

1999 SENATE APPROPRIATIONS

SCR 4013

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR4013

Senate Appropriations Committee

Conference Committee

Hearing Date January 28, 1999

Tape Number	Side A	Side B	Meter #
1		X	4554-5920
2/2/99		x	500-623
Committee Clerk Signature <i>Kathryn C. Kotteleroch</i>			

Minutes:

SENATOR NETHING: Opened the hearing on SCR4013; A CONCURRENT RESOLUTION TO CREATE AND ENACT A NEW SECTION TO ARTICLE X OF THE CONSTITUTION OF NORTH DAKOTA, RELATING TO A HEALTH CARE TRUST FUND FOR DEPOSIT AND USE OF FUNDS FROM SETTLEMENTS WITH TOBACCO PRODUCT MANUFACTURERS.

HARVEY SAND: State Senator from District 10 to testify in support of SCR4013 (charts attached (tape 4556-4975). North Dakota's tobacco money, when and if we ever get it will be put in the Trust Fund. The bill says; we can only spend 80% of the earnings of the Trust Fund until it reaches a billion dollars.

MEYER KINNOIN: State Senator from District 4 to testify in support of SCR4013(tape 4977-5380). When Senator Sand asked me to sign on this bill with him and he showed me the figures that he had run up on this on the oil. If we would have taken a good deal of oil money into a Trust Fund, that sold me. This will go before the vote of the people to make it Constitutional and I would hope you look on this favorable. I think it's a proper way to do it.

SENATOR BOWMAN: As far as the oil comment; where would we have got the income if we would have done this with the oil money that was spent taking care of all of our other problems in the State with that same revenue. To me it's a wash, you take and put in the General Fund and distribute that as a source of revenue. What difference does it make if you put it in a different fund and tax the people more to offset that? I can't see the understanding behind that. If we need the money to stand today on health care problems but, we set it aside and then we use some other money to take care of that until this builds way up. It's going to cost us one way or another.

MEYER KINNOIN: This is looking for future generations. We're not going to saddle our future generations with a huge bill like we have in the past. This one will give our future generations something to fall back on.

SENATOR HOLMBERG: The use of the word “may” in here, it causes me to wonder if the measure does what you want it to do? It says the 80% of the annual earnings of the Trust Fund may be used to address health concerns. It doesn't say that is the only way the Legislature can spend the money. I would wonder whether the language would allow the Legislature to spend the money for anything they wanted to, they may spend it for health concerns, but then again they may not.

MEYER KINNOIN: That's a good point, maybe there should be an amendment put on this to take care of that. I would be in favor of this.

HARVEY SAND: If you read that, I don't think it reads what your implying. It may not be expended except 80% of the annual earnings of the Trust Fund, may be appropriated by the Legislature assembly to address statewide health concerns. That tells how they can appropriate it, doesn't say they could do anything else.

SENATOR ANDRIST: If you're going to get a 7% return which is likely going to be predicated on an inflation rate of probably 4%-4 1/2%, because there is usually a 2 1/2% differential. You didn't run any table to show us how much money we would have in 1999 dollars when we have a billion dollars in 2035.

HARVEY SAND: No I did not. The 7% figure I used here I grabbed from the air. If I were to predict inflation which this year is 2%, I also grabbed those figures from the air. I have to have some trust, that what is projected on the numbers in theory would work out. They are accurate now today.

HEIDI HEITKAMP: Left written testimony to distribute on SCR4013.

The hearing was closed on SCR4013.

2/2/99

tape 500-623

SENATOR NETHING: Reopened the hearing on SCR 4013 and called for the motion on the amendment.

SENATOR TALLACKSON: Moved do pass the amendment to SCR 4013

SENATOR HOLMBERG: Seconded the motion

ROLL CALL: 13 YEAS; 1 ABSENT & NOT VOTING

AMENDMEN TO SCR 4013 CARRIED

Yeas: Nething; Naaden; Solberg; Lindaas; Tallackson; Robinson; Krauter; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman; Andrist
Absent & Not Voting: Tomac

SENATOR NETHING: Called for the motion on SCR 4013 as amended

SENATOR HOLMBERG: Moved do not pass on SCR 4013 as amended

SENATOR BOWMAN: Seconded the motion

ROLL CALL: YEAS 9; NAYS 4; ABSENT & NOT VOTING 1

SCR 4013 FAILED AS AMENDED

Yeas: Nething; Naaden; Solberg; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman; Andrist
Nays: Lindaas; Tallackson; Robinson; Krauter
Absent & Not Voting: Tomac

CARRIER: SENATOR HOLMBERG

SENATOR NETHING: Closed the hearing on SCR 4013 (tape 623)

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4013

Page 1, line 6, replace "the 1998 settlement agreement with tobacco product manufacturers and any" with "sections IX (Payments) and XI (Calculation and Disbursement of Payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc., (East Central Dist. Ct., December 28, 1998)"

line 7, remove "successor agreements"

line 17, replace "1998 settlement agreement with tobacco" with "sections IX (Payments) and XI (Calculation and Disbursement of Payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc., (East Central Dist. Ct., December 28, 1998)"

line 18, remove "product manufacturers, or any successor agreement"

line 22, after "concerns" insert "including enforcement of the master settlement agreement and consent agreement"

line 24, after "concerns" insert "including enforcement of the master settlement agreement and consent agreement"

Renumber accordingly

Date: 2-2-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SEN 4013

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AMENDMENT

Motion Made By Sen. Tallackson Seconded By Sen. Holmberg

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson	✓				
Senator Tomac					
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 13 No _____

Absent 1

Floor Assignment _____

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

amend

Date: 2-2-99
Roll Call Vote #: SR 4013 /

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4013

Senate APPROPRIATIONS Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS AS AMENDED

Motion Made By Sen. Holmberg Seconded By Sen. Bowman

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson		✓			
Senator Tomac					
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 9 No 4

Absent 1

Floor Assignment Sen. Holmberg

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

REPORT OF STANDING COMMITTEE

SCR 4013: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). SCR 4013 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "the 1998 settlement agreement with tobacco product manufacturers and any" with "sections IX (Payments) and XI (Calculation and Disbursement of Payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc., (East Central Dist. Ct., December 28, 1998),"

Page 1, line 7, remove "successor agreements"

Page 1, line 17, replace "the 1998 settlement agreement with tobacco" with "sections IX (Payments) and XI (Calculation and Disbursement of Payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc., (East Central Dist. Ct., December 28, 1998)"

Page 1, line 18, remove "product manufacturers, or any successor agreement"

Page 1, line 22, after "concerns" insert ", including enforcement of the master settlement agreement and consent agreement"

Page 1, line 24, after "concerns" insert ", including enforcement of the master settlement agreement and consent agreement"

Renumber accordingly

1999 TESTIMONY

SCR 4013

TESTIMONY ON SENATE CONCURRENT RESOLUTION 4013
BEFORE THE SENATE APPROPRIATIONS COMMITTEE
January 28, 1999

I am Attorney General Heidi Heitkamp and I am appearing to offer technical amendments to Senate Concurrent Resolution 4013.

Attached to my testimony is an amendment that implements the following changes:

1. Clearly identifies the judgment entered by the judge as the source of the funds and refers specifically to those portions of the settlement agreement which relate to the payment of the funds.
2. Provides that, in addition to the other uses, the funds can be used for enforcement of the terms of the agreement.

There are several reasons for the technical changes I offer today.

First, it is important to clearly identify the source of the funds and refer to the judgment and the portions in the agreement because the agreement contemplates that other manufacturers will join in at a later date under similar terms. The bill refers to a settlement agreement entered in 1998 or any successor agreement. Some manufacturers did not agree to be bound by the terms of the agreement until 1999. However their agreements are not "successor agreements". Adding the suggested language will assure that all aspects of the agreement we entered in 1998 and the agreements with subsequent participating manufacturers will be covered by the terms of the bill.

Second, we must have the ability to enforce the agreement or we will not have any assurance that the tobacco companies will continue to make the scheduled payments or refrain from activities prohibited by the agreements including advertising and product distribution limitations. It seems most logical that payment for enforcement of the agreement should be made with tobacco moneys and not general taxpayers' dollars. A provision for expending funds for enforcement as appropriated by the Legislature is included in the attached amendment.

Third, a separate fund will strengthen our position with the federal government concerning Medicaid reimbursement. By way of background, the Health Care Finance Administration (HCFA) has indicated its intent to claim the tobacco moneys for Medicaid reimbursement. We are hopeful we will achieve a successful political resolution to this dispute in Congress. To further our legal argument that this is not recoupment of Medicaid dollars, it is my recommendation that the money be placed in a separate fund. Although this bill creates a separate fund, it will not become effective unless and until the people act positively on it

at the primary election in June, 2000. It is our understanding that we will receive moneys as early as May of 1999. To buttress our position that the funds are not Medicaid recoupment dollars I suggest that additional legislation be enacted to assure a place for the funds until the people have an opportunity to act on this proposed constitutional amendment.

**Oil and Gas Production Tax and Oil Extraction Tax Trust Fund
Scenario Analysis**

Payment Date	Beginning Balance	Total Gross Production Tax Revenue	Total Oil Extraction Tax Revenue	Interest Rate	Interest Earned	20% of Interest (held in fund)	20% of Interest (paid out)	80% of Interest (paid out)	Ending Fund Balance
fy54	-	306,680		7.00%	21,468	4,294	-	17,174	310,974
fy55	310,974	757,096		7.00%	74,765	14,953	-	59,812	1,083,022
fy56	1,083,022	1,439,691		7.00%	176,590	35,318	-	141,272	2,558,031
fy57	2,558,031	1,581,317		7.00%	289,754	57,951	-	231,804	4,197,299
fy58	4,197,299	1,894,577		7.00%	426,431	85,286	-	341,145	6,177,163
fy59	6,177,163	2,160,853		7.00%	582,947	116,589	-	466,358	8,444,405
fy60	8,444,405	2,501,802		7.00%	766,234	153,247	-	612,988	11,099,454
fy61	11,099,454	3,041,583		7.00%	989,873	197,975	-	791,898	14,338,011
fy62	14,339,011	3,158,651		7.00%	1,224,838	244,967	-	979,869	17,742,630
fy63	17,742,630	3,402,374		7.00%	1,480,150	296,030	-	1,184,120	21,441,034
fy64	21,441,034	3,483,149		7.00%	1,744,693	348,939	-	1,395,754	25,273,121
fy65	25,273,121	3,405,656		7.00%	2,007,514	401,503	-	1,606,012	29,080,280
fy66	29,080,280	3,453,352		7.00%	2,277,354	455,471	-	1,821,883	32,989,103
fy67	32,989,103	3,524,207		7.00%	2,555,932	511,188	-	2,044,745	37,024,496
fy68	37,024,496	3,402,213		7.00%	2,829,870	565,974	-	2,263,896	40,992,683
fy69	40,992,683	3,306,581		7.00%	3,100,949	620,190	-	2,480,759	44,919,454
fy70	44,919,454	3,191,717		7.00%	3,387,782	673,556	-	2,694,226	48,784,727
fy71	48,784,727	3,226,425		7.00%	3,640,711	728,142	-	2,912,569	52,738,295
fy72	52,738,295	3,195,326		7.00%	3,915,353	783,071	-	3,132,283	56,718,691
fy73	56,718,691	3,140,249		7.00%	4,189,986	837,997	-	3,351,989	60,694,937
fy74	60,694,937	4,357,679		7.00%	4,553,683	910,737	-	3,642,947	65,963,353
fy75	65,963,353	6,828,748		7.00%	5,095,447	1,019,089	-	4,076,358	73,811,190
fy76	73,811,190	8,164,372		7.00%	5,738,289	1,147,658	-	4,590,631	83,123,220
fy77	83,123,220	9,278,447		7.00%	6,468,117	1,293,623	-	5,174,493	93,695,291
fy78	93,695,291	10,711,028		7.00%	7,308,442	1,461,688	-	5,846,754	105,888,007
fy79	105,888,007	13,423,906		7.00%	8,350,434	1,670,087	-	6,680,347	120,962,000
fy80	120,962,000	29,170,764		7.00%	10,509,293	2,101,859	-	8,407,435	152,234,623
fy81	152,234,623	83,602,316	23,651,815	7.00%	16,764,213	3,352,843	-	13,411,370	218,189,781
fy82	219,189,781	80,229,891	89,317,178	7.00%	27,211,580	5,442,316	-	21,769,264	328,513,803
fy83	328,513,803	79,887,155	87,016,957	7.00%	34,877,854	6,935,571	-	27,742,283	504,833,707
fy84	504,633,707	79,983,219	91,480,066	7.00%	47,328,789	9,465,358	-	37,861,432	681,099,241
fy85	681,099,241	80,127,155	77,854,008	7.00%	58,735,628	11,747,126	-	46,988,503	864,453,587
fy86	864,453,587	54,129,624	57,148,758	7.00%	68,301,238	3,562,781	10,097,467	54,640,990	1,000,000,000
fy87	1,000,000,000	34,410,003	35,391,141	7.00%	74,886,080	-	14,977,216	59,908,864	1,091,558,761
fy88	1,091,558,761	35,260,547	36,954,125	7.00%	81,464,140	-	16,292,828	65,171,312	1,162,210,449
fy89	1,162,210,449	29,434,368	27,455,827	7.00%	85,337,045	-	17,067,409	68,269,636	1,228,598,942
fy90	1,228,598,942	33,972,649	31,156,324	7.00%	90,560,954	-	18,112,191	72,448,763	1,290,027,418
fy91	1,290,027,418	47,612,332	38,140,609	7.00%	96,304,825	-	19,260,925	77,043,700	1,368,796,074
fy92	1,368,796,074	32,536,334	26,899,694	7.00%	99,962,247	-	19,992,449	79,969,798	1,439,473,017
fy93	1,439,473,017	29,802,080	26,717,760	7.00%	104,719,500	-	20,943,900	83,775,600	1,495,974,791
fy94	1,495,974,791	22,093,783	16,152,813	7.00%	107,395,497	-	21,479,099	85,916,398	1,544,786,334
fy95	1,544,786,334	23,798,928	16,379,809	7.00%	110,947,541	-	22,189,508	88,758,033	1,584,738,073
fy96	1,584,738,073	26,548,326	16,811,677	7.00%	113,966,865	-	22,793,373	91,173,492	1,627,866,008
fy97	1,627,866,008	34,505,108	18,964,317	7.00%	117,879,480	-	23,535,896	94,143,584	1,678,982,793
fy98	1,678,982,793	28,610,476	15,204,014	7.00%	120,595,810	-	24,119,182	96,476,648	1,728,557,586
		952,021,535	732,496,692		1,540,523,985	57,243,373		1,483,280,612	

x 34 yrs

Tobacco Settlement Trust Fund
Scenario Analysis

Payment Date	Beginning Balance	Lump Sum Payment	Interest Rate	Interest Earned	20% of interest (held in fund)	20% of interest (paid out)	80% of interest (paid out)	Ending Fund Balance
7/1/1999	-	28,680,000	7.00%	2,007,600	401,520	-	1,606,080	29,081,520
7/1/2000	29,081,520	28,680,000	7.00%	4,043,306	808,661	-	3,234,645	58,570,181
7/1/2001	58,570,181	28,680,000	7.00%	6,107,513	1,221,503	-	4,886,010	88,471,684
7/1/2002	88,471,684	28,680,000	7.00%	8,200,618	1,640,124	-	6,560,494	118,791,807
7/1/2003	118,791,807	28,680,000	7.00%	10,323,027	2,064,605	-	8,258,421	149,536,413
7/1/2004	149,536,413	28,680,000	7.00%	12,475,149	2,495,030	-	9,980,119	180,711,442
7/1/2005	180,711,442	28,680,000	7.00%	14,657,401	2,931,480	-	11,725,921	212,322,923
7/1/2006	212,322,923	28,680,000	7.00%	16,870,205	3,374,041	-	13,496,164	244,376,964
7/1/2007	244,376,964	28,680,000	7.00%	19,113,987	3,822,797	-	15,291,190	276,879,761
7/1/2008	276,879,761	28,680,000	7.00%	21,389,183	4,277,837	-	17,111,347	309,837,598
7/1/2009	309,837,598	28,680,000	7.00%	23,696,232	4,739,246	-	18,956,985	343,256,844
7/1/2010	343,256,844	28,680,000	7.00%	26,035,579	5,207,116	-	20,828,463	377,143,960
7/1/2011	377,143,960	28,680,000	7.00%	28,407,677	5,681,535	-	22,726,142	411,505,495
7/1/2012	411,505,495	28,680,000	7.00%	30,812,985	6,162,597	-	24,650,388	446,348,092
7/1/2013	446,348,092	28,680,000	7.00%	33,251,966	6,650,393	-	26,601,573	481,678,486
7/1/2014	481,678,486	28,680,000	7.00%	35,725,094	7,145,019	-	28,580,075	517,503,504
7/1/2015 X	517,503,504	28,680,000	7.00%	38,232,845	7,646,569	-	30,586,276 X	553,830,073
7/1/2016	553,830,073	28,680,000	7.00%	40,775,705	8,155,141	-	32,620,564	590,665,214
7/1/2017	590,665,214	28,680,000	7.00%	43,354,165	8,670,833	-	34,683,332	628,016,047
7/1/2018	628,016,047	28,680,000	7.00%	45,968,723	9,193,745	-	36,774,979	665,889,792
7/1/2019	665,889,792	28,680,000	7.00%	48,619,885	9,723,977	-	38,895,908	704,293,769
7/1/2020	704,293,769	28,680,000	7.00%	51,308,164	10,261,633	-	41,046,531	743,235,402
7/1/2021	743,235,402	28,680,000	7.00%	54,034,078	10,806,816	-	43,227,263	782,722,218
7/1/2022	782,722,218	28,680,000	7.00%	56,798,155	11,359,631	-	45,438,524	822,761,849
7/1/2023	822,761,849	28,680,000	7.00%	59,600,929	11,920,186	-	47,680,744	863,362,035
7/1/2024	863,362,035	-	7.00%	60,435,342	12,087,068	-	48,348,274	875,449,103
7/1/2025	875,449,103	-	7.00%	61,281,437	12,256,287	-	49,025,150	887,705,390
7/1/2026	887,705,390	-	7.00%	62,139,377	12,427,875	-	49,711,502	900,133,266
7/1/2027	900,133,266	-	7.00%	63,009,329	12,601,866	-	50,407,463	912,735,132
7/1/2028	912,735,132	-	7.00%	63,891,459	12,778,292	-	51,113,167	925,513,424
7/1/2029	925,513,424	-	7.00%	64,785,940	12,957,188	-	51,828,752	938,470,811
7/1/2030	938,470,811	-	7.00%	65,692,943	13,138,589	-	52,554,354	951,609,200
7/1/2031	951,609,200	-	7.00%	66,612,644	13,322,529	-	53,290,115	964,931,729
7/1/2032	964,931,729	-	7.00%	67,545,221	13,509,044	-	54,036,177	978,440,773
7/1/2033	978,440,773	-	7.00%	68,490,854	13,698,171	-	54,792,683	992,138,944
7/1/2034	992,138,944	-	7.00%	69,449,726	7,881,056	8,028,889	55,559,781	1,000,000,000
7/1/2035	1,000,000,000	-	7.00%	70,000,000	-	14,000,000	56,000,000	1,000,000,000

7/19 (MON) 15:34 ND RETIRE & INVEST TEL: 701 328 9897 P. 003