

2009 HOUSE CONSTITUTIONAL REVISION

HCR 3059

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3059

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 02/25/09

Recorder Job Number: 9750

Committee Clerk Signature

*Lou Enguson*

Minutes:

**Chairman Koppelman:** We'll open the hearing on HCR 3059.

The title was read by the clerk.

**Rep. Winrich, District 18,** offered testimony in support of HCR 3059. See Attachment #1.

**Rep. Hatlestad:** You have increased the amount of money going into the state general fund from \$71 million to \$100 million? Is that right?

**Rep. Winrich:** The resolution talks about a percentage of the revenues from oil and gas sales. Unlike Measure #1 this does not set a threshold. It takes a percentage. 25%.

**Chairman Koppelman:** Line 16 has a reference to \$100 million.

**Rep. Winrich:** The \$100 million would go to the general fund, but 25% of everything above that would go into the oil and gas fund.

**Rep. Conrad:** So then where does the other 75% go?

**Rep. Winrich:** Seventy-five percent is available for the legislature to allocate as revenue. It could go to the general fund. The legislature could put it in the permanent trust fund. This requires that at least 25% goes.

**Rep. Conrad:** So what do we use the trust fund for.

**Rep. Winrich:** The interest from the trust fund would be deposited in the general fund. The trust fund essentially becomes like an endowment fund for the state. The 25% is a number that comes from the experience of Alaska and Wyoming where that is the portion of their revenues that go into the trust fund.

**Rep. Hatlestad:** Looking at Measure #1 and this one, this one says the principle of the oil tax trust fund may not be expended except upon a vote of two-thirds of the members. Does that mean the whole thing is available? Measure #1 had a percentage. Does this say if we decide we want to expend the whole works, we can do it?

**Rep. Winrich:** As this resolution is currently written, that is the case. There are other constitutional proposals regarding the oil and gas trust fund. I believe there is at least one that would not allow any portion of the permanent fund to be spent. The legislature would not have access to it. Only the interest. The committee is probably going to have to combine some of these ideas from various proposals. The essential idea of this is the idea that somewhere in the neighborhood of 25% should be set aside and that the legislature should not be able to circumvent this by creating a new special fund.

**Chairman Koppelman:** Can you contrast for us what are the differences between this resolution that you've introduced and Measure #1. You can get at all of it versus a percentage?

**Rep. Winrich:** I don't think it was anything perverse on the part of the drafters of Measure #1. I think it was probably an oversight, the idea that the legislature could set up a special fund for receipt of these oil and gas revenues. So I think it's important to make that change. The other difference is Measure #1 spoke of depositing everything above a certain threshold, I believe it was \$100 million, in the permanent fund. This takes 25% of that.

**Chairman Koppelman:** Anyone else in support of HCR 3059?

**Rep. Mueller:** I am here in support of HCR 3059. I think it is important that the legislature doesn't send a message that we don't care about what happened to Measure #1. I don't think the defeat of Measure #1 really told us that we didn't have to be worried about the money to raise for a rainy day or to take care of issues that might come down the road. I think that HCR 3059 is not in opposition to the view of voters.

**Rep. Griffin:** What do you think about the \$100 million that is in place in the bill? What do you think about the fact that it doesn't have an inflator?

**Rep. Mueller:** I think the \$100 million is appropriate. The lack of inflator is an issue that can be addressed. Maybe we need to do some rearranging here. That can be controlled by the legislature versus going out into the public at large and doing another constitutional revision.

**Chairman Koppelman:** You talked about, and Rep. Winrich also brought up, the idea that we realize the people defeated Measure #1, but many of the folks who opposed it maybe kind of liked the idea. They just didn't like some specifics. Measure #1 and #2 attracted a lot of attention. I have had comments from citizens saying we defeated those ballot measures because we want property tax relief. What is to prevent that kind of thing again? Do you anticipate more refuting of that kind of thing if this were to make it to the ballot?

**Rep. Mueller:** I don't think the citizens of the state are opposed to being fiscally responsible and putting money away for a rainy day. I think they were convinced that Measure #1 and #2 were a bit too much. Too fast. Here I think the concern was for property taxes. If we are going to do this, how are we going to fix property taxes.

**Rep. Conrad:** How much, in this biennium, would this amount to?

**Rep. Mueller:** I don't know.

**Chairman Koppelman:** \$125 million or \$150 million, something like that.

**Rep. Conrad:** So, in each biennium we would at least have that surplus to put into our ending fund balance. We could be spending the same amount of dollars for our programs and services, but we would just leave less in the bank? That's one thing I'm concerned about. We are not going to be able to invest (inaudible) like we can. I think most people are pretty satisfied with the government budget.

**Rep. Mueller:** I think that's correct. We are going to put some money away.

**Chairman Koppelman:** Further testimony in support of HCR 3059? Any testimony in opposition to HCR 3059? Any neutral testimony to HCR 3059? Seeing none, we will close the hearing on HCR 3059.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3059

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 03/04/09

Recorder Job Number: 10217

Committee Clerk Signature *Lou Engelson*

Minutes:

**Chairman Koppelman** opened the hearing on HCR 3059.

**Chairman Koppelman:** Is there a motion on HCR 3059.

**Rep. Ugem:** Do not pass.

**Rep. Schatz:** Second.

**Chairman Koppelman:** We have a motion for do not pass from Rep. Ugem and a second from Rep. Schatz. Any further discussion? Seeing none, I'll ask the clerk to call the roll on a do not pass recommendation.

The roll was called by the clerk.

**8 yes, 1 no, 0 absent and not voting. Rep. Schneider was assigned to carry the resolution.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/20/2009

Bill/Resolution No.: HCR3059

1A. **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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HCR 3059 creates a constitutional oil tax trust 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.*

If enacted and approved by the voters, HCR 3059 will create an oil tax trust fund that will receive twenty-five percent of the state's share of all oil tax revenues each biennium after the first \$100 million. Interest earnings from this fund will be transferred annually to the general fund.

Upon enactment and approval of the voters, this will become effective on oil production beginning July 1, 2011. There is no forecast of oil tax revenues for the 2011-13 biennium, so this impact cannot be computed.

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.*

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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	02/24/2009





REPORT OF STANDING COMMITTEE (410)  
March 5, 2009 10:13 a.m.

library

Module No: HR-39-4088  
Carrier: Schneider  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HCR 3059: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **DO NOT PASS** (8 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).  
HCR 3059 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HCR 3059

## Testimony of Rep. Lonny Winrich

### In Support of HCR 3059

Good afternoon, Chairman Koppelman and members of the Constitutional Revision Committee. For the record, I am Rep. Lonny Winrich from District 18 in Grand Forks and I am here as the prime sponsor in support of HCR 3059. I have introduced HCR 3059 as a direct result of the defeat of Constitutional Measure #1 in the 2008 general election. I should note that I was an opponent of measure #1.

But like many of the opponents, I objected to the details of measure #1 not the basic idea. In my opinion, measure #1 would have reserved too much of the revenue from oil and gas production and extraction taxes in a permanent trust fund. Furthermore, measure #1 had a big loophole. It reserved a portion of the "revenue deposited in the general fund . . . derived from taxes imposed on oil and gas" for the trust fund. Had it passed, the legislature could have created a special fund for the deposit of oil and gas revenue under the constitution and diverted all or any portion of oil and gas revenues to purposes other than the trust fund.

HCR 3059 addresses these concerns. It reserves 25% of the oil and gas revenue over and above that which is already designated to special purposes (i.e., special funds) created by the legislature. Thus it preserves the integrity of the common schools trust fund, the foundation aid stabilization fund, the water resources trust fund, impact grants to political subdivisions, etc. It also closes the loophole of measure #1 by defining the "state's share" of the oil and gas revenue so that it doesn't matter if the money is deposited in the general fund or in some new special fund.

Chairman Koppelman and members of the committee, I hope you will give HCR 3059 a favorable recommendation and I would be pleased to answer any questions.

Attachment #1