

2013 SENATE EDUCATION

SCR 4010

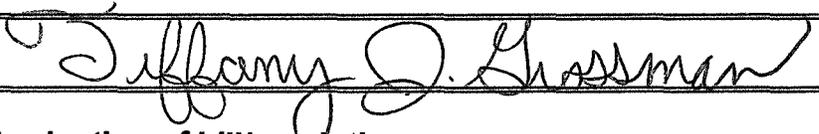
2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SCR 4010
2-5-13
18266

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the foundation aid stabilization fund; and to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to the foundation aid stabilization fund

Minutes:

You may make reference to "attached testimony."

Chairman Flakoll opened the hearing on SC 4010

David Hogue District 8 Senator: I wish to testify in support of SCR 4010 (Written Testimony #1 attached) 6:54

Senator Heckaman: In your testimony you authorize a legislative assembly. How do you see that happening?

David Hogue District 8 Senator: That is up to the discretion of the legislature. The one word in the resolution I didn't agree with is "must" and if you amend it to "may" that would be more appropriate. Why would we require the legislature to take money out of the fund?

Chairman Flakoll: Currently the interest in income from this fund goes to the general fund?

David Hogue District 8 Senator: Yes it must.

Chairman Flakoll: Do you believe this would result in an equal if not greater amount of money towards education than now?

David Hogue District 8 Senator: Yes. It is to provide maximum flexibility to the legislature while maintaining integrity that this is an educational fund. That is where the money should be dedicated. There will be Legislators that want it somewhere else.

Chairman Flakoll: Recently we had a bill relating to safety grants. We would have doubled that up to 20 million if we had our own say. Could you use it for a one time program like that?

David Hogue District 8 Senator: Yes you could. It could be expanded to all forms of education including higher education. That is up to this committee to decide how broad the scope of the money is.

Chairman Flakoll: Do you have evidence when there has been a release?

David Hogue District 8 Senator: I wasn't aware of the one. If there was one, the Governor would have had to declare the allotment. The Governor is the only person who can access this money. I will bring the charts (#2)

Bev Nielson, ND Council of Educational Leaders: We wish to testify in opposition of SB 4010. We want to be sure the intent of the fund is good. I will address what would make this better. We consistently oppose dollar amounts in the constitution. As we know with inflation dollar amounts are meaningless in a few years. It should be some sort of a percent of the overall budget for k-12. When it comes to the distribution of the funds, I agree it has been frustrating. Our preference would be that this bill have a percentage and the FIRST use for any excess funds on line 12 of page 2 would make up any shortfall in funding for K-12 programs for that year or biennium. It is harder to estimate a count. We prefer the first use of the excess funds be for education. After that any other appropriation should support elementary and secondary education. We are uncomfortable with the phrase being transferred to another constitutional fund. We don't know what that means. Another constitutional fund could be something totally unrelated to K-12 education.

Chairman Flakoll: We are at about 25% of the ending fund balance that would be in this account. What would be an appropriate percentage?

Bev Nielson, ND Council of Educational Leaders: If we extend the uses of that money leaving it at 25% wouldn't be so bad.

Chairman Flakoll: Right now if we take the projected \$332 million at the end of the current biennium and were' at about 1.3 billion dollars of state money that would go into the foundation aid formula, that is about 25%. Those will stay more static. Once you get up to that \$9,000 per student those won't grow at the rate the fund will likely grow.

Bev Nielson, ND Council of Educational Leaders: I would agree if you are talking about the new funding. I just don't like dollar numbers in the constitution.

Chairman Flakoll: Are you not comfortable with the back stocks in place for special education?

Bev Nielson, ND Council of Educational Leaders: We have done improvements with that. I just used that as an example of potential shortfalls.

Chairman Flakoll: It would take something catastrophic to use the \$300 million shortfall.

Bev Nielson, ND Council of Educational Leaders: If you are talking about the case for allotment yes. I don't see those coming very soon but as the state picks up more of the cost

of education and with enrollment fluctuations, I can see times where appropriations would be short and rather than having to go for emergency funding, they would want this.

Chairman Flakoll: The Governor is able to release the money. However if the Department of Public Instruction is off by a half of a percent in enrollment figures, they can't access those funds.

Bev Nielson, ND Council of Educational Leaders: He can't do that now. We would like that option though.

Chairman Flakoll: The bill next door is on foundation aid. That would be the number you will be referencing. If there are reduced funds for K-12 like transportation those don't qualify. Is that correct?

Bev Nielson, ND Council of Educational Leaders: The way it is now.

Chairman Flakoll closed the hearing on SB 4010

2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

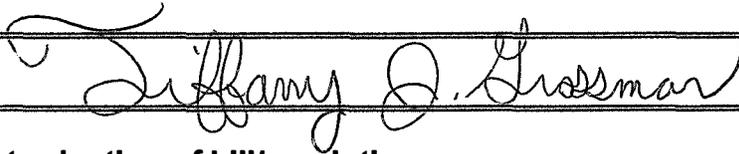
SCR 4010

2-11-13

18672

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A concurrent resolution to create and enact a new section to article X of the Constitution of section 24 of article X of the Constitution of North Dakota, relating to the foundation aid stabilization fund.

Minutes:

You may make reference to "attached testimony."

Chairman Flakoll opened the hearing on SCR 4010. The reason for the 1001 amendments are based upon comments we have had and testimony from Ms. Nielson from the North Dakota Counsel of Educational Leaders to not put dollar amounts in the constitution. I am looking for 20% of the state aid line item set forth in the prior biennium's appropriation bill from the Superintendent of Public Instruction. You don't need the CPI and anything else after that. We would remove lines 4-9 inclusive.

Vice Chairman Schaible: I move the Flakoll amendments

Senator Luick: Second

A roll call vote was taken for to adopt the amendment: 6 yeas, 0 neas, 0 absent

Senator Luick: On line 12 page 2 I have a question mark and underline around "be transferred to another constitutional fund" and I don't know why.

Senator Poolman: I have the same notes. Bev Nielson mentioned she wanted to see "relating to the funding of K-12 education" reflected in there so it isn't transferred to any other constitutional fund.

Chairman Flakoll: She had an amalgamation of different requests.

Vice Chairman Schaible: I move a Do pass as amended to SCR 4010 and re-referred to appropriations

Senator Poolman: Second

Chairman Flakoll: There are a few bills out there looking at this particular fund to make it more active.

A roll call vote was taken for a do pass as amended and re-referred to appropriations: 6 yeas, 0 neas, 0 absent

Senator Poolman: will carry

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(350,000)	\$350,000	\$(1,500,000)	\$1,500,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This resolution proposes a constitutional change to limit that balance of the foundation aid stabilization 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.*

Section 1 removes language that requires interest income of the foundation aid stabilization fund to be transferred annually to the general fund. The new language proposed in section 2 limits the balance to \$300 million initially, then, beginning July 1, 2017, provides for the cap to be increased every two years based on the rate of inflation. The amount of the balance in excess of the cap could either be transferred to another constitutional fund or used to fund elementary and secondary education. Although this new section does not specify where interest earnings are to accumulate, it is assumed they would be allocated as determined by the legislature along with the excess balance of the fund. The fiscal impact assumes this measure is approved in the November 2014 general election and takes effect in December 2014. The November 30, 2014 balance in the foundation aid stabilization fund is estimated to be \$512 million, \$212 million over the maximum fund balance pursuant to this legislation. Oil tax revenue and interest earnings accruing from December 2014 through June 2015 are estimated at \$94 million. The result is \$306 million available for transfer to another constitutional fund or for use to fund K-12 education during the 2015-17 biennium. If transferred to another special fund, there is no overall impact to the state; if used to fund K-12 education, there could be an offsetting reduction in general fund expenditures. Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Although no oil tax forecast exists for the 2015-17 biennium, assuming fiscal year 2015 forecasted amounts are received for each year of the 2015-17 biennium, an additional \$284 million in oil tax revenue and interest income would be available for transfer to another constitutional fund or to fund K-12 education during the 2017-19 biennium. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 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.*

Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 million.

- 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: Joe Morrisette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 01/31/2013

February 11, 2013


2-11-13

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4010

Page 2, line 3, remove "a."

Page 2, line 4, replace "three hundred million dollars" with "an amount equal to twenty percent of the grants - state school aid line item, as set forth in the prior biennium's appropriation bill for the superintendent of public instruction"

Page 2, line 4, remove ", except as provided in subdivision b"

Page 2, remove lines 5 through 9

Re-number accordingly

SCR 4010

Date: 2-11-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO.

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number 13,3073,01002

Action Taken Flakoll amendment

Motion Made By Schaible Seconded By Luick

Senators	Yes	No	Senator	Yes	No
Chariman Tim Flakoll	✓		Senator Joan Heckaman	✓	
Vice Chairman Donald Schaible	✓		Senator Richard Marcellais	✓	
Senator Larry Luick	✓				
Senator Nicole Poolman	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

SCR 4010

Date: 2-11-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO.

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number

13.3073.01002

Action Taken

do pass as amended

Motion Made By

Schaible

Seconded By

Poolman

Senators	Yes	No	Senator	Yes	No
Chairman Tim Flakoll	✓		Senator Joan Heckaman	✓	
Vice Chairman Donald Schaible	✓		Senator Richard Marcellais	✓	
Senator Larry Luick	✓				
Senator Nicole Poolman	✓				

Total (Yes)

6

No

0

Absent

0

Floor Assignment

Poolman

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

REPORT OF STANDING COMMITTEE

SCR 4010: Education Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4010 was placed on the Sixth order on the calendar.

Page 2, line 3, remove "a."

Page 2, line 4, replace "three hundred million dollars" with "an amount equal to twenty percent of the grants - state school aid line item, as set forth in the prior biennium's appropriation bill for the superintendent of public instruction"

Page 2, line 4, remove ", except as provided in subdivision b"

Page 2, remove lines 5 through 9

Renumber accordingly

2013 HOUSE JUDICIARY

SCR 4010

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SCR 4010
March 27, 2013
Job #20562

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

Relating to the foundation aid stabilization fund.

Minutes:

Testimony and handouts 1,2

Chairman Kim Koppelman: Opens SCR 4010.

Senator Hogue: Testimony #1, handout #2, see attached. (Time on tape to 4:55.)

Chairman Kim Koppelman: If the people approved this it would trump what happened 10 or 20 or 30 years ago so I respect your desire to be consistent with the original wishes but we live in a new age with oil and the school funding so the likelihood of a shortfall if things keep going well will probably still be there. This committee dealt with two similar resolutions on the house side so you may want to review those.

Rep. Lois Delmore: The money was set aside because people were concerned about what would happen to education and schools in this state. I think North Dakotans have always been concerned about that. I like that one of your purposes would be to invest the money into education. What type of things would we put the money into for another constitutional fund that wouldn't squirrel that money away somewhere so it couldn't go back to education but probably wouldn't be used because right now because we really don't need that money anyway?

Senator Hogue: We are building up these constitutional funds. I just wanted to make sure that the legislature had the flexibility. Part of it could go to education or whatever these two chambers decide it would go too. Last session we stuck some of the surplus right back into the legacy fund and we have a mechanism to get it out of there. We could put it into the common schools trust fund and we have a mechanism to get it out of there. We have no mechanism other than a major catastrophic failure of our economy to get this money out currently.

Rep. Lois Delmore: What are the constitutional funds we have?

Senator Hogue: The common schools trust fund, legacy fund, budget stabilization fund, strategic investment fund is not, I'm not sure if the water resources fund is constitutional;

those are the only ones I can think of. I would not support any creation of any constitutional funds that didn't have escalated clauses in them which this does and a clear way for that money to be removed without amending the constitution.

Vice Chairman Larry Klemin: You said the ceiling is set as a percentage of the amount previously appropriated per foundation aid and you mentioned 20% but I'm failing to find that in this bill. I see a flat rate of \$300 million on page two lines three and four. Am I missing something here?

Senator Hogue: As I had originally proposed it would have spilled over or allowed the legislature after \$100 million but the senate education committee and the senate amended it to the percentage. The education then changed it. I had proposed a flat amount with an escalator. The senate changed it to 20% of the amount that is appropriated in the previous biennium.

Rep. Vicky Steiner: On the resources trust fund it was passed in November 1980 general election and it is a constitutional trust fund where the principal and income can be spent on constructing rural water systems, water related projects, and energy conservation programs.

Rep. Bill Kretschmar: Under the current constitution the interest from the stabilization fund goes to the general fund once a year.

Senator Hogue: I think it does, after that 20% anything that exceeds that could be appropriated by the legislature.

Chairman Koppelman: Any further testimony in support of 4010? Any opposition to SCR 4010?

Deb Nielsen, North Dakota Council of Educational Leaders: We prefer this bill to others for a few reasons; it protects us with a percentage and the other uses for it. We would prefer that the other uses of the money be education as opposed to some un-named fund. On the amended version of the bill page 2 where it talks about the 20% they agree to use the percentage so we would always know that there was an amount there in the case of the across the board cuts and it would be replenished if it ever was vacated. I understand the problem of this fund not having an outlet. We are now in a good place to look at the potential of the new funding system for education which will take care of an enormous amount of property tax relief. There is concern of sustaining that level of property tax relief which is what this really is. This would be the perfect opportunity where you have a fund in place that could sustain school funding. If you adjust the first use of the money after the 20% it could be used to make up for any shortfall in foundation aid appropriation in any given year. I think you could leave the wording as it is in subsection two under a and b just have some other constitutional fund so you feel like you have control over it and the other educational things. In subsection three add "or to make up any shortfall in grant state aid in any given year." Ended at 16:57.

Vice Chairman Larry Klemin: I'm having a little trouble with the language you used and putting it in the constitution. In the proposed language, "To make up any shortfall"; couldn't that be easily manipulated by the legislature?

Deb Nielsen: I would never underestimate the ability of the legislature to manipulate it. It's getting harder and harder for us to predict a moment because we have growing enrollment in the state. DPI does the best it can to predict enrollment but they can be off and when they're off it decreases what the schools end up getting because there is a finite amount of money. Even if the legislature felt that we should appropriate more or less then they would be making that decision when they appropriate foundation aid and this would be a protection.

Vice Chairman Larry Klemin: What if instead we just looked at this bill and on line 8 where it says "we transfer to another constitutional fund", we take that out?

Deb Nielsen: The only concern would be if it didn't say that money could be appropriated for any given school year would we have to come in at the end of that school year if there was a shortfall and ask for emergency funding? Where is the mechanism that it would automatically cover a shortfall?

Vice Chairman Larry Klemin: I think the existing language on the allotment would take care of it.

Deb Nielsen: That's the very problem; that has been interpreted to only mean across the board cuts.

Chairman Kim Koppelman: We can debate what property tax relief is and what is school funding.

Deb Nielsen: When you levy it I believe it is property tax.

Chairman Kim Koppelman: But we don't; we subsidize schools and force them to reduce their property tax.

Deb Nielsen: My point was that it's not increasing it's just getting out money back to us in a different form.

Rep. Bill Kretschmar: In the bill as it now stands its 20% of the school foundation fund. Do you think that's sufficient?

Deb Nielsen: I don't have a strong sense. If there was another outlet to make up for other surplus then I think it would be fine because I don't think allotments would draw that down that fast because they are not generally 10% they are one and two percent. My concern was that we don't have a set dollar amount because as times changed it wasn't a good way. It is something we can continue to look at.

Rep. Bill Kretschmar: Do you have an estimate of what that 20% be now in terms of dollars?

Deb Nielsen: I don't know. I think we're at about \$1 billion something for the biennium.

Chairman Koppelman: Any further testimony in opposition to 4010? Any neutral testimony to SCR 4010? Closed hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SCR 4010
JOB 20771
Date April 2, 2013

Conference Committee

Cameron Hicks

Explanation or reason for introduction of bill/resolution:

Relating to the foundation aid stabilization fund.

Minutes:

Chairman Kim Koppelman: Opens SCR 4010 for committee action.

Rep. Randy Boehning: Could we amend this into the same language as 3003 and have our intern write the amendment as such?

Rep. Andy Maragos: Would that go to the general or the primary?

Chairman Kim Koppelman: The general.

Rep. Gary Paur: The Senate had the meeting on Monday morning if we amend this to match that and they amend it.

Chairman Kim Koppelman: That has happened in the past and we would then have a conference committee on both of them.

Rep. Randy Boehning: Made a motion to amend SCR 4010 the same as HCR 3003.

Rep. Kathy Hogan: Second the motion.

Rep. Bill Kretschmar: I am going to vote to oppose this because it is on 3003. I think we should pass this as is and have the conference committee argue it out.

Voice vote carried.

Chairman Kim Koppelman: We made the motion to amend and we will hold it and act on it tomorrow when we have the amendment before us.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SCR 4010
JOB 20825
Date April 3, 2013

Conference Committee

Cameron Heick

Explanation or reason for introduction of bill/resolution:

Relating to the foundation aid stabilization fund.

Minutes:

Proposed amendments 1,2

Chairman Kim Koppelman: Opens SCR 4010 for committee action. He handed out two proposed amendments and explained them.

Rep. Kathy Hogan: Rep. Delzer wants to have this moved from the general to primary we have had discussion about keeping it at the general.

Chairman Kim Koppelman: You're right. I have no problem with it staying in the general election. I know there is a concern about the ballot getting loaded up with measures.

Vice Chairman Larry Klemin: This amendment that Rep. Delzer has in 3003 seems to be in this proposed amendment for 4010. The balanced monies need to be maintained in the fund must be determined by law.

Chairman Kim Koppelman: That's the retirement stabilization fund not the foundation aid stabilization fund. This deals with the foundation aid stabilization fund.

Rep. Vicky Steiner: I like that it is going to the primary and support that because I think we are stacking up too many measures for that. Also that this bill recognizes the need to adjust for inflation and recognizes we could go into some down times. But it's ridiculous to think that fund will grow to \$10 billion and we can never touch it. I think we have to adjust with the times. I don't think when they voted for the foundation aid stabilization they ever thought we would be in the situation we are today. Things change and we need to change that fund. I like the concept of the bill and I like the balance of monies should be determined by law because that is why we are in trouble now because the Constitution is less flexible. I can understand that you want this safe guarded but at some point it gets ridiculous and we have to be able to balance.

Rep. Lois Delmore: The history of the Legislature is not always been, that's why this money was put away. We also have the Legacy fund, that nobody is looking at or touching. Nobody dreamed

that many years ago, a few short period of time ago, that that was going to be where it is too. The people have said they want some of this money safe guarded.

Chairman Kim Koppelman: How else do you keep it from growing expediential to the point where you have tens of millions of dollars sitting there that will never be needed for the purpose the fund was created. The only ways I can think of is to have a fixed dollar amount, cap it but then you are putting a fixed dollar amount in the Constitution.

Rep. Lois Delmore: But we are already limiting what's going in there and what can be used because it's in excess.

Vice Chairman Larry Klemin: Going back to primary versus general election, 3003 according to my notes is still general election. What we did with 4010 was to make it the same as 3003, which we adopted the amendment yesterday before actually seeing it on paper. We would have to further amend this to take it to the primary.

Rep. Lois Delmore: Did they adopt these in the Senate.

Chairman Kim Koppelman: I am not clear on that. They were proposed to the Senate.

Rep. Bill Kretschmar: When we had the Resolution committee would we see which resolutions were passed we would try to balance the two elections. I still think that was a good system but I don't know we can accomplish that this year. Senator Hogue's proposed amendment puts the excess in the education. When he puts a 20% limit on the amount that can go into the foundation stabilization fund that the Legislature can work on depending on how much they can appropriate for the foundation aid at each Legislative session. Rep. Delzer wants to give the Legislature entire control and I don't know if they should have entire control.

Chairman Kim Koppelman: And if we did want to go back to that kind of idea that is what Rep. Delzer originally recommended was a percentage in 3003.

Vice Chairman Larry Klemin: Made a motion to further amendment 4010 to change general election to primary election.

Rep. Andy Maragos: Second the motion.

Voice vote carried.

Rep. Vicky Steiner: So this committee is recommending that we are not going to let the Legislature determine what to do with excess money we are going to have to go back for another vote if it gets to be too high?

Chairman Kim Koppelman: If we don't adopt the Delzer amendment or some other mechanism but it a percentage or whatever that would be the effect.

Rep. Vicky Steiner: That's how we got into this situation in the first place. When we say we can't trust the Legislature that's us, we don't trust ourselves?

Vice Chairman Larry Klemin: Voters are going to have to approve this and do they trust the Legislature? Some of the emails I have gotten some of them don't so I think it would be a good way to have this fail on the ballot by the voters is to have them agree to have it here that all of money goes back to the Legislature to spend. I don't think that would pass. We are going to approve this we need to get it into a form where we think it will pass. If don't put it that way then we should kill it.

Chairman Kim Koppelman: If we want to address that issue it brings us to three options that I can think of. A fixed cap, a dollar amount or trigger, another would be a percentage. It will slow the growth of the stabilization fund and will be there in the future for other purposes so we will have this money sitting there not doing anything we could come back later and ask the people to approve something different.

Vice Chairman Larry Klemin: What if I doesn't exceed 150% of the amount in the fund on July 1, 2014?

Chairman Kim Koppelman: It would still cap it at a dollar amount it just wouldn't be a defined dollar amount.

Rep. Bill Kretschmar: July 1, 2013 \$300M by July 1, 2015 it would be \$600M assuming our oil is still going

Discussion on the wording of the amendment.

Chairman Kim Koppelman: Let me read what you have said and how it would fit into subsection 3. The interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1 of each year, that's current statue, the principle in the foundation aid stabilization fund shall not exceed 150% of the principle amount in that fund on July 1, 2014. The use of the excess in that fund must be determined by law. The principle remaining in the foundation aid stabilization fund may be expended only upon order of the governor, etc.

Vice Chairman Larry Klemin: This puts a cap on it.

Vice Chairman Larry Klemin: Made a motion on the amendment.

Rep. Andy Maragos: Second the motion.

Voice vote carried.

Rep. Andy Maragos: Made a do pass as amended on SCR 4010. Amended three times.

Rep. Vicky Steiner: Second the motion.

Vote 13-0-1.

Rep. Bill Kretschmar: Will carry the bill.

FISCAL NOTE
Requested by Legislative Council
04/04/2013

Amendment to: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(16,500)	\$16,500	\$(283,000)	\$283,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This amended resolution proposes a constitutional change to reduce oil extraction tax revenues to the foundation aid stabilization fund (FASF) and creates a state retirement stabilization fund (SRSF).

- 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.*

Section 1 of the amended resolution reduces oil extraction tax allocations to the FASF from 10 percent to 4 percent and provides that 6 percent be deposited in the SRSF. Because these are both special funds, this change in allocation does not change total state special funds and is not reflected as a change on this fiscal note. However, the proposed language does not indicate if interest and earnings on moneys in the SRSF are to be retained in that fund or transferred to the general fund. The resolution does not change existing language directing that interest income of the FASF is to be transferred annually to the general fund. If it is assumed that interest earned on the SRSF would be retained in that fund rather than transferred to the general fund, the loss in revenue to the general fund is estimated to be the amounts reflected in section 1A of this fiscal note.

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.*

If it is assumed that interest earned on the SRSF would be retained in that fund rather than transferred to the general fund, the loss in revenue to the general fund is estimated to be the amounts reflected in section 1A of this fiscal note.

- 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: Joe Morrissette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 04/05/2013

FISCAL NOTE
Requested by Legislative Council
02/12/2013

Amendment to: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(350,000)	\$350,000	\$(1,500,000)	\$1,500,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This resolution proposes a constitutional change to limit the balance of the foundation aid stabilization fund. The amendment sets the cap at 20% of the prior biennium state school aid line.

- 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.*

Section 1 removes language that requires interest income of the foundation aid stabilization fund to be transferred annually to the general fund. As amended, the new language proposed in section 2 limits the balance to 20% of the prior biennium state school aid line. The amendment removes the inflationary adjustment included in the resolution as introduced. Although this new section does not specify where interest earnings are to accumulate, it is assumed they would be allocated as determined by the legislature along with the excess balance of the fund. The fiscal impact assumes this measure is approved in the November 2014 general election and takes effect in December 2014. The November 30, 2014 balance in the foundation aid stabilization fund is estimated to be \$512 million. Twenty percent of the 2011-13 biennium school aid line item is \$184 million, \$328 million over the maximum fund balance pursuant to this legislation. Oil tax revenue and interest earnings accruing from December 2014 through June 2015 are estimated at \$94 million. The result is \$422 million available for transfer to another constitutional fund or for use to fund K-12 education during the 2015-17 biennium. If transferred to another special fund, there is no overall impact to the state; if used to fund K-12 education, there could be an offsetting reduction in general fund expenditures. Because the legislature has not established a state school aid amount for the 2013-15 biennium, there is no way to calculate what the maximum fund balance may be for the 2015-17 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.*

Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 million.

- 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: Joe Morrissette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 01/31/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(350,000)	\$350,000	\$(1,500,000)	\$1,500,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This resolution proposes a constitutional change to limit that balance of the foundation aid stabilization 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.*

Section 1 removes language that requires interest income of the foundation aid stabilization fund to be transferred annually to the general fund. The new language proposed in section 2 limits the balance to \$300 million initially, then, beginning July 1, 2017, provides for the cap to be increased every two years based on the rate of inflation. The amount of the balance in excess of the cap could either be transferred to another constitutional fund or used to fund elementary and secondary education. Although this new section does not specify where interest earnings are to accumulate, it is assumed they would be allocated as determined by the legislature along with the excess balance of the fund. The fiscal impact assumes this measure is approved in the November 2014 general election and takes effect in December 2014. The November 30, 2014 balance in the foundation aid stabilization fund is estimated to be \$512 million, \$212 million over the maximum fund balance pursuant to this legislation. Oil tax revenue and interest earnings accruing from December 2014 through June 2015 are estimated at \$94 million. The result is \$306 million available for transfer to another constitutional fund or for use to fund K-12 education during the 2015-17 biennium. If transferred to another special fund, there is no overall impact to the state; if used to fund K-12 education, there could be an offsetting reduction in general fund expenditures. Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Although no oil tax forecast exists for the 2015-17 biennium, assuming fiscal year 2015 forecasted amounts are received for each year of the 2015-17 biennium, an additional \$284 million in oil tax revenue and interest income would be available for transfer to another constitutional fund or to fund K-12 education during the 2017-19 biennium. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 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.*

Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 million.

- 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: Joe Morrissette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 01/31/2013

April 3, 2013

VR
4/3/13
1082

PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT RESOLUTION NO.
4010

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to allocation of revenue from oil extraction taxes.

STATEMENT OF INTENT

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

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

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

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

Section 24.

1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:
 1. a. Fifty percent must be deposited in the common schools trust fund.
 2. Fifty;
 - b. Thirty percent must be deposited in the state retirement stabilization fund; and
 - c. Twenty percent must be deposited in the foundation aid stabilization fund in the state treasury, the
2. Moneys in the state retirement stabilization fund may be expended by the legislative assembly only for the purpose of addressing unfunded retirement benefit obligations to which members of state retirement systems may be entitled. The balance of moneys to be maintained in the fund must be determined by law.
3. The interest income of which the foundation aid stabilization fund must be transferred to the state general fund on July first of each year. The principal in the foundation aid stabilization fund may not exceed one hundred fifty percent of the principal amount in that fund on July 1, 2014. The use of the excess in that fund must be determined by law. The principal of remaining in the foundation aid stabilization fund may be

2072

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."

Renumber accordingly

Date: 4-2-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4010

House Judiciary 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 Rep. Boehning Seconded By Rep. Hogan

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice vote - carried
Language to mirror HCR 3003*

Date: 4-3-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4010

House Judiciary 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 Rep. Klemin Seconded By Rep. maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice vote carried
Change general election to primary.*

Date: 4-3-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4010

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.3073.02001

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

Motion Made By Rep Klemm Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemm			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - Carried

Date: 4-3-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4010

House Judiciary 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 Rep. Maragos Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning			Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Kretschmar

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

REPORT OF STANDING COMMITTEE

SCR 4010, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SCR 4010 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to allocation of revenue from oil extraction taxes.

STATEMENT OF INTENT

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

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

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

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

Section 24.

1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:
 4. a. Fifty percent must be deposited in the common schools trust fund-
 2. Fifty;
 - b. Thirty percent must be deposited in the state retirement stabilization fund; and
 - c. Twenty percent must be deposited in the foundation aid stabilization fund in the state treasury, the
2. Moneys in the state retirement stabilization fund may be expended by the legislative assembly only for the purpose of addressing unfunded retirement benefit obligations to which members of state retirement systems may be entitled. The balance of moneys to be maintained in the fund must be determined by law.
3. The interest income of which the foundation aid stabilization fund must be transferred to the state general fund on July first of each year. The principal in the foundation aid stabilization fund may not exceed one hundred fifty percent of the principal amount in that fund on July 1, 2014. The use of the excess in that fund must be determined by law. The principal of remaining in the foundation aid stabilization fund may be expended only upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage."

Renumber accordingly

2013 CONFERENCE COMMITTEE

SCR 4010

2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SCR 4010
4-19-13
21301

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

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

Minutes:

You may make reference to "attached testimony."

Chairman Flakoll: Opened the conference committee on SCR 4010. All members present.

Rep. Boehning: We liked the option of 3003. It can only be used when we had a budget shortfall. We thought with the amendments we can put money in another fund. We thought this would be a good way to back up the retirement funds. We changed the amount in the foundation aid stabilization to 150% of the principal amount. It is a good bill and that is why we amended it the way we did.

Chairman Flakoll: We killed HCR 3003 on a vote of 7 yeas to 37 neas. Did you then adopt these knowing we killed the same bill?

Rep. Boehning: I am not sure if that is how it happened. We might have been working on these amendments before that.

Chairman Flakoll: The foundation aid stabilization fund has been used once. I believe in the 2001 session.

Senator Hogue: I had a question for the House. What are the feelings on getting rid of the fund?

Rep. Boehning: Which fund would you talk about getting rid of?

Senator Hogue: The foundation aid stabilization.

Rep. Boehning: We would still be putting 20% into the fund. So we would have a backup fund.

Chairman Flakoll: With the language you adopted the 15% on June 1st 2014, what is the rationale?

Rep. Boehning: That would allow us to keep a larger amount in the fund so it would grow.

Chairman Flakoll: It would go to 1.5 or 1.7 billion dollars?

Rep. Boehning: Yes.

Senator Heckaman: What do you mean by "the use of excess must be determined by law"?

Rep. Boehning: It would allow us to use the fund without following certain guidelines with certain percentages.

Senator Heckaman: Are you meaning any excess funds are available for the legislature to use?

Rep. Boehning: It would be used for the retirement funds.

Senator Heckaman: If this is adopted you already have a deposit in that too.

Rep. Boehning: The funds would go into the oil extraction taxes. Excess money would be for the retirement funds.

Senator Heckaman: So a percentage is going in and allowable percentage off of the excess foundation aid stabilization?

Chairman Flakoll: Through the remaining portion of it could grow to 1.5 billion and anything over that or any funds would cease to grow. Is that correct?

Rep. Boehning: That would be correct.

Chairman Flakoll: If we were to bring this bill as it stands now, it would be dead. None of our conferees voted for the 3003 version which essentially this is.

Senator Hogue: The primary reason I introduced this is if you look at the projections, you see the foundation aid stabilization fund continue to grow. Yet it has no ability to be used by the legislature. I think there should be a way to access this other than the contingent event. If we are going to ask the people to make a change we have to keep faith with why they voted for this. It makes sense with what the Senate did. The House's response is to put it in a specific class of people. I don't think that is faithful to what the people voted this for.

Rep. Steiner: I would take exception to that because the people have a chance to change their mind. What are the differences between these two ideas?

Chairman Flakoll: The Senate version 4010 is more education focused. We have had bills in the past for this but 4010 with the Senate version is the first time we can use this in a meaningful way. The general consensus by the House and Senate is this fund grew beyond any expectations. We have to look at our wishes and the people we represent.

There is overwhelmingly support to keep with the general education focus. We are accruing unprecedented dollars in these funds. The other hand is generating little income from the corpus.

Rep. Steiner: What would you see as the greatest flaw of the Senate side's version?

Chairman Flakoll: We got to a good place. The bill had a specific number and we had a thoughtful approach that it not have specific dollar amounts. The 20% of the cost of education is something that warrants being in the constitution. Specific dollars isn't appropriate way to manage the constitution. It gave flexibility to use the original dollars for education. The interest in income accrued gives us the ability to plug it back in or put it in another constitutionally mandated fund. This is pretty close to flawless.

Rep. Steiner: The House obviously saw some flaws.

Chairman Flakoll: The House never had the option of voting on the floor. It was part of a long consent agenda I think.

Rep. Hanson: It was.

Senator Hogue: If we look at all of our North Dakotans and if we assume our fund is going to stabilize or we assume we will go away from a defined benefit, why should we have a constitutional fund set up to benefit a small class of North Dakotans when every other one of our constitutional funds is for the benefit of our entire population? Why is this group of people deserving of their own constitutional fund?

Rep. Boehning: We are obligated to make sure the funds are whole and we have an obligation to give them their payment. When we go to defined contribution versus defined benefits, it is a different situation. With defined benefits we are on the hook for the retirement funds whether the fund is whole or not.

Senator Hogue: In the neighborhood I live in, the state has an obligation to keep the road paved. Why can't I ask for the same thing? You have an obligation to pave my road. I should have a constitutional fund too. Why can't I have my fund too?

Rep. Boehning: We can set one up.

Chairman Flakoll: I like your version less than I like the bill we killed with only 7 in favor.

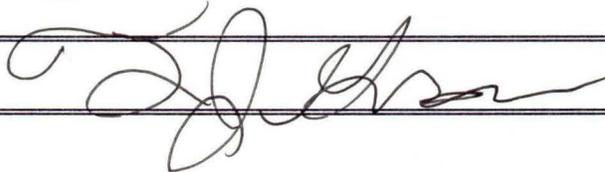
2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SCR 4010
4-19-13
21345

Conference Committee

Committee Clerk Signature



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

Minutes:

Attachment

Chairman Flakoll: opened the conference committee on SCR 4010. All members present.

Rep. Boehning: One the 2000 version on page 2 line 9 after the word appropriation put a period and strike all of the language from 9-14. That is our suggestion.

Chairman Flakoll: The excess would be transferred or used in accordance to legislative appropriation.

Rep. Boehning: It doesn't say we can't give it to education.

Senator Heckaman: Who has the authority over that on A and B?

Rep. Boehning: It gives the option to be transferred to another constitutional fund or the legislature would appropriate that.

Senator Heckaman: Who has the authority to do that?

Rep. Boehning: I will have to ask Senator Hogue.

Senator Hogue: I'm not sure we need to specify a person who executes the transfer. Most constitutional provisions are self-executed. If you go to line 8 on page 2, it would be the legislature that would have to authorize that transfer.

Rep. Boehning: I guess that is what I thought. The legislature has the option to do either or.

Chairman Flakoll: They would have the ability to do either or. What would your reaction be if it went to the common schools trust fund?

Rep. Steiner: Would it be used with "or".

Chairman Flakoll: If you are taking it from one reduction, should we shore up the other portion.

Senator Hogue: One of the things I liked about the original bill is we are coming from a situation where we have no ability to touch this fund and it becomes a stalled investment. The way you proposed it we have the flexibility. I like the flexibility.

Rep. Boehning: Did you find out the common school's trust fund? Can we spend the principal?

Chairman Flakoll: No, you cannot. It is income and interest only. That comes from a variety of sources. Passed out (attachment #1) information on foundation aid stabilization fund.

Rep. Steiner: When the voters approved this we were struggling for money and I think people were disappointed schools had to take the allotment. Really they voted on foundation aid shouldn't face serious cuts in the future. Now there is excess funding. They voted for it because of the stabilization and that has been met.

Senator Hogue: One of the things you could do if you wanted to is to specify if you get that 2A and 2B will go into other funds. You could say a legislative appropriation or a legislative appropriation related to education.

Chairman Flakoll: Do you wish to have it as ongoing? If this were to pass we will have a balloon of funds that could likely dip after a certain point. Will we create unintended consequences?

Rep. Boehning: Thinks it would be more confusing. I think they trust us.

Chairman Flakoll: Last session there was a really nice bill in the Senate that would have taken some of the money from the foundation aid stabilization fund for merit scholarships and we got less than a dozen sympathy votes. As much as I would love that, I don't know how it would go.

Rep. Boehning: In section 2 and subsection 1, what would the total amount of money be in the fund?

Chairman Flakoll: We are at 1.1 billion now in that category. The 20% was picked because of the historic ending fund balance. We only used it with \$5 million or less.

Rep. Boehning: At the end of next biennium \$600 million will be in there. Once it got below the 20% threshold then the fund would refill itself.

Chairman Flakoll: It will be \$500 million dollars that would be the established threshold.

Rep. Boehning: Once it gets to the threshold then the money goes back into replace. That money isn't redistributed. He asks if the 100M will stay in the fund.

Chairman Flakoll: We must designate one of those two funds if it reaches that threshold. If we had 100million over the 20%, we could put 50 million in common schools trust fund and 50 million towards school safety issues.

Rep. Boehning: I would sooner see the money stay into the fund.

Chairman Flakoll: The 500 million would continue to grow. The school district's budgets will grow. We must take it out and designate it.

Rep. Steiner: When you mention using it in accordance with legislative appropriation for education. That is broad for this. Are you thinking K-12?

Chairman Flakoll: That was in keeping with the history of the fund.

Senator Hogue: I want to go back to the percentages. If we don't put percentages in, you could have a scenario with competition. If you limited the debate between the stakeholders, you could say 50% will go into a constitutional fund and 50% will go where the legislature says but under this amendment 100M could go to roads and not a dime into a constitutional fund.

Rep. Steiner: Your intent is the constitutional fund is really important that we take this 100 million and at least 10% of it should go into the Legacy fund or common schools.

Senator Hogue: We can decide we want to limit the debate and politics in future sessions. We've decided with the legacy fund it is prudent to save money in constitutional funds and not let assemblies access more than 15% at any one session.

Chairman Flakoll: I would feel more comfortable if we have at least 25% go to each of the two categories. That would ensure there is a balance

Rep. Steiner: One of my concerns is that 100 million is excess. If it is excess and we needed it for a flood, we would at least be able to do that. We have already taken oil money for roads and it is saved for all the people of the state for general use in the future. When you say what if we take that and give it out west, if it is excess and that is where the true need is, we should have the flexibility to do that. I don't think we can see into the future far enough to carve out percentages on that.

Chairman Flakoll: Do you think the people in the future will have enough restraint to lock some up?

Rep. Steiner: My constituents are saying please help us with these problems. They aren't saying to me please keep saving this. They are saying spend the money you can. If next session we were to have a \$5 billion surplus and we thought this 100 million, you could say we're going to put the whole thing into common schools trust fund, we're not going to do 50%. You're making it harder on yourselves.

Senator Hogue: It is more of a philosophical question. If the language as amended by Rep. Boehning stands, future legislators will free to take that hypothetical 100M and put it on current operating expenses. If that's the case there is no reason to have this, we might just as well say the legislature can do with it as they please. To me that is not a good reason to amend the constitution. This is a proposed constitutional amendment to restrain future legislatures, just like the Legacy fund.

Rep. Steiner: The intent of this bill when the voters voted was to make sure the schools could get their foundation aid even if things fell short. When talking true excess that is money that should go back to the people.

Chairman Flakoll: Closed conference committee

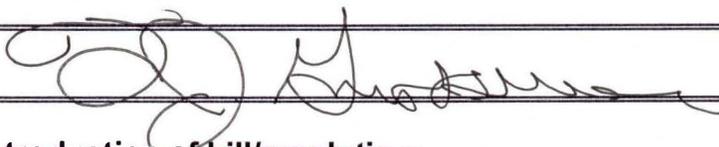
2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SCR 4010
4-20-13
21369

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Attached Testimony

Chairman Flakoll opened the conference committee on SCR 4010.

Chairman Flakoll: I talked to Jerry Coleman about the limitations. Describe the limits that would be in place if there was a shortfall of \$100 million.

Jerry Coleman, DPI: In the event of an allotment, this fund is available to offset that allotment. They would be able to use the principal.

Rep. Steiner: We understood if it were to happen right now, that is about \$45 million that would come out. (Attachments #1 and #2)

Chairman Flakoll: It is a different fund.

Jerry Coleman: The foundation aid stabilization could be used if there is sufficient money in it.

Rep. Boehning: All they could take is the amount of money up to the 7% correct.

Jerry Coleman: Yes.

Chairman Flakoll: If there was a 10% across the board cut, the schools would be made whole.

Jerry Coleman: Yes.

Senator Heckaman: The budget stabilization fund has not much to do with the other stabilization fund.

Rep. Boehning: We discussed moving the 20% to the 10% backing. Subsection B we had a thought to create a non-constitutional legislative fund. I think it would give us better intent to allow us.

Senator Heckaman: Instead of 8 and 9, I would say the excess must be used for early childhood education.

Chairman Flakoll: We are at \$1.8 billion this session from the state's standpoint. If we had a 10% cut next session you would have used up the entire allocation.

Rep. Boehning: Where did the \$1.8 billion come from?

Chairman Flakoll: That is the amount currently in HB 1319. Plus there is a cream can full of money in SB 2013 of \$25 million, there is also a cream can that's undefined yet, unresolved in HB 1358 and then there is \$13.6 million in HB 1261. I think we will have \$10 million in the school safety bill by the time we get done, and then some of the House conferees were looking to increase the amount in HB 1319 also. Right now as it came to the conference committee we are at \$1.8 billion.

Rep. Boehning: I guess I don't see us doing a 10% cut any time in the future and I think we are going to know if we are going to be that short.

Chairman Flakoll: I'm not talking this session. I'm talking prospectively because what we are trying to do has been agreed by everyone, is trying to say, what will be appropriate for 10 or 20 years from now because in the case of the bill that is before us it was last changed 19 years ago.

Rep. Steiner: If you believe it is excess and you lock it away, and you are getting 1% return, I'm not sure that is what the voters thought they were doing when they approved it.

Senator Heckaman: The money the voters put in here was for school use. Now we are telling them you want it somewhere else. I don't think you will get anyplace. It could be used to fund anything. The original part of this is for education.

Chairman Flakoll adjourned the conference committee.

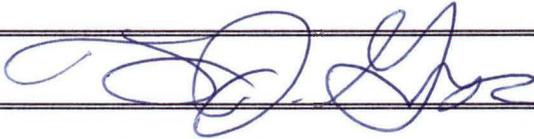
2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SCR 4010
4-22-13
21398

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

You may make reference to "attached testimony."

Chairman Flakoll: Opened the conference committee on SCR 4010. All conferees were present.

Chairman Flakoll: The Senate would be in position of 20% of the biennial cost of education and at least 25% to each of the two funds, but the house overstrikes for the support of elementary education.

Rep. Boehning: We are getting different answers on how this works. We could compromise with a 15% that would be a workable number too.

Chairman Flakoll: We recognize there are differences that existed.

Senator Hogue: It seems the House wants to have the flexibility for future legislative assemblies to spend the excess anyway they choose. The Senate is stuck on having at least 25% go to a Constitutional Fund with up to 75% going wherever a future legislative assembly would want it to go. Chairman Flakoll's offer is very generous when you consider the fact that the future legislative assembly not only could 25% in the Legacy Fund and take it right back out and do with it as they please. If the House isn't willing to offer us the sleeves off their vest, what are we doing here? It gives future legislative assemblies as much freedom as they need. Maybe we should have just started off at 50%, and then we could compromise to 25% but 25% is a pretty good position as far as I'm concerned.

Rep. Boehning: If we can get some information from the council, and see once how that works, and then if we can't come to an agreement tomorrow, we can wait another two years and there would be more money in there, but we just come and a percentage the money will come off anyway. I guess we're not going to be out of anything.

Chairman Flakoll: Of all the proposals I have heard, the last one on the table was workable for a variety of people, to loosen up some funds beyond anyone's wildest dreams

to put them into use. We've had many this session on that particular fund whether they actual bills introduced or amendments applied or suggested amendments for that, so it may just continue to pile up. It might not be bad, but it won't make everyone happy in the state.

Chairman Falkoll: Adjourn

2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SCR 4010
4-23-13
Job Number 21445

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Flakoll opened the conference committee on SCR 4010. All members present.

Rep. Boehning: We want clarification on the 20%. You talked about the A and B on page 2. With the language we are not tied to an amount. We can put in whatever percent.

Senator Hogue: I would be interested in knowing what we want from council. Is it the amount the budget stabilization fund would first shore up revenue shortfalls before the governor could make his allotment?

Rep. Boehning: That is what we want to find out, how it works. I don't know how they did it in 2001.

Pam Sharp, Office of Management and Budget: The budget stabilization fund can be accessed when OMB notices revenue are falling back. Then we have to do a new revenue forecast. If the new revenue forecast come in to show that the new revenues expected are 2.5% less than we thought, the governor may access the budget stabilization fund. For the first 2.5%, the governor would do an allotment or he could do an allotment and not have the fund do anything. The fund can't kick in until revenues are 2.5% less than the previous revenue forecast.

Chairman Flakoll: Do you have comments on the foundation aid stabilization fund?

Pam Sharp: Those funds would be accessed if the governor chose to do an allotment, and let's say he chooses a 2.5% across the board allotment, those 2.5% funds would be drawn from the foundation stabilization fund and go into DPI.

Rep. Boehning: When they do a 2.5% allotment they would only be taking 2.5% out of the school funding stabilization fund, correct?

Pam Sharp: They would do an across the board cut.

Rep. Boehning: Would you do another budget analysis?

Pam Sharp: The Governor would choose to allot and the rest of the shortfall would come from the stabilization fund.

Rep. Boehning: Would it be the same with the school stabilization fund?

Pam Sharp: He can take the amount that is short.

Chairman Flakoll: The Senate is set on 20% of the money as the cap and the two levels at 25%.

Rep. Boehning: We can go with the 20% but we won't be able to sell that in the House because we are taking money currently out of an education fund and putting it back into another. It could be an educational fund. The language in there says we can put it in 100% in the constitutional fund.

Senator Hogue: Under your proposal we could still do 75% in a constitutional fund. I don't sense the Chairman's proposed amendment unduly restricts the options for future assemblies. It tells the people we aren't going to spend all of it on current operation expenditures and that is good policy for a lot of reasons.

Chairman Flakoll: This session we are going to be taking \$140 million out of the common schools trust fund to pay for K-12 education.

Chairman Flakoll: I think we are too different on this one. I am looking for a motion to accede with the intent we will kill the bill on the floor.

Senator Hogue: I move that the Senate accede to the House amendments.

Senator Heckaman: Second

A roll call vote was taken for the Senate accede to the House amendments: 5 yeas, 1 neas, 0 absent.

FISCAL NOTE
Requested by Legislative Council
04/04/2013

Amendment to: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(16,500)	\$16,500	\$(283,000)	\$283,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This amended resolution proposes a constitutional change to reduce oil extraction tax revenues to the foundation aid stabilization fund (FASF) and creates a state retirement stabilization fund (SRSF).

- 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.*

Section 1 of the amended resolution reduces oil extraction tax allocations to the FASF from 10 percent to 4 percent and provides that 6 percent be deposited in the SRSF. Because these are both special funds, this change in allocation does not change total state special funds and is not reflected as a change on this fiscal note. However, the proposed language does not indicate if interest and earnings on moneys in the SRSF are to be retained in that fund or transferred to the general fund. The resolution does not change existing language directing that interest income of the FASF is to be transferred annually to the general fund. If it is assumed that interest earned on the SRSF would be retained in that fund rather than transferred to the general fund, the loss in revenue to the general fund is estimated to be the amounts reflected in section 1A of this fiscal note.

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.*

If it is assumed that interest earned on the SRSF would be retained in that fund rather than transferred to the general fund, the loss in revenue to the general fund is estimated to be the amounts reflected in section 1A of this fiscal note.

- 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: Joe Morrissette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 04/05/2013

FISCAL NOTE
Requested by Legislative Council
02/12/2013

Amendment to: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(350,000)	\$350,000	\$(1,500,000)	\$1,500,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This resolution proposes a constitutional change to limit the balance of the foundation aid stabilization fund. The amendment sets the cap at 20% of the prior biennium state school aid line.

- 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.*

Section 1 removes language that requires interest income of the foundation aid stabilization fund to be transferred annually to the general fund. As amended, the new language proposed in section 2 limits the balance to 20% of the prior biennium state school aid line. The amendment removes the inflationary adjustment included in the resolution as introduced. Although this new section does not specify where interest earnings are to accumulate, it is assumed they would be allocated as determined by the legislature along with the excess balance of the fund. The fiscal impact assumes this measure is approved in the November 2014 general election and takes effect in December 2014. The November 30, 2014 balance in the foundation aid stabilization fund is estimated to be \$512 million. Twenty percent of the 2011-13 biennium school aid line item is \$184 million, \$328 million over the maximum fund balance pursuant to this legislation. Oil tax revenue and interest earnings accruing from December 2014 through June 2015 are estimated at \$94 million. The result is \$422 million available for transfer to another constitutional fund or for use to fund K-12 education during the 2015-17 biennium. If transferred to another special fund, there is no overall impact to the state; if used to fund K-12 education, there could be an offsetting reduction in general fund expenditures. Because the legislature has not established a state school aid amount for the 2013-15 biennium, there is no way to calculate what the maximum fund balance may be for the 2015-17 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.*

Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 million.

- 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: Joe Morrissette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 01/31/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SCR 4010

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(350,000)	\$350,000	\$(1,500,000)	\$1,500,000
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This resolution proposes a constitutional change to limit that balance of the foundation aid stabilization 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.*

Section 1 removes language that requires interest income of the foundation aid stabilization fund to be transferred annually to the general fund. The new language proposed in section 2 limits the balance to \$300 million initially, then, beginning July 1, 2017, provides for the cap to be increased every two years based on the rate of inflation. The amount of the balance in excess of the cap could either be transferred to another constitutional fund or used to fund elementary and secondary education. Although this new section does not specify where interest earnings are to accumulate, it is assumed they would be allocated as determined by the legislature along with the excess balance of the fund. The fiscal impact assumes this measure is approved in the November 2014 general election and takes effect in December 2014. The November 30, 2014 balance in the foundation aid stabilization fund is estimated to be \$512 million, \$212 million over the maximum fund balance pursuant to this legislation. Oil tax revenue and interest earnings accruing from December 2014 through June 2015 are estimated at \$94 million. The result is \$306 million available for transfer to another constitutional fund or for use to fund K-12 education during the 2015-17 biennium. If transferred to another special fund, there is no overall impact to the state; if used to fund K-12 education, there could be an offsetting reduction in general fund expenditures. Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Although no oil tax forecast exists for the 2015-17 biennium, assuming fiscal year 2015 forecasted amounts are received for each year of the 2015-17 biennium, an additional \$284 million in oil tax revenue and interest income would be available for transfer to another constitutional fund or to fund K-12 education during the 2017-19 biennium. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 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.*

Interest that under current law would have accrued to the general fund from December 2014 through June 2015 is estimated at \$350,000. Interest income that under current law would have accrued to the general fund during the 2015-17 biennium is estimated to be \$1.5 million.

- 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: Joe Morrissette

Agency: OMB

Telephone: 701-328-1024

Date Prepared: 01/31/2013

Date 4-23-13

Roll Call Vote # 1

**2013 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 4010 as (re) engrossed

Senate Education Committee

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

Motion Made by: Hogue Seconded by: Heckman

Senators	<u>4/20</u>	<u>4/23</u>	Yes	No	Representatives	<u>4/20</u>	<u>4/23</u>	Yes	No
Senator Flakoll	✓	✓	✓		Rep. Boehning	✓	✓	✓	
Senator Hogue	✓	✓	✓		Rep. Steiner	✓	✓	✓	✓
Senator Heckaman	✓	✓	✓		Rep. Hanson	✓	✓	✓	
Total Senate Vote					Total Rep. Vote				

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier _____ House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

REPORT OF CONFERENCE COMMITTEE

SCR 4010, as engrossed: Your conference committee (Sens. Flakoll, Hogue, Heckaman and Reps. Boehning, Steiner, Hanson) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 1174-1175 and place SCR 4010 on the Seventh order.

Engrossed SCR 4010 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

SCR 4010

#2

1 TESTIMONY OF DAVID HOGUE IN SUPPORT OF SCR 4010

2 SENATE EDUCATION COMMITTEE

3 FEBRUARY 5, 2013

4 10:00 am

5
6
7 Good Morning Chairman Flakoll and members of the Senate Education
8 Committee. My name is David Hogue. I am a North Dakota state senator representing
9 District 38, which includes northwest Minot and the city of Burlington. I appear before
10 your committee to seek support for SCR 4010.

11 In 1994 the people of North Dakota adopted a constitutional amendment
12 regarding a portion of the Oil and Gas Extraction Tax (the "Tax"). The Tax is imposed
13 at the rate of 6.5% on the value of oil and gas hydrocarbons at the well. The Tax is
14 notable for several reasons. First the Tax was created by the initiated measure
15 process. Second, the Tax contains several exemptions from its imposition, including
16 the stripper well exemption and the reduction of the Tax when the declining market price
17 for a barrel of oil "triggers" a reduction of the Tax Rate.

18 As you may read in SCR 4010, the people of North Dakota decided to allocate
19 20% of the revenues from the Tax to two funds in equal portions: the common school
20 trust fund and the fund we are concerned with here, The Foundation Aid Stabilization
21 Fund (the "Fund").

22 The Fund is a classic "rainy day" fund that is used to hedge against an
23 unforeseen revenue shortfall. In times when our state economy has struggled, the

1 legislative assembly has provided "allotment" authority to the governor. This means the
2 governor can evaluate state revenues and make across the board cuts in certain
3 budgets in the middle of a biennium. In the case of the Fund, the governor is authorized
4 to use money in the Fund to make certain Foundation Aid payments continue as
5 appropriated by the legislative assembly in the last session.

6 The Fund is projected to increase to \$ 606 million by the end of the next
7 biennium. This is recognized as a positive development, but the Fund has become
8 partially obsolete because everyone seems to recognize that the current accumulation
9 within the Fund carries a balance which substantially exceeds what we would expect to
10 shore up an appropriation for Foundation Aid.

11 The purpose of SCR 4010 is to provide the legislative assembly with fiscal
12 flexibility to best manage the resources of the state of North Dakota. SCR 4010 does
13 this by establishing a ceiling for the amount that can accumulate in the Fund. The
14 ceiling is set at \$300 million. However, the ceiling is able to rise with the rate of
15 inflation. This is an important feature for a constitutional measure. It's my
16 understanding that the House is hearing a similar measure, one that places the ceiling
17 expressed as a percentage of the previous budget.

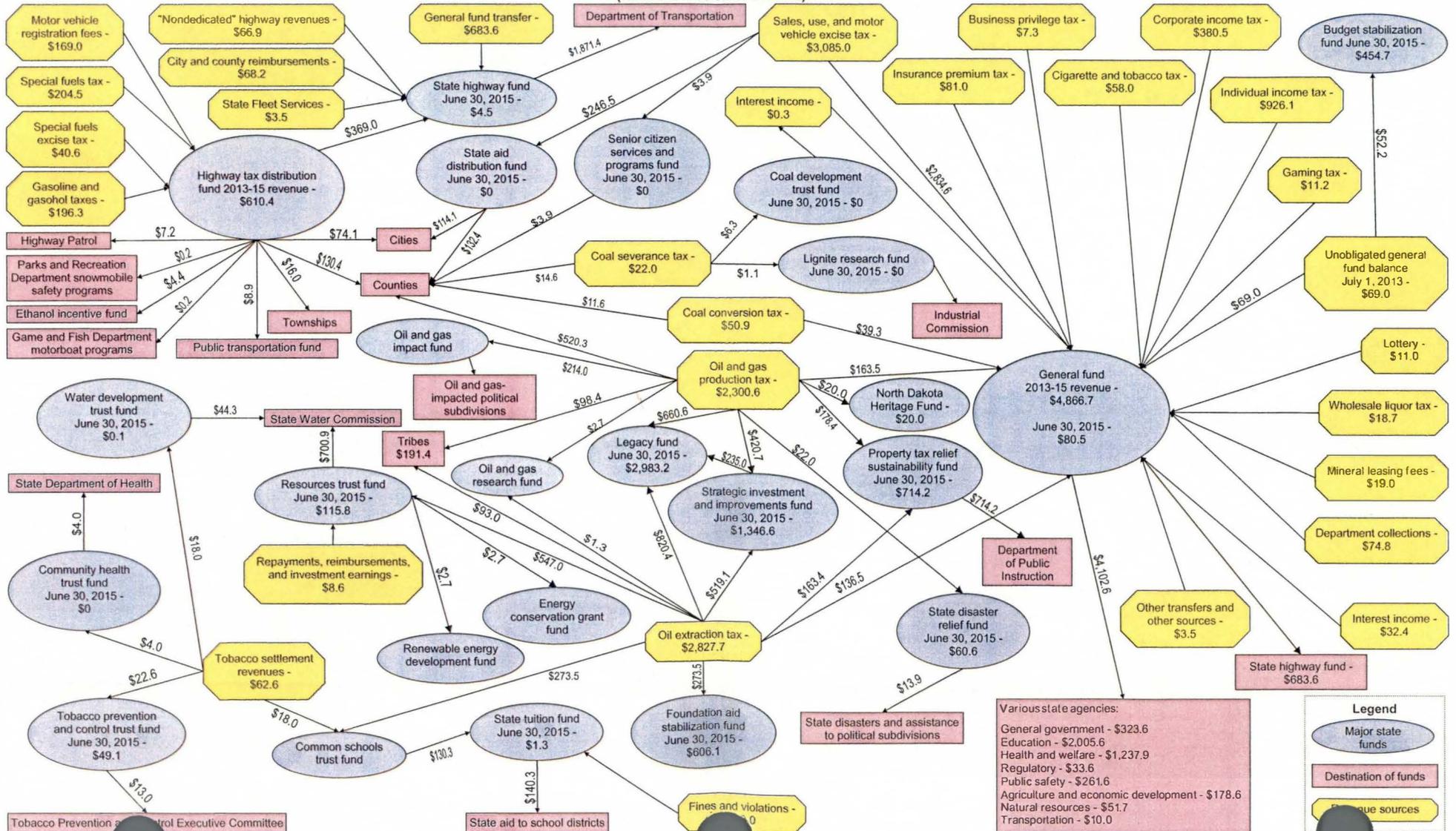
18 After the ceiling threshold is met, SCR 4010 would authorize the legislative
19 assembly to appropriate the money to one of two purposes. One potential purpose is to
20 reinvest the money into primary or secondary education. The second purpose would be
21 to reinvest the excess revenue into another constitutional fund. The state has an ample
22 number of funds, and I wanted to distribute to you a colored chart that describes the

1 major funds used by the Office of Management and Budget. You will note that the Fund
2 has no exit for the Funds accumulated in the Fund. That's because there is no
3 disbursements from the Fund. The Fund is only disbursed after the governor has made
4 an allotment of Foundation Aid payments.

5 This is reasonable proposal that makes the requires to legislature to continue its
6 role as the trustee for the state's resources. I urge a do pass on SCR 4010.

REVENUE SOURCES AND DISTRIBUTIONS FOR MAJOR STATE FUNDS (REFLECTING THE 2013-15 BIENNIUM EXECUTIVE BUDGET)

(Amounts Shown in Millions)



1 TESTIMONY OF DAVID HOGUE IN SUPPORT OF SCR 4010

2 HOUSE JUDICIARY COMMITTEE

3 MARCH 27, 2013

4 10:10 am

5
6
7 Good Morning Chairman Koppleman and members of the House Judiciary
8 Committee. My name is David Hogue. I am a North Dakota state senator representing
9 District 38, which includes northwest Minot and the city of Burlington. I appear before
10 your committee to seek support for SCR 4010.

11 In 1994 the people of North Dakota adopted a constitutional amendment
12 regarding a portion of the Oil and Gas Extraction Tax (the "Tax"). The Tax is imposed
13 at the rate of 6.5% on the value of oil and gas hydrocarbons at the well. The Tax is
14 notable for several reasons. First the Tax was created by the initiated measure
15 process. Second, the Tax contains several exemptions from its imposition, including
16 the stripper well exemption and the reduction of the Tax when the declining market price
17 for a barrel of oil "triggers" a reduction of the Tax Rate.

18 As you may read in SCR 4010, the people of North Dakota decided to allocate
19 20% of the revenues from the Tax to two funds in equal portions: the common school
20 trust fund and the fund we are concerned with here, The Foundation Aid Stabilization
21 Fund (the "Fund").

22 The Fund is a classic "rainy day" fund that is used to hedge against an
23 unforeseen revenue shortfall. In times when our state economy has struggled, the

1 legislative assembly has provided "allotment" authority to the governor. This means the
2 governor can evaluate state revenues and make across the board cuts in certain
3 budgets in the middle of a biennium. In the case of the Fund, the governor is authorized
4 to use money in the Fund to make certain Foundation Aid payments continue as
5 appropriated by the legislative assembly in the last session.

6 The Fund is projected to increase to \$ 606 million by the end of the next
7 biennium. This is recognized as a positive development, but the Fund has become
8 partially obsolete because everyone seems to recognize that the current accumulation
9 within the Fund carries a balance which substantially exceeds what we would expect to
10 shore up an appropriation for Foundation Aid.

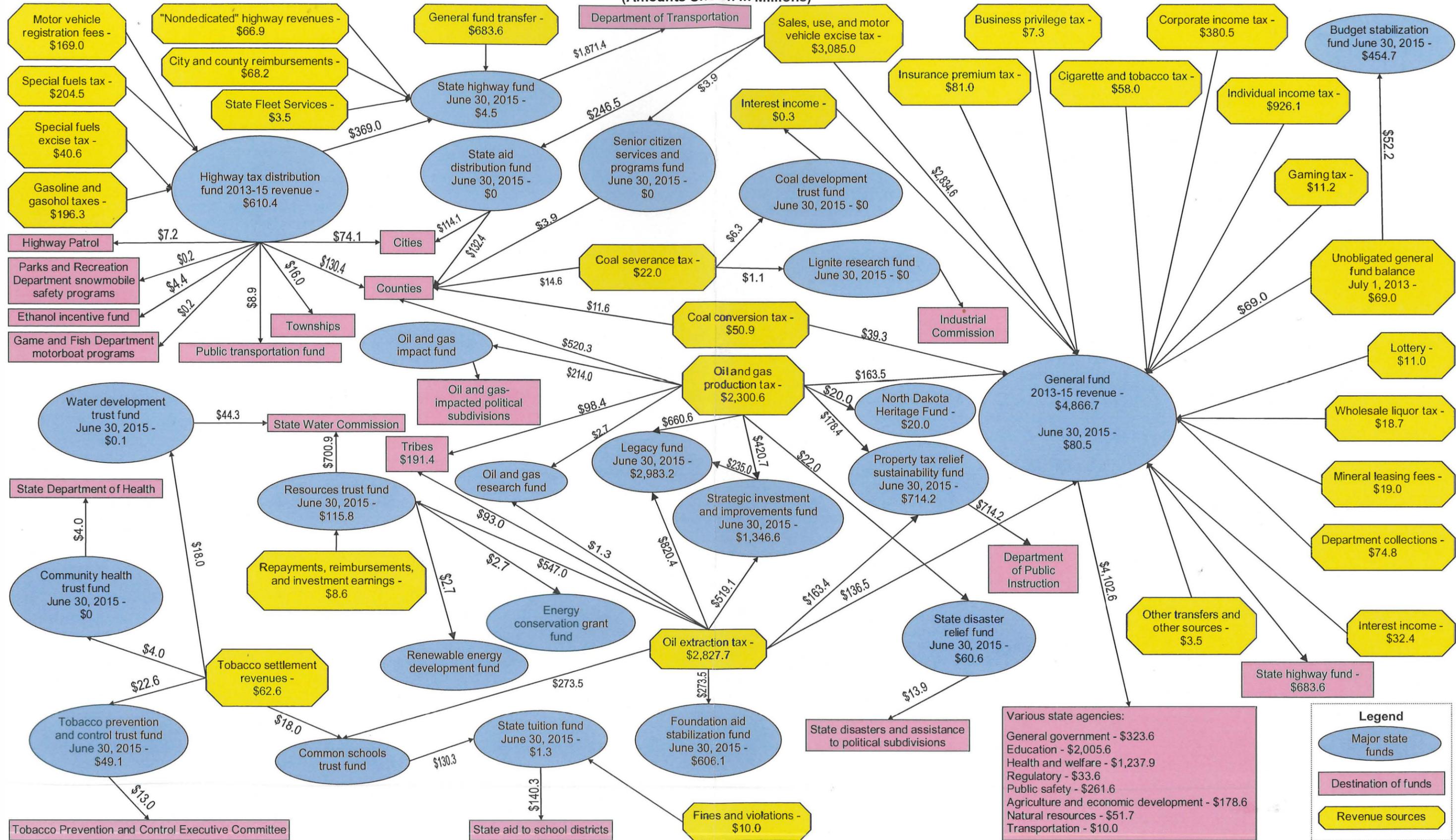
11 The purpose of SCR 4010 is to provide the legislative assembly with fiscal
12 flexibility to best manage the resources of the state of North Dakota. SCR 4010 does
13 this by establishing a ceiling for the amount that can accumulate in the Fund. The
14 ceiling is set as a percentage of the amount previously appropriated for foundation aid.
15 By expressing the ceiling as a percentage of the previous biennium's spending, the
16 ceiling is able to rise with the rate of inflation and remain contemporary. This is an
17 important feature for a constitutional measure. After the ceiling threshold is met, SCR
18 4010 would authorize the legislative assembly to appropriate the money to one of two
19 purposes. One potential purpose is to reinvest the money into primary or secondary
20 education. The second purpose would be to reinvest the excess revenue into another
21 constitutional fund. The state has an ample number of funds, and I wanted to distribute
22 to you a colored chart that describes the major funds used by the Office of Management
23 and Budget. You will note that the Fund has no exit for the Funds accumulated in the

1 Fund. That's because there is no disbursements from the Fund. The Fund is only
2 disbursed after the governor has made an allotment of Foundation Aid payments.

3 This is reasonable proposal that makes the legislature continue its role as the
4 trustee for the state's resources. I urge a do pass on SCR 4010.

REVENUE SOURCES AND DISTRIBUTIONS FOR MAJOR STATE FUNDS (REFLECTING THE 2013-15 BIENNIUM EXECUTIVE BUDGET)

(Amounts Shown in Millions)



Various state agencies:

General government	- \$323.6
Education	- \$2,005.6
Health and welfare	- \$1,237.9
Regulatory	- \$33.6
Public safety	- \$261.6
Agriculture and economic development	- \$178.6
Natural resources	- \$51.7
Transportation	- \$10.0

Legend

- Major state funds (blue oval)
- Destination of funds (pink box)
- Revenue sources (yellow box)

April 3, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT RESOLUTION NO.
4010

Page 1, line 1, after "A concurrent" replace the remainder of the concurrent with "resolution to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to allocation of revenue from oil extraction taxes.

STATEMENT OF INTENT

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

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

That the following proposed amendment to section 24 of 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 primary election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

Section 24.

1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:
 - ~~1-~~ a. Fifty percent must be deposited in the common schools trust fund;
 - ~~2-~~ Fifty
 - b. Thirty percent must be deposited in the state retirement stabilization fund; and
 - c. Twenty percent must be deposited in the foundation aid stabilization fund in the state treasury;
2. Moneys in the state retirement stabilization fund may be expended by the legislative assembly only for the purpose of addressing unfunded retirement benefit obligations to which members of state retirement systems may be entitled. The balance of moneys to be maintained in the fund must be determined by law.
3. the The interest income of which the foundation aid stabilization fund must be transferred to the state general fund on July first of each year. The principal in the foundation aid stabilization fund shall not exceed one hundred fifty percent of the principal amount in that fund on July 1, 2014. The use of the excess in that fund must be determined by law. The principal of remaining in the foundation aid stabilization fund may be

expended only upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage."

Renumber accordingly

4-3-13

13.3030.04001
Title.

2

Prepared by the Legislative Council staff for
Representative Delzer
April 1, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION NO.
3003

Page 1, line 11, replace "general" with "primary"

Page 2, line 4, overstrike "The principal of" and insert immediately thereafter "Monies in"

Page 2, line 7, after the period insert "The balance of monies to be maintained in the fund must
be determined by law."

Renumber accordingly

Flakoll, Tim

#17 ✓

From: Sandness, Sheila M.
Sent: Friday, April 19, 2013 10:12 AM
To: Flakoll, Tim
Cc: Knudson, Allen H.; Larson, Brady A.
Subject: Foundation aid stabilization fund

Senator Flakoll,

This email is to provide the information you requested regarding the balance in the foundation aid stabilization fund. Below is a summary of the balance in the foundation aid stabilization fund at the end of each biennium from 2003-05 through 2009-11 and the estimated balance at the end of the 2011-13 and the 2013-15 bienniums.

Biennium	Ending Balance
2003-05 Biennium	\$16,098,385
2005-07 Biennium	\$29,009,838
2007-09 Biennium	\$65,750,547
2009-11 Biennium	\$140,193,764
2011-13 Biennium (estimated)	\$332,187,818
2013-15 Biennium (estimated)	\$596,474,493

If you have any questions or need additional information please feel free to contact me.

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ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$140,193,764		\$332,187,818
Add estimated revenues				
Oil extraction tax allocations	\$191,994,054 ¹		\$273,476,675 ¹	
Estimated reduction in oil extraction tax allocations pursuant to 2013 HB 1234			(12,710,000) ¹	
Estimated increase in oil extraction tax allocations pursuant to 2013 SB 2336			3,520,000 ¹	
Total available		\$332,187,818		\$596,474,493
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 ²		\$0 ²	
Estimated ending balance		\$332,187,818		\$596,474,493

¹Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through February 2013 and estimated allocations for the remainder of the 2011-13 biennium and the 2013-15 biennium per the February 2013 revised revenue forecast. The estimated effect of proposed legislation on oil extraction tax allocations during the 2013-15 biennium is based on production levels used for the February 2013 legislative revenue forecast.

²Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2011-13 biennium or the 2013-15 biennium.

FUND HISTORY

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

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

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

Article X, Section 24, of the Constitution of North Dakota, provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2011, through January 31, 2013, \$320,489 of interest from the foundation aid stabilization fund has been allocated to the general fund.

ANALYSIS OF THE BUDGET STABILIZATION FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
	Beginning balance		\$386,351,110	
Add estimated revenues				
Investment income	\$16,134,104 ¹		\$0 ⁴	
Transfer from general fund	251,207,820 ²		0	
Total estimated revenues		267,341,924		0
Total available		\$653,693,034		\$653,693,034
Less estimated expenditures and transfers				
None				
Total estimated expenditures and transfers		0 ³		0 ³
Estimated ending balance		\$653,693,034		\$653,693,034

¹The Legislative Assembly in the November 2011 special session increased general fund appropriations for the 2011-13 biennium by \$169,832,688 from \$4,066,853,792 to \$4,236,686,460 resulting in a \$16.1 million increase in the maximum balance allowed in the budget stabilization fund. Therefore, interest and investment earnings of the fund will be retained in the fund until the cap is reached.

²North Dakota Century Code Chapter 54-27.2 provides 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 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The amount shown is based on the estimated June 30, 2013, general fund balance of \$1,655,497,221 as of crossover and a maximum balance allowed in the fund of \$653,693,034 based on 2013-15 biennium general fund appropriations of \$6,880,979,308 as of crossover. The executive budget anticipated a June 30, 2013, transfer from the general fund of \$52,201,124 based on executive budget estimates of a June 30, 2013, general fund balance of \$121,183,167 after other recommended transfers to the highway fund, housing incentive fund, and property tax relief sustainability fund and the recommended 2013-15 biennium general fund appropriations of \$4,786,171,981.

³No transfers from the budget stabilization fund are anticipated.

⁴Interest earned on the fund is deposited in the general fund because the balance in the fund is at the maximum allowed under Section 54-27.2-01.

FUND HISTORY

The budget stabilization fund was established by the Legislative Assembly in 1987 House Bill No. 1596. Major provisions include:

- Section 54-27.2-01 establishes the budget stabilization fund and provides any interest earned on the balance of the budget stabilization fund must be retained in the fund. The section currently provides any money in the fund in excess of 9.5 percent of the general fund budget as approved by the most recently adjourned Legislative Assembly must be deposited in the state general fund. The Legislative Assembly approved 2011 House Bill No. 1451 which decreased, effective July 1, 2011, the maximum balance allowed in the fund from 10 to 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly.
- Section 54-27.2-02 provides any amount in the state general fund at the end of a biennium in excess of \$65 million must be transferred to the budget stabilization fund.
- Section 54-27.2-03 provides the Governor may order a transfer from the budget stabilization fund to the general fund if the Director of the Office of Management and Budget (OMB) projects general fund revenues for the biennium will be at least 2.5 percent less than estimated by the most recently adjourned Legislative Assembly. The amount transferred is limited to the difference between an amount 2.5 percent less than the original legislative general fund revenue forecast and the revised forecast prepared by OMB. Any transfer made must be reported to the Budget Section.