

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

4003

2007 SENATE FINANCE AND TAXATION

SCR 4003

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4003

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 17, 2006

Recorder Job Number: # 1240

Committee Clerk Signature

Sharon Kenyon

Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SCR 4003.

Sen. Tollefson appeared as prime sponsor with written testimony. (See attached)

Sen. Cook: is there anything in law that if you had a year where the oil and gas tax extraction revenue did not exceed 71 million dollars that would allow dollars to come out of that trust fund to bring it up to 71 million dollars for the state budget?

Sen. Tollefson: I am not aware of that. There may be some way of making that adjustment. An adjustment was made in years following the passage of this by the Senate. It was first based on 62 million and then it was increased for budget purposes up to 71 million and that is where the level is at the present time. The idea is to make the fund permanent.

Rep. Ruby appeared as co-sponsor and stated he is in favor of the proposal and feels it's a good protection and protects the fund and feels the fund is important to have on hand and to it permanent.

Ken Solberg: from Rugby, ND and on behalf of himself appeared in support stating here's a chance to lay an asset at the feet of our children and grandchildren down the future. It's so important to put this money into a permanent status whereby only 2/3 of the legislature could draw this out. The policy making branch of government would still be in charge of these

dollars and that's where all dollars must be appropriated from in our government and they would have that opportunity. The question of Sen. Cook on the 71 million and if it would ever before that, it would take 2/3 vote of the Legislature to draw money out of that trust fund or bring it back into the general fund to bring it up where you need it. If that would deem necessary. I personally see this as an opportunity for ND to grow their infrastructure in natural resources.

Bob Harms: President of the Northern Alliance of Independent Producers appeared in support stating it was our intent back in the early 1990's that it was placed into the Constitution but couldn't get it done then but we still think from a personal stand point it's a good fiscal policy for the state to pursue

Sen. Cook: so it's to ensure that the revenue stream from the oil industries to the state coffers is stable? I always understood it that if the revenues that were generated from the oil and gas industry were above 71 million dollars, 71 million went to the State the rest went into a trust fund and if we can into a time where it did not general 71 million dollars than we capped that trust fund to bring it up to 71 million dollars. That's the ways I always understood, it was just to keep the revenue stream for the state stable rather than fluctuating up and down like the oil industry can do, is that correct.

Answer: I think that's a correct description

Sen. Anderson: 11.9 and 55.3, I don't know if they were part of budgets or what but the budget for 2007-09 apparently the executive budget apparently there is no provision for transferring anything over and above the 71 million.

Sen. Tollefson: the process is the same except if it would go into the Constitution, the fund couldn't eliminated without the action of the people.

Sen. Triplett asked for clarification of the chart.

Ron Ness: ND Petroleum Council appeared in favor of the bill stating he thinks the concern is that we are beginning to more regularly spend money out of the permanent oil trust fund each and every biennium. You now see a property tax proposal that is spending money for potentially the next 2 bienniums up to a hundred or hundred twenty million dollars out of that oil tax trust fund, so it's now beginning a constant revenue source. I personally don't think this bill goes far enough but you can still zero out the oil tax trust fund each and every session just as was mentioned with the ominous bill at the end.

Sen. Tollefson: I hope we understand it the way I perceive it. This resolution only would preserve the fund. The fund would be operated just the way it is now in reality but the fund could never be taken away and you couldn't change the oil tax trust fund because if it were in the constitution unless the people voted it out, it would always be there.

Ron Ness: I beg to differ; the fund is always in statute until you take it out of statute. The amount of money could still be zeroed out every biennium so what have we gained if we're going to do this, let's do it to have some teeth and keep some money for our future generations.

Sen. Tollefson: I'm talking about not just dollars but the very concept, the concept could be gone. If it was in the constitution it could not be without going to the vote of the people. And the concept would be in place to hopefully help preserve some of those dollars for the future. That's the purpose of this.

Sen. Cook: I need to correct one statement that Mr. Ness made. I know he would not to be recorded with an erroneous piece of information. We do not have a property tax bill in here that takes money out of the oil trust fund. We have a property tax bill that is 116 million dollars is coming from the general fund, what we do have is the governors budget that takes money

out of the oil and gas trust fund. But we do not have a property tax bill and we will not have a property tax bill that takes us there unless this legislature decides that's where they want to be.

Mr. Ness: I stand corrected.

Sen. Triplett: Mr. Ness you stated a few moments ago that you think this bill does not go far enough, can you tell us how you think we could make the bill better. Would you suggest that we limit it to only allowing the legislature to spend the interest, what are your thoughts?

Mr. Ness: I think if the people are going to vote, the comments made earlier in committee is all understanding money set aside for future generations but the vote would carry the weight. They would understand what we're doing and if we're going to do it, let's do it so we do set even a percentage aside or somehow we do reserve some funds for future generations and future chance obligations.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4003

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: # 1688

Committee Clerk Signature

Sharon Pennington

Minutes:

Sen. Urlacher called the committee to order for further discussion on SCR 4003.

Sen. Tollefson: The idea behind the resolution is to put the oil tax trust fund into the Constitution so it will be permanent. That's the only thing that would change the entire operation of the fund itself and the fund requires that any dollars over 71 million dollars per biennium coming from oil taxes would go into this trust supposedly untouchable except by 2/3 of the entire legislature.

Sen. Triplett: How does this relate to the bill in House Appropriation?

Answer: The House bill is quite complicated and I don't know all the ramifications but it would preserve the oil trust; we want to hold that in place. The bills could work together; the description of the Trust Fund again is it's available upon the proper number of votes cast by the legislature for any given issue.

Sen. Anderson: I would like some clarification. If I'm reading this right, if there's 500 million dollars in there and one year you get 71 million on the nose, could you go in and take part of that 500 million by 2/3 vote?

Sen. Tollefson: yes, it's available to get the legislature to approve it of 2/3 vote. The Resolution for the trust fund was felt by the sponsors should be held in place, the mechanism

is the same but this legislature or any other legislature could not do away with the fund without a major change or people were recognizing a change in the constitution. Locking in that trust fund is important but doesn't mean you can't spend out of it with 2/3 vote.

Sen. Anderson: I don't have as much problem with tapping into it when the revenues are that much during a biennium; I do have a problem tapping into it when there isn't a surplus.\

Sen. Tollefson: up to 71 million goes to the general fund anyway but beyond that you could hopefully and it appears very definitely we will have an excess in that trust fund.

Sen. Horne: I think it's a good idea to protect the trust fund, I wonder if we should do even more to build that trust fund before we tap it. If the citizens approved your constitutional amendment, could the legislature adjust the mechanism later?

Sen. Tollefson: once it's locked into the Constitution it takes people to approve it.

Sen. Triplett: I read HB and together they lock things up, maybe we should put them together.

Sen. Cook: There are 2 things that the legislature can do right now that this bill would absolutely restrict us from doing. In the past we have changed the target buying for when dollars went into, no longer went into the general fund but they went into the trust fund from 62 million dollars to 71 million dollars. The legislature changed with that with a simple majority vote, this would put into the Constitution the number 71 million so we would no longer be able to adjust that number. The second thing we would no longer be able to do is pass legislation like we could right now with one vote over majority that we completely eliminated the trust fund. Other than that as far as if there was money over 71 million would require a 2/3 vote so if a future legislature wanted to do with what you just said they could do that, it would take a 2/3 vote.

Sen. Tollefson: if it was not in the Constitution.

Sen. Cook: if we ended up 300 million dollars in the trust fund, it would take 2/3 majority vote we could take 200 million and put it in some other trust fund that was supposedly declared untouchable.

Sen. Tollefson: I would love to see a cap of say 200 million dollars, in other words once you reach that its untouchable.

Sen. Horne: what I was saying was the first 71 million would go into the general fund then we would build the trust fund to 200 million then after that then we could use our 2/3 vote to siphon out monies if it got passed the 200 million dollar level.

Sen. Urlacher: I'm not familiar with the house bill but if they both pass they could go into conference committee.

Discussion over.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4003

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: # 1824

Committee Clerk Signature

Sharon Renfro

Minutes:

Sen. Urlacher called the committee to order for further discussion and action on SCR 4003.

Sen. Tollefson: made a Motion for DO PASS, seconded by Sen. Cook.

Sen. Triplett: I wondering about the reasonableness of putting some of the language from HB 1457 into SCR 4003 and do you think that would be a good idea or not.

Sen. Cook: I think there's a good chance that 4003 as it is will pass and I think there is also a good chance that 1457 will not pass and I think that if you put them together you jeopardize having 4003 to not pass.

Sen. Tollefson: its who in the legislature is going to accept what your idea is, simple ideas go a lot further than complicated ones. Number two is a resolution which goes to the people for a vote is usually acceptable and I think that's a real plus for the issue. I'm afraid by cluttering it up with some of this language, not to say that the bill isn't alright but to clutter it up some of that language I think we got a losing cause.

Sen. Triplett: concerns with legal affect.

Sen. Urlacher: 2/3 vote it's always open.

Sen. Cook: 4003 if it passes the voters, secures the fact that we have permanent oil trust fund. The legislature cannot remove it; we lose that right to be able to eliminate it.

Sen. Oehlke: this observation will make a lot of sense I hope. The beautiful thing about the house bill is that it appears to really give us some, it talks about 2 billion but technically 4003 doesn't have limit. It actually could grow way beyond that it just doesn't say it. It just simply says that the principal of the permanent oil tax trust fund may not be expended except upon a 2/3 vote. So for 10 yrs a 2/3 vote never have to take any of the principal, it would grow and grow and may exceed well over a billion or 2 billion that their looking for in this other bill plus it does give it major protection. This one has more words with less impact.

Sen. Anderson: the way I read 1457, it's very restrictive; it says you can't touch anything for a long time. On 4003 it also says that never will the legislature be able to reduce that to less than 2/3 vote.

Sen. Tollefson: call the question Mr. Chairman.

Sen. Triplett: made a Motion to incorporate certain wording.

Sen. Horne: that's probably too restrictive.

Sen. Urlacher: do we have a second? No second for Sen. Triplett's motion.

Sen. Urlacher we have a motion on the floor for DO PASS, seconded by Sen. Cook.

Roll call vote: 5-2-0 Sen. Tollefson to carry the bill.

Date: 1-24-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Tollefson Seconded By Sen. Cook

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|---------------|-----|----|
| Sen. Urlacher | ✓ | | Sen. Anderson | ✓ | |
| Sen. Tollefson | ✓ | | Sen. Home | | ✓ |
| Sen. Cook | ✓ | | Sen. Triplett | | ✓ |
| Sen. Oehlke | ✓ | | | | |
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Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Tollefson

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

REPORT OF STANDING COMMITTEE (410)
January 24, 2007 3:28 p.m.

Module No: SR-16-1150
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4003: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4003 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SCR 4003

NORTH DAKOTA LEGISLATIVE ASSEMBLY

Resolution 4003

Mr. Chairman Committee Members

SCR 4003 revolves around the North Dakota "permanent" oil tax trust fund.

Historically SB 2366 was introduced in the 1997 session by Senator Bill Goetz (now chief of staff for the governor and candidate for the chancellor of the NDBHA.) It was passed in that session.

The legislative intent of the SB 2366 was to preserve the state oil tax revenue in a "permanent" trust. Interest from the trust money would be transferred to the general fund annually. ND oil tax revenues in excess of 71 million dollars in a biennium will be transferred to the trust, were it is to be held for posterity, unless 2/3 of the legislative assembly approves spending from it.

Early on oil tax revenues were a minimal to the oil trust (see your hand out) The price of oil and the access to it has caused the "permanent" oil trust fund to grow considerably.

Since one legislature may undo what another has done, this trust fund has been has been tapped often.

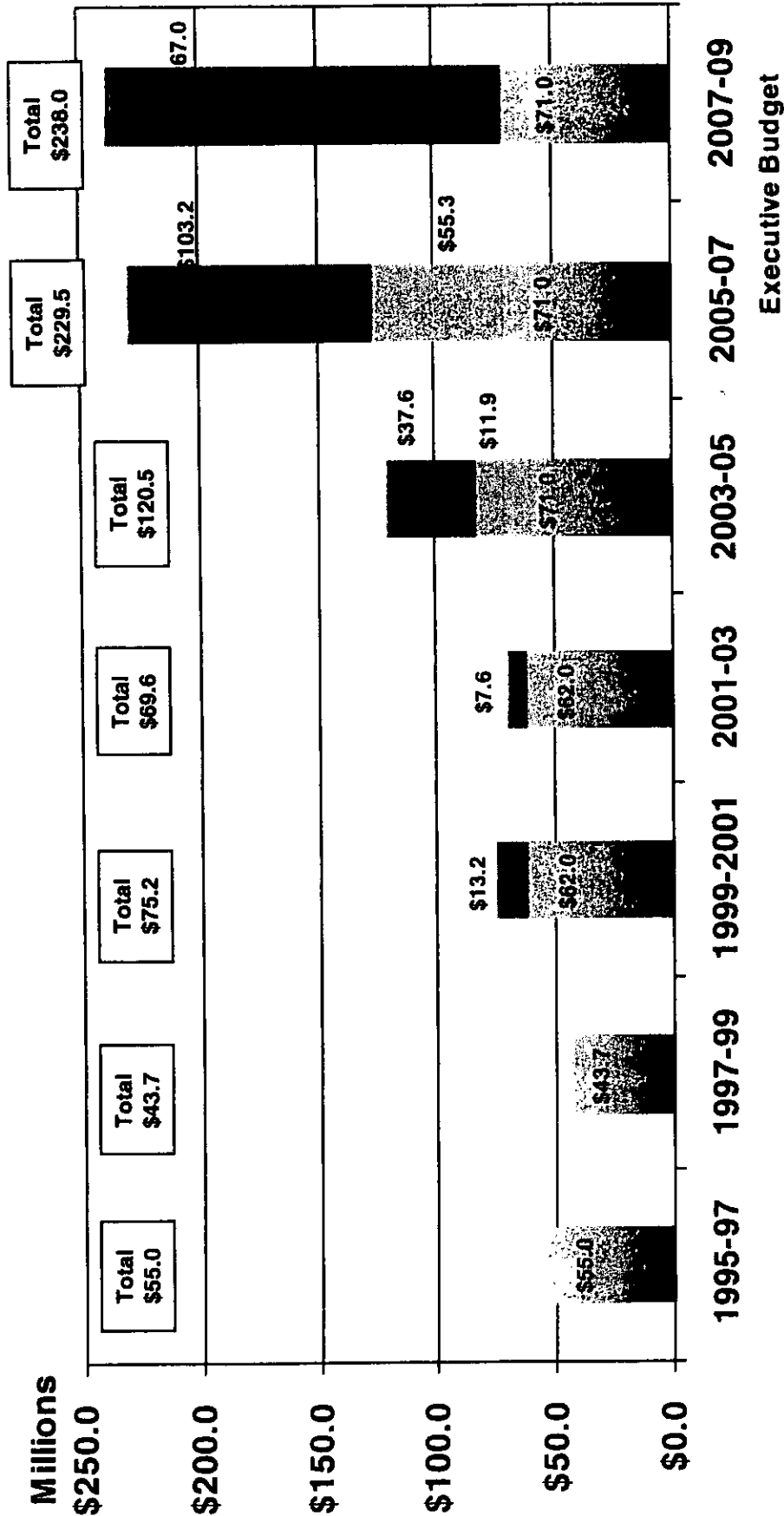
In the SCR 4003 (if passed) will allow the people to place this trust in the North Dakota Constitution and make it permanent for posterity?

We ask for your approval of senate concurrent resolution 4003.

Thank you.

Senator Ben Tollefson

Oil & Gas Production Tax and Oil Extraction Tax Revenues Based on Executive Budget Revenue Forecast)



■ Permanent Oil Tax Trust Fund
 □ Permanent Oil Tax Trust Fund (Transfer to General Fund)
 ▨ General Fund

Executive Budget

9000 w/ 4003

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1457

Introduced by

Representatives Froseth, Dietrich, Kasper, Ruby

Senators Bowman, Tollefson

1 A BILL for an Act to amend and reenact section 57-51.1-07.2 of the North Dakota Century
2 Code, relating to the balance of the permanent oil tax trust fund and to provide an effective
3 date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 57-51.1-07.2 of the North Dakota Century Code
6 is amended and reenacted as follows:

7 **57-51.1-07.2. Permanent oil tax trust fund - Deposits - Interest - Adjustment of**
8 **distribution formula.** All revenue deposited in the general fund during a biennium derived
9 from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 which exceeds
10 seventy-one million dollars must be transferred by the state treasurer to a special fund in the
11 state treasury known as the permanent oil tax trust fund. Until the principal balance of the
12 permanent oil tax trust fund reaches one billion dollars, the first two hundred million dollars per
13 biennium deposited in the fund must be considered part of the principal balance of the fund and
14 may not be expended for any reason. When the principal balance of the permanent oil tax trust
15 fund exceeds one billion dollars but does not exceed two billion dollars, the first one hundred
16 million dollars per biennium deposited in the fund must be considered part of the principal
17 balance of the fund and may not be expended for any reason. The state treasurer shall transfer
18 interest earnings of the permanent oil tax trust fund to the general fund at the end of each fiscal
19 year. The principal balance of the permanent oil tax trust fund may not be expended except for
20 any reason but any amount in the permanent oil tax trust fund which is not considered part of
21 the principal balance of the fund under this section may be expended for property tax relief or
22 elementary and secondary education funding upon a two-thirds vote of the members elected to
each house of the legislative assembly.

1 If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after
2 June 30, 1997, the director of the budget shall adjust the seventy-one million dollar amount in
3 this section by the same percentage increase or decrease in the amount of revenue allocable to
4 the general fund after the change in the allocation formula, and transfers to the permanent oil
5 tax trust fund shall thereafter be made using that adjusted figure so that the dollar amount of the
6 transfers to the permanent oil tax trust fund is not increased or decreased merely because of
7 changes in the distribution formulas.

8 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
9 June 30, 2007.