

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE CONCURRENT RESOLUTION NO. 3037
(Representatives R. Kelsch, Boucher, Kasper)
(Senators Grindberg, O'Connell)

A concurrent resolution for the amendment of sections 1 and 2 of article IX of the Constitution of North Dakota, relating to distributions from and management of the common schools trust fund and the trust funds of other educational or charitable institutions; and to provide a contingent effective date.

STATEMENT OF INTENT

This measure requires that the permanent trust funds be managed to preserve their purchasing power, to provide stable distributions to fund beneficiaries, and to benefit fund beneficiaries. The measure changes trust fund distributions from interest and income earned by a fund to distributions based on a fund's average value, requires that all revenue produced by a trust fund be deposited in the fund, and provides for paying the costs of administration.

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

That the following proposed amendments to sections 1 and 2 of article IX of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2006, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

Section 1. All proceeds of the public lands that have ~~heretofore~~ been, or may ~~hereafter~~ be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that ~~shall~~ fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, ~~shall~~ must be and remain a perpetual trust fund for the maintenance of the common schools of the state. ~~Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose.~~ All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, ~~shall~~ must be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. ~~Should~~ If a gift be is made to an institution for a specific purpose, without designating a trustee, ~~such~~ the gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide. Revenues earned by a perpetual trust fund must be deposited in the fund. The costs of administering a perpetual trust fund may be paid out of the fund. The perpetual trust funds must be managed to preserve their purchasing power and to maintain stable distributions to fund beneficiaries.

~~The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly to the exclusive use of the institution for which the funds were given.~~

~~The proceeds of all bonuses, or similar payments, made upon the leasing of coal, gas, oil, or any other mineral interests under, or reserved after sale of, grant lands for the common schools or institutional lands shall be deposited in the appropriate permanent trust fund as created by this section.~~

SECTION 2. AMENDMENT. Section 2 of article IX of the Constitution of North Dakota is amended and reenacted as follows:

Section 2. ~~The interest and income of this fund~~ Distributions from the common schools trust fund, together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall ~~shall~~ must be faithfully used and applied each year for the benefit of the common schools of the state and no part of the fund ~~shall~~ must ever be diverted, even temporarily, from this purpose or used for any ~~other purpose whatever~~ other than the maintenance of common schools as provided by law. Distributions from an educational or charitable institution's trust fund must be faithfully used and applied each year for the benefit of the institution and no part of the fund may ever be diverted, even temporarily, from this purpose or used for any purpose other than the maintenance of the institution, as provided by law.

For the biennium during which this amendment takes effect, distributions from the perpetual trust funds must be the greater of the amount distributed in the preceding biennium or ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. Thereafter, biennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets' ending value for the fiscal year that ends one year before the beginning of the biennium and the assets' ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium.

SECTION 3. CONTINGENT EFFECTIVE DATE. If approved by the voters, this measure becomes effective on the July first following the date on which the attorney general certifies to the secretary of state that the United States Congress has by amendment removed all inconsistent provisions found in the 1889 Enabling Act [Act of Feb. 22, 1889, ch. 180, 25 Stat. 676] and the 1862 Morrill Act [Act of July 2, 1862, ch. 130, 12 Stat. 503; 7 U.S.C. §§ 301- 308].