APPENDIX C

1993 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4011

XXXXXX JOINT CONSTITUTIONAL REVISION Committee

Subcommittee on _____ Identify o: check where appropriate

Conference Committee _____

Original Hearing Date 1-28-93

Subsequent Hearing Date _____

Tape Number 1 /Side A X Side B ____ Meter # 2

Committee Clerk Signature Barb Langna

Minutes:

SEN. O'CONNELL, CO-CHAIRMAN, called the hearing to order.

SEN. YOCKIM, DIST. 1, WILLISTON Introduced the resolution. This is the exact same resolution that was introduced two years ago. It is my third or fourth consecutive try to get a constitutional amendment proposed that would establish an oil and gas trust fund. They failed before. I am pooling my resources with Sen. Tollefson. This would place one percent of the production of oil and gas industry in this trust fund. This would not establish an additional one percent tax but would allocate the equivalent of one percent of the production for the state's general fund that would supply future generations. The trust fund established by this bill would be called the foundation aid stabilization fund. The fund would place fifty percent of the money in a permanent trust. The interest earnings from that trust would go to the state's general fund. The principal of the fund could only be touched upon order of the Governor as a direct result of revenue shortages. When that revenue falls below estimates for the state, the Governor could call upon the fund and tap into the principal to use it to restore aid at the appropriate level. The other fifty percent would be deposited in the common schools trust fund and would be allocated out for financial aid. The state of North Dakota takes out over a billion barrels of oil from its soil over the last four years. That's a billion barrels of oil depleted from the land or soil of North Dakota. If this was happening in any other industry, I think the people would be in an uproar. If we reduced the value of the state's resources by that amount. What do we do about preserving wealth base of our state? Forty years from now when we look around and see that the oil is gone and 2 billion barrels depleted and the wealth base destroyed, it seems to me that the policy should be to place those assets in a permanent trust fund so the next generation can enjoy that wealth and enjoy the benefits that could be derived from that. I have included an amendment for the resolution. North Dakota is the only state that has oil production and has not established a trust fund. We should teach our children the same values that helped our parents. We all recognize the value of putting money away in case we need it sometime in the future. Fifty years form now our children will be proud of what we did in the 53rd

DO NOT USE HIGHLIGHTER ON ANY FORMS

legislative assembly. I think the voters of this state should be given the opportunity to express their will in establishment of a trust fund and I am confident they will pass this measure if given a chance to. I would also add that putting money away in trust is really not a cost to us. It is a preservation of our state's resources. In 1985 we received over $80 million in revenues directly from the production tax. Two years ago that fell to $42 million. I just recently got a report from the tax department and it is now under $30 million for the next biennium. The resources are being depleted. (He handed out graphs and explained them-See attached)

SEN. SOLEERG The interest from this trust will go back into the general fund so this is not set up to be two trusts.

SEN. YOCKIM In this case the first fifty percent of the money goes into a fund where the principal could be tapped and used. The other fifty percent goes into the common schools trust fund. The interest earnings go into the general fund but the principal does not.

SEN. SOLBERG We really could wind up with a trust fund zero after every biennium. That's a possiblity, is that right?

SEN. YOCKIM The potential for this fifty percent in the stabilization fund, there is that possibililty if we miss our estimates for foundation aid.

REP. KRETSCHMAR Under the proposed amendment, for 1990, $33.9 million in gross production tax revenues. Under the proposed amendment would one percent of that amount be placed in the two trust funds or do you include the other 6%?

SEN. YOCKIM One of the percents is a five percent of gross production total. We are talking about twenty percent of the gross production tax revenues would go into the trust fund, in this case for 1990, it would have been $6.6 million. It does not deal with the extraction tax. The equivalent is 1% of total gross production.

REP. KRETSCHMAR So actually it would be one-fifth of this $33 million.

SEN. YOCKIM That's correct.

REP. KRETSCHMAR Do you know at the present time what the principal balance is in the common schools trust fund?

SEN. YOCKIM I do not.

There was no opposing testimony.

SEN. O'CONNELL closed the hearing.

TAPE 1, SIDE A METER #10.1

1993 HOUSE STANDING COMMITTEE MINUTES

~~BILL~~/RESOLUTION NO. SCR 4011

~~HOUSE~~ JOINT CONSTITUTIONAL REVISION Committee

Subcommittee on _____ Identify or check where appropriate

Conference Committee _____

Original Hearing Date 1/28/93

Subsequent Hearing Date 3/3/93

Tape Number 1 /Side A X Side B ____ Meter # 0.7

Committee Clerk Signature Barb Langem

Minutes:

REP. BROWN called the hearing to order.

SEN. YOCKIM, DIST. 1, WILLISTON explained the amendment. This is a hoghouse amendment. It changes the terminology of what we are targeting the money from. The original bill addresses the gross production tax. There is some concern about that confusing the people. To simplify it I asked the Legislative Council to draw up an amendment that would address the extraction tax portion of the formula. For your information, the fiscal impact wouldn't go into effect until the 95-97 biennium. But if it went into effect in 1993 the projection for oil revenues from the extraction tax would be revised. The projections we have are about $47.6 million dollars so the impact would be about $9.4 million in the biennium if the revenues stay current. To put that in context though, we need to recognize that we have had an impact to the general fund over since about 1985 from declining oil revenues. The production tax in 1985 brought in over $80 million, in 1990 it had fallen to 33 million. We have had to make up some $47 million in that short span of time to the general fund and county funds. We have had to absorb the reduction in extraction tax payments to the general fund over since those big production years. I think that at some point it makes a great deal of sense for us to stop the bleeding and to take a little longer term outlook at this and put some money in the bank. In seven years we would see a direct benefit and that benefit would be long term. So what we would in essence do is stop the bleeding of the production tax declines, the revenue declines and help shore up this source of revenue.

REP. KRETSCHMAR There has been some discussion in the House and I am not all that great an expert in the educational funding situation, but there is some suggestion that we don't put in a per pupil payment in the statute in each section. But they are going to appropriate a big glob of money and there is some formula that DPI uses to determine who gets what. And in looking at the second to the last line in your proposed amendment on the first page, I wonder if we should remove that word per pupil and just say foundation aid because there may well be some changes in that set up.

DO NOT USE HIGHLIGHTER ON ANY FORMS

SEN. YOCKIM I would agree with you that seems to make sense. I think there also could be some changes in what we do with that second year payment in the future.

COMMITTEE ACTION
REP. NELSON moved to amend the amendment. Seconded by REP. MARAGOS. Motion carried.

REP. MARAGOS moved to pass the amendment. Seconded by SEN. W. STENEHJEM. Motion carried.

REP. KRETSCHMAR moved a do pass as amended. Seconded by REP. MARAGOS.

Motion carried. 9-yes; 1-no; 0-absent.

SEN. MARKS will carry the bill on the Senate. REP. KRETSCHMAR will carry on the House side.

Tape 1, Side A, Meter #7.7.

FISCAL NOTE

(Return in triplicate)

Bill/Resolution No.: _____ Amendment to: SCR 4011

Requested by Legislative Council Date of Request: 3-12-93

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative:

If approved by voters as amended, SCR 4011 would first impact revenues in the 1995-97 biennium. We are unable to predict the fiscal effect because there is no forecast for that biennium. Twenty percent (20%) of the oil extraction tax forecast for the 1993-95 biennium would equal approximately $9,230,000, however.

2. State fiscal effect in dollar amounts:

	1991-93 Biennium		1993-95 Biennium		1995-97 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:						
Expenditures:						

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

a. For rest of 1991-93 biennium: _____

b. For the 1993-95 biennium: _____

c. For the 1995-97 biennium: _____

4. County and City fiscal effect in dollar amounts:

1991-93 Biennium		1993-95 Biennium		1995-97 Biennium	
Counties	Cities	Counties	Cities	Counties	Cities

If additional space is needed, attach a supplemental sheet.

Date Prepared: 3-16-93

Signed Kathryn L. Strombeck

Typed Name Kathryn L. Strombeck

Department Tax

Phone Number 224-2770

FISCAL NOTE

(Return in triplicate)

Bill/Resolution No.: SCR 4011 Amendment to: _____

Requested by Legislative Council Date of Request: 1-18-93

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative:

The provisions of SCR 4011, if enacted by a vote of the people, would affect oil and gas gross production revenues beginning in July 1995. We do not have an oil forecast in place for the 1995-97 biennium. In the 93-95 biennium, gross production tax equal to one percent of gross value at the well is expected to total approximately $12.7 million.

2. State fiscal effect in dollar amounts:

	1991-93 Biennium		1993-95 Biennium		1995-97 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:						
Expenditures:						

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

a. For rest of 1991-93 biennium: _____

b. For the 1993-95 biennium: _____

c. For the 1995-97 biennium: _____

4. County and City fiscal effect in dollar amounts:

1991-93 Biennium		1993-95 Biennium		1995-97 Biennium	
Counties	Cities	Counties	Cities	Counties	Cities

If additional space is needed, attach a supplemental sheet.

Signed Kathryn L. Strombeck

Typed Name Kathryn L. Strombeck

Date Prepared: 1-21-93

Department Tax

Phone Number 224-2770

AB
3/4/93
1 of 2

JCRC AMENDMENTS TO SENATE CONCURRENT RESOLUTION 4011 JCRC 3/5/93

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to create and enact a new section to article X of the Constitution of North Dakota, relating to deposit of certain oil extraction tax revenues in the common schools trust fund and the foundation aid stabilization fund and providing for use of the principal and income of the foundation aid stabilization fund; and to provide an effective date.

STATEMENT OF INTENT

This measure requires a portion of oil extraction tax revenues to be deposited in the common schools trust fund and an equal portion to be deposited in the foundation aid stabilization fund, with income of the foundation aid stabilization fund to be transferred to the state general fund. Beginning July 1, 1995, the amount of extraction tax revenue deposited in the two funds pursuant to this measure would equal twenty percent of the extraction tax revenue from taxable oil produced in the state.

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

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1994, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

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

1. Fifty percent must be deposited in the common schools trust fund.

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

SECTION 2. EFFECTIVE DATE. If approved by the electors, this measure is effective for tax revenue ... m oil and gas produced after June 30, 1995."

Renumber accordingly

DISTRIBUTION OF 5% GROSS PRODUCTION TAX REVENUE

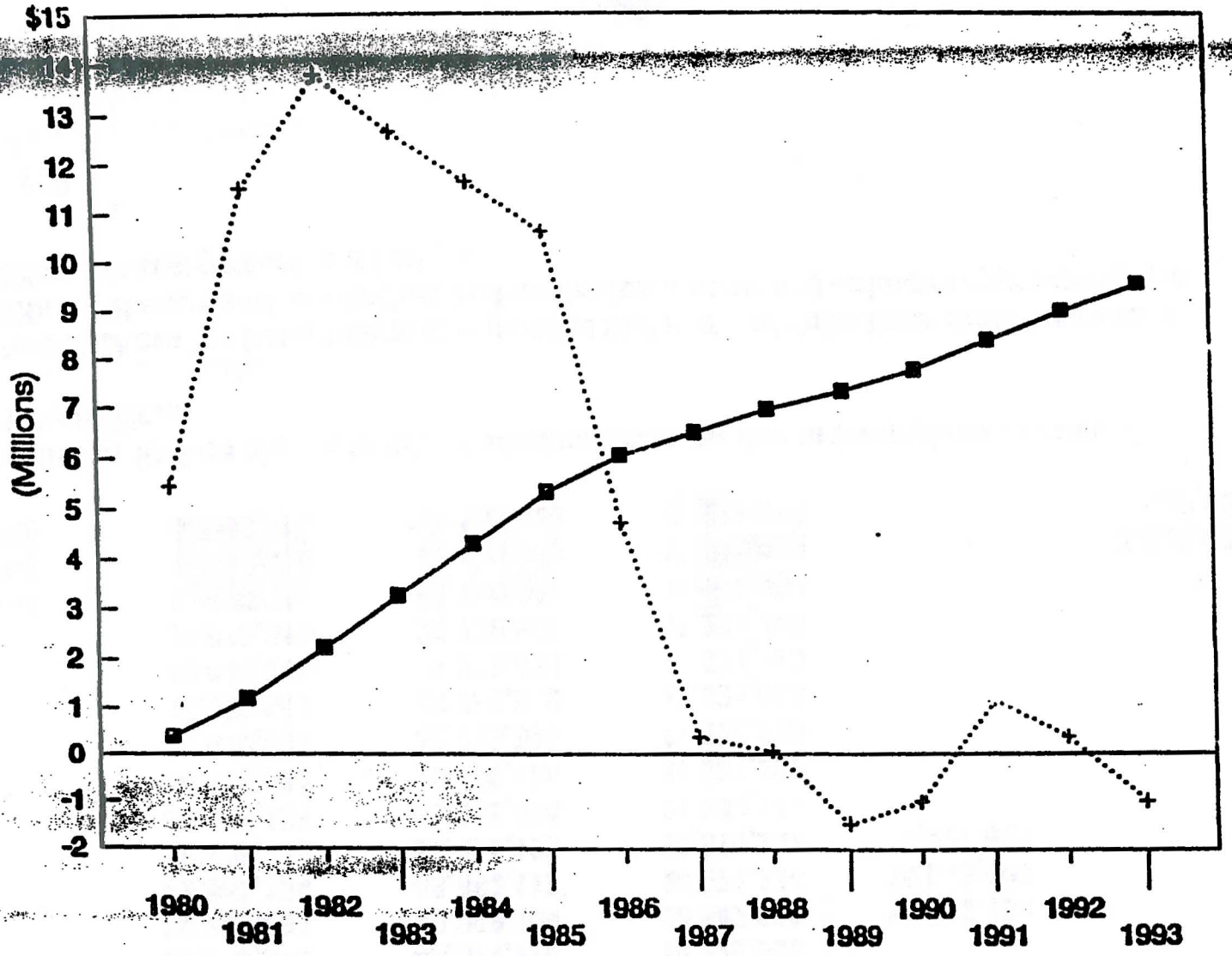
Fiscal Year	Total Distributions	State General Fund	County Fund	Highways	Impact Grant Fund
1980 r/c	29,170,764	21,525,404	7,645,360		
1981	63,602,316	48,872,720	14,729,596		
1982	80,229,891	48,099,904	20,547,829	11,582,158	
1983	79,867,154	43,382,113	20,671,134	15,813,907	
1984 *	79,983,219	56,895,195	19,310,387	3,777,637	
1985 *	80,127,155	58,285,014	21,842,141		
1986	54,129,624	36,208,124	17,921,500		
1987	34,410,003	22,033,315	12,376,688		
1988	35,260,547	22,736,519	12,524,028		
1989	29,434,368	17,923,334	11,511,034		
1990	33,972,649	20,738,906	13,233,743		
1991 (estimate)	[illegible]	[illegible]	[illegible]		
1992 (estimate)	[illegible]	[illegible]	[illegible]		2,820,000
1993 (estimate)	[illegible]	[illegible]	[illegible]		2,820,000

* Collections in the 1983-85 biennium reflect additional revenue due to the implementation of monthly return filing.

SOURCE: North Dakota Tax Department, Comparative Statement of Collections; State Treasurer's Office, Oil and Gas Gross Production Distribution reports; and estimates approved by the Office of Management and Budget.

35,283,000

SCR 40A



..... DIFFERENCE BETWEEN ANNUAL DISTRIBUTION AND INTEREST EARNINGS

——— INTEREST EARNINGS - 6.5% ANNUAL INTEREST RATE

MEMORANDUM

To: Senator O'Connell, Co-Chairman
Representative Brown, Co-Chairman
Joint Constitutional Revision Committee

From: Carole Murschel, Supervisior CM
Oil & Gas Tax Section
Office of State Tax Commissioner

Subj: SCR 4011

Date: January 21, 1993

At the request of the Tax Commissioner, I have been asked to notify your committee that SCR 4011 needs to be amended to be consistent with the provisions of NDCC Section 57-51-02.2 (copy attached) which requires the gross production tax to be paid on the taxable volume of gas produced rather than its gross value. The Commissioner recommends the following change to the language of SCR 4011:

On page 1, line 14, and on page 2, line 2:

Delete "taxable" and insert "one-fifth of the tax on" after "and."

This change would be consistent with the present language in the gross production tax apportionment provisions contained in NDCC Section 57-51-15.

HA:CM:lkh

57-51-02.1. Type of tax. For purposes of interpreting chapter 785 of the 1987 Session Laws relating to federal land bank taxation and to the taxation of other governmental entities if their immunity from taxation has been waived, the gross production tax is a real property tax on oil and gas producing mineral estates and interests.

57-51-02.2. Gross production tax - Gas. A gross production tax is levied upon all gas produced within North Dakota less any part thereof, the ownership or right to which is exempt from taxation. The tax levied must attach to the whole production, including the royalty interest. The tax on gas must be calculated by taking the taxable production in mcf times the gas tax rate.

1. For fiscal year beginning July 1, 1991, the gas tax rate is four cents; for fiscal years beginning July 1, 1992, and subsequent years, the gas tax rate is four cents times the gas base rate adjustment for the fiscal year as calculated pursuant to subsection 2.

2. a. On or before May 15, 1992, and annually thereafter, the tax department shall determine the gas base rate adjustment and the resulting gas tax rate for the fiscal year beginning on the following July first.

   b. The gas base rate adjustment for the fiscal year is a fraction, the numerator of which is the annual average of the gas fuels producer price index, commodity code 05-3, as calculated and published by the United States department of labor, bureau of labor statistics, for the previous calendar year, and the denominator of which is seventy-five and seven-tenths.

   c. The tax department shall provide the gas base rate adjustment and the gas tax rate for the fiscal year, as determined under this subsection, to affected producers by written notice mailed on or before June first. In addition, the tax department shall publish the adjustment as a rule in the North Dakota Administrative Code.

   d. If the index used to determine the gas base rate adjustment is substantially revised, or if the base year for the index is changed, the department by administrative rule shall make appropriate adjustment to the method used to determine the gas base rate adjustment to ensure a result which is reasonably consistent with the result which would have been obtained had the index not been revised or the base year changed.

   e. If the gas fuels producer price index is discontinued, a comparable index must be adopted by the department by an administrative rule.

57-51-02.3. Valuation of oil - Alternatives - Exceptions. The gross value at the well for oil is the price paid for the oil under an arm's-length contract