

**2011 HOUSE CONSTITUTIONAL REVISION**

HCR 3035

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee  
Prairie Room, State Capitol

HCR 3035  
March 2, 2011  
Job #14864

Conference Committee

Committee Clerk Signature

*May Main*

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

Relating to allowing the legislative assembly to enact legislation to provide for return of surplus tax collections to taxpayers of the state; and to provide an effective date.

## Minutes:

**Chairman Koppelman:** We'll open the hearing on HCR 3035.

**Representative Sukut:** This is not new. This resolution was in last session. We did go back and see if there has been anything done with this particular section of code since its inception. This began with statehood. There hasn't been anything done with it in all these years. My purpose of bringing the bill forward is to clarify this section of code by inserting the statement that you see inserted at the bottom of that page which clarifies that if we would so choose to write a check to our constituents, we would be able to do so at the discretion of the Legislative Assembly. I think it will serve a purpose at some point in time. As in the last 2 sessions, we have continued to decrease the taxes. We've offered a reduction in income taxes, corporate taxes, and property taxes. At some time we are going to have to be concerned about our revenues being able to match our expenses. Our obligations in terms of financing ongoing government, those costs continue to go up and eventually the revenue stream has got to match what our expenses are. As we move forward, it may be in the best interest of the Legislature in terms of reducing those revenues. It may be in our best interest to actually be able to write a check to our constituents and have some better control over the revenue stream. I'm not saying we should not be reducing taxes or looking at reducing taxes. I'm all in favor of doing that but I think having the option of being able to write a check to our constituents would be a nice option for us to have. That's what this resolution does. It clarifies this section of code that would enable us to do that at our discretion. In terms of decreasing the income tax, a lot of our constituents don't really even see that has happened. If you put a \$500 bill in their hand, that makes a lot of sense to them. That \$500 bill generally goes right back in to the State. If they spend the dollars, it comes back to the State in terms of sales tax and other means. That's all this resolution does and my reasoning as to why I am before you again looking to put this back into law through the people of North Dakota.

**Representative Meier:** Are you proposing that this would be a form of payment rather than what we do currently in the form of property tax relief?

**Representative Sukut:** It could be. I'm simply putting this on the table as an option. It would be an option for us as Legislators in lieu of property tax or tax reductions. This would make more sense.

**Chairman Koppelman:** For the committee's information, in the last couple of sessions there has been discussions about should we lower taxes because we've had surpluses. Should we A) spend it all, B) put some in the bank, C) write a check to the taxpayers of North Dakota or D) lower taxes. They're all options that have been discussed. The counsel that we've received is because of this provision in the Constitution that there's question as to whether we can actually write a check constitutionally to the taxpayers right now. That is what this would clarify. Is that correct?

**Representative Sukut:** Yes, that's correct.

**Representative Meier:** If a check were distributed to individuals of North Dakota. Would the individual have to pay taxes on that check issued?

**Representative Sukut:** It would be like a tax refund and I don't believe we pay taxes on our tax refunds. We kind of on a gravy train right now. Things are good and they look good for the immediate future. This is not something we are going to ride for eternity. We're working with an energy that is being depleted over time and at some point in time we are going to be working with fewer dollars. This may at some point be an option that makes sense for the Legislature. That's all I'm proposing. I'm not proposing that we are going to start writing checks to our constituents immediately. I think this will be a viable option as we move forward.

**Representative Owens:** In 2007, this issue popped up because we as a legislature went in circles trying to figure out how to provide some tax relief back to the constituents when we suddenly found out we couldn't give them a check. We then went to an income tax write off based on your property tax which created a problem with people who didn't own property versus people who didn't file income tax because their income was low. It created a nightmare trying to get money back to some of the constituents. The conversation was if we could just write them a check, we could have given money to everyone but we were told we couldn't because of this section. That's where this came up. For point of reference, if we give them a tax refund, you will be paying taxes on it.

**Representative Holman:** The word 'taxpayers' as people who would be recipients. Did you discuss that word as opposed to just residents or anything else? I understand the meaning of that but it could be broader than that as far as writing checks back to people in the State. Not everyone in the state is a taxpayer.

**Representative Owens:** I disagree with that. I think everybody is taxpayer.

**Representative Sukut:** In the end, you have to have some method of being able to try to disperse those dollars and usually that's off of the State Income Tax Return. In the 2007 session, those that didn't pay any State income taxes still could send in their form and they were eligible to the benefits from that. I did have a discussion about this bill with the State's Attorney and they didn't have a problem with it.

**Representative Winrich:** Even if one agrees with Representative Owens that everyone in the state are taxpayers, there are nonresidents who are also taxpayers. In some cases we recognize that fact by refunding some of the sales tax that they pay in the state. Do you really mean that you are going to return funds to the taxpayers?

**Representative Sukut:** That's what the bill says at this point in time. The bill also says that this is left up to the Legislative Assembly to decide how and when they would disperse these dollars. It's open enough so it leaves the basics up to the Legislative Assembly as to how that would be done.

**Representative Kasper:** My outlook about business and life is on the side of capitalism. I like to see those who do something get rewarded and those who don't do much, because they won't, let them live they way they are because they choose to live that way. With something like this you would have a lot of political pressure to take care of those people who don't have anything meaning those who are able to work but choose not to work. So we reward lack of effort. I see a lot of political pushback to do that. Would that be your intent with this change in the Constitution?

**Representative Sukut:** Not really. That would not be my intent. My thoughts in terms of putting the money back into the hands of the taxpayer would be just that. Those who were paying taxes in the State of North Dakota would receive the benefits of returned dollars.

**Representative Kasper:** Why wouldn't we either reduce the income taxes further or eliminate them altogether? That would accomplish the same thing this would except in a manner where you're rewarding producers who help move our State forward and putting more money in their pocket to help them produce more, to employ more, to make more.

**Representative Sukut:** I wouldn't disagree totally with that except in my previous statements; there will be a time when we are no longer going to be able to reduce the taxes. There will be a time when we're going to have to be concerned about reducing the revenues below what we're going to need in order to meet the expenses. At some point in time it may just make more sense rather than reducing the taxes any further. If there are dollars there, it may make sense to return those dollars in terms of writing the check.

**Representative Kasper:** You're envisioning the potential where everything is going so well, we're rolling in so much money, that we don't need it and want to give a bunch of surplus back. Is that what you're saying?

**Representative Sukut:** I don't think so. I'm saying that when we get to the point to where we don't have these surpluses but we do have enough money where we can be concerned about reducing the revenues for the State. Not be interested in reducing the revenues for some period of time but have enough dollars left to where we can send some of those dollars back to our constituents. We would have the opportunity to do that at that time.

**Representative Kasper:** Let's say we've repealed the income taxes. What we have left is the sales tax, the use tax, the excise tax, the oil extraction tax, and so on. Couldn't we just begin chipping away at reducing those taxes so those dollars that are excise are going to

the people who are the producers which enhances our business climate in our State which wants to bring more business here. Wouldn't that make more sense?

**Representative Sukut:** We could do that. All I'm saying is I think it makes sense to open up the option of being able to write a check also along with what you're proposing. At some point in time, writing the check might definitely make sense.

**Chairman Koppelman:** If you get to the point where maybe you are afraid that reducing taxes further would put the State in a deficit over the next biennium, but you have some surplus dollars now that are not needed. This kind of a provision in the Constitution would allow the Legislature to return some dollars to the taxpayers now in a case where lowering the tax might put us in a position in the future that would be untenable because we wouldn't have the revenue there. Is that it?

**Representative Sukut:** You got it.

**Chairman Koppelman:** You mentioned this being introduced in the last session. There were some concerns expressed but you think those are resolved. I don't remember the detail. Could you touch on that?

**Representative Sukut:** The concerns were on the Senate side. Their concerns were that if there would be a majority of the legislators that would decide to send funds to some specialized entity or special group, this would be something that could possibly happen. I think that's farfetched. Maybe it is a possibility. In the end, they turned this in to a study and it did not get studied. Hence, I'm back again.

**Representative Holman:** We have a history of an attempt about 22 years ago where the legislature tried to raise taxes and it was easily defeated in a referral process. I think your message about it's easy to cut taxes but very difficult to raise taxes if you need to get that money back. We also have a bill before this session that addresses raising sales and income with a super majority which makes that even more difficult. This is a short term solution to a surplus as opposed to what might happen trying to recover what you do by lowering taxes. I'm not opposed to lowering taxes as long as they don't do permanent damage to our State.

**Representative Sukut:** I'm simply proposing this as an option so that it's out there as an option. It may never get used. It may never make sense to use it. I think it makes sense to have that option out there.

**Chairman Koppelman:** Further testimony in support of HCR 3035?

**Scott Rising, Soybean Growers Association:** As we understand the intent of this piece of legislation, we would be very much in support of it. It just simply adds another tool to the tool box so to speak.

**Chairman Koppelman:** Further support for HCR 3035? Any opposition to HCR 3035?

**Curly Haugland, Businessman and Taxpayer:** I'm concerned about this approach mainly because it attempts to amend Article 10, section 18 of the North Dakota Constitution otherwise known as the States anti gift clause. The very reason that this section exists is to prohibit the Legislature or Political subdivisions of the State from giving money to private people for non public purposes. On its face, the sentence that's added to this section contradicts the paragraph immediately above it. The paragraph above it says 'neither the State nor any political subdivision thereof shall loan or give its credit to or make donations to any individual, association, or corporation except for welfare nor subscribe or become the owner of capitol stock in any corporation'. The very thing that this section sets out to prohibit is now having a direct contradictory term added at the end. I have passed out for your review Article 10, section 12 which already provides the mechanism to refund excess taxes. (See attachment #1 – Section 12 of the North Dakota Constitution – highlighted sentences). The Constitution provides already for the Legislature to refund excess taxes in those particular categories. I suppose if you wish to add the category of oil extraction tax, that's an amendment that I could probably support if we find we are taking too much money from the oil tax payers. It's a fundamental question of fairness to me if you're taking too much money via taxation from a taxpayer, it's easy enough to identify who that taxpayer was and return the money to that taxpayer with the exception of sales tax. In income tax, we all file a return and they are on file so if we want to return some income tax, you can tell how much everybody paid and you can give some back. Oil extraction tax would be the same thing. If you wanted to give some oil tax back, it's easy to identify who paid it. There are records of that and you could give it back. There's no prohibition from doing that now. I'm happy to have the opportunity to discuss the provisions of the gift clause and the reason it exists and I encourage you to seriously consider your duty to the Constitution not only with respect to this proposal but with all legislation. I was reviewing today and there is hundreds of millions of dollars of gifts under consideration right now before you in this legislative session. The Commerce Department bill itself has 68 million dollars worth of grants identified clearly contrary to this section of the Constitution. In the past, you had a history as a Legislative Assembly of appropriating funds contrary to this section of the Constitution so I guess it's a good opportunity to remind us that it exists, it has a clearly stated purpose and that is to prohibit gifting of public money or the giving of public money without consideration of where it came from or without getting something in exchange for the money. Many of these bills argue that a broad public purpose is met if you simply create some jobs. If that's the case, you have to give money to everybody that employs anybody. We don't do that. We just target a few and we give some money to a few. I applaud Representative Sukut's stated goal to recognize when we've taken too much money from our taxpayers. I would encourage you to consider only those types of amendments that would return excise taxes directly to the person who paid excess taxes and not use it as a scheme to redistribute. The property tax scheme that you are about to consider is nothing but a redistribution. There's no relationship between the tax that is going to pay for those property tax reductions and the taxpayer. Whole different groups of taxpayers are being called upon to pay a different group of taxpayer's property taxes. That would strictly applied run afoul of this gift clause as well. I would encourage you to consider that.

**Representative Kasper:** I'm really glad that you continue to remind us about the Constitution. I began looking at the Constitution when I became a Legislator because of you and I wanted to publicly say that I'm thankful that you remind us what the Constitution

says because it's pretty easy to get caught up in magnanimous things and forget about the guiding principle of the Constitution.

**Curly Haugland:** Thank you.

**Chairman Koppelman:** I appreciate you bringing both points forward. The latter point especially with regard to what we call economic development is something we don't think about in the Legislature when it comes to this clause. With regard to your handout, as we've been advised by legal counsel in the past, the reason the Representative Sukut and the other sponsors of this resolution believe that it is necessary to change the Constitution in this way to return money directly to taxpayers. That's what we've been advised by our Legislative Counsel and legal folks as well. That's why we've jumped through some strange hoops and gone through some gyrations to give money back to the people both through an income tax provision as was brought up by Representative Owens and by the property tax relief that you mentioned. I think the reference you've handed out refers to tax refunds in another sense. That is if you pay estimated taxes or if you overpaid by withholding, to return that money to you. I think that is what this section deals with, not a specific writing of a check because of a surplus in the State Treasury. I could be mistaken.

**Curly Haugland:** That's possibly but I think what that simply says is that it gives the Legislature authority to create legislation to refund for whatever purpose. This is to say that if there's a legislative act that says we want a refund, it would not be unconstitutional to refund taxes. There's a difference. I think what's intended in the current measure before you is a redistribution scheme, in other words to give money to people who didn't necessarily have a connection to the tax but who are simply citizens or have some other minimum standard for getting a handout. I think the Constitution clearly prohibits that in the paragraph above it. If that's your intent, I think you should eliminate the paragraph above this that prohibits gifts and say we're going to give gifts when called upon.

**Chairman Koppelman:** That's why they use the word taxpayers versus people or individuals or citizens or some other term. The intent is to return money to those who actually paid the taxes but if what you're saying is correct about this other section of the Constitution, let me understand your position. You're saying that it's permissible for the Legislature to write a check now to return taxpayer dollars i.e. the refund but you don't think that would run afoul of the section that this measure seeks to amend. Yet we've been advised by legal counsel that it would. Maybe we need more clarification on that from some of the legal experts.

**Curly Haugland:** With all due respect to your legal counsel, those are the same people who continue to write bills that contain grants of gifts in them. They should bone up on this section of the Constitution.

**Chairman Koppelman:** Further testimony in opposition of HCR 3035? Any neutral testimony on HCR 3035? We'll close the hearing on HCR 3035.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee  
Prairie Room, State Capitol

HCR 3035  
March 28, 2011  
Job #16085

Conference Committee

Committee Clerk Signature

*Mary Main*

## Minutes:

**Chairman Koppelman:** This resolution comes to us from Representative Sukut and is designed to allow the State of North Dakota to return money to the tax payers, excess tax collections. The reason for that is we've received the interpretation from Legislative Counsel that the constitution does not allow money to be sent to any individual or association or corporation except for reasonable support of the poor. It prohibits a check being written to the people of North Dakota as a general return of tax dollars. We were advised of that a few years ago when the North Dakota Legislature sought to institute some sort of property tax relief and so we ended up with the income tax permutation that we had for a while and now the school subsidy that we have that requires property tax relief as part of it. What are the wishes of the committee?

**Representative Holman:** I serve on an economic development board for our county and about five years ago we found out that when we had taken back stock from one of the places we'd funded that it was not a legal activity for our county economic development association to own stock since we were a governmental agency. My impression was that there was a change in the law that did allow that practice which would be in violation still of what it says here in this document and not in the amendment. I'm wondering if anyone here might remember if such a bill was passed or maybe overlooked to change this too.

**Chairman Koppelman:** I don't recall that. Sometimes we pass laws to try to accomplish something and the question of whether the constitution prohibits it or not is really left to the courts. I think if there was something blatant that violated the constitution, you'd hear a lot of debate about that but sometimes there are things like that that are off to the side and we may not know. The old adage, acts of the legislature are presumed constitutional unless a court finds otherwise.

**Vice Chairman Kretschmar:** In the 1970's, farm prices in North Dakota soared and we achieved large surpluses in their governmental funds. As a result, Robert McCarney who was a car dealer here in Bismarck, got an initiated measure put on the ballot that every man, woman, and child should get \$100 from the state and it passed. If you filed a joint tax return with your wife, you go \$100 but if you filed separate, you go t \$200. If you didn't owe any taxes at all, just file a return and get \$100. I do not remember that there was any challenge in the courts to that proposition based on section 18 that we are looking at. It has happened; the state has given money back to citizens.

**Representative Kasper:** In the bible, we recall the Old Testament when Pharo put Joseph in charge, he had a dream. The dream said we're going to have 7 really good years and store up because after the 7 good years, we're going to have 7 bad years. We have funds that we could be putting the money into if some are reluctant to continue to give tax breaks. Why don't we store the funds in the budget stabilization fund because there will come a time where we're going to have seven bad years. I would much rather be looking at saving the money for the future when there is going to be a turn in the economy because it will come. To allow this legislative body to begin to redistribute wealth through giving money that some people have never earned but they get money back. I think that's poor public policy on the legislators part and I hope we resist implementation of this resolution.

**Representative Owens:** I move a do pass on HCR 3035 and seek a second.

**Vice Chairman Kretschmar:** Second.

**Representative Owens:** I do not disagree in theory or in application to what Representative Kasper said about the 7 good years and 7 bad years analogy. That's exactly why we do have the budget stabilization fund and to my knowledge we've tried to maintain that at 10% and I support that. To artificially keep saving it does bother me a little bit and I personally don't believe, in all the research I've done on this bill, that the state can't do this right now. I understand the attorney general's ruling back in 2007 that started all of this but that was his opinion, not ruling. I believe the state has the ability to do this right now and that is under section 12 of article X, not section 18. Since section 18 is what was used in the opinion back then, I can understand why the amendment is under section 18 at the present. I do disagree with the statement of wealth redistribution. I don't believe that this body in its entirety, both chambers, would actually go to that extent and use that tool that way. Could I be wrong? Sure. That's my reasoning for the do pass.

**Representative Kasper:** I think this legislative assembly right here today could do that, possibly, based on the makeup of it and how I see votes happening. We don't know what the makeup of the legislature will be 2 or 4 or 10 years from now. To open the door to allow public pressure or stupidity on the legislator's parts to simply want to give money back to people who didn't pay in to it in the first place other than those who are in true need. I support that. It is opening a door that we should never open. I hope you resist the do pass.

**Representative Holman:** Legislatively I think we've been fairly successful in manipulating the tax code to make adjustments in the tax code. We did that 2 years ago which go directly to those people who probably are feeding and building our economy. That's how we want to continue. This idea of putting money back out, I hate to use the word stimulus but that's the type of thing that this encourages; let's just write checks to people and they will spend it and we will be better off. I think there are better ways to go about this than with this type of legislation.

**Representative Winrich:** I want to point out the example of our neighbors. When Jesse Ventura was elected Governor of Minnesota, one of his platforms and accomplishments was to make a refund of excess taxes to the citizens of Minnesota. Essentially,

Minnesota's budget has been in trouble ever since. I think this is a very ill considered Constitutional amendment.

**Chairman Koppelman:** As I read the amendment, I think you can look at this a lot of different ways. I tend to lean toward agreeing with Representative Owens' analysis that perhaps the attorney general's opinion that we have put so much stock in which gave rise to this amendment might not be correct in terms of what the Constitution really means. As Vice Chairman Kretschmar has pointed out that apparently this has been done in the past and there was no constitutional challenge to it. The question as you look at the actual verbiage of this section of the Constitution and the proposed amendment, it talks about the state nor any political subdivision may not otherwise loan, give its credit or make donations to or in aid of any individual, association or corporation etc. This amendment would clarify that the state can return funds to tax payers of the state. To clarify Representative Sukut's intent, because I have spoken to him about it, is to say that money could be returned to the taxpayers, not redistributed, not a giveaway program. I'm not advocating for the resolution but just trying to explain what his intent is. The question before us as a committee is to say a) do we believe there is a Constitutional prohibition against the state giving money back to taxpayers if it has money in the surplus or b) if that is a prohibition in the Constitution, is it a good idea to get rid of it or not. I think those are the questions before us. When we have a surplus as we have now, there are many options. We can lower tax rates which we are doing now, we can put money aside which we've done and are doing, we can spend it which we've done and are doing. The question is should there be this tool in the tool box also to write a check back to the people who actually paid the money if the legislature finds itself in the position of having more money than it needs to fund the states needs.

**Representative Owens:** The amendment actually says 'return of funds to taxpayers'. This would have to be proven that these people first paid in taxes to some extent and then turn around and 'in a manner that the legislative assembly' and we all know that means just doing a check to send to somebody. It wouldn't be a matter of spreading it out. It would have to be a return of money according to this.

**Representative Louser:** Is a sales tax payer a tax payer?

**Representative Winrich:** That was my point.

**Representative Kasper:** How do you determine what they paid? Someone would claim that they paid no sales tax so they file a tax return and send in a dollar even though they are not due so they are a tax payer. This is a redistribution of wealth plain and simple. How do you determine how much a taxpayer gets? Do you get back how much you paid in income tax, sales tax, gas tax, or property tax because it doesn't say? It does say taxpayers of the state so maybe you could say property tax is not included. How about excise tax? It's fraught with problems.

**Chairman Koppelman:** Further discussion. Call a roll on a do pass recommendation on HCR 3035.

**3 Yes, 8 No, 0 Absent**

**Do Pass motion fails**

**Representative Kasper:** I move a do not pass.

**Representative Owens:** Second.

**Chairman Koppelman:** Further discussion. Call the roll on a do not pass recommendation on HCR 3035.

**8 Yes, 3 No, 0 Absent**

**Do Not Pass**

**Carrier: Representative Streyle**

Date: March 28, 2011  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3035

House Constitutional Revision 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. Owens Seconded By Rep. Kretschmar

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Representative Conklin		✓
Vice Chairman Kretschmar	✓		Representative Holman		✓
Representative Kasper		✓	Representative Winrich		✓
Representative Louser		✓			
Representative Meier		✓			
Representative Owens	✓				
Representative Schatz	✓				
Representative Streyle		✓			

Total (Yes) 3 No 8

Absent 0

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

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

Date: March 28, 2011  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3035

House Constitutional Revision 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. Kasper Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conklin	✓	
Vice Chairman Kretschmar		✓	Representative Holman	✓	
Representative Kasper	✓		Representative Winrich	✓	
Representative Louser	✓				
Representative Meier	✓				
Representative Owens		✓			
Representative Schatz		✓			
Representative Streyle	✓				

Total (Yes) 8 No 3

Absent 0

Floor Assignment Representative Streyle

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

**REPORT OF STANDING COMMITTEE**

**HCR 3035: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **DO NOT PASS** (8 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).  
HCR 3035 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HCR 3035

**Section 8.** The legislative assembly shall pass all laws necessary to carry out the provisions of this article.

**Section 9.** The legislative assembly may provide for the levy of a tax upon lands within the state for the purpose of creating a fund to insure the owners of growing crops against losses by hail. The legislative assembly may classify lands within the state, and divide the state into districts on such basis as shall seem just and necessary, and may vary the tax rates in such districts in accordance with the risk, in order to secure an equitable distribution of the burden of the tax among the owners of such lands.

**Section 10.**

1. Upon the adoption of this amendment to the Constitution of the State of North Dakota there shall be annually levied by the state of North Dakota one mill upon all of the taxable property within the state of North Dakota which, when collected, shall be covered into the state treasury of the state of North Dakota and placed to the credit of the North Dakota state medical center at the university of North Dakota; said fund shall be expended as the legislature shall direct for the development and maintenance necessary to the efficient operation of the said North Dakota state medical center.
2. This amendment shall be self-executing, but legislation may be enacted to facilitate its operation.

**Section 11.** Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, except revenue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

**Section 12.**

1. All public moneys, from whatever source derived, shall be paid over monthly by the public official, employee, agent, director, manager, board, bureau, or institution of the state receiving the same, to the state treasurer, and deposited by him to the credit of the state, and shall be paid out and disbursed only pursuant to appropriation first made by the legislature; provided, however, that there is hereby appropriated the necessary funds required in the financial transactions of the Bank of North Dakota, and required for the payment of losses, duly approved, payable from the state hail insurance fund, state bonding fund, and state fire and tornado fund, and required for the payment of compensation to injured employees or death claims, duly approved, payable from the workmen's compensation fund, and required for authorized investments made by the board of university and school lands, and required for the financial operations of the state mill and elevator association, and required for the payment of interest and principal of bonds and other fixed obligations of the state, and required for payments required by law to be paid to beneficiaries of the teachers' insurance and retirement fund, and required for refunds made under the provisions of the Retail Sales Tax Act, and the State Income Tax Law, and the State Gasoline Tax Law, and the Estate and Succession Tax Law, and the income of any state institution derived from permanent trust funds, and the funds allocated under the law to the state highway department and the various counties for the construction, reconstruction, and maintenance of public roads.

This constitutional amendment shall not be construed to apply to fees and moneys received in connection with the licensing and organization of physicians and surgeons, pharmacists, dentists, osteopaths, optometrists, embalmers, barbers, lawyers, veterinarians, nurses, chiropractors, accountants, architects, hairdressers,