate Appropriation Committee version retains the permanent oil tax trust fund and also does not change the lands and minerals trust fund to a state infrastructure fund but limits revenues being deposited in the lands and minerals trust fund to \$150 million per biennium with any additional revenues to be deposited in the permanent oil tax trust fund.

The schedule below presents information on the distribution of the state's share of oil and gas tax revenues and lands and minerals revenues based on the executive recommendation, the provisions of Engrossed House Bill No. 1451 (House version), the Senate Finance and Taxation Committee, and the Senate Appropriations Committee versions.

	<b>Executive Budget Recommendation</b>	<b>Engrossed House Bill No. 1451 (House Version)</b>	<b>Senate Finance and Taxation Committee Version<sup>1</sup></b>	<b>Senate Appropriations Committee Version</b>
Oil and gas tax revenues (state share)				
General fund	\$71,000,000	\$300,000,000	\$200,000,000	\$200,000,000
Permanent oil tax trust fund	607,271,039			93,271,039
Oil and gas research fund	4,000,000	4,000,000	4,000,000	4,000,000
Property tax relief sustainability fund		300,000,000	350,000,000	385,000,000
State infrastructure fund		78,271,039	128,271,039	
Subtotal	\$682,271,039	\$682,271,039	\$682,271,039	\$682,271,039
Lands and minerals revenue				
Lands and minerals trust fund	\$108,676,457		\$108,676,457	\$108,676,457
General fund		\$108,676,457		
State infrastructure fund				
Subtotal	\$108,676,457	\$108,676,457	\$108,676,457	\$108,676,457
Total all revenue	\$790,947,496	\$790,947,496	\$790,947,496	\$790,947,496
Total by fund				
General fund	\$71,000,000	\$300,000,000	\$200,000,000	\$200,000,000
Permanent oil tax trust fund	607,271,039			93,271,039
Oil and gas research fund	4,000,000	4,000,000	4,000,000	4,000,000
Property tax relief sustainability fund	0	300,000,000	350,000,000	385,000,000
State infrastructure fund	108,676,457	186,947,496	128,271,039	
Lands and minerals trust fund			108,676,457	108,676,457
Total	\$790,947,496	\$790,947,496	\$790,947,496	\$790,947,496

<sup>1</sup>The Senate Finance and Taxation Committee version of Engrossed House Bill No. 1451 also provides for a transfer, as soon as practicable after the end of the 2009-11 biennium, of \$52 million from the permanent oil tax trust fund to the legacy fund and any remaining balance in the permanent oil tax trust fund to the general fund. After the transfers, the permanent oil tax trust fund is to be closed out. The House version transferred the entire balance in the permanent oil tax trust fund estimated to be \$620 million to the general fund. Senate Appropriations makes no change to the 2009-11 biennium ending balance.

**2011 TESTIMONY**

**HB 1451**



Mr. Chairman and members of the committee, it is a pleasure to appear before you today. For the record I am Jeff Delzer, state representative for district 8 which is parts of Mclean and Burleigh counties. I appear before you today in support of Hb1451.

1451 would address the perm oil trust fund, the property tax relief fund and the land in minerals trust fund. Last election the people passed the legacy fund into the constitution. That is essence does what the legislature had hoped to do with the perm oil trust fund when it was set up. With the passage of the legacy fund we no longer need the perm oil trust fund which has become more of a general fund 2 scenario. We have for a number of sessions now been spending out of the perm oil fund, either moving it through general fund or directly. For truth in budgeting it was felt by the house to figure out about how much we have used for ongoing expenditures and give that to the general fund first. 300 million is about what the governor used this time, that is adding the initial 71 plus the 232 in the governor's proposal. Last session we had the 71 plus at least 140 to balance the books. So we used 300, which is about 7.5 % of general fund spending and about 15% of forecast oil revenue. This is for ongoing expenditures.

Then we moved the next 300 to the property tax relief fund, which may need to be reconciled with 1047. Finally we renamed the land and minerals trust fund the state infrastructure fund. We also put a paragraph of legislative intent to say we should only spend what we have on hand at the start of biennia for infrastructure.

This would put things more informative as to what we are spending where and how. This bill also addresses having available resources to cover 10% into the budget stabilization fund when and if we change our current spending from trust funds to the general fund where many of us believe they belong.

The treasures office asked for an amendment to let them transfer the final money from the land and minerals fund to the infrastructure fund, the bill allows all the current revenue sources for the land and minerals fund to move over to the infrastructure fund.

I would be happy to try to answer any questions you may have and I would encourage and ask for your favorable consideration for HB1451.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1451

Page 1, line 6, replace "a transfer" with "transfers"

Page 5, after line 10, insert:

**"SECTION 11. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer shall close out the lands and minerals trust fund and transfer any remaining unobligated balance to the state infrastructure fund."

Re-number accordingly

April 2011

HB 1451  
April 14, 2011  
Attachment 1**ENGROSSED HOUSE BILL NO. 1451 - VERSION COMPARISON**

Engrossed House Bill No. 1451 as passed by the House repeals the permanent oil tax trust fund and changes the distribution of the state share of oil and gas tax revenues. The bill deposits the first \$300 million of the state's share of oil and gas tax revenues in the general fund each biennium, the next \$300 million in the property tax relief sustainability fund, and any additional revenues in the newly created state infrastructure fund, formerly the lands and minerals trust fund.

The Senate version provides that the state share of oil and gas tax revenues be deposited as follows:

- General fund - The first \$200 million.
- Property tax relief sustainability fund - Next \$385 million.
- Permanent oil tax trust fund - Any additional revenues.

The Senate version retains the permanent oil tax trust fund and also does not change the lands and minerals trust fund to a state infrastructure fund but limits revenues being deposited in the lands and minerals trust fund to \$150 million per biennium with any additional revenues to be deposited in the permanent oil tax trust fund.

The proposed conference committee version provides that the state share of oil and gas tax revenues be deposited as follows:

- General fund - The first \$300 million and any revenues deposited in the state infrastructure fund exceeding \$100 million.
- Property tax relief sustainability fund - Next \$300 million.
- State infrastructure fund - Any additional revenues.

The proposed conference committee version also changes the deposit of revenues of the state infrastructure fund (formerly the lands and minerals trust fund) to limit the biennial revenues deposited in the fund to \$100 million. Any revenues in excess of \$100 million would be deposited as follows:

- Disaster relief fund - The first \$22 million.
- General fund - Any remaining revenue.

The schedule below presents information on the distribution of the state's share of oil and gas tax revenues and lands and minerals revenues based on the executive recommendation, the provisions of Engrossed House Bill No. 1451 (House version), the Senate version, and the proposed conference committee version.

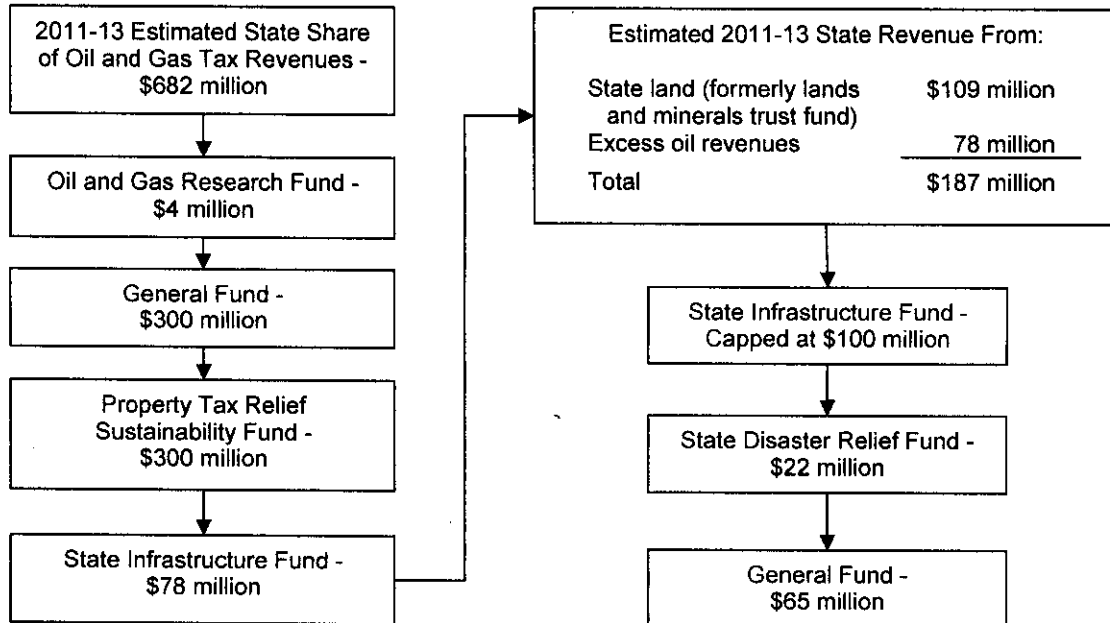
	Executive Budget Recommendation	Engrossed House Bill No. 1451 (House Version)	Senate Version	Proposed Conference Committee Version
Oil and gas tax revenues (state share)				
General fund	\$71,000,000	\$300,000,000	\$200,000,000	\$300,000,000
Permanent oil tax trust fund	607,271,039		93,271,039	
Oil and gas research fund	4,000,000	4,000,000	4,000,000	4,000,000
Property tax relief sustainability fund		300,000,000	385,000,000	300,000,000
State infrastructure fund		78,271,039		78,271,039 <sup>1</sup>
Subtotal	\$682,271,039	\$682,271,039	\$682,271,039	\$682,271,039
Lands and minerals revenue				
Lands and minerals trust fund	\$108,676,457		\$108,676,457	
General fund		\$108,676,457		\$108,676,457
State infrastructure fund				
Subtotal	\$108,676,457	\$108,676,457	\$108,676,457	\$108,676,457
Total all revenue	\$790,947,496	\$790,947,496	\$790,947,496	\$790,947,496
<sup>1</sup> The state infrastructure fund is limited to \$100 million of revenues each biennium. Since the 2011-13 projected revenues to the state infrastructure fund total \$186,947,496, the \$86,947,496 that exceeds the \$100 million limit will be allocated as follows:				
State disaster relief fund	\$22,000,000			
General fund	64,947,496			
Total	\$86,947,496			

Total allocations by fund for the 2011-13 biennium are listed below.

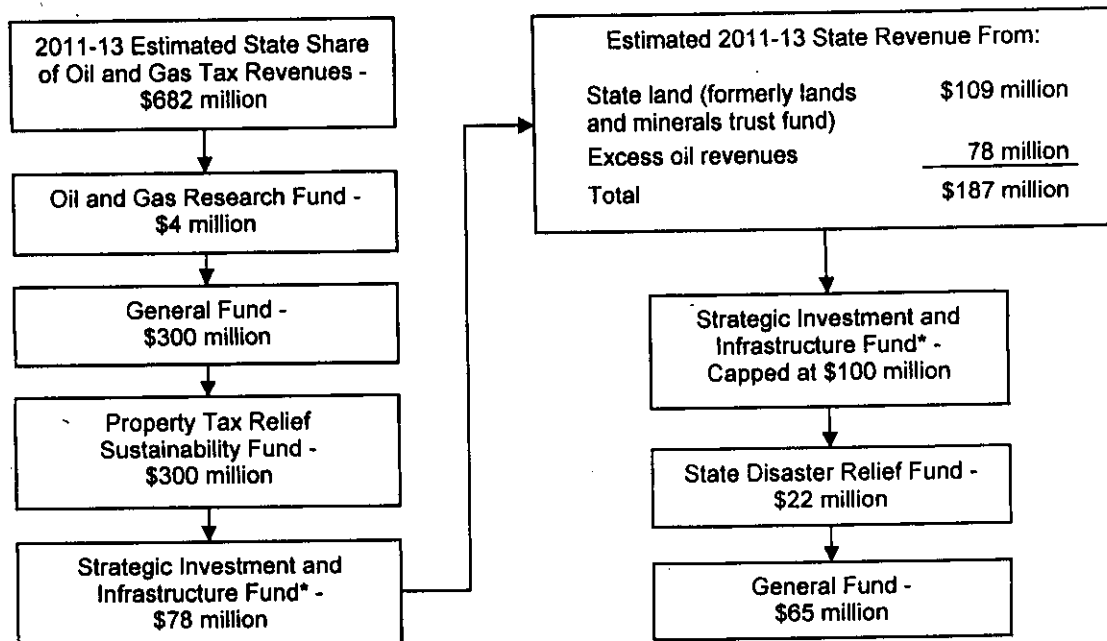
	Executive Budget Recommendation	Engrossed House Bill No. 1451 (House Version)	Senate Version	Proposed Conference Committee Version
General fund	\$71,000,000	\$300,000,000	\$200,000,000	\$364,947,496
Permanent oil tax trust fund	607,271,039		93,271,039	
Oil and gas research fund	4,000,000	4,000,000	4,000,000	4,000,000
Property tax relief sustainability fund	0	300,000,000	385,000,000	300,000,000
Disaster relief fund				22,000,000
State infrastructure fund	108,676,457	186,947,496		100,000,000
Lands and minerals trust fund			108,676,457	
Total	\$790,947,496	\$790,947,496	\$790,947,496	\$790,947,496

**NOTE:** The House version of the bill transfers the June 30, 2011, balance in the permanent oil tax trust fund to the general fund estimated to be \$615 million. The Senate version does not provide for any transfers from the permanent oil tax trust fund. The proposed conference committee version also transfers the June 30, 2011, balance to the general fund.

**HOUSE BILL NO. 1451 -  
PROPOSED CONFERENCE COMMITTEE VERSION -  
FUNDING FLOWCHART FOR AMENDMENT 11.0639.02007**



**HOUSE BILL NO. 1451 -  
PROPOSED CONFERENCE COMMITTEE VERSION -  
FUNDING FLOWCHART**



\*The strategic investment and infrastructure fund may be used for one-time expenditures relating to:

- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

April 15, 2011

HB 1451  
April 15, 2011  
Attachment 2

**2011-13 BUDGET STATUS SUMMARY  
AS OF APRIL 14, 2011**

**Beginning Balance and Revenues**

Legislative budget estimate of unobligated general fund cash balance - July 1, 2011	\$65,000,000
Add 2011-13 estimated revenues	
Proposed executive budget general fund revenues	\$3,271,678,675
Legislative revenue changes	
Major increases	
February 2011 revenue forecast revision	\$4,222,000
HB 1012 - Deposits all motor vehicle excise taxes in general fund rather than 75 percent	45,767,667
HB 1047 - Transfers from the permanent oil tax trust fund and the property tax relief sustainability fund	341,790,000
HB 1451 - Changes allocation of oil and gas tax revenue	129,000,000
SB 2178 - Defeated Governor's individual income tax reduction	50,000,000
Major decreases	
Revision to February revenue forecast for corporate tax	(46,000,000)
HB 1289 - Reduces individual and corporate income tax rates	(111,398,000)
HB 1424 - Creates sales tax exemption for agricultural cleaners and expands retailer compensation	(1,844,600)
SB 2015 - Removes transfer from Bank of North Dakota	(60,000,000)
SB 2042 - Reduces gaming and excise taxes paid by charitable gaming organizations	(5,800,000)
SB 2171 - Provides sales and use tax exemption for telecommunications equipment	(3,551,000)
SB 2210 - Creates tax credits for contributions to a housing incentive fund	(4,000,000)
SB 2218 - Increases ceiling on tax credits allowed for investments in renaissance fund organizations	(1,000,000)
SB 2320 - Reduces tax rate for financial institutions	(2,125,000)
Other increases (decreases)	(1,740,954)
Total legislative changes affecting revenues	\$333,320,113
estimated general fund revenues and beginning balance - 2011-13	\$3,669,998,788

**Appropriations**

Executive budget general fund appropriations - 2011-13	\$3,295,569,541
Legislative appropriations changes	
Major increases	
HB 1012 - Transfer to highway fund for roadway projects in areas affected by oil and gas development	\$370,600,000
HB 1047 - Property tax relief	341,790,000
SB 2057 - Department of Commerce	43,379,803
HB 1012 - Transportation funding distributions to counties, cities, and townships	25,000,000
HB 1021 - Department of Human Services eligibility system replacement project	9,200,000
HB 1044 - Emergency medical services grants	4,000,000
HB 1152 - Supplemental Medicaid payments to critical access hospitals	1,527,802
HB 1015 - Transfer to State Penitentiary land fund	1,100,000
Major decreases	
HB 1018 - Department of Commerce	(46,089,494)
SB 2012 - Department of Human Services	(19,298,784)
HB 1003 - North Dakota University System	(3,623,472)
HB 1015 - Department of Corrections and Rehabilitation	(1,958,354)
HB 1011 - Highway Patrol	(1,394,535)
Other increases (decreases) net	(967,989)
Total legislative changes affecting appropriations	\$723,264,977
Total 2011-13 general fund appropriations	\$4,018,834,518
<b>Estimated Ending Balance</b>	
unobligated budget status general fund balance - June 30, 2013	<u><u>\$348,835,730</u></u>

# **Comparison of 2011-13 General Fund Appropriations to 2009-11 Appropriations**

Current status of 2011-13 general fund appropriations	\$4,018,834,518
2009-11 legislative general fund appropriations	<u>3,259,365,481 <sup>2</sup></u>
Increase (decrease)	<u>\$759,469,037</u>
Percentage increase (decrease)	23.30%

## **Footnotes**

<sup>1</sup> Beginning balance - Executive budget unobligated general fund cash balance - July 1, 2011	\$84,247,948 <sup>a</sup>
Legislative action affecting the July 1, 2011, balance	
February 2011 revenue forecast revision	\$42,561,000
HB 1012 - Provides supplemental appropriation to State Treasurer for transportation funding distributions	(35,000,000)
HB 1015 - Removes exemption of Department of Corrections and Rehabilitation funding from North Dakota Century Code Section 54-44.1-11	1,600,000
HB 1337 - Authorizes sale of land in Walsh County	7,705
HB 1343 - Industrial Commission supplemental appropriation	(150,000)
HB 1424 - Sales tax exemption for agrichemical cleaners and markers	(25,300)
SB 2006 - Provides exemption for Tax Department from Section 54-44.1-11	(50,000)
SB 2012 - Removes exemption for Department of Human Services from Section 54-44.1-11	12,800,000
SB 2013 - Reduced contingent supplemental transportation aid payments for the 2009-11 biennium	<u>2,500,000</u>
Total legislative changes affecting the beginning balance	<u>\$24,243,405</u>
Estimated general fund cash balance prior to budget stabilization fund transfer	\$108,491,353
Budget stabilization fund transfer adjustment	<u>(43,491,353) <sup>b</sup></u>
Estimated unobligated general fund cash balance - July 1, 2011	<u>\$65,000,000</u>

<sup>a</sup> The beginning balance is based on the 2009-11 general fund beginning balance of \$361,843,514, the 2009-11 December 2010 general fund revenue forecast of \$2,978,638,819, and appropriation authority of \$3,256,234,385 (general fund appropriations of \$3,259,365,481 plus proposed deficiency appropriations of \$1,868,904 and less estimated general fund turnback of \$5 million).

<sup>b</sup> Chapter 54-27.2 provides that any amount in the general fund at the end of a biennium in excess of \$65 million must be transferred to the budget stabilization fund except that the balance in the budget stabilization fund may not exceed 10 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The amount shown is based on the current estimate of a June 30, 2011, general fund balance of \$108,491,353 which allows for a transfer of \$43,491,353, bringing the balance in the fund to \$368,427,901. The current estimated 2011-13 biennium general fund appropriations total \$4,018,834,518; therefore, the maximum balance in the fund is limited to \$401,883,452.

<sup>2</sup> Includes a \$5 million contingent general fund transfer to the centers of excellence fund and a \$5 million contingent general fund appropriation for supplemental transportation aid payments to school districts.



# Permanent Oil Tax Trust Fund - 2011-13 Biennium

Beginning balance		\$615,112,998	1
Estimated revenues			
Oil and gas production tax and oil extraction tax collections - Executive forecast	\$699,271,039		
Adjustments			
Changes allocation to oil and gas impact grant fund (HB 1013)	(92,000,000)		
Changes allocation of oil and gas tax revenues to general fund and property tax relief sustainability fund	(514,000,000)		
Changes allocation of oil and gas production taxes for counties within the Fort Berthold Reservation (HB 1268)	(2,880,000)		
Total estimated revenues		90,391,039	
Total available		\$705,504,037	
Less estimated expenditures			
Transfer to the general fund (SB 2015)	232,000,000		
Western area water supply authority loan (HB 1206)	75,000,000		
Department of Human Services - Medicaid management information system replacement project estimated carryover authority	1,474,362		
Tribal college assistance grants (HB 1003)	1,000,000		
Higher education building projects (HB 1003)	2,320,000		
Dickinson Research Center operations (HB 1020)	800,000		
Department of Mineral Resources - Contingent FTE positions (HB 1014)	743,972		
Transfer to oil and gas research fund (HB 1014)	4,000,000		
Transfer to the property tax relief sustainability fund (HB 1047)	341,790,000		
Transfer to the general fund for property tax relief (HB 1047)	46,790,000		
Total estimated expenditures		705,918,334	
Ending balance		(\$414,297)	

1 Reflects actual revenues through February 2011, a transfer of \$4,233,000 from the permanent oil tax trust fund to the property tax relief sustainability fund for additional property tax relief in the 2009-11 biennium (SB 2023), and a transfer of \$22 million from the permanent oil tax trust fund to the state disaster relief fund for the 2009-11 biennium (SB 2369).

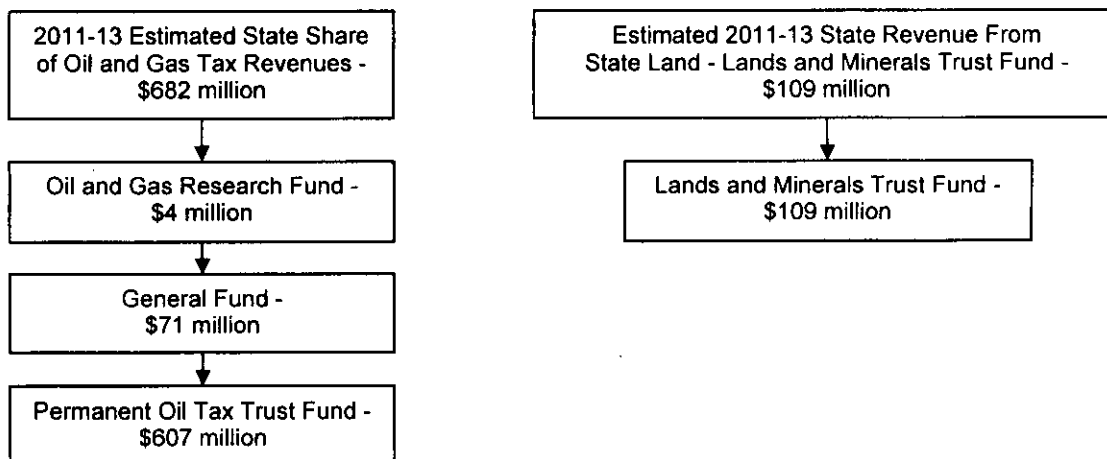
## Budget Stabilization Fund - 2011-13 Biennium

Beginning balance		\$368,427,901	
Estimated revenues			
None	\$0		
Total estimated revenues		368,427,901	
Less estimated expenditures			
None	\$0		
Total estimated expenditures		0	
Ending balance		\$368,427,901	

## Estimated June 30, 2013, Fund Balance Summary

	Executive Recommendation	Current Budget Status	Increase (Decrease)
General fund	\$55,736,676	(\$348,835,730)	(\$404,572,406)
Permanent oil tax trust fund	231,398,293	(414,297)	(231,812,590)
Budget stabilization fund	329,556,954	368,427,901	38,870,947
Total	\$616,691,923	\$19,177,874	(\$597,514,049)

This summary and additional detail are available online at <http://www.legis.nd.gov/fiscal/biennium-reports/62-2011/budget-status/index.html>.

HB 1451  
April 15, 2011  
Attachment 3**HOUSE BILL NO. 1451 -  
CURRENT LAW/EXECUTIVE BUDGET**

## ENGROSSED HOUSE BILL NO. 1451 - OTHER AFFECTED BILLS

This memorandum provides information on other bills being considered by the Legislative Assembly that will need to be changed if Engrossed House Bill No. 1451 is approved. Final action should not be taken on these bills until the final version of Engrossed House Bill No. 1451 is approved.

### PERMANENT OIL TAX TRUST FUND

If Engrossed House Bill No. 1451 is approved, other bills that either transfer or appropriate money from the permanent oil tax trust fund would need to be adjusted or changed. As of April 6, 2011, these bills include House Bill Nos. 1003, 1014, 1020, and 1047 and Senate Bill Nos. 2012 and 2015. A brief summary of each bill's use of the permanent oil tax trust fund is listed below.

Bill No.	Description	Amount
1003	Provides funding for higher education building projects	\$2,320,000
1003	Provides funding for tribal college assistance grants	1,000,000
1014	Provides funding for contingent full-time equivalent positions for the Department of Mineral Resources	743,972
1014	Provides a transfer to the oil and gas research fund	4,000,000
1020	Provides funding for Dickinson Research Center operations	800,000
1047	Provides a transfer to the property tax relief sustainability fund	341,790,000
1047	Provides a transfer to the general fund for property tax relief	46,790,000
2012	Carryover authority for Department of Human Services for the Medicaid management information system	1,474,362
2015	Provides a transfer to the general fund	232,000,000
2015	Provides a transfer to the property tax relief sustainability fund	388,580,000
	Total	\$1,019,498,334

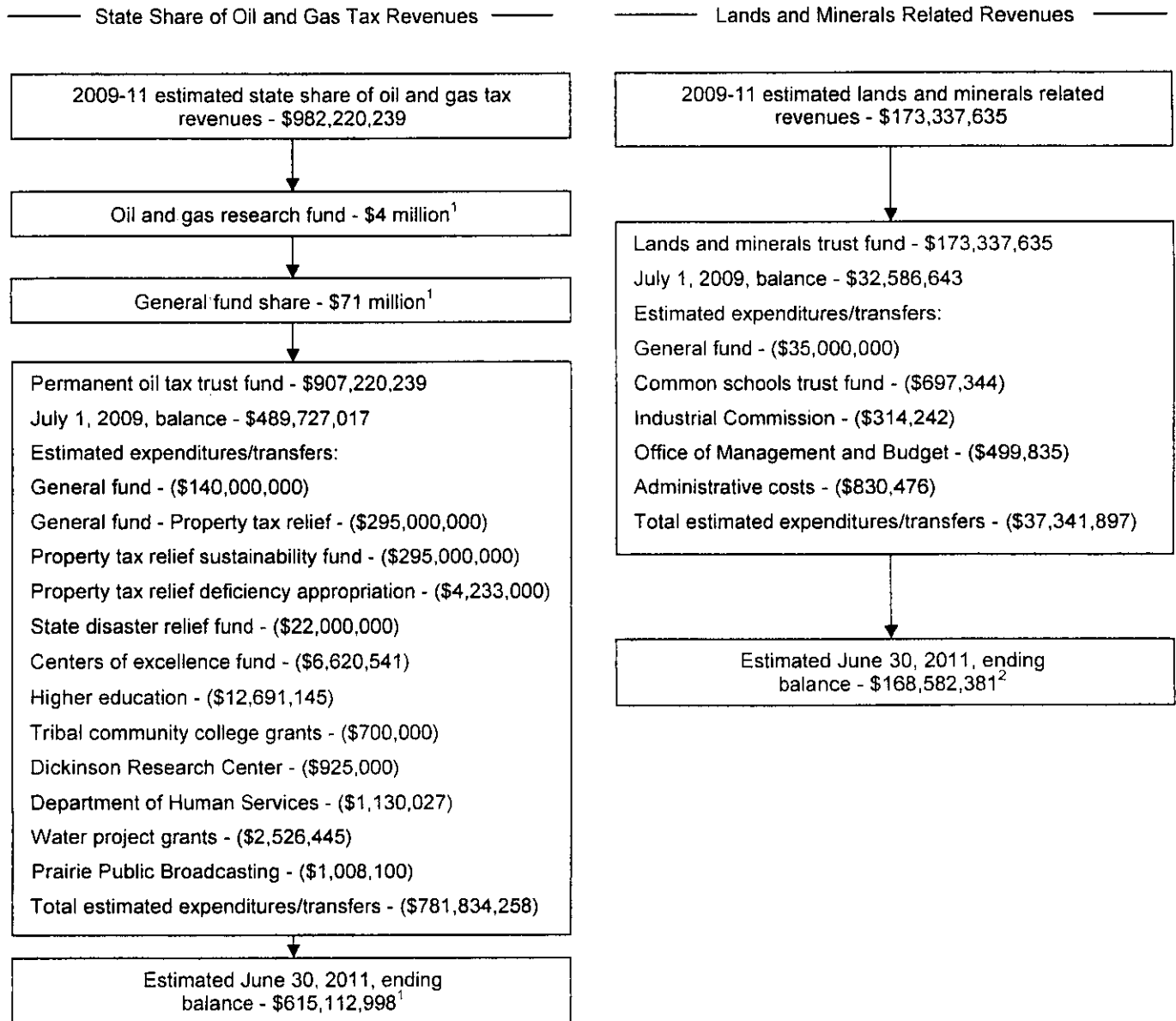
### LANDS AND MINERALS TRUST FUND

If Engrossed House Bill No. 1451 is approved, other bills that either transfer or appropriate money from the lands and minerals trust fund would need to be adjusted or changed. As of April 6, 2011, these bills include House Bill No. 1018 and Senate Bill Nos. 2015, 2150, and 2306. A brief summary of each bill's use of the lands and minerals trust fund is listed below.

Bill No.	Description	Amount
1018	Provides funding to the Department of Commerce for Nekoma site acquisition	\$600,000
2015	Provides a transfer to the general fund	239,000,000
2150	Provides a continuing appropriation for funding for the career and technical education and academic scholarship program enacted by the 2009 Legislative Assembly	10,000,000
2306	Provides that money in the lands and minerals trust fund is available to the Bank of North Dakota to maintain a guarantee reserve fund for fuel production facility loans of up to \$6,250,000	6,250,000
	Total	\$255,850,000

# HOUSE BILL NO. 1451 - PROPOSED CONFERENCE COMMITTEE VERSION - FUNDING FLOWCHART

2009-11 Biennium



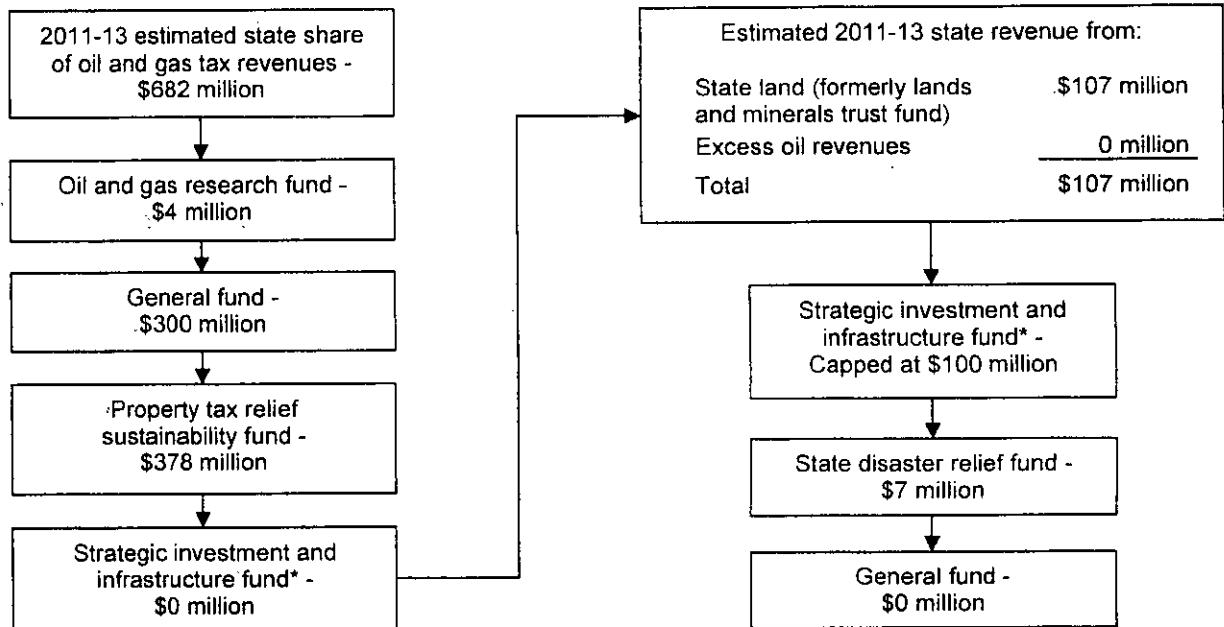
<sup>1</sup>Under the House version of House Bill No. 1451, the permanent oil tax trust fund balance would be transferred to the general fund.

<sup>2</sup>Under the House version of House Bill No. 1451, the lands and minerals trust fund balance would be transferred to the state infrastructure fund.

## 2011-13 Biennium

State Share of Oil and Gas Tax Revenues

Lands and Minerals Related Revenues



\*The strategic investment and infrastructure fund may be used for one-time expenditures relating to:

- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

**ENGROSSED HOUSE BILL NO. 1451 - OTHER AFFECTED BILLS**

This memorandum provides information on other bills being considered by the Legislative Assembly that will need to be changed if Engrossed House Bill No. 1451 is approved. Final action should not be taken on these bills until the final version of Engrossed House Bill No. 1451 is approved.

**PERMANENT OIL TAX TRUST FUND**

If Engrossed House Bill No. 1451 is approved, other bills that either transfer or appropriate money from the permanent oil tax trust fund would need to be adjusted or changed. As of April 18, 2011, these bills include House Bill Nos. 1003, 1014, 1020, and 1047 and Senate Bill Nos. 2012, 2015, and 2206. A brief summary of each bill's use of the permanent oil tax trust fund is listed below.

Bill No.	Description	Amount
1003	Provides funding for higher education building projects	\$2,320,000
1003	Provides funding for tribal college assistance grants	1,000,000
1014	Provides funding for contingent full-time equivalent positions for the Department of Mineral Resources	743,972
1020	Provides funding for Dickinson Research Center operations	800,000
1047	Provides a transfer to the property tax relief sustainability fund	341,790,000
1047	Provides a transfer to the general fund for property tax relief	46,790,000
2012	Carryover authority for Department of Human Services for the Medicaid management information system	1,474,362
2015	Provides a transfer to the general fund	232,000,000
2206	Loans funding for the western area water supply project	75,000,000
	Total	\$701,918,334

**LANDS AND MINERALS TRUST FUND**

If Engrossed House Bill No. 1451 is approved, other bills that either transfer or appropriate money from the lands and minerals trust fund would need to be adjusted or changed. As of April 18, 2011, these bills include Senate Bill Nos. 2013, 2015, and 2306. A brief summary of each bill's use of the lands and minerals trust fund is listed below.

Bill No.	Description	Amount
2013	Provides funding for the career and technical education and academic scholarship program enacted by the 2009 Legislative Assembly	\$10,000,000
2015	Provides a transfer to the general fund	239,000,000
2306	Provides that money in the lands and minerals trust fund is available to the Bank of North Dakota to maintain a guarantee reserve fund for fuel production facility loans of up to \$6,250,000	6,250,000
	Total	\$255,250,000

HB 1451  
April 19, 2011  
Attachment 3

Prepared by the North Dakota Legislative Council  
staff

April 2011

# **STATUS OF SELECTED FUNDS - 2011-13 BIENNIUM - EFFECT OF HOUSE BILL NO. 1451**

The schedule below provides the current status of selected state funds and the effect of proposed changes under consideration in House Bill No. 1451. The effect of proposed changes to House Bill No. 1451 is reflected in the restated adjusted current budget status column. The current double appropriation and allocation of funds for property tax relief reflected in both House Bill No. 1047 and House Bill No. 1451 has been removed in the adjusted current budget status column and the restated adjusted current budget status column.

	Executive Budget	Adjusted Current Budget Status (as of April 18, 2011)	Restated Adjusted Current Budget Status (as of April 18, 2011)
<b>General fund</b>			
Estimated June 30, 2011, balance	\$81,116,852	\$81,116,852	\$81,116,852
<b>Adjustments</b>			
Deficiency appropriations	(1,868,904)	(37,018,904)	(37,018,904)
Unspent 2009-11 appropriations	5,000,000	21,850,000	21,850,000
Revenue adjustments, including February forecast		42,543,405	42,543,405
Transfer from permanent oil tax trust fund balance			615,112,998
Transfer to budget stabilization fund	(4,620,406)	(43,491,353)	(86,039,783)
Estimated July 1, 2011, balance	\$79,627,542	\$65,000,000	\$637,564,568
<b>Estimated revenues</b>			
Recommended taxes and fees	\$2,732,543,675	\$2,660,873,788	\$2,660,873,788
Oil tax revenues previously deposited in the permanent oil tax trust fund		129,000,000	229,000,000
Transfers to general fund from:			
Bank of North Dakota	60,000,000		
Mill and Elevator	6,650,000	6,650,000	6,650,000
Permanent oil tax trust fund	232,000,000	278,790,000	
Property tax relief sustainability fund		295,000,000	295,000,000
Lands and minerals trust/state infrastructure fund	239,000,000	239,000,000	239,000,000
Gas tax administration	1,485,000	1,485,000	1,485,000
Total estimated revenues	\$3,271,678,675	\$3,610,798,788	\$3,432,008,788
Total resources available	\$3,351,306,217	\$3,675,798,788	\$4,069,573,356
<b>Appropriations</b>			
Executive budget/current legislative spending	(\$3,295,569,541)	(\$4,018,424,978)	(\$4,018,424,978)
Selected appropriations to change from special funds to general fund			
HB 1014 - Dept. of Mineral Resources contingent FTE			(743,972)
SB 2012 - Dept. of Human Services - MMIS project			(1,474,362)
HB 1020 - Dickinson Research Center operations			(800,000)
HB 1003 - Grant assistance to tribal colleges			(1,000,000)
HB 1003 - Higher education capital projects			(2,320,000)
SB 2013 - Scholarship program			(10,000,000)
HB 1206 - Western area water supply project			(75,000,000)
Total appropriations	(\$3,295,569,541)	(\$4,018,424,978)	(\$4,109,763,312)
Estimated June 30, 2013, balance	\$55,736,676	(\$342,626,190)	(\$40,189,956)

	Executive Budget	Adjusted Current Budget Status (as of April 18, 2011)	Restated Adjusted Current Budget Status (as of April 18, 2011)
<b>Permanent oil tax trust fund</b>			
Estimated beginning balance	\$598,101,616 <sup>1</sup>	\$615,112,998	\$0
Estimated revenues	607,271,039	90,391,039	0
Appropriations/transfers	(995,974,362)	(360,128,334)	0
Estimated June 30, 2013, balance	\$209,398,293	\$345,375,703	\$0
<b>Lands and minerals trust fund</b>			
Estimated beginning balance	\$160,882,381	\$168,582,381	\$0
Estimated revenues	89,495,928	107,769,457	0
Transfer to general fund	(239,000,000)	(239,000,000)	0
Appropriations/transfers (administrative costs)	(11,106,065)	(17,050,000)	0
Estimated June 30, 2013, balance	\$272,244	\$20,301,838	\$0
<b>Strategic investment and infrastructure fund</b>			
Estimated beginning balance	\$0	\$0	168,582,381
Estimated revenues	0		107,769,457
Transfer excess revenues above cap to the state disaster fund	0		(7,769,457)
Transfer to general fund	0		(239,000,000)
Appropriation - SB 2306 - Guarantee reserve fund			(6,250,000)
Appropriation - Administrative costs	0		(800,000)
Estimated June 30, 2013, balance	\$0	\$0	\$22,532,381
<b>Property tax relief sustainability fund</b>			
Estimated beginning balance	\$295,000,000	\$295,000,000	\$295,000,000
Estimated revenues	388,580,000	385,000,000	375,391,039
Transfer to the general fund	(341,790,000)	(295,000,000)	(295,000,000)
Estimated June 30, 2013, balance	\$341,790,000	\$385,000,000	\$375,391,039
<b>Budget stabilization fund</b>			
Estimated beginning balance	\$324,936,548	\$324,936,548	324,936,548
Estimated revenues	4,620,406	43,491,353	86,039,783
Appropriations/transfers	0	0	0
Estimated June 30, 2013, balance	\$329,556,954	\$368,427,901	\$410,976,331
<b>State disaster relief fund</b>			
Estimated beginning balance	\$33,431,070 <sup>1</sup>	\$33,431,070	\$33,431,070
Estimated revenues	250,000	250,000	250,000
Transfer from the strategic investment and infrastructure fund			7,769,457
Appropriations/transfers	(30,243,000)	(30,243,000)	(30,243,000)
Estimated June 30, 2013, balance	\$3,438,070	\$3,438,070	\$11,207,527
<b>Total all affected funds</b>			
Estimated June 30, 2013, balance	\$940,192,237	\$779,917,322	\$779,917,322

<sup>1</sup> These amounts have been adjusted to reflect a \$22 million transfer from the permanent oil tax trust fund to the state disaster relief fund prior to June 30, 2011, for costs relating to state disasters.



**Summary of Estimated June 30, 2013, Fund Balances**

	<b>Executive Budget</b>	<b>Adjusted Current Budget Status (as of April 18, 2011)</b>	<b>Restated Adjusted Current Budget Status (as of April 18, 2011)</b>
General fund	\$55,736,676	(\$342,626,190)	(\$40,189,956)
Permanent oil tax trust fund	209,398,293	345,375,703	0
Lands and minerals trust fund	272,244	20,301,838	0
Strategic investment and infrastructure fund	0	0	22,532,381
Property tax relief sustainability fund	341,790,000	385,000,000	375,391,039
Budget stabilization fund	329,556,954	368,427,901	410,976,331
State disaster relief fund	3,438,070	3,438,070	11,207,527
<b>Total</b>	<b>\$940,192,237</b>	<b>\$779,917,322</b>	<b>\$779,917,322</b>

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1451

That the Senate recede from its amendments as printed on page 1586 of the House Journal and pages 1349 and 1350 of the Senate Journal and that Engrossed House Bill No. 1451 be amended as follows:

Page 1, line 3, after the third comma insert "6-09.7-05,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 3, after line 14, insert:

**"SECTION 4. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.7-05. Establishment and maintenance of adequate guarantee funds -  
Use of lands and minerals truststate infrastructure fund.**

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the ~~lands and minerals truststate infrastructure fund~~ created by section 15-08.1-08 and any moneys transferred from the ~~lands and minerals truststate infrastructure fund~~ to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 3, line 22, after "fund" insert "Deposits in the state infrastructure fund are limited to one hundred million dollars during a biennium and any amounts exceeding this limitation of up to twenty-two million dollars must be deposited in the state disaster relief fund and any additional amounts exceeding this limitation must be deposited in the general fund"

Page 4, line 12, after the first "fund" insert ", property tax relief sustainability,"

Page 5, after line 10, insert:

**"SECTION 12. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer shall close out the lands and minerals trust fund and transfer any remaining unobligated balance to the state infrastructure fund."

Renumber accordingly

**PERMANENT OIL TAX TRUST FUND - USES**

The following schedule provides information on legislative appropriations and transfers from the permanent oil tax trust fund for the 2005-07, 2007-09, 2009-11, and 2011-13 bienniums:

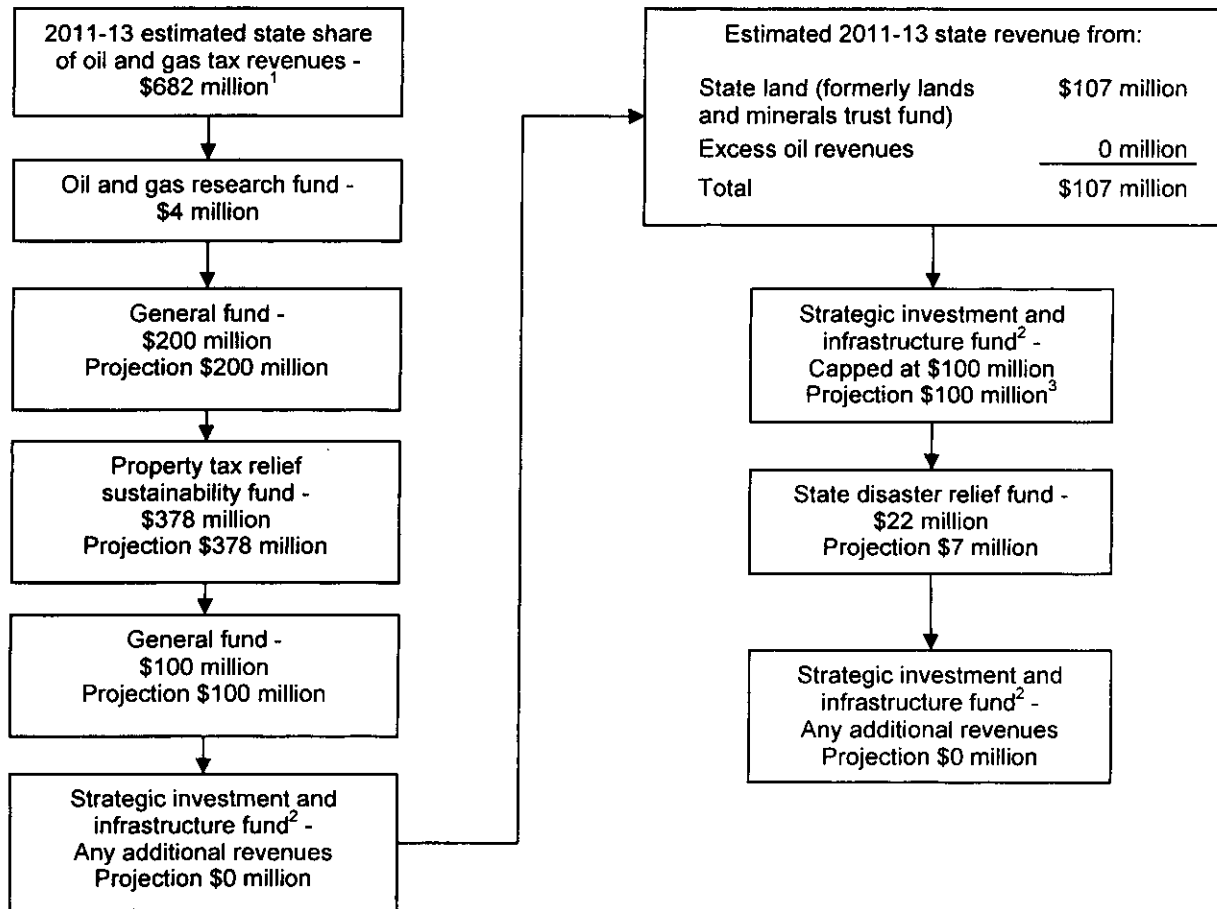
<b>Appropriation/Transfer</b>	<b>Amount</b>
<b>2005-09 biennium</b>	
Transfer to general fund	\$55,300,000
Grant to International Music Camp	350,000
Repayment of loans for centers of excellence	20,239,035
Department of Human Services - Medicaid management information services expenses	1,007,664
<b>Total expenditures and transfers</b>	<b>\$76,896,699</b>
<b>2007-09 biennium</b>	
Transfer to general fund	\$115,000,000
Centers of excellence	8,379,459
Higher education	6,237,557
Grants to tribal colleges	700,000
Veterans' Home construction project	6,483,226
Livestock disaster assistance	250,000
Agricultural research and extension	750,000
<b>Total expenditures and transfers</b>	<b>\$137,800,242</b>
<b>2009-11 biennium</b>	
Transfer to general fund	\$140,000,000
Transfer to centers of excellence fund	6,620,541
Higher education	12,691,145
Grant assistance payments to tribally controlled community colleges	700,000
Dickinson Research Center	925,000
Department of Human Services - Medicaid management information system replacement project carryover authority	1,130,027
Property tax relief - Transfer to general fund	295,000,000
Property tax relief - Transfer to property tax relief sustainability fund	295,000,000
Property tax relief (deficiency appropriation)	4,233,000
Water project grants	2,526,445
Prairie Public Broadcasting	1,008,100
Transfer to state disaster relief fund	22,000,000
<b>Total expenditures and transfers</b>	<b>\$781,834,258</b>
<b>2011-13 biennium executive recommendation</b>	
Transfer to general fund	\$232,000,000
Higher education	2,320,000
Grant assistance payments to tribally controlled community colleges	1,000,000
Department of Human Services - Medicaid management information system replacement project carryover authority	1,474,362
Property tax relief - Transfer to property tax relief sustainability fund	388,580,000
Transfer to highway fund for state, county, and township road projects	370,600,000
<b>Total recommended expenditures and transfers</b>	<b>\$995,974,362</b>

# HOUSE BILL NO. 1451 - PROPOSED CONFERENCE COMMITTEE VERSION - FUNDING FLOWCHART

2011-13 Biennium

State Share of Oil and Gas Tax Revenues

Lands and Minerals Related Revenues



<sup>1</sup>Oil and gas tax revenues are based on the February forecast which estimated the state share of oil and gas tax revenues to average \$26.7 million per month during the first year of the biennium and \$30.2 million during the second year.

<sup>2</sup>The strategic investment and infrastructure fund may be used for one-time expenditures relating to:

- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

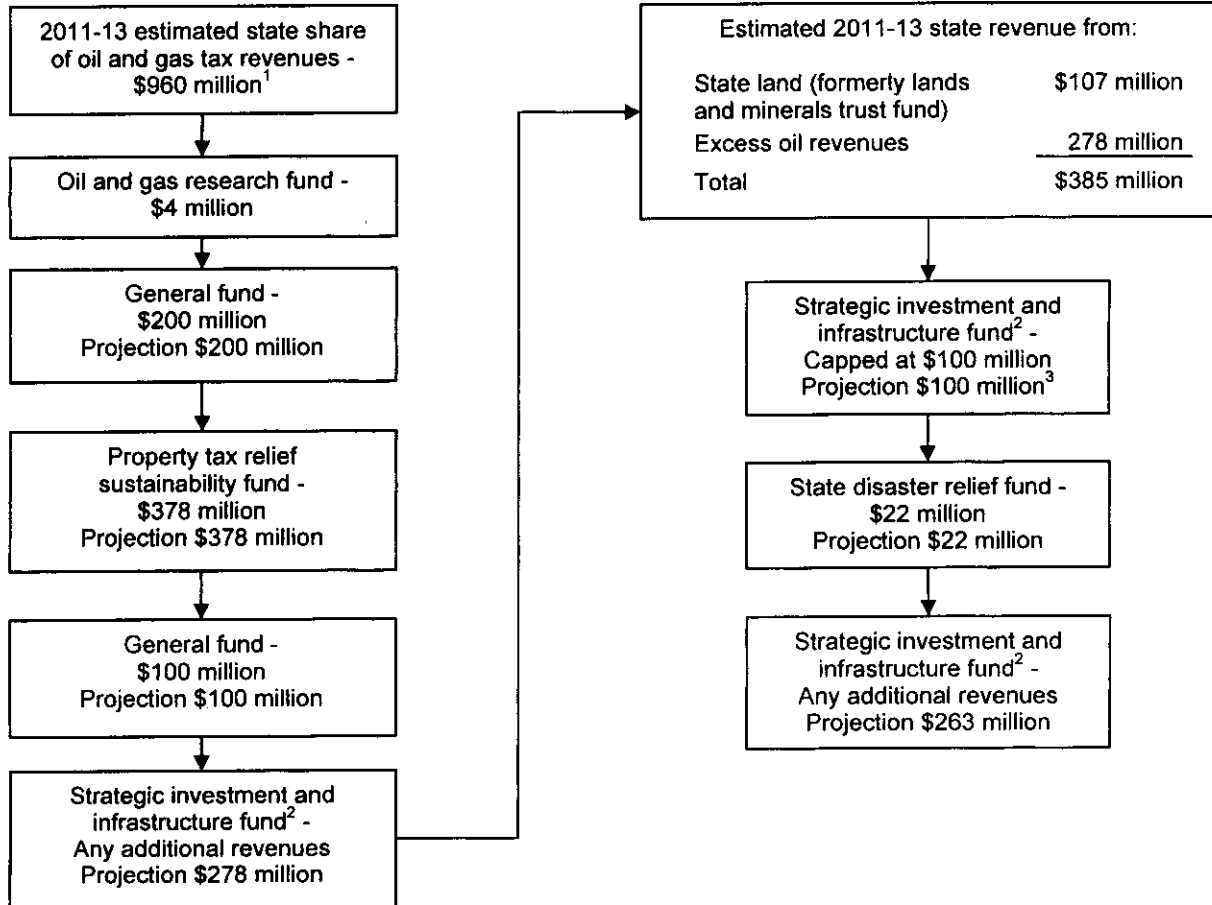
<sup>3</sup>In addition to the \$100 million of estimated revenues to be deposited in the strategic investment and infrastructure fund during the 2011-13 biennium, an estimated \$168.6 million would be transferred into the fund from the lands and minerals trust fund of the end of the 2009-11 biennium providing total available funds of \$268.6 million. Of this amount, it is anticipated that \$249 million would need to be transferred to the general fund and \$6.3 million retained in the fund for the Bank of North Dakota loan guarantee included in Senate Bill No. 2306. The balance remaining available would total \$13.3 million.

# HOUSE BILL NO. 1451 - PROPOSED CONFERENCE COMMITTEE VERSION - FUNDING FLOWCHART

2011-13 Biennium

State Share of Oil and Gas Tax Revenues

Lands and Minerals Related Revenues



<sup>1</sup>Oil and gas tax revenues are based on the estimated state share of oil and gas tax revenues to average \$40 million per month during the 2011-13 biennium.

<sup>2</sup>The strategic investment and infrastructure fund may be used for one-time expenditures relating to:

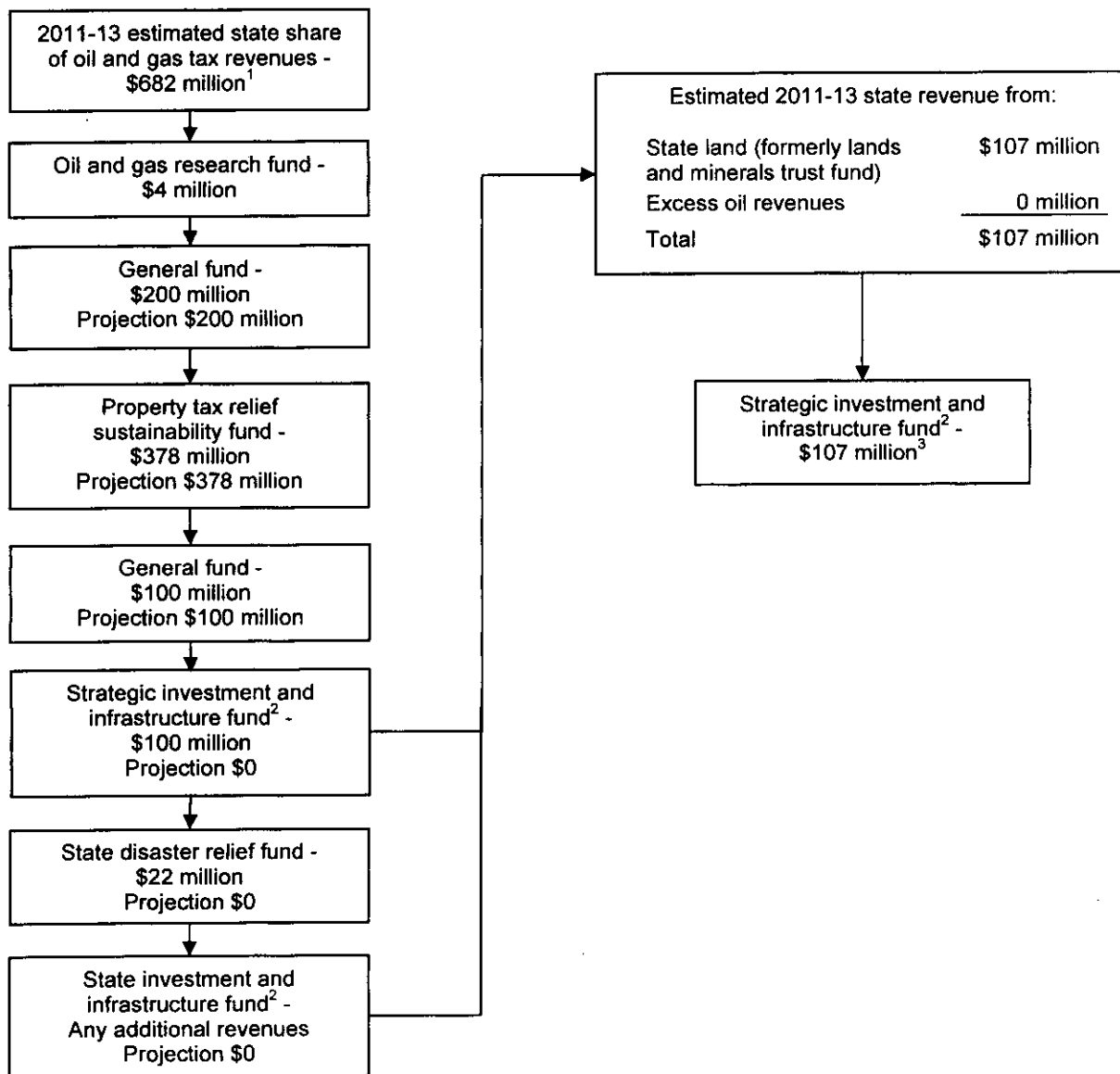
- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

<sup>3</sup>In addition to the \$363 million of estimated revenues to be deposited in the strategic investment and infrastructure fund during the 2011-13 biennium, an estimated \$168.6 million would be transferred into the fund from the lands and minerals trust fund of the end of the 2009-11 biennium providing total available funds of \$531.6 million. Of this amount, it is anticipated that \$249 million would need to be transferred to the general fund and \$6.3 million retained in the fund for the Bank of North Dakota loan guarantee included in Senate Bill No. 2306. The balance remaining available would total \$276.3 million.

HB 1451  
April 20, 2011  
Attachment 4**HOUSE BILL NO. 1451 - PROPOSED CONFERENCE COMMITTEE  
VERSION - FUNDING FLOWCHART****2011-13 Biennium**

State Share of Oil and Gas Tax Revenues

Lands and Minerals Related Revenues



<sup>1</sup> Oil and gas tax revenues are based on the February forecast which estimated the state share of oil and gas tax revenues to average \$26.7 million per month during the first year of the biennium and \$30.2 million per month during the second year.

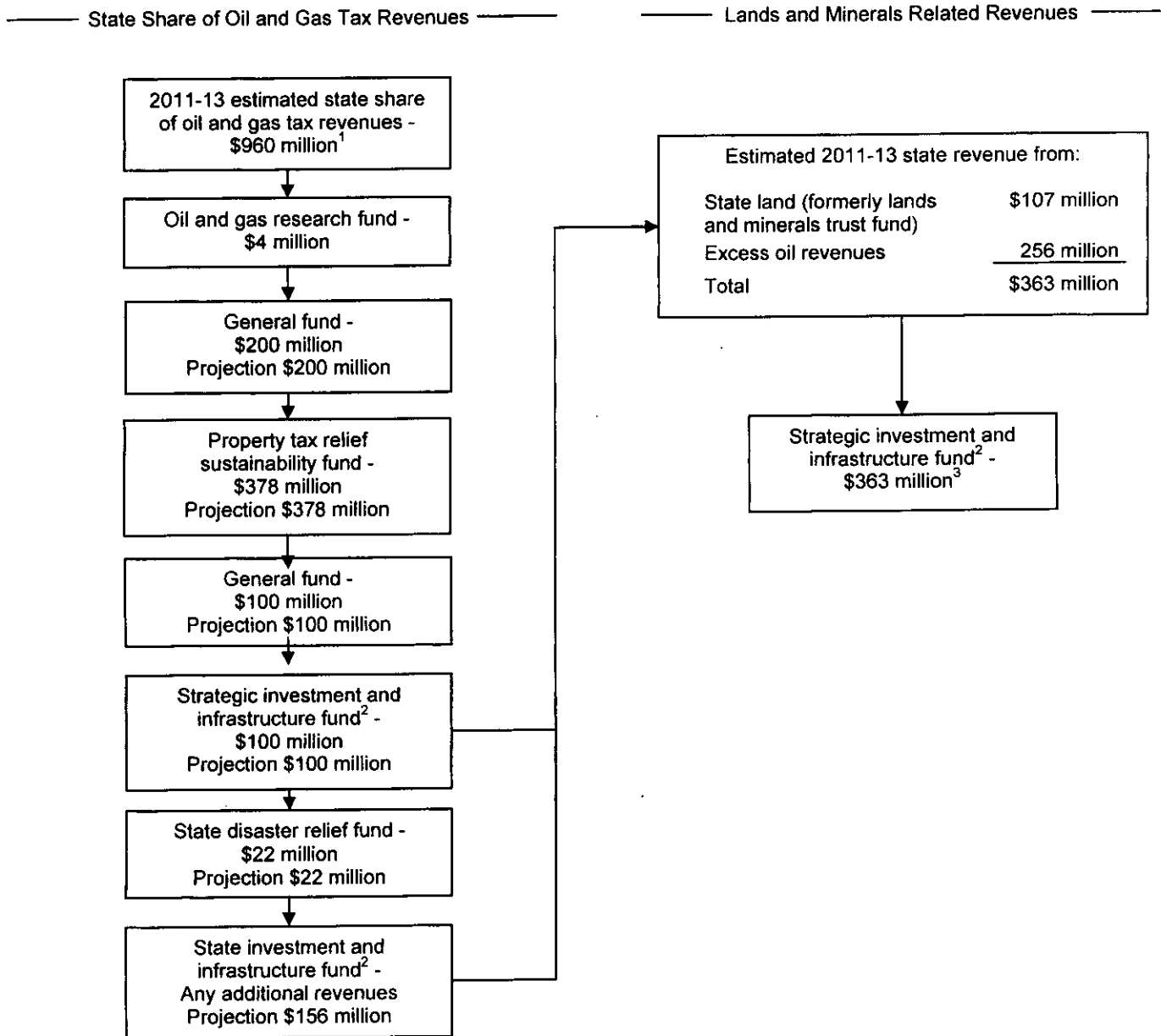
<sup>2</sup> The strategic investment and infrastructure fund may be used for one-time expenditures relating to:

- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

<sup>3</sup> In addition to the \$107 million of estimated revenues to be deposited in the strategic investment and infrastructure fund during the 2011-13 biennium, an estimated \$168.6 million would be transferred into the fund from the lands and minerals trust fund at the end of the 2009-11 biennium providing total available funds of \$275.6 million. Of this amount, it is anticipated that \$249 million would need to be transferred to the general fund and \$6.3 million retained in the fund for the Bank of North Dakota loan guarantee included in Senate Bill No. 2306. The balance remaining available would total \$20.3 million.

# HOUSE BILL NO. 1451 - PROPOSED CONFERENCE COMMITTEE VERSION - FUNDING FLOWCHART

2011-13 Biennium



<sup>1</sup> Oil and gas tax revenues are based on the state share of oil and gas tax revenues averaging \$40 million per month for the 2011-13 biennium.

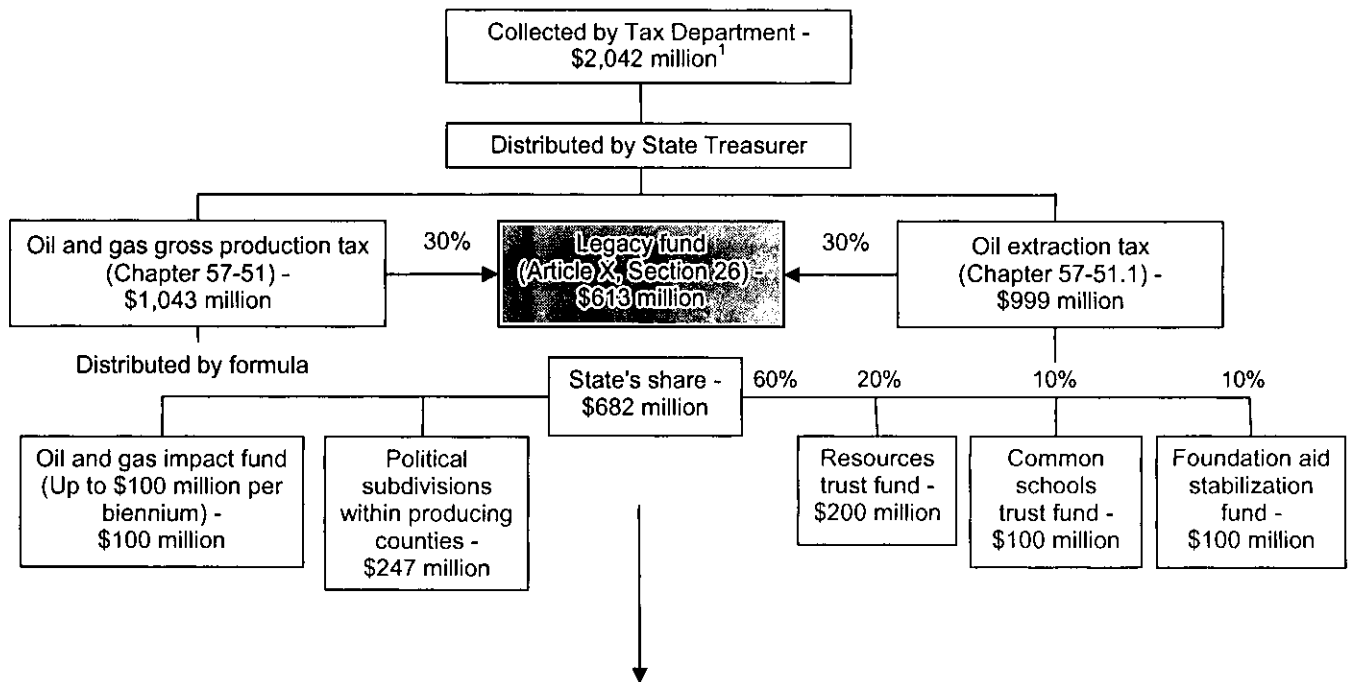
<sup>2</sup> The strategic investment and infrastructure fund may be used for one-time expenditures relating to:

- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

<sup>3</sup> In addition to the \$363 million of estimated revenues to be deposited in the strategic investment and infrastructure fund during the 2011-13 biennium, an estimated \$168.6 million would be transferred into the fund from the lands and minerals trust fund at the end of the 2009-11 biennium providing total available funds of \$531.6 million. Of this amount, it is anticipated that \$249 million would need to be transferred to the general fund and \$6.3 million retained in the fund for the Bank of North Dakota loan guarantee included in Senate Bill No. 2306. The balance remaining available would total \$276.3 million.

**HOUSE BILL NO. 1451 - CONFERENCE COMMITTEE VERSION -  
AMENDMENT LC 11.0639.02009 - REVENUE ALLOCATION FLOWCHART**

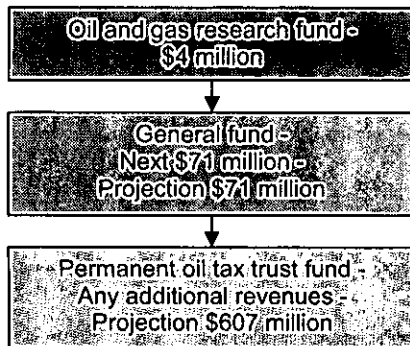
This memorandum provides information of the estimated allocation of oil and gas tax collections for the 2011-13 biennium and the changes to those allocations that will result from provisions of House Bill No. 1451 (conference committee version).

**2011-13 BIENNIUM  
Estimated Oil and Gas Tax Collections**

Current Law Allocation of State Share

OR

Proposed Allocation of State Share (HB 1451)

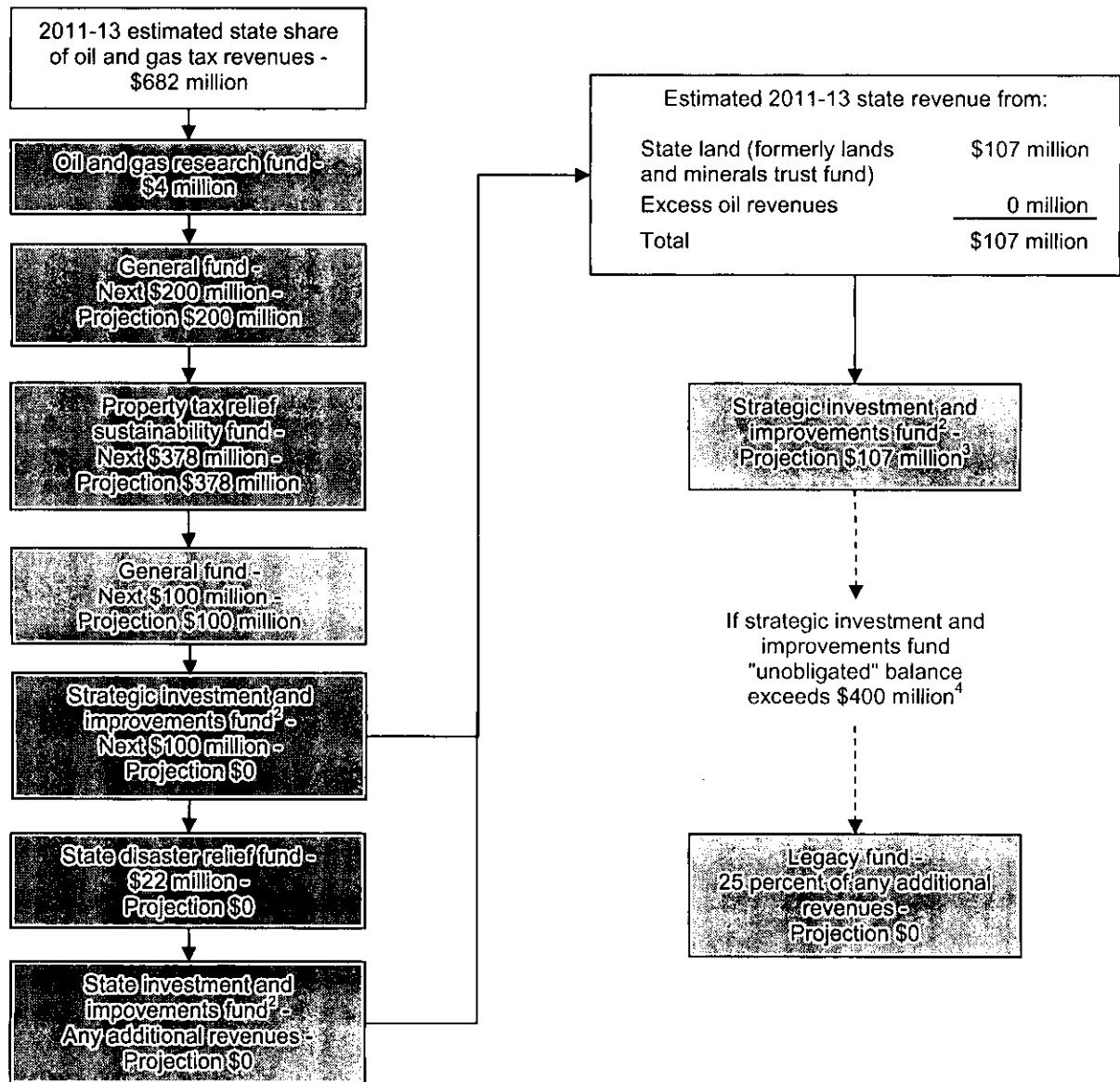


(see page 2)



Proposed Allocation of State Share  
(HB 1451)

Lands and Minerals Related Revenues



<sup>1</sup>Oil and gas tax revenues are based on the February revised revenue forecast.

<sup>2</sup>The strategic investment and improvements fund may be used for one-time expenditures relating to:

- Improving state infrastructure.
- Initiatives to improve the efficiency and effectiveness of state government.

<sup>3</sup>In addition to the \$107 million of estimated revenues to be deposited in the strategic investment and improvements fund during the 2011-13 biennium, an estimated \$168.6 million would be transferred into the fund from the lands and minerals trust fund at the end of the 2009-11 biennium providing total available funds of \$275.6 million. Of this amount, it is anticipated that \$249 million would need to be transferred to the general fund and \$6.3 million retained in the fund for the Bank of North Dakota loan guarantee included in Senate Bill No. 2306. The balance remaining available would total \$20.3 million. In addition, the fund would include an estimated \$56.7 million as part of the fund balance relating to potential riverbed land title disputes.

<sup>4</sup>"Unobligated" fund balance means the balance in the fund reduced by authorized appropriations, transfers, required reserves relating to fuel production facility loan guarantees and potential riverbed title disputes.

**NOTE:** House Bill No. 1451 provides that the 2009-11 ending balance in the permanent oil tax trust fund (\$615 million estimate) be transferred to the general fund and the 2009-11 ending balance in the lands and minerals trust fund (\$169 million estimate) be transferred to the strategic investment and improvements fund.