

2013 HOUSE JUDICIARY

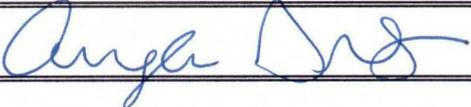
HCR 3011

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3011
March 6, 2013
Job 19506

Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to the fiscal impact of initiated measures and requirements for the circulation of initiative and referendum petitions.

Minutes:

Testimony 1, 2, 3, 4, 5, 6, 7, 8

Chairman Koppelman opened the meeting.

Rep Carlson introduced the resolution (Testimony 1).

Rep Delmore: How do we compare with other states as far as these measures, number of signatures, percentage? I don't think I've heard of a certain percentage of counties represented in any of these. Can you tell me where that came from and what it looks like in other places?

Rep Carlson: This is a copy of Utah's law. They require the signatures to be spread out across the state. I think it's only realistic, after all these years, to raise that number to 3% on initiated measures. There's no magic to it. It's worked well in Utah.

Rep Delmore: Won't it be a lot harder to verify those signatures by counties? Would that be up to the Secretary of State?

Rep Carlson: They have to verify them no matter what. This adds one more. This is a big deal. Whatever time and effort it takes, we should do that. Another thing that bothers me is when you pay people that have an outside interest that walk in the door, like the animal cruelty one.

Rep Karls: If I wanted to sign a petition in Burleigh County and was told that the quota for Burleigh County was filled, does that mean I would be denied?

Rep Carlson: No, you always get extra signatures. That would just be the minimum that you have to have.

Rep Karls: If I were at the State Fair and signing random petitions, would they have a separate petition for Burleigh County? Is that how it would work?

Rep Carlson: You would have to identify your county when you signed it there.

Rep Karls: As I recall, a lot of petitions are turned in at the last minute. Won't this make it almost impossible for the organizers to keep track of which counties have how many signatures?

Rep Carlson: I would hope they were doing that if that was the law. And I would hope they weren't paying people to do it. If they know they have to have 27 counties, and say it was 20 counties, obviously you'd pick the 20 biggest counties so it's easiest to get your signatures. Is that the process we want?

Rep Maragos: Would you agree that section 1 and section 2 are the most important parts of this proposal? What worries me is that we might lose the 2 most important sections because people think that we're making referendum and initiative more difficult. Would you be opposed if we changed it to reflect 1 and 2?

Rep Carlson: I never admit defeat on the first day. I think they are very important. The debate is whether or not you should spread the names across the state and have them come from more than 2 or 3 big events. Personally, I think it's a good package. If you wanted to make some adjustments, I wouldn't argue the fact that 1 and 2 are crucial.

Rep Hogan: If this is passed, how many initiatives and referendums do you think we would have? Would it be a significant reduction?

Rep Carlson: I personally don't because those people are on a mission to change something. I don't think there would be any less.

Rep Steiner: Regarding section 3, if you have trade associations that are paid for duties, would it have to be a volunteer completely unrelated to the association or group? How would that be enforced?

Rep Carlson: I didn't look at it that way when I drew it, but I understand your point. My point was to avoid fraud by paying someone by signature. You may need to clarify that.

Julie Ellingson, North Dakota Stockmen's Association, (20:37) testified in support of the resolution (Testimony 2).

Rep Delmore: Have you ever circulated petitions to put something on the ballot?

Ellingson: Our organization has never been the initiator or the main driver. We have assisted in other initiated measures in the past.

Rep Delmore: Do you think 27 is the right number when we're looking at gathering from various counties? I don't think it was ever set up to be geographically balanced across the state.

Ellingson: I don't know what the magic number is. From our perspective, we think it's important that the conversation continue across the state. My members are largely agriculture producers located in rural areas. Our concern is that rural citizens also have a voice in the process and that policy isn't dictated by one part of the state or one community. I think some mechanism to spread that around the state would be beneficial.

Rep Hogan: Do you see the question raised by Rep Steiner about the organization's role in circulating petitions creating any problems for your organization, particularly for your paid staff?

Ellingson: I do. That area may need some additional clarification.

Chairman: Are you concerned that issues might be put on the ballot that people signing the petition or voting on it may not have a handle on what rural life is like and could do something in law that could hamper your industry or agriculture in ND? Is that part of your concern?

Ellingson: Yes, I think that would be a concern. We believe in the initiated ballot process.

Scott Reising, Soybean Growers Association (27:31) testified in support of the resolution.

Chairman: The criticism is that you are trying to make it more difficult for people to be part of the process. How do you respond to that criticism?

Reising: If we're going to bring a measure for the entire state, it needs to be the entire state. Primarily, this seeks to prevent being overridden by people of very different interests.

Rep Delmore: Are you aware of any other state besides Utah that does this geographic representation?

Reising: No, I'm not. Let me comment on the premise that the idea is to make this more difficult or somehow the geographic requirement restricts something that's not good for all of us. It needs to be widespread.

Rep Delmore: I think people are still correct in saying you're giving us another hoop to jump over beyond what was required. If other states that have these same provisions aren't doing that, maybe we need to wait a little while before we send a message to our citizens that we are infringing on their rights.

Reising: The purpose of this is to change the way we do business.

Chairman: Do you think that criticism is somewhat needed by the fact that when we deal with constitutional resolutions in the legislature, we can't in and of ourselves, pass them? All we can do is put them on the ballot to put before the public to pass. If we move this forward, we're asking the public to decide.

Reising: I'm in agreement with that.

Rep Steiner: Does the number 20 million bother you that it would go into a solid number in the constitution? Should it have a CPI attached to it?

Reising: There's always a fly in the ointment. I don't think that prevents anything. All it does here, this allows it to go to the ballot. I would suggest that the average citizen doesn't pay that much attention to 20 million.

Rep Steiner: My point is that 20 million will change in value over the years.

Reising: I suspect we'll come back and somebody will try to amend this again.

Leon L. Mallberg (36:05) testified in opposition to the resolution (Testimony 3).

Rep Delmore: Would you have an objection if the only thing this did was to change it by 1%?

Mallberg: I think we've lost the idea that the final decision is in the election, not necessarily how many signatures are on a petition.

Chairman: In your testimony, it says something about people living here for 3 years. Is that in this?

Mallberg: That's in another bill.

Susan Beehler (49:30) testified in opposition to the resolution (Testimony 4).

Rep Steiner: Couldn't you collect signatures from people from all counties at the State Fair, for example, without having to travel to the individual counties?

Beehler: There is a fee to be in the State Fair. There aren't necessarily 26 counties represented at the State Fair. And 3034 will make the State Fair not possible for the collection of signatures.

Charles Tuttle, Common Sense North Dakota, (1:09:39) testified in opposition to the resolution (Testimony 5).

Rep Steiner: What is the payment?

Tuttle: In ND you can't charge per signature. Generally it is an hourly rate.

Jeffrey Missling, Executive Vice President of the North Dakota Farm Bureau, (1:21:01) testified in opposition to the resolution (Testimony 6).

Rep Maragos: How many members do you have in Farm Bureau?

Missling: Roughly 27,000-28,000 members in the state.

Rep Maragos: Did you pay for signatures on Measure 3?

Missling: At the end of the campaign we could tell it was going to be close. To make sure we had an adequate cushion, we did pay one individual to help us collect.

Rep Maragos: Why did you end up so short at the end? What was the problem?

Missling: We ended up having more than enough signatures. Even though we had over 270 petition carriers, this is a tough challenge to gather that many signatures.

Rep Maragos: It's not that big a challenge. There was a ballot question in 2000 where not one penny was spent to collect 28,000 signatures. It was done by volunteers and was done in plenty of time. I agree that some parts of this might not be right, but I don't believe any North Dakotan who cares in the referral and initiative process should be paid one penny for good government. That should be a purely volunteer effort; it means they care. People that are paid are getting a quid pro quo and I don't agree with that. I'm very shocked that your organization paid money.

Missling: Of the 271 petition carriers, 270 were volunteers. I'm on staff and some of my staff time was spent collecting signatures. So technically you could say I was paid to collect those signatures. I would agree that the people who care can get something done.

Chairman: I need to make a couple of corrections for the record. One, quite a bit has been spoken on Measure 2. Before that was a measure, it came before the legislature in the 2009 session. I chaired the Constitutional Revision Committee where that proposal was heard. The vote of that committee was that we amended what was originally brought before us in two ways. We delayed the effective date and we suggested a study in the meantime. I also served on a committee that was created to study the impacts of Measure 2 had it passed. Secondly, we do have a bill that was passed on the Corrupt Practices Act. We do not have the power in this assembly to repeal the first amendment of the US Constitution. We can't tell people they can't speak on something. What we can and did say is that you cannot use public funds to do that. In other words, if the county commission puts something on the ballot to raise taxes, you can't spend county money, taxpayer dollars, to advocate for that.

Rep Boehning: Our intern is handing out a handout by state for petition requirements (Testimony 8).

Chairman: We also have written testimony in opposition from a gentleman that was unable to be here (Testimony 7).

Chairman closed the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3011
March 18, 2013
Job 20104

Conference Committee

Carman Hickle

Explanation or reason for introduction of bill/resolution:

Relating to the fiscal impact of initiated measures and requirements for the circulation of initiative and referendum petitions.

Minutes:

Chairman Koppelman opened HCR 3011 for committee work.

Rep. Randy Boehning: This resolution is if the initiated measure goes on the ballot and if there is a 20 million dollar fiscal note it has to go to Legislative Council to get the fiscal note. Then it increases the number of signatures to at least 3% of the resident's population from at least 50% of the counties in the state. I did a handout and there are a lot of states that do similar.

Rep. Randy Boehning: Made a motion of do pass on HCR 3011.

Rep. Diane Larson: Second the motion.

Rep. Ben Hanson: Those others states using the signature collection were they allowed to communicate with each other or have some kind of way of knowing how many would have been in each county. You could easily gather enough signatures to put something on a ballot in Grand Forks and Cass County alone but under this that wouldn't qualify. But if they all submitted on the same day they would have no way of knowing.

Rep. Randy Boehning: Pointed out information on the handout he had distributed.

Rep. Ben Hanson: He was concerned about the part stating petition gathers cannot be paid. I don't particularly like petition gathers to be paid but if we are talking about rights and laws to my understanding if you can pay a campaign staffer to campaign for a candidate I don't understand why we would put in law that doesn't allow me to pay someone to gather signatures on my behalf. If you want to count money spent on advertising and money spent on staff as part of your free speech to me that directly violates that. Federally it states money is free speech if I should have a right to pay petition gathers or anyone should.

Vice Chairman Larry Klemin: I have a problem with that too. You might not find enough people with time to go out and do this for free. In other bills we have tightened up the penalties and did other things relating to fraudulent who happened to be paid circulators so I think we approach it from that standpoint. I could support but I would prefer to strike the language that you can't be paid.

Chairman Kim Koppelman: The current Constitution prohibits by the number of signatures. It doesn't prohibit getting paid by the hour or paid by salary.

Vice Chairman Larry Klemin: If those who made and second the motion would withdraw the motion I would propose an amendment. Line 15 page 2 put the period after the first petition in the sentence then delete the rest of the sentence to the period on line 16.

Rep. Randy Boehning: The only way I would withdraw my motion is to allow for expenses and not for payment. If there is somebody out there that really want to do something they are going to get a group and get all the signatures you need.

Chairman Kim Koppelman: I don't think the language here would prevent someone from getting reimbursed for expenses; I think they could still be even if this language was still there.

Discussion was held.

Vote 4-9-1

Vice Chairman Larry Klemin: Made a motion for an amendment to delete Section 2, 3, 4.

Rep. Ben Hanson: Second the motion.

Chairman Kim Koppelman: So the remaining portion would be the fiscal note and the general election ballot.

Voice vote carried.

Vice Chairman Larry Klemin: Made a do pass as amended motion.

Rep. Ben Hanson: Second the motion.

Chairman Kim Koppelman: To clarify the resolution it is fiscal notes on measures which reach 20 million dollars and also those measures would have to be on a general election ballot.

Vote 9-3-2

Vice Chairman Larry Klemin: Will carry the resolution to the floor.

Ends at time mark 1:32:07 on recording 20104

11-
3/19/13

March 18, 2013

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3011

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, remove ", 3, 4, and 9"

Page 1, line 2, remove "and"

Page 1, line 3, remove "requirements for the circulation of initiative and referendum petitions"

Page 1, line 6, remove "The measure would"

Page 1, remove lines 7 through 14

Page 1, line 17, replace "amendments to sections 2, 3, 4, and 9" with "amendment to section 2"

Page 1, line 18, replace "are" with "is"

Page 2, remove lines 12 through 31

Page 3, remove lines 1 through 5

Renumber accordingly

Date: 3-18-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HCR 3011**

House Judiciary 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. Boehning Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman		/	Rep. Lois Delmore		/
Vice Chairman Lawrence Klemin		/	Rep. Ben Hanson		/
Rep. Randy Boehning	/		Rep. Kathy Hogan		/
Rep. Roger Brabandt		/			
Rep. Karen Karls	/				
Rep. William Kretschmar					
Rep. Diane Larson	/				
Rep. Andrew Maragos		/			
Rep. Gary Paur	/				
Rep. Vicky Steiner		/			
Rep. Nathan Toman		/			

Total (Yes) 4 No 9

Absent 1

Floor Assignment _____

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

Failed

Date: 3-18-13
Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.**

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.3020.03001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Klemin Seconded By Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - Carried

Date: 3-18-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3011

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.3026.03001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning			Rep. Kathy Hogan	/	
Rep. Roger Brabandt		/			
Rep. Karen Karls		/			
Rep. William Kretschmar					
Rep. Diane Larson	/				
Rep. Andrew Maragos		/			
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 9 No 3

Absent 2

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE

HCR 3011: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HCR 3011 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, remove ", 3, 4, and 9"

Page 1, line 2, remove "and"

Page 1, line 3, remove "requirements for the circulation of initiative and referendum petitions"

Page 1, line 6, remove "The measure would"

Page 1, remove lines 7 through 14

Page 1, line 17, replace "amendments to sections 2, 3, 4, and 9" with "amendment to section 2"

Page 1, line 18, replace "are" with "is"

Page 2, remove lines 12 through 31

Page 3, remove lines 1 through 5

Re-number accordingly

2013 SENATE JUDICIARY

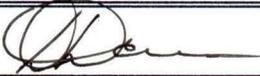
HCR 3011

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HCR3011
4/1/2013
Job #20721

Conference Committee

Committee Clerk Signature 

Minutes:

Relating to the fiscal impact of initiated measures

Senator David Hogue - Chairman

Representative Al Carlson - Introduces and explains the bill. He mentions that if a measure has a fiscal impact of over 20 million it must be placed on the next general election ballot. He explains the changes the House made to the bill but adds the crucial part of the bill has been kept. Senator Hogue asks if there was any discussion as to why the original bill included paid circulators and why it was thought to be unacceptable. Rep. Carlson replies that their conversation did not center on that. They felt there was already enough protection in the existing constitution.

Opposition - none

Neutral - none

Close the hearing

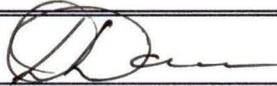
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HCR3011
4/2/2013
Job #20784

Conference Committee

Committee Clerk Signature



Minutes:

Vote

Senator David Hogue - Chairman

Committee work

Senator Hogue explains the bill and proposes an amendment and explains the changes it makes. Senator Sitte thinks this is too complex for a ballot measure. She sees no need to add Section 2 of the amendment.

Senator Grabinger makes a motion to amend 20 forty on line 5 and 24
Senator Sitte seconds

Discussion

Senator Hogue disagrees with the motion. He says there is a broad consensus amongst legislators that we need to do something for the circulators in terms of requiring some higher level of dedication and fidelity to the state.

Senator Berry moves Section two of the amendment 13.3020.04001
Senator Lyson seconded

Discussion

Senator Sitte asks if the amendment precludes anything. Senator Hogue explains.

Vote 5 ye, 2 no
Motion passes

Discussion

Senator Hogue explains what an inflator is. Committee looks up what the inflator would be. Senator Armstrong thinks this bill is too small for the constitution.

Senator Berry moves an amendment to include the inflator
Senator Lyson seconded

Vote 4 yes, 3 no
Motion passes

Senator Grabinger moves a do not pass as amended
Senator Armstrong seconded

Discussion

Senator Hogue speaks against the motion saying this is too important not to reform. He doesn't believe 40 million in the constitution is too small and further explains why this should pass.

Vote 3 yes, 4 no
Motion fails

Senator Sitte moves a do pass as amended
Senator Berry seconded

Vote 4 yes, 3 no
Motion passes

Senator Hogue will carry

April 3, 2013

JB
4-3-13
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED
HOUSE CONCURRENT RESOLUTION NO. 3011

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "2" insert "and 3"

Page 1, line 2, after "the" insert "circulation of petitions and the"

Page 1, line 5, replace "twenty" with "forty"

Page 1, line 5, after "ballot" insert "and would provide that the legislative assembly may establish the qualifications for petition circulators"

Page 1, line 8, replace "amendment" with "amendments"

Page 1, line 8, replace "section" with "sections"

Page 1, line 8, after "2" insert "and 3"

Page 1, line 9, replace "is" with "are"

Page 1, after line 14, insert:

"1."

Page 1, after line 19 insert:

"2."

Page 1, line 24, replace "twenty" with "at least forty"

Page 1, line 24, replace "or more" with ", plus the adjustment for inflation provided for under subsection 3."

Page 1, line 24, replace "is due to become" with "becomes"

Page 2, after line 2, insert:

"3. On July first of each odd-numbered year, the legislative council shall calculate the rate of inflation over the previous two years based upon the consumer price index announced by the federal bureau of labor statistics and adjust the threshold upon which the legislative council makes its determination of fiscal impact under subsection 2. The legislative council shall provide public notice of the recalculated threshold by August first of each odd-numbered year.

SECTION 2. AMENDMENT. Section 3 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 3. The legislative assembly may establish qualifications for petition circulators. However, a petition shall may be circulated only by electors. ~~They~~Each petition circulator shall swear ~~thereon~~ on the petition that the electors who have signed the petition did so in ~~their~~ the presence of that circulator. Each elector signing a petition shall also write in the date of signing and ~~his~~ the elector's post-office address. No law

~~shall~~may be enacted limiting the number of copies of a petition. The copies ~~shall~~ become part of the original petition when filed."

2 of 2

Renumber accordingly

Date: 4-2-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3611**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number Raise twenty to forty on line 5 + 24

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By S Grabinger Seconded By S Sitte

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue		X	Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry		X			
Senator Kelly Armstrong		X			

Total (Yes) 4 No 3

Absent _____

Floor Assignment motion passes

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

Date: 4-2-13
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3011**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number Section two of amendment 13.3020.04001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By S Berry Seconded By J Lyson

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte		X	Senator John Grabinger		X
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 5 No 2

Absent _____

Floor Assignment motion carries

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

Date: 4-2-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3011

Senate JUDICIARY Committee

Check here for Conference Committee Include

Legislative Council Amendment Number Inflator

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By S Berry Seconded By S Lyson

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte		X	Senator John Grabinger		X
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 4 No 3

Absent _____

Floor Assignment motion passes

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

Date: 4-2-13
 Roll Call Vote #: 4

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3011**

Senate JUDICIARY 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 S. Grabinger Seconded By S. Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue		X	Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte		X	Senator John Grabinger	X	
Senator Stanley Lyson		X			
Senator Spencer Berry		X			
Senator Kelly Armstrong	X				

Total (Yes) 3 No 4

Absent _____

Floor Assignment Fail

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

Date: 4-2-13
 Roll Call Vote #: 3

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3011**

Senate JUDICIARY 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 S. Sitte Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger		X
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong		X			

Total (Yes) 4 No 3

Absent _____

Floor Assignment S. Hogue

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

REPORT OF STANDING COMMITTEE

HCR 3011, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3011 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "2" insert "and 3"

Page 1, line 2, after "the" insert "circulation of petitions and the"

Page 1, line 5, replace "twenty" with "forty"

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Page 1, after line 14, insert:

"1."

Page 1, after line 19 insert:

"2."

Page 1, line 24, replace "twenty" with "at least forty"

Page 1, line 24, replace "or more" with ", plus the adjustment for inflation provided for under subsection 3."

Page 1, line 24, replace "is due to become" with "becomes"

Page 2, after line 2, insert:

"3. On July first of each odd-numbered year, the legislative council shall calculate the rate of inflation over the previous two years based upon the consumer price index announced by the federal bureau of labor statistics and adjust the threshold upon which the legislative council makes its determination of fiscal impact under subsection 2. The legislative council shall provide public notice of the recalculated threshold by August first of each odd-numbered year.

SECTION 2. AMENDMENT. Section 3 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 3. The legislative assembly may establish qualifications for petition circulators. However, a petition shall may be circulated only by electors. ~~They~~ Each petition circulator shall swear ~~thereon the petition~~ that the electors who have signed the petition did so in ~~their~~ the presence of that circulator. Each elector signing a petition shall also write in the date of signing and ~~his~~ the elector's post-office address. No law shall may be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

Renumber accordingly

2013 CONFERENCE COMMITTEE

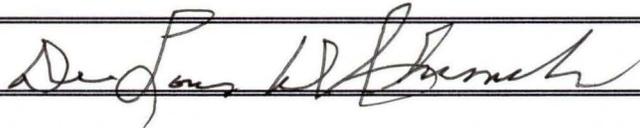
HCR 3011

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3011
JOB # 21255
Date April 18, 2013

Conference Committee



Relating to the fiscal impact of initiated measures and requirements for the circulation of initiative and referendum petitions.

Minutes:

Handout 1

Members: Rep. Paur, Chairman, Rep. Klemin, Rep. Ben Hanson
Senator Hogue, Senator Armstrong, Senator Grabinger. All present.

Rep. Paur: Opened Conference Committee HCR 3011. Please explain your amendments.

Sen. Hogue: Explained the amendments from the Senate. We did not want to put a dollar amount in the Constitution. It would not allow for inflationary increase to that dollar amount. I think putting a flat dollar amount in the US Constitution was not good because of inflation. We changed the 20 to 40 because we thought that was too low. The legislature would also have the ability to establish the qualification for petition circulators. Now in our Constitution we provision that protects the initiated process from infringement by the legislature where we might pass something that requires the process to be more onerous.

Rep. Larry Klemin: I agree we should not have a dollar amount in the Constitution. I don't think we should have any dollar amount in this. I think if we go back to the original sponsor of the bill to have this determined at the general election instead of the primary election if it had a major fiscal impact. (See handout #1) Rep. Klemin referred to language in the Constitution of Section 2 and 3.

Sen. Hogue: We had related Constitutional proposals. We decided the people should be able to gather signatures for an initiated measure that has some dollar amount. The dollar amount is small enough that we should not struggle with it as a legislative branch of government.

Rep. Klemin: I would like existing language in paragraph two that allows the legislature to decide when it should be voted on if it has a significant fiscal impact. Then we don't have dollar amounts in the Constitution. I had another paragraph to add to this amendment. This language is in HCR 4006 language and that failed in the House. This might be an area where we could put something like this in this bill.

Sen. Hogue: I think that is good language. Rep. Klemin pointed out we don't have to be concerned about statutory initiated measures that spend money because the legislature has the ability to amend those or change them by a two third vote. After seven years the legislature can amend it by a simple majority so I think it was good that we focus on spending measures that are imbedded within the Constitution and that is what this relates to so I think it is a good idea.

Rep. Klemin: If we go back up into the existing section 2 of article 3 legislative assembly may provide by law for a procedure through which the Legislative Council may establish. See we don't want to have the Legislative Council deciding so that is the technical amendment. So the council should be management.

Rep. Paur: The Attorney General is here to brief us on some of the impact of these changes. Is there anything else to address that you think you should explain?

Rep. Klemin: In section two of the Senate amendments about the Circulators and the AG had some thought on that.

Attorney General Stenehjem: I read HCR 4006 and I had a problem with it so I did not testify on it because it provided an alternative method by which the Attorney General could determine if something went on the ballot or not and I thought that gives one person too much authority that belongs with the court. If it appropriates money it is not proper

Rep. Klemin: The language I proposed to add to 3011 is what you were just talking about and I just slightly expanded it to be more clarification on what we were talking about. Did you have any thoughts on that language?

Attorney General Stenehjem: The language you have is should say it may not be circulated for petition or placed on the ballot so it would cover it on both sides. But you aren't going to be placed on the ballot unless you have a petition that has been approved for circulation so mine might have been abundantly clear. It looks like your language would do the same thing.

Rep. Klemin: Section 2 of the Senate amendments do you think we need to put Circulators into the Constitution or what?

Attorney General Stenehjem: We do have statutory requirements that have been upheld as far as who may circulate a petition. I don't know what more you can add into the Constitution?

Rep. Klemin: So you think this is not necessary?

Attorney General Stenehjem: It has been upheld by the Supreme Court.

Rep. Paur: On line one you deleted the Legislative Council determines the. You took that out and on line 4, page 2 from and down to the end of that section you removed.

Attorney General Stenehjem: It seems to me if you want to restrict policy I think you want elected officials to get out of the way and let the people assert what it is they want to do. If you restrict what goes on the ballot then there is a process to follow. If there is a problem the petitions can take it to an appropriate place for determination and that is the Supreme Court.

Rep. Paur: The stated intent of this resolution is if the fiscal impact is over \$40 M it must go on the general election ballot. We are changing it to say it can't go onto the ballot at all.

Rep. Klemin: There is a difference from having a fiscal impact to making a direct appropriation.

Attorney General Stenehjem: I think almost every Constitutional amendment has a fiscal impact of some sort along the line. At least say direct appropriation makes it a little clearer.

Sen. Hogue: I like the approach of this language because you have this prohibition about no direct appropriation so it can't be circulated. Then the legal challenge has to come up front before the people expectations would be frustrated after you bring in all the signatures now we provide for a legal challenge. Obviously there could still be a signature challenge to the signature gathering process but if there is a problem where the proposal violates this provision that is going to be challenged up front.

Attorney General Stenehjem: That came out when they were going to recall Sen. Conrad. I told him it could not go on the ballot because you cannot recall a US Senator. They said it was not really right. Let us get our signatures and then you decide whether it is going to be on the ballot or not. Why go through an unnecessary exercise if it is not something that is permissible in the first place.

Rep. Klemin: Going back to Section 2, second paragraph now it says no legislative assembly can allow Legislative Council or Legislative Management to determine that method. If we just said the Legislative Assembly may provide by law for an appropriate method for determining the fiscal impact of an initiative measure for making the information regarding the fiscal impact of the measure available to the public and for determining if the measure should be voted on at a primary election or a general election. This gives Legislative Assembly to establish the process by statute.

Sen. Hogue: So the Legislature is not on a petition by petition by petition basis deciding but you are giving them the discretion to set up a statute that would determine when such a measure would go on the general or primary.

Rep. Klemin: Where should direct appropriation language be put? We need to decide where to put it.

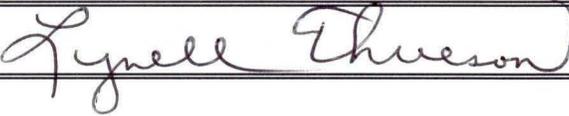
Rep. Paur: We will have to recess

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3011
JOB 21318
Date April 19, 2013

X Conference Committee



Minutes:

Amendments

Representative Paur: Reopens Conference Committee on HCR 3011.

Representative Klemin: Handed out and explained proposed amendments.

7:10 Representative Hanson: It doesn't change the content and changes from the primary to the general election, correct?

Representative Klemin: Correct, I want the public to focus on the main purpose as the secondary purpose is listed first.

Representative Paur: I am having a hard time seeing where it mimics the original language where initiated measure with fiscal impact will be funded on the general election. Here it includes primary.

8:55 Representative Klemin: Page 2, line 7 says the measure determined to have a significant fiscal impact must be voted on at a general election.

Representative Paur: Shouldn't this on line 10 initiated measures be taken out?

Representative Klemin: Not really because the legislature could say that issues that don't have a significant fiscal impact could be voted on at either a primary or general election.

10:36 Representative Paur: On line 2 should it be just initiate amendments.

Representative Klemin: No, it applies to both things. If an initiated measure on a statute is determined to have a significant fiscal impact then it must be voted on at a general election. But if the measure proposes to appropriate money in the Constitution then the measure couldn't be circulated.

12:03 Senator Hogue: The last amendment we put in the bill that the Attorney General commented on it seems to put general language in there that would authorize the legislature to define what is a significant fiscal impact and what criteria should prevail to put a measure on the general or primary ballot. Continued with comments.

15:19 Representative Paur: The Attorney General said prior that any initiated measure could have some kind of fiscal impact.

Representative Klemin: If we get into putting into the Constitution that has dollar amounts, this is what we are trying to get away from. If you took that section out we could still have the rest of it and all we would be talking about is the general election ballot. On the second comment you made on Section 2 the Attorney General came in and said it wasn't necessary, the courts have upheld it, etc. I'm relying on him.

17:36 Representative Paur: The bill sponsor and the Attorney General neither had a problem with the \$40 million dollar recommendation. They would have to have an inflationary component and it did.

18:16 Senator Grabinger: I have looked over this but to limit the amount I don't that is up to us to say. We already have legislation in place where we can handle this. We have to allow the people their voice.

20:00 Representative Klemin: You mentioned that we can change things on a two-thirds vote and that is on statutes. The legislature has no authority to amend the Constitution or change an amendment that's been approved by a vote.

Senator Grabinger: By doing this you're saying that the citizens that want to come with a measure like this can't include a dollar amount in it. This would prevent them from putting a dollar amount in there (referred to the Heritage fund). I can't support that.

Representative Klemin: That is just as Senator Hogue had in his bill.

21:08 Senator Hogue: I think some of these measures are in reaction to some of the measures that we have seen. Let's go back to the old measure that was on the 2010 ballot. This said we wouldn't have property taxes anymore and the legislature will come up with new sources of revenue and turn it over to the political subdivisions. Would that type of measure be circulated?

22:08 Representative Klemin: It probably could. Measure two that you are talking about didn't do that.

Senator Hogue: It banned a certain form of taxation but also required the legislature to appropriate money to political subdivisions to cover their operating costs.

22:56 Representative Klemin: You could interpret it that way.

Senator Hogue: The language of that measure said that the legislature had the responsibility to fund political subdivisions and not restrict how they spent it.

Representative Klemin: Under that interpretation of that language I think that's right.

Senator Hogue: You could circulate it.

24:06 Representative Hanson: Would this language also prevent petition gatherers from securing a petition for a constitutional measure for something with the Legacy fund where you're supposed to be counted as an appropriation when you're sending that money to a specific fund.

Representative Klemin: Could be.

Representative Hanson: Those have been popular measures in the state. As I understand this is to strike this language and put the original language back in?

Representative Klemin: There are two purposes to this. There is primary purpose of having this voted on at a general election and secondary purpose relating to this paragraph we're talking about on appropriations, being able to circulate it.

25:23 Representative Hanson: To that point of Senator Hogue's bill 4006 was to stop specific dollar amounts to be added to the Constitution.

Senator Hogue: It was to authorize the legislature to review, limited review, up and down votes on \$50 million dollar appropriations.

Representative Hanson: I don't know why we'd still keep the language in here and try and bring it back at least on the House side. Original intent would be more favored by the assembly as a whole.

26:50 Senator Hogue: This is tighter than 4006. It started with a \$40 million dollar fiscal impact, statutory measures or constitutional measures. This is narrowing it because it's talking about appropriations.

Representative Paur: Recess was taken.

2013 HOUSE STANDING COMMITTEE MINUTES

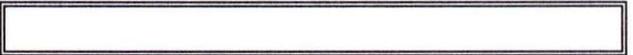
House Judiciary Committee
Prairie Room, State Capitol

HCR 3011
JOB #21375
Date April 22, 2013

Conference Committee



Minutes:



Members: Rep. Paul, Chairman; Rep. Klemin; Rep. Ben Hanson
Senator Cook, Senator Armstrong, Senator Grabinger. All present

Rep. Paur: Reopens Conference Committee for HCR 3011. I questioned language on line 23 of page 1 it would be the third word in version 5000 bill number. Should that be legislative council may to shall?

Rep. Larry Klemin: That does seem appropriate, if it has a substantial fiscal impact and needs to be voted on at a general election. It should be mandatory that the legislature does this; otherwise how would you know.

Sen. Grabinger: I think 5000 is more palatable. I can't accept the amendments because I think the people should be able to put an appropriation into their measure that they are trying to get passed into a constitutional amendment.

Rep. Larry Klemin: 5000 is with the Senate amendments we did not concur with and that is the one that has the dollar amount with it at \$40 M.

We took out the dollar amounts 4004 amendment of the House bill version we took out all the dollar amounts and put in the provisions for significant fiscal impact. On the 4000 version of the House bill to find the may language that you were just talking about. That is on line 20 it says may establish. Shall say we must do it. If we leave it at may legislative assembly is going to have to do it anyway so this probably has not difference. Senator Grabinger was that your concern?

Sen. Grabinger: Yes on Line 5 page 1 so it is in both places that was my concern.

Rep. Larry Klemin: Chairman goes anyone else have that same concern?

Sen. Hogue: I do not have that concern. I support the Klemin 4004 amendments.

Rep. Larry Klemin Made a Motion to Move the amendments of 4004; Sen. Hogue seconded the motion.

Discussion:

Rep. Ben Hanson: We brought up what constitutes appropriations in amendments. The two examples we were given were Measure 2 and the Legacy Fund and in both cases and as I stated previously the Legacy Fund was not an initiated ballot measure, but say it could be; does designating tax revenue into a fund defined as an appropriation and would something like Measure 2 which eliminates the taxation but also mandates an appropriation one could agree an appropriation to a political sub count as an appropriation and if both are true which these petition gatherers be banned from doing such things? Would the voters have a problem with this? I hope I am saying this right.

Sen. Hogue: I did look back on Measure 2. It could still be accomplished under Rep. L. Klemin's amendments. Measure 2 did require a direct appropriation from the Legislature. It could have banned all real estate property taxes and directed the legislature to authorize a political subdivisions the ability to implement new taxes. Now we have caps on how much sales tax that political subdivisions can impose. We have bans on their mill levies. That would not be affected because that would be a property tax issue.

Rep. Gary Paur: Was measure two an initiated measure or Constitutional amendment?

Sen. Hogue: Constitutional.

Rep. Ben Hanson: In your example, would that negate the original intent of the bill which would be to stop any kind of voter initiative from dragging the state's budget down into a mandated tax that we cannot sustain if we had allowed political subdivisions to increase sales taxes.

Sen. Hogue: As I read Measure 2 in Rep. Klemin the people could still in the Constitution ban a certain form of taxation like property taxation. They could not ban property taxation and b we are going to direct the legislature replace those funds with a permanent appropriation going from the state to the political subdivisions.

Rep. Ben Hanson: Do we know if some of the Legacy Funds would be negated by the amendments?

Rep. Gary Paur: I don't think the Legacy Fund would be because that was initiated by the legislature.

Rep. Larry Klemin: That is the point of this because we don't want some third party interest group coming into North Dakota to drain state funds for some specific purpose so if an organization came in to do that regardless of what you call it that is the point of this not to allow those kind of things to happen to drive our state into bankruptcy like happened in California. It would not have anything to do with measures that are proposed or approved by the legislature like the Legacy Fund was. Like the Measure 2 thing; if this passed and became part of the Constitution then opponents of going something like that would have to rephrase how they said it in their petition. Although they would not be able to appropriate public funds for a specific purpose I think they could do something a lot more general and still be consist with this.

Rep. Gary Paur: My understanding they could still appropriate public funds; it just can't be in the constitution.

Sen. Armstrong: You could still do the Outdoor Heritage Fund; you just would have to do it statutorily. If you do it by statute and it passes by 35 votes throughout the whole state that actually gives the legislature a mechanism should they chose in a short term with 2/3s or in the future with a simple majority to readdress that issue. If you put it in the Constitution it is there.

Rep. Gary Paur: I would imagine if the people by a majority would have passed just an initiated measure of #2 there would probably be a good chance the legislature wouldn't override them. If it was going to ruin the state they probably would.

Rep. Larry Klemin: that initiated measure is good for seven years and then you don't need a 2/3 majority to amend it. In the Constitution you can't change it.

Sen. Grabinger: This is going to tie the hands of the people. I realize this will go to a vote of the people and they will show that there is no way they will go along with this.

Rep. Larry Klemin: I respectfully disagree with Sen. Grabinger because this change would not become effective unless the people voted on it to become effective. It would be the people deciding some special interest group isn't going to come in and do that.

Sen. Grabinger: But we are putting it up in front of them and taking a chance that they will overwhelm rejects it and we can move on.

Rep. Gary Paur: Can you restate your amendment using your versions and what bill we are amending etc.

Rep. Larry Klemin: I had moved to amend HCR 3011 in the manner set forth in the amendment 04004. The Senate recedes from the amendment.

Roll Vote: 5 Yes 1 No 0 Absent

Rep. Gary Paur: Motion carried.

Adjourned

VK
4/22/13

PROPOSED AMENDMENTS TO ENGROSSED
HOUSE CONCURRENT RESOLUTION NO. 3011

That the Senate recede from its amendments as printed on pages 1232 and 1233 of the House Journal and pages 1073 and 1074 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3011 be amended as follows:

Page 1, line 2, after "impact" insert "of measures to initiate constitutional amendments and to the placing"

Page 1, line 2, after "measures" insert "on the ballot"

Page 1, line 4, after "a" insert "significant"

Page 1, line 4, remove "of"

Page 1, line 5, remove "twenty million dollars or more"

Page 1, line 5, after the period insert "The measure also would prohibit the approval for circulation of any petition to initiate a constitutional amendment that would make a direct appropriation of public funds for a specific purpose or require the legislative assembly to appropriate funds for a specific purpose."

Page 1, line 20, overstrike "a procedure through which the legislative"

Page 1, line 21, overstrike "council may establish"

Page 1, line 21, after "the" insert "extent of the"

Page 1, line 23, remove "If the legislative council determines the fiscal impact of an initiated measure will be"

Page 1, remove lines 24 and 25

Page 2, replace lines 1 and 2 with "A measure determined to have a significant fiscal impact must be voted on at a general election."

If a petition to initiate a constitutional amendment would make a direct appropriation of public funds for a specific purpose or would require the legislative assembly to appropriate funds for a specific purpose, the petition may not be approved for circulation."

Renumber accordingly

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Judiciary

Bill/Resolution No. HCR 3011 as (re) engrossed

Date: 4-18-13 / 4-19-13 / 4-22-13

Roll Call Vote #: _____

- Action Taken**
- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1232 - 1233

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: _____ Seconded by: _____

Representatives	4-18	4-19	4-22	Yes	No		Senators	4-18	4-19	4-22	Yes	No
Rep. Paur	X	X	X	X			Sen. Hogue	X	X	X	X	
Rep. Klemin	X	X	X	X			Sen. Armstrong	X	X	X	X	
Rep. Hanson	X	X	X	X			Sen. Grabinger	X	X	X		X

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HCR 3011, as engrossed: Your conference committee (Sens. Hogue, Armstrong, Grabinger and Reps. Paur, Klemin, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1232-1233, adopt amendments as follows, and place HCR 3011 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1232 and 1233 of the House Journal and pages 1073 and 1074 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3011 be amended as follows:

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If a petition to initiate a constitutional amendment would make a direct appropriation of public funds for a specific purpose or would require the legislative assembly to appropriate funds for a specific purpose, the petition may not be approved for circulation."

Renumber accordingly

Engrossed HCR 3011 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

HCR 3011

/

Testimony from Rep. Al Carlson
House Concurrent Resolution 3011
March 6th, 2013

Section 1 of the resolution would amend Article III, Section 2, of the Constitution of North Dakota, to require the Secretary of State to place an initiated measure on the next **general** election ballot if the Legislative Council determines the fiscal impact of the measure will be \$20 million or more during the next full biennium after the measure is due to become effective and the Secretary of State determines the petition includes the required number of signatures and qualifies to be placed on the ballot.

Section 2 of the resolution would prohibit petition circulators from being paid to circulate initiative or referendum petitions. That section of the constitution already requires circulators to be electors of the state, but the resolution attempts to clarify that requirement.

Section 3 of the resolution would increase the number of signatures required for an initiated statutory measure or a referred measure from 2 percent of the population of the state to 3 percent of the population of the state. Until the next decennial census, 2 percent of the population of the state is equal to 13,452 signatures. Increasing the signature requirement to 3 percent would increase the required number of signatures to 20,267.

Section 3 of the resolution also would require a geographical distribution of signatures based upon counties in the state. Section 3 provides that of the total signatures submitted, there would have to be signatures of electors equal in number to 3 percent of the population from at least 50 percent of the counties in the state. Thus, of the total number of valid signatures submitted, the number of signatures from at least 27 different counties must be equal to at least 3 percent of the total population of each of those 27 counties. But, in any case, the total number of signatures must be at least 20,267.

Section 4 of the resolution would make similar changes to the signature requirements for initiated constitutional amendments. The proposal would require that of the signatures submitted, there would have to be signatures of electors equal in number to 4 percent of the population from at least 50 percent of the counties in the state. This section does not change the total number of signatures required for constitutional amendments. Currently, 4 percent of the population of the state is 26,904.

2

HCR 3011
North Dakota Stockmen's Association Testimony
March 6, 2013

Good morning, Chairman Koppelman and members of the House Judiciary Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association (NDSA).

At our convention last fall, our members directed our leadership to work with legislators to provide some meaningful reform to the state's initiated measure process to ensure its integrity and to provide the best possible information to voters.

HCR 3011 includes some key reform components that the NDSA endorses.

The initiated measure process is designed to give grassroots citizens an additional voice in the policymaking process. Prohibiting payment for signatures is a way to help ensure that initiated measures are grassroots efforts by citizens who care, instead of money-making ventures for those who are motivated for another reason.

We can also support the concept of obtaining signatures from a majority of the counties in the state. Initiated measures become state laws, and it is important that the entire state be part of the conversation and aware of what is at stake. We think that signature-gatherers should make their case across North Dakota, instead of only just setting up a booth at the state fair or in higher-population urban communities, for example.

We can also see the logic in saving high-fiscal-note issues for consideration in general elections. These generally command a larger turnout and are probably best suited to determine the outcome of these significant measures, without hamstringing the process.

For these reasons, Mr. Chairman and committee members, we support a do-pass recommendation on HCR 3011 and ask for your concurrence.

House Concurrent Resolution No.3011

March 6, 2013

Mister Chairman and members of the Committee, my name is Leon L Mallberg and I live in Dickinson, North Dakota. I am here to speak in opposition to House Concurrent Resolution No. 3011. It would seem to be an overreaction to events that have taken place in this State with respect to citizen driven petition drives. The right to petition in North Dakota is a sacred right reserved to all with the will and determination to participate in the process of self government when all else has seemed to fail. It is used to question the actions of the Legislature and Governor. It is also used when frustration drives the citizens to one of the last political options (property taxes); when the legislature has run amok (organizational session 1986); or when the citizen feels there is a better solution than what has been presented by elected officials (Measure # 6), just to name a few.

HCR 3011 require signatures from **three** percent of the population and **three** percent of at least **fifty** percent of the counties. Second, a petition of a constitutional amendment must have signatures from **four** percent of the population of the state and **four** percent of the population from **fifty** percent of the counties. Last, no one may be paid to circulate or gather signatures.

In the first case the sponsors are asking for a 50% increase in total signatures to refer a measure or initiate a statute. When reviewing this, it was momentarily mistaken for property tax increase with the "50%" being thrown around. If there are concerns about getting people involved in government, this is not the way to do it. However, going from 15,000 (2%) signatures to 22,500 (3%) may be the "plan" to put the common North Dakota citizen in only one category - taxpayer - and eliminate the category of participant. Please remember, a petition drive does not render a decision. It brings the issue up for debate and a final vote. It is hard to conceive what the sponsors are afraid of. Is 15,000 signatures (2%) from qualified voters not enough to call for a debate and a position on the ballot? Remember as the population grows, so does the requirement for signatures.

Then there is the issue of getting signatures from 50% of the counties in both circumstances. If a petition drive decides to gather all the required signatures in Grand Forks, Cass and Richland Counties, there are still 24 additional counties to canvas in this resolution. What is really being said is a voter in Grand Fork, Cass or Richland Counties at some point does not have the same standing as one in Slope County. This flies in the face of "One Man One Vote" and should not be tolerated in any circumstance. With the power this resolution implies it should instruct the people in the red river valley to move and spread out state wide.

Does the committee realize the additional work needed by the petitioners and the Secretary of State (SOS)? The SOS would have to have an intimate knowledge of every petition signatory by County. In the present law the petitions are to be filed 90 days before the election but there is doubt that can be done in that time period. One can only guess how

many additional FTEs are needed to complete all the requirements. We keep hearing about fiscal notes - is a note attached to this resolution? Are the additional costs to the petitioners taken into account - no - in someone's mind, they don't count. Under today's law a petition drive costs \$15,000 to \$20,000. Under this resolution the costs could double.

If circulators cannot be paid, does that also mean they cannot be reimbursed for expenses (travel, phone, meals, laundry, room, health insurance etc.)? If not, I would propose we pass a law that Legislative positions be strictly voluntary with no pay or benefits. Both Legislator and Petitioner are in the same occupation, "government by the people". Please be realistic in this area and forget punishment.

Petitioners desire signatures from all over the State. Tables are set up at the State Fair, Winter Show et al, for a cross section of the state. With HCR 3011 the number of signatures could increase from 3% & 4% respectively to between 5 & 6% in actuality. This is unreasonable when the legislature can access the state ballot with 72 votes (48 from the house, 24 for the senate).

How many petition drives will fail because of the weight of HCR 3011? If only one drive fails, it is too many and "government by the people" just suffered a mild heart attack. No one has made a study and it is not the responsibility of the citizen. The responsibility rests with the sponsors of HCR 3011. If HCR 3011 is implemented it could be major burden on the existing rights and attitudes of the people.

The Committee may want to amend HCR 3011 just to read "X%(3 or 4) of the electors from half of the counties" period. Petition drives would all be in rural counties, satisfying the main goal of the sponsors. As written, the sponsors want their cake and eat it too. Petitioners are just average State Citizens and do not have the sophistication to know when to acquire a ski lodge or when to buy out a Chancellor, but they end up paying all the bills.

Last, please remember, with respect to the State Constitution or a Statute, the final decision doesn't comes until the election, after all the debate and all the citizens who want have been consulted. There seems to be a misunderstanding here as to who really is in charge. When you hear that petition carriers may have to be a state resident for 3 years and must have voted in one of the last two state wide election, when 30 days here is enough to vote - something is wrong. When the petitioners have to get permission from three bureaucrats whether a fiscal note has been met by some bureaucratic standards - something is wrong. One should be leery of Imperial tendencies. These resolutions would seem to be sliding in that direction.

The final question - is the resolution solving a problem or creating one. Or is it just measured punishment for those who don't always agree with what is coming out of Bismarck. With all the anti petition activity this session, the word "punishment" does comes to mind.

I will stand for any of your questions.

3-6-13

4

Testimony 3011 and 3034 Good Morning Chairman Rep Koppleman and members of the committee My name is Susan Beehler a Mandan resident

“First Amendment of our Constitution something you are all asked to uphold,

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Just as the Second Amendment is to protect our citizens from government tyranny, so is the First Amendment.

The Declaration of Independence basically was a statement charging the king with ignoring the colonists petitions. “In every stage of these Oppressions We have petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury.”

Now we have the North Dakota Legislature inserting a role as “king” with a retaliation of bringing the issue of property tax, Measure 2, to the populace for a vote. Instead of hearing the cries of those saying we have had enough with property tax. The Legislature is “repeating injury” trying to pacify those cries by keeping alive only a handful of bills addressing property tax, one which itemizes the relief in case residents can’t see or feel the relief; law makers will be trying to prove the proposed property tax relief is real and not just more government spending, while the legislature still has a law requiring how property value is determined and the values must be raised by this law, while the legislature has a surplus our local governments are asking the legislature to change the home rule charter law in place just so they can charge locals more for taxes to pay for services like jails because of the influx and growth of our oil industry along with the related growth of our communities. The government in North Dakota gets rich with a surplus of tax dollars. Yet repeats the injury by submitting HCR3011, HCR3034 which infringes on our first amendment right to petition our government for these grievances.

On Tuesday the Bismarck Tribune provided a platform for our legislature, something which is not easily provided for citizens on the same scale for stating their grievances. Citizens usually have to expend money to garner this space in the press while government is afforded this just because they are the government. The headline 2013 Legislature: Doing big things for North Dakota with this article written by our lawmakers Senator Wardner and Representative Al Carlson with this quote “We are also working hard to protect your Second Amendment rights” and then could state while working hard to curb your First Amendment right by keeping alive more legislation to suppress your ability to ever bring something like Measure 2 to the public, and then defeating bills which would actually address some of the issues Measure 2 sought to address.

Think about it if you or even just this committee would have to go out and collect 3 or 4% of the population signatures to get a law passed, what would be your odds to getting the law passed especially considering you could not use other elected officials to help lobby the public for the bill. Would you get anything passed?

When was the last time these rules for petitioning changed to make it more difficult for the citizens to get legislation on the ballot? As legislators all you have to do is spend a few minutes to listen to a handful of citizens concerns and then with a swoop of the pen and the caucus of your party you have a proposal within a couple months on the ballot and you get paid to do it. How difficult is that when you compare it to a citizen finding and organizing a group, finding someone knowledgeable enough to write a petition than finding 30 people willing to be publicly scrutinized for putting the petition forward, than having people travel over our geographically huge state at the gas prices of today to circulate and gather the signatures, than turn around and have the people who are elected to represent you retaliate against the citizens who dared such a feat, while citizens spending their time and their money to try and effect change or to simply address their grievance. The government has more power and now with these measures the government will stack their favor and further unbalance the scale of justice for the citizen versus the government.

Does the first amendment deserve less protection than the second amendment? Do you want the “tyranny” of government only to be defended by the second and not the first?

Let the “dust” settle for Measure 2 and if the legislature still feels there is a “petition” problem than address it in the next session. I am asking for a cool off period do not further the injury do not pass HCR3011, HCR3034.

Susan Beehler Mandan ND 701 220-2297 suzybbuzz@gmail.com

Common Sense North Dakota

Common Sense North Dakotans

Charles Tuttle

701-630-9489

petitionsrights@gmail.com

92nd St. SE
Fargo, ND 58701

HCR 3011

3-6-13 5

ARE WE GETTING OUR MONEY'S WORTH FROM THE TAXES WE PAY?

ITEM	1995 - 1997 Legislative Appropriation Total Funds (For the Biennium)	1995 - 1997 Average <u>Annual</u> State Funding	2009 - 2011 Legislative Appropriation Total Funds (For the Biennium)	2009 - 2011 Average <u>Annual</u> State Funding
Total Fund Appropriations	\$ 3,675,560,328.00	\$ 1,837,780,164.00	\$ 8,848,274,865.00	\$ 4,424,137,432.50
State Population	642,000.00	642,000.00	642,000.00	642,000.00
Average Per Person State Spending	\$ 5,725.17	\$ 2,862.59	\$ 13,782.36	\$ 6,891.18
	2	2	2	2
Average State Spending per Couple	\$ 11,450.34	\$ 5,725.17	\$ 27,564.72	\$ 13,782.36
	2	2	2	2
Average State Spending per Family of 4	\$ 22,900.69	\$ 11,450.34	\$ 55,129.44	\$ 27,564.72

Since 1995 state spending per person has gone from \$2,863 to \$6,891. How many taxpayers have seen their income increase 250% since 1995? State spending for a family of 4 has increased from \$11,450 annually to \$27,565. The question is - Are we getting our money's worth?

The State of North Dakota Has the legal obligation to fully fund the State's Common Schools & the Financial resources to do so...

INDEX

1. **The School Lands Trust** was established when North Dakota became a State in 1889 *(4 pages)*
2. **ADDENDUM "A"** Board of University & School Lands (Comparative Financial Schedules. *(1 page)*)
3. **ADDENDUM "B"** Identification of Investment of Trust Fund revenues. (Not including land and mineral acres *(1 page)*)
4. **ADDENDUM "C"** Status of Cash & Investments in the State & School Lands Trust *(1 page)*
5. **ADDENDUM "D"** Strategic Investment & Improvements Fund, Legislative History *(4 pages)*
6. **ADDENDUM "E"** Constitutional Language – Articles VIII, IX & X *(1 page)*
7. **ADDENDUM "F"** History, Growth & Analysis of the Strategic Investments & Improvements Fund (SIIF) *(1 page)*

...Instead the State is diverting University and School Land Trust mineral acres and revenue that belongs to the Common Schools to uses contrary to Articles VIII & IX of the State Constitution.

The School Lands Trust was established when North Dakota became a state in 1889

The trust was established thru land grants from the U.S. government. The "Lands Trust" contains 17 separate trusts [SEE ADDENDUM "A"]. The largest of which is the "**Common Schools Trust**" [This trust was established to provide for a free K-12 education to all children in North Dakota]. The trusts currently contain 706,976.09 surface acres and 2,566,162.61 mineral acres. The **COMMON SCHOOLS** portion of this trust consists of 635,011.69 (**89.82% of the total**) surface acres and 1,527,059.34 mineral acres (**59.51% of the total**).

The Strategic Investment & Improvements Fund has 0.0 land acres and 726,849.03 mineral acres (**28.32% of the total mineral acres in the University & School Lands trusts**). As of 12/31/11 (the last date for which figures were made available), a total of \$203,791,379 in royalties were received by the University and School Land trusts. \$135,269,628 went to the Common Schools (**66.38% of the total**). \$56,508,407 in royalty payments went to the Strategic Investment & Improvements Fund (**22.73% of the total**). Only recently have mineral acres been deeded to the SIF, the revenue in this fund coming from what has until recently been dedicated to state education is now being diverted from Constitutional directives for support of the schools, through Legislative action to (NDCC 15-08.1-08):

- A. One-time expenditures relating to improving state infrastructure (*apparently this does not include state common school infrastructure*); and
- B. Initiatives to improve the efficiency and effectiveness of state government (*there is no definition of what either efficiency or effectiveness may mean*).

The trusts lands were intended to be used to be invested in and generate income to pay for education in North Dakota. This is not currently being done. Instead, the income being generated from the trust lands is being kept by those managing the trusts and invested in Wall Street and in foreign countries. [SEE ADDENDUM "C"] The income our trust lands generate is not being used for the education of our children. The Legislature (NDCC 15-01-02) gave sole authority over the management and distribution of Trust Lands, including the income the trust generates, to the **Board of University and School Lands**.

The Legislature requested the voters of North Dakota (HCR 3037 - 2005) amend the constitution changing how the COMMON SCHOOL's trust income was to be distributed. The voters approved the request. As a result only 10% (based on a 5 year averaging formula) of the income generated by the trust lands is distributed. It then directs that any portion of the interest or income of the common schools trust fund not distributed during a fiscal year must be ADDED TO THE PERMANENT BALANCE OF THE TRUST FUND. The permanent balance in the trust fund cannot be touched. Thus, the untouchable balance in the common school trust continues to grow dramatically yet the revenue intended to go to the common schools has been drastically cut and the common schools are being prohibited from having the money the trust was created to provide.

As of June 30, 2012 a total of \$2,611,026,612 (*in cash and securities*) is locked up in the University and School Land Trusts. [SEE ADDENDUM "B"] This is money the Trust Lands were created to provide for our Common Schools but is not being used for that purpose. Instead it is going to Wall Street and from there everywhere except to our schools or investment in North Dakota. The School Trust lands are generating more than half a billion dollars annually. In 2012 revenue generated included:

Royalty Revenue	\$203,791,379
Bonus Revenues	\$125,466,546
Oil Extraction tax	\$ 81,949,837
Investment Income	\$ 53,294,173

Gross Production Tax	\$100,000,000
TOTAL	\$564,501,935

This money should be going to the Common Schools, not to Wall Street. The Governor argues that this revenue needs to be invested so the investments can provide for school needs in the future. It is important to realize the "future" never comes. We all live in the present. The "invested revenue" generates barely 8% of the total income coming into the trusts. The \$2,611,026,612 generates \$53,294,173 or a return of 2.04%. The *Board of University and School Lands* presided over by the Governor, is sending the revenue from the Trust Lands to Wall Street not our K-12 schools which are just down the street. This must stop.

This revenue does need to be invested, invested in our state common school infrastructure. There is no better investment. North Dakota has a state bank. Unfortunately this state bank is doing North Dakota's taxpayers any favors, providing any benefits and is a drag on our state. This bank can invest the billions we have in our University and School Lands Trusts in our own schools. It can and should be doing so by issuing bonds, funded with these permanent dollars. There is no better investment. Further in doing so North Dakota taxpayers would save the 7% to 15% that is normally involved in costs to have bonds established and sold. The income being generated by the trusts could and should be used to repay the bonds. Royalty payments alone generated \$135,269,628 in 2011. [SEE ADDENDUM "C"]. This single revenue stream would fund more than \$2.5 billion dollars in long-term bonds, (30 year, 3.5% self amortizing bonds) significantly more than what is needed to fully and properly provide all the long-term needs of our common schools.

Instead of doing what is outlined above the Board of University and School Lands is investing our school trust fund dollars in foreign countries, foreign currency, apartment and commercial real estate - much of which is on the east coast, hundreds of millions in government securities and in hedge funds. This not only makes no rational sense it is irresponsible. North Dakota taxpayers' money is being poorly used. Our tax dollars are not being used to benefit us, our children or the state of North Dakota. Instead they are being mishandled and the result is continually increasing property taxes. This must stop.

The state constitution, Article VIII, Section 1 provides: ***"The legislative assembly shall provide for a uniform system of free public schools throughout the state."*** The state has, in its University and School Land Trusts, more than 700,000 acres of land to give the state the resources to do just that. In addition to the land the trust has 2,566,162.61 mineral acres. Unfortunately, 726,616.94 of these mineral acres have been given to the recently created Strategic Investment and Improvements Fund (SIIF) along with the royalty payments from those mineral acres. The royalties going to the Strategic Investment and Improvements Fund totaled \$56,508,407 in 2011 [SEE ADDENDUM "C"]. However, the SIIF will grow substantially during the 2013-15 biennium. By the end of the biennium it will have grown to a total (state estimate) of \$1,970,174,564 in total available funds. After taking into account expenditures and reserves (for contingent liabilities) will have an ending balance of \$1,358,242,298 [SEE ADDENDUM "F"]. This money should be going to our common schools.

There is a desperate need in some communities for new school space and upgrading of our state common schools infrastructure. The *Board of University and School Lands* refuses to direct income/revenues of the trusts to meet the needs of these school communities. They argue they are prohibited from doing so because of Article IX of the State Constitution [SEE ADDENDUM "E"]. That is misleading and not true.

The *Board of University and School Lands* consists of:

- (1) **Superintendent of Public Instruction,**
- (2) **Governor,**
- (3) **Attorney General,**

(4) **Secretary of State** and

(5) **State Treasurer**. These individuals together with the House and Senate leaders spearheaded HCR 3037 in 2005 [NOTE: the current Superintendent of Public Instruction was not involved].

The Governor has established what he calls the **STRATEGIC INVESTMENT AND IMPROVEMENTS FUND (SIIF)**. This fund, if continued, will become the single largest revenue fund the state has. The statutes creating the fund (**NDCC 15-08.1-08**) and infusing this fund with revenue (**NDCC 57-51.1-07.5**) have effectively removed the great majority of oil and gas extraction tax revenue from use for general fund expenditures (*oil & gas revenues going to the general fund are capped at \$300 million per biennium. Oil & gas revenues projected for the 2013-15 biennium exceed \$5.1 billion and are expected to exceed \$6 billion*) [SEE CHART BELOW TITLED "FUND IDENTIFICATION"].

Pursuant to NDCC 57-51 all revenue from the oil and gas production tax and oil extraction tax less these amounts EACH BIENNIUM:

\$300,000,000 to the State General Fund;

\$341,790,000 to the Property Tax Relief Sustainability Fund and

\$ 22,000,000 to the State Disaster Relief Fund

\$663,790,000 TOTAL which goes to the State General Fund now flow directly to the Strategic Investment & Improvements Fund.

\$663,790,000 is a significant sum, however, the revenue generated through taxes on oil and gas activities in North Dakota are projected to be \$5,128,322,750 (NOTE: *Historically oil and gas revenue projections have been 15% - 30% below actual collections*) over the 2013-15 biennium.

30% of the **oil and gas & extraction tax (projected - \$1,716,030,381)** goes to the **Legacy Fund**,

20% of the **oil & gas tax (projected - \$1,025,664,550)** is allocated as follows [SEE ADDENDUM "E" – Article X, Finance & Public Debt]:

- 50% to the Common Schools Trust Fund and is unavailable for use funding school expenses (*it becomes a part of the principle*);
- 50% to fund the state's portion of the Foundation Aid Stabilization Fund. This fund is further restricted and the principal may be expended ONLY if the Governor orders and only to "offset" foundation aid reductions caused by executive action (i.e. actions of the Governor) due to revenue shortfall. [SEE ADDENDUM "E"]

It is important to note what this means. First, the portion going to the Common Schools DOES NOT include the EXTRACTION TAX. It includes only the oil and gas tax revenue. Second, half of this revenue is allocated to the principle of the Common Schools Trust, i.e. it is not DIRECTLY available to be used to fund any common school expenses.

The other half is allocated to fund the States responsibility under Article VIII, Section 2 to "provide for a uniform system of free public schools throughout the state" [SEE ADDENDUM "E"] fund common schools. In this case it is to be used ONLY to off-set the state's obligation to fund

The above distributions are mandated by constitutional directive. All other allocations of oil and gas revenues regardless of type are at the discretion of the legislature.

The **Strategic Investment & Improvements Fund (SIIF)** was established in the 2011-13 Legislative session, [15-08.1-08] [SEE ADDENDUM "D"]. The SIIF is managed by the Board of the University and School Lands Trust. There is a reason for this.

The SIIF is treated as if it is a University and School Lands Trust. In fact it is being called by some the "State and School Lands Trust". This is significant because the SIIF has, as noted above, been endowed with 726,849.02 mineral acres that otherwise belong to actual school trust funds. The endowment of

these mineral acres has for the fiscal year 2011 put \$56,508,407 in this fund. These revenues would otherwise have gone into actual school trusts [SEE ADDENDUM "C"]. Further:

1. Income from sale of school lands MUST BE DEPOSITED IN THIS NEW FUND.
2. This fund is to be used only for:
 - a. One time expenditures to improve state infrastructure (Q. does this include school buildings)?
 - b. Initiatives to improve the efficiency and effectiveness of state government [SEE ADDENDUM "D"].

THEN 25% of any excess in the Strategic Investment Fund must be transferred to the LEGACY FUND! However, the fund is OBLIGATED to fund a BAD DEBT reserve for BND loans that go bad, i.e. in default (NDCC 6-09.7-05)!

The creation, funding and use of the revenues in the SIIF require serious investigation. Article IX, Sections 1 & 2 state in part [SEE ADDENDUM "E"]:

SECTION 1, All proceeds of the public lands that have been, or may be granted by the United States for the support of the common schools in this state et al..."

SECTION 2, "...no part of the fund must ever be diverted, even temporarily, from this purpose or used for the purpose other than the maintenance of common schools as provided by law."

The Strategic Investment & Improvements Fund does not appear to meet the mandates of either Article IX. In the event it does not the common schools and other state school trusts are being denied of revenue that belongs in these trusts.

The **STRATEGIC INVESTMENT& IMPROVEMENTS FUND** is projected (in the Governor's 2013-15 budget) to receive **\$701,860,669**. It received **\$688,178,170** in revenue during the 2011-13 biennium Below is how the Oil and Gas revenues (not royalty or bonus payments) were distributed in the 2011-13 biennium and are projected to be allocated in the 2013-15 biennium. Those highlighted in yellow are constitutionally mandated. The balance is directed statutorily and may be changes or amended by the legislature:

FUND IDENTIFICATION		2011-13 BEINNIUM	2013-15 BIENNIUM
1	Oil and Gas Impact Grant Fund	\$ 100,000,000	\$ 214,000,000
2	Oil and Gas Research Fund	\$ 4,000,000	\$ 4,000,000
3	Counties & Cities (where are Townships?)	\$ 250,680,338	\$ 520,335,000
4	Tribal Allocations	\$ 162,107,274	\$ 191,400,000
5	ND Outdoor Heritage Fund	\$ -	\$ 20,000,000
6	Legacy Fund	\$ 1,183,326,597	\$ 1,716,030,381
7	Foundation Aid Stabilization Fund	\$ 192,392,853	\$ 273,476,675
8	Common Schools Trust Fund	\$ 192,392,853	\$ 273,476,675
9	Resources Trust Fund	\$ 384,785,708	\$ 541,483,816
10	Renewable Energy Development Fund	\$ -	\$ 2,734,767
11	Energy Conservation Fund	\$ -	\$ 2,734,767
12	General Fund	\$ 300,000,000	\$ 300,000,000
13	Property Tax Relief Sustainability Fund	\$ 341,790,000	\$ 341,790,000
14	State Disaster Fund	\$ 22,000,000	\$ 22,000,000
15	Strategic Investment & Improvements Fund	\$ 688,178,170	\$ 704,860,669
TOTAL OIL AND GAS TAXES		\$ 3,821,653,793	\$ 5,128,322,750

**USE OF OIL AND GAS REVENUES
2011-13 AND 2013-15**

FUND IDENTIFICATION		2011-13 BEINNIUM	2013-15 BIENNIUM
1	Oil and Gas Impact Grant Fund	\$100,000,000	\$214,000,000
2	Oil and Gas Research Fund	\$4,000,000	\$4,000,000
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TOTAL OIL AND GAS TAXES		\$3,821,653,793	\$5,128,322,750

ADDENDUM "A"

BOARD OF UNIVERSITY AND SCHOOL LANDS

COMPARATIVE FINANCIAL SCHEDULES (Unaudited)

% OF TOTAL
AS OF
DECEMBER 31, 2012

	ASSETS BY TRUST	31-Dec-10	% of Total	31-Dec-11	% of Total	31-Dec-12	
1							
2	1 Common Schools	\$1,443,443,199	79.10%	\$1,653,575,109	78.71%		#DIV/0!
3	2 North Dakota State University	\$21,048,883	1.15%	\$26,596,560	1.27%		#DIV/0!
4	3 School for the Blind	\$2,998,122	0.16%	\$3,324,414	0.16%		
5	4 School for the Deaf	\$7,745,232	0.42%	\$9,598,817	0.46%		
6	5 State Hospital	\$8,301,666	0.45%	\$9,167,465	0.44%		
7	6 Ellendale <i>(Dickenson State; Minot State; Dakota College @ tottineau; School for the Blind; Veterans Home; State Hospital; State College of Science - Wahpeton. All equal beneficiaries)</i>	\$3,561,595	0.20%	\$4,744,054	0.23%		
8	7 Valley City State University	\$4,148,141	0.23%	\$4,474,205	0.21%		
9	8 Mayville State University	\$2,643,433	0.14%	\$3,078,667	0.15%		
10	9 Youth Correctional Center	\$9,466,700	0.52%	\$10,803,372	0.51%		
11	10 State College of Science	\$7,931,871	0.43%	\$8,604,468	0.41%		
12	11 School of Mines <i>(Benefits are distributed to the University of North Dakota)</i>	\$8,486,411	0.47%	\$10,097,907	0.48%		
13	12 Veterans Home	\$2,931,969	0.16%	\$3,145,768	0.15%		
14	13 University of North Dakota	\$11,285,718	0.62%	\$13,226,360	0.63%		
15	14 Capitol Building	\$3,184,545	0.17%	\$3,410,790	0.16%		
16	15 Strategic Investment & Improvements* <i>(The Lands & Mineral Trust was renamed to the Strategic Investment & Improvements Fund [SIIF] effective July 1, 2011. It is the intent of the Legislative Assembly that this fund be used for one-time expenditures relating to improving state infrastructure.)</i>	\$223,336,515	12.24%	\$271,879,508	12.94%		
17	16 Coal Development	\$63,628,838	3.49%	\$64,387,240	3.06%		
18	17 Indian Cultural Education Trust	\$634,987	0.03%	\$651,546	0.03%		
19	TOTAL	\$1,824,777,825	100.00%	\$2,100,766,250	100.00%		
20	ASSETS BY TYPE						
21	1 Cash	\$5,454,452	0.30%	\$2,791,976			
22	2 Receivables	\$17,296,608	0.95%	\$18,088,213			
23	3 Investments	\$1,715,134,322	93.99%	\$1,985,551,674			
24	4 Farm Real Estate	\$-	0.00%	\$931,760			

THIS INFORMATION WILL
NOT BE AVAILABLE UNTIL
THE MIDDLE OF MARCH
2013

25	5	Office Buildings <i>(Net of Depreciation)</i>	\$656,429	0.04%	\$618,255		
26	6	Farm Loans	\$42,904,394	2.35%	\$40,672,236		
27	7	Energy Construction Loans	\$986,108	0.05%	\$2,293,037		
28	8	Developmentally Disabled Loans	\$792,247	0.04%	\$-		
29	9	Energy Development Impact Loans	\$4,571,182	0.25%	\$8,704,435		
30	10	School Construction Loans <i>(1.9% yield)</i>	\$29,104,534	1.59%	\$27,138,273		
31	11	Due from Other Trusts & Agencies	\$7,877,549	0.43%	\$13,976,391		#DIV/0!
32	TOTAL		\$1,824,777,825	100.00%	\$2,100,766,250		#DIV/0!

*The SIF has an assigned *(reserve held pending litigation)* fund balance of \$82,378,244.81 as of November 30, 2011. This designation was made by the Board to indicate that theres funds should not be transferred out of the SIF until potential title disputes related to certain riverbed leases hav been resolved.

ADDENDUM "B"

PERMANENT EDUCATIONAL TRUST ASSETS - ALLOCATION BY INVESTMENT VEHICLES AS OF JUNE 30, 2012

DATE	TOTAL ASSETS	LARGE CAP EQUITIES	SM/MID CAP EQUITIES	REITS	CONVERTIBLE SECURITIES	INTERNATIONAL EQUITIES	FIXED INCOME INVESTMENTS
6/30/12 REBALANCED	\$2,016,161,000	\$302,424,000	\$201,616,000	\$120,970,000	\$201,616,000	\$201,616,000	\$987,919,000
	PER CENT OF TOTAL	15%	10%	6%	10%	10%	49%
9/30/12 ACTUAL	\$2,161,446,000	\$329,120,000	\$221,336,000	\$126,595,000	\$202,542,000	\$216,251,000	\$1,265,602,000
	PER CENT OF TOTAL	15.2%	10.2%	5.9%	9.4%	10.0%	49.3%
9/30/12 TARGET	\$2,161,446,000	\$324,217,000	\$216,145,000	\$129,686,000	\$216,145,000	\$216,145,000	\$1,059,108,000
	PER CENT OF TOTAL	15.0%	10.0%	6.0%	10.0%	10.0%	49.0%

BREAKDOWN BY INVESTMENT VEHICLE TYPES

ASSET CLASS	ACTUAL	%	TARGET	%	DIFFERNECE	%
US Large Cpaital Equities	\$329,120,000	15.2%	\$324,210,000	15.0%	\$4,910,000	0.2%
US Sm/Mid Capital Equities	\$221,340,000	10.2%	\$216,150,000	10.0%	\$5,190,000	0.2%
REITS	\$126,590,000	5.9%	\$129,680,000	6.0%	\$(3,090,000)	-0.1%
Convertible Securities	\$202,540,000	9.4%	\$216,150,000	10.0%	\$(13,610,000)	-0.6%
International Equities	\$216,250,000	10.0%	\$216,150,000	10.0%	\$100,000	0.0%
TOTAL EQUITIES	\$1,095,840,000	50.7%	\$1,102,340,000	51.0%	\$(6,500,000)	-0.3%
US Investment Grade Fixed-Income	\$679,130,000	31.4%	\$699,100,000	32.3%	\$(19,970,000)	-0.9%
Cash Equivalents	\$32,980,000	1.5%	\$-	0.0%	\$32,980,000	1.5%
Loans	\$35,800,000	1.7%	\$35,800,000	1.7%	\$-	0.0%
High Yield Fixed-Income	\$211,470,000	9.8%	\$216,140,000	10.0%	\$(4,670,000)	-0.2%
International Fixed-Income	\$106,230,000	4.9%	\$108,070,000	5.0%	\$(1,840,000)	-0.1%
TOTAL FIXED-INCOME	\$1,065,610,000	49.3%	\$1,059,110,000	49.0%	\$6,500,000	0.3%
TOTAL PORTFOLIO	\$2,161,450,000	100.0%	\$2,161,450,000	100.0%		

MANAGER & PORTFOLIO RETURNS FOR PERIODS ENDED SEPTEMBER 30, 2012

ASSET & ASSET CLASS MANAGER BENCHMARK/INDEX	9/30/12 ALLOCATION (Amount Invested)	% OF TOTAL PORTFOLIO
EQUITY INVESTMENTS		DOMESTIC
Large Cap US Equity STATE STREET - S&P 500 Index S&P 500 Index	\$329,120,000	15.2%
Small/Mid Cap US Equities		

33	NORTHERN TRUST	\$107,380,000	4.9%
34	STATE STREET - Small/Mid Index	\$113,960,000	5.3%
35	60% R2000/40% Russell Mid Cap		
36	Russell Completeness Index		
37	Real Estate Investment Trusts (REITS)		
38	DELAWARE INVESTMENT ADVISORS	\$126,590,000	5.9%
39	NAREIT Equity REIT Index		
40	Convertible Securities		
41	TRUST COMPANY OF THE WEST	\$202,540,000	9.4%
42	Merrill Lynch All US Convertibles Index		
43	Merrill Lynch All US Investment Grade Index		
44	TOTAL DOMESTIC EQUITY INVESTMENTS	\$879,590,000	40.7%
45			
46	EQUITY INVESTMENTS	INTERNATIONAL	
47	International Equities		
48	STATE STREET - International Alpha	\$216,250,000	10.0%
49	MSCI EAFE Index		
50	TOTAL INTERNATIONAL EQUITY	\$216,250,000	10.0%
51			
52	TOTAL EQUITY INVESTMENTS	\$1,095,840,00	50.7%
53			
54	FIXED INCOME INVESTMENTS DOMESTIC		
55	US Invsetment Grade Fixed Income		
56	PAYDEN & RYGEL - Aggregate	\$218,370,000	10.1%
57	JP MORGAN - Intermediate	\$217,070,000	10.0%
58	BANK OF NORTH DAKOTA - Project Notes	\$2,840,000	0.1%
59	PAYDEN & RYGEL - Aggregate - GNMA/Short Bond	\$85,400,000	4.0%
60	NORTHERN TRUST - TIPS	\$155,450,000	7.2%
61	PAYDEN & RYGEL - Cash	\$32,980,000	1.5%
62	Barclay's Capital US Aggregate Index		
63	Barclay's Capital TIPS		
64	6 Month T-Bill		
65	Loans		
66	BANK OF NORTH DAKOTA - Farm Loan Pool	\$33,520,000	1.7%
67	BANK OF NORTH DAKOTA - Energy Construction Loans	\$2,280,000	0.1%
68	US High Yeild Fixed Income		
69	LAZARD ASSET MANAGEMENT	\$211,470,000	9.8%
70	Merrill Lynch US High Yield Cash Pay Index		
71	Merrill Lynch BB/B Index		
72	TOTAL DOEMESTIC FIXED INCOME INVESTMENTS	\$959,380,000	44.5%
73			

74	FIXED INCOME INVESTMENTS INTERNATIONAL		
75	International Investment Grade Fixed Income		
76	FIRST INTERNATIONAL ADVISORS		
77	Merrill Lynch Broad Global (Ex-US) Index - Hedged	\$106,230,000	4.9%
78	TOTAL INTERNATIONAL FIXED INCOME INVESTMENTS	\$106,230,000	4.9%
79			
80	TOTAL FIXED INCOME INVESTMENTS	\$1,065,610,000	49.4%
81			
82	TOTAL PORTFOLIO	\$2,161,450,000	100%

ADDENDUM "C"

NO.	Assessed Land Values FOR: <small>(Not including mineral values)</small>	STATE, UNIVERSITY, COMMON SCHOOL TRUST FUND ACRES & VALUE OF LAND IN TRUST							
		State Lands		Common School Lands		University Lands		TOTAL	
		\$ VALUE	# ACRES	\$ VALUE	# ACRES	\$ VALUE	# ACRES	\$ VALUE	# ACRES
1	2007								
2	2008	<i>In 2007 the Legislature no longer required the Board of University & School Lands to keep up with the current values of the lands held in the trust.</i> The Board is composed of: 1. Jack Dalrymple, Governor; 2. Alvin Jaeger, Secretary of state; 3. Kirsten Baesler, Superintendent of Public Instruction;							
3	2009								
4	2010								
5	2011								
6	2012								
7	STATUS OF CASH & INVESTMENTS IN THE STATE & SCHOOL LANDS TRUST								
8	YEAR	ROYALTY REVENUES	BONUS REVENUES	OIL EXTRACTION TAX RECEIVED BY COMMON SCHOOLS FUND	INVESTMENT INCOME	GROSS PRODUCTION TAX REVENUES	TOTAL REVENUE EARNED THRU ASSETS IN THE LANDS TRUST <small>[Excluding Land & Mineral Values]</small>	CASH & INVESTMENT ASSETS IN LANDS TRUST FUND <small>[Excluding Land & Mineral Values]</small>	
9	2010	\$87,402,058	\$294,046,535	\$28,361,274	\$49,500,426	\$8,000,000	\$467,310,293	\$1,529,337,219	
10	2011	\$125,932,217	\$173,584,432	\$49,391,903	\$51,436,556	\$-	\$400,345,108	\$2,057,670,194	
11	2012	\$203,791,379	\$125,466,546	\$81,949,837	\$53,294,173	\$100,000,000	\$564,501,935	\$2,611,026,612	
12	TOTAL REVENUES 2010-12	\$417,125,654	\$593,097,513	\$159,703,014	\$154,231,155	\$108,000,000	\$1,432,157,336		
13									
14	MINERAL ACRE FIGURES as of JUNE 30, 2011 - ALL OTHER FIGURES as of DECEMBER 2011								
15	TRUST NAME	TOTAL SURFACE ACRES	CARRIED @ VALUE PER ACRE	CARRIED SURFACE ACRE VALUE	TOTAL MINERAL ACRES	STAND ALONE MINERAL ACRES	ROYALTIES RECEIVED	AVG. ROYALTY RECEIVED PER MINERAL ACRE	% MINERAL ACRES OVER SURFACE ACRES
16	PERMANENT TRUSTS								
17	Common Schools Trust	635,011.69	\$380.06	\$241,342,542.90	1,527,059.34	892,047.65	\$135,269,628.00	\$88.58	140.48%
18	School for the Blind Trust	3,515.12	\$446.74	\$1,570,344.71	15,227.95	11,712.83	\$539,876.00	\$35.45	333.21%
19	School for the Deaf Trust	4,883.92	\$454.57	\$2,220,083.51	20,618.65	15,734.73	\$1,416,818.00	\$68.72	322.17%
20	Ellendale Trust	4,952.93	\$440.75	\$2,183,003.90	10,515.88	5,562.95	\$502,318.00	\$47.77	112.32%
21	State Hospital Trust	2,235.82	\$442.97	\$990,401.19	9,950.85	7,715.03	\$368,900.00	\$37.07	345.06%
22	Industrial School Trust	3,790.47	\$511.55	\$1,939,014.93	33,107.94	29,317.47	\$1,687,669.00	\$50.97	773.45%
23	School of Mines Trust (UND)	3,360.61	\$499.85	\$1,679,800.91	20,712.26	17,351.65	\$729,112.00	\$35.20	516.32%
24	NDSU Trust	15,273.67	\$456.83	\$6,977,470.67	65,594.87	50,321.20	\$3,400,437.00	\$51.84	329.46%
25	Veterans Home Trust	2,792.32	\$422.05	\$1,178,498.66	13,244.42	10,452.10	\$59,273.00	\$4.48	374.32%

26	UND Trust	9,081.97	\$474.29	\$4,307,487.55	42,102.46	33,020.49	\$1,507,497.00	\$35.81	363.58%
27	Valley City State Trust	4,950.75	\$428.33	\$2,120,554.75	8,202.41	3,251.66	\$359,580.00	\$43.84	65.68%
28	Vally City/Mayville State Trust		\$-	\$-	17,560.77	17,560.77	\$-	\$-	0.00%
29	School of Science Turst	3,748.59	\$493.56	\$1,850,154.08	18,478.73	14,730.14	\$644,515.00	\$34.88	392.95%
30	Mayville State Trust	3,223.78	\$426.34	\$1,374,426.37	9,169.14	5,945.36	\$451,353.00	\$49.23	184.42%
31	SUB-TOTAL	696,821.64		\$269,733,784.11	1,811,545.67	1,114,724.03	\$146,936,976.00	\$81.11	159.97%
32	OTHER TRUSTS								
33	Capitol Building Trust	9,994.45	\$437.20	\$4,369,573.54	27,687.91	17,693.46	\$345,996.00	\$12.50	177.03%
34	Indian Cultural Trust	160.00	\$410.21	\$65,633.60	80.00	(80.00)	\$-	\$-	-50.00%
35	Stategic Investment & Improvements Fund Trust	-	\$-	\$-	726,849.03	726,849.03	\$56,508,407.00	\$77.74	0.00%
36	SUB-TOTAL	10,154.45		\$4,435,207.14	754,616.94	744,462.49	\$56,854,403.00	\$75.34	7331.39%
37	TOTALS - ALL TRUST LANDS	706,976.09		\$274,168,991.25	2,566,162.61	1,859,186.52	\$203,791,379.00	\$79.41	262.98%

ADDENDUM "D"

STRATEGIC INVESTMENT & IMPROVEMENTS FUND

CHAPTER 15-08.1 EDUCATION

TRANSFER OF POSSESSORY INTERESTS IN REALTY

15-08.1-01. Declaration of policy and intent.

It is declared to be the policy and intent of this state to provide for proper and economic management of its lands. Therefore, certain possessory interests in real property acquired by the state of North Dakota in the past or in the future shall be transferred to the board of university and school lands in trust for the state of North Dakota in accordance with this chapter. *Lands managed pursuant to this chapter are not subject to the leasing and sale provisions found elsewhere in this code.*

15-08.1-02. Transfer of present possessory interests in real property.

Repealed by S.L. 1989, ch. 114, § 8.

15-08.1-02.1. Transfer of present possessory interests - Self-executing.

All ***possessory interests in real property other than minerals*** which were conveyed by this chapter to the state of North Dakota acting by and through the board of university and school lands prior to July 12, 1989, and which are still held by the board on July 12, 1989, ***are hereby conveyed to the state of North Dakota doing business as the Bank of North Dakota. This transfer is self-executing and no evidence other than the provisions of this chapter are required to establish the transfer of title to the Bank.***

15-08.1-03. Transfer of future possessory interests in real property.

All mineral interests that may be acquired by the Bank of North Dakota, together with future increments, accruals, and recoveries coming, arising, or resulting from any of such property or from dealing therewith in whatever form, must be transferred, assigned, conveyed, and granted to the state of North Dakota, acting by and through the board of university and school lands. All transfers made in accordance with this section are self-executing; no evidence other than the provisions of this chapter may be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents must be conclusively presumed.

15-08.1-04. Exceptions to transfers.

Repealed by S.L. 1989, ch. 114, § 8.

15-08.1-05. Existing contracts and encumbrances recognized.

The transfers made by this chapter are subject to all existing contracts, rights, easements, and encumbrances made or ***sanctioned by the Bank of North Dakota or the board of university and school lands.***

15-08.1-05.1. Validation of conveyances.

All conveyances of interests in real property to the board of university and school lands which were effected by this chapter prior to July 12, 1989, are hereby validated and confirmed, and all contracts, agreements, conveyances, or other transfers of interests in real property made by the board of university and school lands under the authority of this chapter prior to July 12, 1989, are hereby validated and confirmed, and are binding upon the Bank of North Dakota.

15-08.1-06. Duties and powers of the board.

The board of university and school lands shall manage, operate, and supervise all properties transferred to it by this chapter; has full power of sale or lease with respect to any and all such property; and may establish, charge, and collect fees for the management of property acquired under this chapter. The board shall pay the costs incurred in carrying out its duties under this chapter from the fees and income derived

under this chapter.

15-08.1-07. Rulemaking authority.

Repealed by S.L. 1989, ch. 114, § 8.

15-08.1-08. Income - Expenses - Reimbursement - Creation of strategic investment and improvements fund - Legislative intent - Contingent transfer to legacy fund. *[inserted 57-51.1-07.5]*

The **income derived** from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law **must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the strategic investment and improvements fund.** The corpus and interest of such trust may be expended as the legislative assembly may provide **for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government.** It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. **If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund.** For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.

15-08.1-09. Strategic investment and improvements fund - Continuing appropriation.

There is appropriated annually the amount necessary to **pay from the strategic investment an improvements fund all principal and interest to the common schools trust fund on any loans made from the fund to the developmentally disabled loan fund program nos. 2 and 3. This authority is ineffective after all loans are repaid.**

ADDENDUM "E"

ARTICLE VIII EDUCATION

Section 1.

A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2.

The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

ARTICLE IX TRUST LANDS

Section 1.

All proceeds of the public lands that have been, or may 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 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, must be and remain a perpetual trust fund for the maintenance of the common schools of the state. 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, 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. If a gift is made to an institution for a specific purpose, without designating a trustee, 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.

Section 2.

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 by law, must be faithfully used and applied each year for the benefit of the common schools of the state and no part of the fund must ever be diverted, even temporarily, from this purpose or used for any purpose 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.

The superintendent of public instruction, governor, attorney general, secretary of state and state treasurer comprise a board of commissioners, to be denominated the "board of university and school lands". Subject to the provisions of this article and any law that may be passed by the legislative assembly, the board has control of the appraisal, sale, rental, and disposal of all school and university lands, and the proceeds from the sale of such lands shall be invested as provided by law.

ARTICLE X FINANCE & PUBLIC DEBT

Section 24.

Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:

1. Fifty percent must be deposited in the common schools trust fund.
2. Fifty percent must be deposited in the foundation aid stabilization fund in the state treasury, the interest income of which must be transferred to the state general fund on July first of each year. The principal of the foundation aid stabilization fund may be expended only upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage.

ADDENDUM "F"

History, Growth & Analysis of the Strategic Investment & Improvements Fund (SIIF)

NO.	ITEM	2009-11 biennium Actual		2011-13 Biennium Actual		2013-15 Biennium Estimated	
1	Beginnin balance (transferred from the lands and minerals trust fund)	\$-	\$-	1	\$249,074,431		\$836,665,794
2	Add acutal & estimated revenues						
3	Production Royalties			\$115,342,374	2	\$158,160,750	2
4	Mineral Leases			\$421,325	2	\$400,000	2
5	Oil and Gas Bonuses			\$85,634,745	2	\$32,000,000	2
6	Investment Earnings			\$1,951,361	2	\$3,133,795	2
7	Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020, 1985 SB 2249, 2011 SB 2121)						
8	Oil and Gas Tax Collections			\$815,640,252	3	\$939,814,225	3
9	Total Acutal and/or Estimated Revenues					\$1,018,990,057	\$1,133,508,770
10	TOTAL AVAILABLE	\$-	\$-			\$1,268,064,488	\$1,970,174,564
11	Less Acutal and Estimated Expenditures and Transfers						
12	Transfer to Legacy Fund from oil and gas tax revenue			\$115,851,159	4	\$234,953,556	4
13	Transfer to Legacy Fund from other revenue sources			\$9,141,533	4	\$47,395,163	4
14	Transfer to the General Fund (2011 SB 2015)			\$305,000,000			
15	Expanded school construction loan program			\$-		\$200,000,000	
16	Unmanned aerial system (UAS) site operations			\$-		\$4,000,000	
17	Administrative costs/other fees			\$1,406,002		\$1,740,000	
18	TOTAL ESTIMATED EXPENDITURES AND TRANSFERS	\$-	\$-			\$431,398,694	\$488,088,719
19							
20	ENDING BALANCE (actual and estimated)	\$-	\$-	\$-		\$836,665,794	\$1,482,085,845
21	Restricted Fund Income						
22	Reserve relating to potential title disputes				5	\$109,593,447	5
23	Bank of North Dakota - Maintain guarantee reserve fund balance (2011 SB 2306)				6	\$6,250,000	6
24	ENDING BALANCE - Undesignated	\$-	\$-			\$720,822,347	\$1,358,242,398

1 House Bill No. 1451 (2011) provided the lands and minerals trust fund be renamed the strategic investment and improvements fund, and as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund. The bill stated it is the intent of the Legislative Assembly that the fund be used for one-time expenditures relating to improving state infrastructure or initiatives to improve the efficiency and effectiveness of state government.

2 The Department of Trust Lands' projections are based on actual revenues through October 2012 and the December 2012 executive revenue forecast for oil price and production for the remainder of the 2011-13 biennium and the 2013-15 biennium.

3 House Bill No. 1451 (2011) created a new section to North Dakota Century Code Chapter 57-51.1 to provide for the allocation of the state's share of oil and gas tax revenues designated for deposit in the general fund under Chapters 57-51 and 57-51.1 as follows:

- The first \$200 million is deposited in the general fund;

- The next \$341,790,000 is deposited in the property tax relief sustainability fund;
- The next \$100 million is deposited in the general fund;
- The next \$100 million is deposited in the strategic investment and improvements fund;
- The next \$22 million is deposited in the state disaster relief fund; and
- Any additional revenues are deposited in the strategic investment and improvements fund. The amount shown for the 2011-13 biennium reflects actual collections through November 2012 and the December 2012 executive revenue forecast for oil price and production for the remainder of the 2011-13 biennium. The executive budget revenue forecast for the 2013-15 biennium projects oil and gas gross production tax and oil extraction tax revenues to total \$4,936,992,750 for the 2013-15 biennium, excluding the tribal share of oil produced on Indian reservations. The amount allocated to the strategic investment and improvements fund after allocations to the general fund, the property tax relief sustainability fund, and the state disaster relief fund is estimated to be \$939,814,225. These amounts do not reflect any transfers to the legacy fund.

4 Pursuant to Section 15-08.1-08, if the unobligated balance of the strategic investment and improvements fund exceeds \$300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund.

5 These funds represent oil and gas bonuses received from areas of the Yellowstone and Missouri Rivers and Lake Sakakawea where mineral rights are in dispute. Based on the outcome of legal settlements, these funds may need to be returned. Pursuant to action of the Board of University and School Lands, this portion of the fund balance is designated to be held in reserve pending the settlement of mineral ownership title disputes.

6 Senate Bill No. 2306 (2011) provided guarantees on fuel production facility loans administered by the Bank of North Dakota be increased by \$10.5 million to \$12.5 million, and the value of all fuel production facility loan guarantees is increased by \$15 million, from \$10 million to \$25 million. Money in the strategic investment and improvements fund is available to the Bank to maintain 25 percent of the guarantee reserve fund balance not to exceed a total of \$6.25 million. Any money transferred from the strategic investment and improvements fund to maintain the guarantee reserve fund is available to reimburse lenders for guaranteed loans in default.

FUND HISTORY

House Bill No. 1451 (2011) provided the lands and minerals trust fund be renamed the strategic investment and improvements fund, and as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund. The lands and minerals trust fund originated in 1977 when the Legislative Assembly transferred to the Board of University and School Lands possessory interest in properties obtained by the Bank of North Dakota, including tracts of real property and reserved mineral interests.

All income from the sale, lease, and management of the mineral interests relating to these properties is deposited in the strategic investment and improvements fund, pursuant to Section 15-08.1-08. The principal and interest of the fund may be used for one-time

STRATEGIC INVESTMENT & IMPROVEMENTS FUND

CHAPTER 15-08.1 EDUCATION TRANSFER OF POSSESSORY INTERESTS IN REALTY

15-08.1-01. Declaration of policy and intent.

It is declared to be the policy and intent of this state to provide for proper and economic management of its lands. Therefore, certain possessory interests in real property acquired by the state of North Dakota in the past or in the future shall be transferred to the board of university and school lands in trust for the state of North Dakota in accordance with this chapter. *Lands managed pursuant to this chapter are not subject to the leasing and sale provisions found elsewhere in this code.*

15-08.1-02. Transfer of present possessory interests in real property.

Repealed by S.L. 1989, ch. 114, § 8.

15-08.1-02.1. Transfer of present possessory interests - Self-executing.

All *possessory interests in real property other than minerals* which were conveyed by this chapter to the state of North Dakota acting by and through the board of university and school lands prior to July 12, 1989, and which are still held by the board on July 12, 1989, **are hereby conveyed to the state of North Dakota doing business as the Bank of North Dakota. This transfer is self-executing and no evidence other than the provisions of this chapter are required to establish the transfer of title to the Bank.**

15-08.1-03. Transfer of future possessory interests in real property.

All mineral interests that may be acquired by the Bank of North Dakota, together with future increments, accruals, and recoveries coming, arising, or resulting from any of such property or from dealing therewith in whatever form, must be transferred, assigned, conveyed, and granted to the state of North Dakota, acting by and through the board of university and school lands. All transfers made in accordance with this section are self-executing; no evidence other than the provisions of this chapter may be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents must be conclusively presumed.

15-08.1-04. Exceptions to transfers.

Repealed by S.L. 1989, ch. 114, § 8.

15-08.1-05. Existing contracts and encumbrances recognized.

The transfers made by this chapter are subject to all existing contracts, rights, easements, and encumbrances made or **sanctioned by the Bank of North Dakota or the board of university and school lands.**

15-08.1-05.1. Validation of conveyances.

All conveyances of interests in real property to the board of university and school lands which were effected by this chapter prior to July 12, 1989, are hereby validated and confirmed, and all contracts, agreements, conveyances, or other transfers of interests in real property made by the board of university and school lands under the authority of this chapter prior to July 12, 1989, are hereby validated and confirmed, and are binding upon the Bank of North Dakota.

15-08.1-06. Duties and powers of the board.

The board of university and school lands shall manage, operate, and supervise all properties transferred to it by this chapter; has full power of sale or lease with respect to any and all such property; and may establish, charge, and collect fees for the management of property acquired under this chapter. The board shall pay the costs incurred in carrying out its duties under this chapter from the fees and income derived under this chapter.

15-08.1-07. Rulemaking authority.

Repealed by S.L. 1989, ch. 114, § 8.

15-08.1-08. Income - Expenses - Reimbursement - Creation of strategic investment and improvements fund - Legislative intent - Contingent transfer to legacy fund. *[inserted 57-51.1-07.5]*

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law **must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the strategic investment and improvements fund.** The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. **If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund.** For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.

15-08.1-09. Strategic investment and improvements fund - Continuing appropriation.

There is appropriated annually the amount necessary to pay from the strategic investment and improvements fund all principal and interest to the common schools trust fund on any loans made from the fund to the developmentally disabled loan fund program nos. 2 and 3. This authority is ineffective after all loans are repaid.



1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

House Judiciary Committee

March 6, 2013

Testimony of North Dakota Farm Bureau on HCR No. 3011

Presented by Jeffrey Missling, Executive Vice President

Good morning Mr. Chair and committee members. For the record my name is Jeffrey Missling, and I am the Executive Vice President of the North Dakota Farm Bureau. I am here today representing the members of North Dakota Farm Bureau and their policies.

North Dakota Farm Bureau stands opposed to House Concurrent Resolution No. 3011. I will try to be very brief with my comments, but some of you will recognize a portion of my testimony from NDFB's opposition to HCR 3005 that was heard by the Political Subdivisions Committee on February 8.

North Dakota Farm Bureau played a clear and direct role in the passage of Measure #3 during the November 2012 general election. Measure #3 was a constitutional amendment designed to safeguard the right to farm and ranch in our state and utilize modern practices. As you may recall, Measure #3 passed overwhelmingly in all 53 counties in our state and on a margin of 66.89% in favor and 33.11 against.

The 271 petition carriers involved in placing this measure on the ballot poured their hearts into this initiative because they believed very strongly in it. In fact, another NDFB staff member and I worked straight through nine consecutive weekends this past summer to make sure this measure made it on the ballot. He was able to gather 2,018 signatures, while I gathered 3,737. This process led us from places like the KFYZ Ag Show, to the KMOT Ag Expo, to the Winter Show, to the Aneta Turkey Barbeque, to the Wells County Fair, to the Glenfield Centennial Days, to the Red River Valley Fair, to the State Fair, and beyond. We learned first-hand, with a lot of hard work and through the powers granted to us by our constitution, citizens of this state truly can make a difference.

It is not easy to initiate a ballot measure in our state, and it shouldn't be. When we completed our petition drive for Measure #3, while we ended up submitting over 31,100 signatures to the Secretary of State on August 7, 2012, only 29,451 were accepted. This is because our Secretary of State and his staff do a thorough and consistent job of reviewing the petitions. In the opinion of our organization, the process as it exists today, works well. We had signatures that were not accepted due to incomplete addresses, inadequate signatures, out-of-state addresses, excluded

dates, duplicate signatures, notary errors, address omissions, and beyond. This is the way a process of this scale and importance should work. Our organization was very satisfied with the outcome of the initiated measure process, even though we had over 1,600 signatures rejected.

We learned early-on in the process that it was going to be critical that we not mess up. We learned this because the petition we created for our ballot measure had to be absolutely in the correct format, right down to the font style and size. We went so far as to retain the services of an attorney in order to ensure we were doing things the right way.

As an organization, we stand opposed to HCR No. 3011 because the resolution stands in direct opposition to the powers reserved to the people of this great state, as provided in our state constitution. ARTICLE III, Section 1 of the North Dakota constitution reminds us that, “laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers” in referring to the powers of the citizens of North Dakota regarding the initiative, referendum and recall process.

By requiring that, “a petition to initiate or refer a statutory measure must contain signatures equal in number to at least three percent of the population of the state and signatures equal in number to at least three percent of the population from each of at least fifty percent of the counties in the state and a petition to initiate a constitutional amendment must contain signatures equal in number to at least four percent of the population of the state and signatures equal in number to at least four percent of the population from each of at least fifty percent of the counties in the state,” it is our belief this would dramatically restrict those powers granted to our citizens by the state constitution.

Had HCR No. 3011 been a part of our constitution leading up to the 2012 election cycle, Measure #3 would have been soundly rejected by the Secretary of State’s office. A ballot measure that passed by a vote of nearly two-thirds in favor would not have even seen the light of day. I can tell you this with complete certainty because we kept a log of the number of signatures that each of our volunteers collected, by county. Even with a widespread volunteer network of more than 270 petition carriers, our organization was only able to meet or exceed the “signatures equal in number to at least four percent of the population” threshold in 23 counties in our state. We would have only met the threshold in 43% of our counties. Additionally, I’m not convinced there are many groups in our state that have the ability to recruit 271 petition carriers. I would be concerned about this concept of a “four percent from fifty percent of the counties” threshold discouraging many citizens from participating in the process, and could potentially cause only those groups that could afford to hire petition carriers to employ the initiative process. I do not believe this is what the citizens of this state want.

As a petition carrier, I have many concerns in regard to the “four percent from fifty percent of the counties” threshold offered in HCR No. 3011. My biggest concern would involve how citizens would be expected to separate out the signatures on a county-by-county basis. It is

difficult enough keeping track of one set of petitions, much less 53 separate sets. And if the responsibility to separate out those signatures will reside with the Secretary of State's office, it will require a substantial investment in additional staff because I can only imagine the extra work this approach would generate.

On at least five different occasions in our state's history (1932, 1936, 1940, 1942 and 1958) increases in the number of signatures required were proposed by our State Legislature. Each proposal was voted down by large margins. Furthermore, it was proposed in 1914 to require signatures of at least 25 percent of the legal voters in at least one-half of the counties of the state in order to amend the constitution. At the time, this approach was referred to as a "cumbersome procedure" and it ultimately met its fate at the polls in 1918, and a proposal to return to this approach has never been attempted since.

The requirement that, "no individual who is circulating a petition may be paid to circulate the petition or for obtaining signatures on the petition" is also something our organization would oppose. Provided that petition circulators are qualified electors and provided they are gathering the signatures in a legitimate and legal manner, we would not want to restrict the opportunity for sponsoring committees to pay individuals to gather signatures if they so desire.

Regarding the requirement that, "initiated measures that are estimated to have a fiscal impact of twenty million dollars or more must be placed on the general election ballot" our organization would support this concept. NDFB has multiple policies opposing unfunded mandates, so it makes sense to have a "check and balance" when the use of such a sizable amount of taxpayer dollars is in question.

Mr. Chair, I stand ready to answer any questions you or your committee members may have.

3-6-13

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TESTIMONY IN OPPOSITION TO HCR 3011

My name is Ralph Muecke from Gladstone ND and this is my written testimony in opposition to House Concurrent Resolution 3011.

Make no mistake about it. The Initiative and Referral process here in North Dakota is on the hit list of every liberal special interest group in ND including both parties. Never have I seen so many bills and resolutions pertaining to I&R introduced in one legislative session as I have in this one. Obviously the politicians and special interests have their sights set on destroying the process or crippling it to the point where it will be impossible to use. It's all about taking away the voice and the rights of the people. They are scared to death of government for the people, by the people, of the people, which is what our founding fathers intended.

First of all, it will make using paid circulators against the law. Okay, then a law should be passed to make it illegal to have paid lobbyists. It should be illegal to have paid legislators. It should also be illegal to allow legislators to vote themselves a pay raise. Shouldn't the people be able to decide by majority vote how much to pay their legislators? After all we hire you. This stinks hypocrisy to high heaven.

But regardless of how and by what means the signatures are gathered, when once put on the ballot for a vote, it has to be voted on in a statewide election. All of these so called fixes are nothing more than solutions to fix problems that are non-existent.

Another mandate of this resolution is to require signatures of at least 3 percent instead of the 2% currently required of the state's population and signatures in equal to 3 percent of 50% of the counties in ND to initiate or refer a statutory measure to be placed on a state wide ballot. I don't believe that this is even doable. Then by the same token the time for gathering signatures for a referral should be extended from 90 to 120 days. Wouldn't that be fair? Whoever came up with this asinine idea has never gotten out and circulated a petition in a serious manner. It's a lot more work and a lot more time consuming than you realize. I know because I've been there and done it.

What a slap in the face to the people of ND who want to maintain accountability and have a say in the way their government is run.

How is it fair to the people of ND who need to earn a living to have to get out and bust their butts even more than they already have to, to maintain checks and balances, while all our legislators only have to press a green button to vote our money and our rights away and collect free health insurance which the citizens of ND never authorized, the type many of our state's residents can't even afford.

This Resolution also would mandate circulators to go into 50% of the states counties and obtain signatures of at least 4 % of that counties population to place an initiated measure for a constitutional amendment onto the ballot. Totally unnecessary, unworkable and unconstitutional. Once again, the Measure still has to go to a statewide vote if the sufficient number of signatures has been obtained.

Make no mistake about it. There are certain of those in this state, mainly government and special interests that are hell bent on silencing the voice of the people. It's a resentment of those who tried to pass a total repeal of the property tax. I for one am not going to let it happen if I can help it.

The I&R process in ND is not broken. All of these bills and resolutions are desperate solutions in search of a problem.

Members of the committee. I am asking you to vote a unanimous "DO NOT PASS" on House Concurrent Resolution 3011.

Thank you

Signature, Geographic Distribution and Single Subject (SS) Requirements for Initiative Petitions

State	Type	SS	Net Signature Requirement for Constitutional Amendments	Net Signature Requirement for Statutes	Geographic Distribution	Deadline for Signature Submission	Circulation Period
AK	IDS	Yes	Not allowed by state constitution	10% of votes cast in last general election.	At least 1 signature in 2/3 of Election Districts	Prior to the convening of the legislature ¹	1 year
AZ	DA/DS	Yes	15% of votes cast for Governor	10% of votes cast for Governor	No geographical distribution	Four months prior to election	20 months
AR	DA/DS	No	10% of votes cast for Governor	8% of votes cast for Governor	5% in 15 of 75 counties	Four months prior to election	Unlimited
CA	DA/DS	Yes	8% of votes cast for Governor	5% of votes cast for Governor	No geographical distribution	To be determined by state each year ²	150 days
CO	DA/DS	Yes	5% of votes cast for SOS	5% of votes cast for SOS	No geographical distribution	Three months prior to election	6 months
FL	DA	Yes	8% of ballots cast in the last Presidential election	Not allowed by state constitution	8% in 12 of 23 Congressional Districts	90 days prior to election ³	4 years
ID	DS	No	Not allowed by state constitution	6% of registered voters	6% in each of the 22 counties ⁴	Four months prior to election	18 months
ME	IDS	No	Not allowed by state constitution	10% of votes cast for Governor	No geographical distribution	To be determined by state each year ⁵	1 year
MA	IDA/IDS	No	3% of votes cast for Governor	3¼% of votes cast for Governor ⁶	No more than 25% from a single county	To be determined each year by state ⁷	64 days
MI	DA/IDS	No	10% of votes cast for Governor	8% of votes cast for Governor	No geographical distribution	Constitutional amendment ⁸ Statute ⁹	180 days
MS	IDA	No	12% of votes cast for Governor	Not allowed by state constitution	20% from each Congressional District	90 days prior to the convening of the legislature	1 year
MO	DA/DS	Yes	8% of votes cast for Governor	5% of votes cast for Governor	5% in 6 of 9 Congressional Districts	Eight months prior to election	16 months
MT	DA/DS	Yes	10% of votes cast for Governor	5% of votes cast for Governor	Statute: 5% in 34 of 50 Legislative Districts Amendment: 10% in 40 of 50 Legislative Districts ¹⁰	Second Friday of the fourth month prior to election	1 year
NE	DA/DS	Yes	10% of registered voters	7% of registered voters	5% in 38 of 93 counties	Four months prior to election	1 year

¹ In Alaska, signatures must be submitted prior to the convening of the legislative session in the year in which the initiative is to appear on the ballot. The lieutenant governor shall place the initiative on the election ballot of the first statewide general, special, or primary election that is held after (1) the petition and any supplementary petition signatures have been submitted, (2) a legislative session has convened and adjourned, and (3) a period of 120 days has expired since the adjournment of the legislative session.

² In California, each year the Secretary of State will set a complete schedule showing the maximum filing deadline and the certification deadline by the counties to the Secretary of State. There is a recommended submission date for "full check" and "random check". These dates are only recommended. Notwithstanding any other provision of law, no initiative shall be placed on a statewide election ballot that qualifies less than 131 days before the date of the election.

³ In Florida, certification must be received by the Secretary of State from the county supervisors stating the number of valid signatures submitted by the initiative proponent no later than 90 days prior to the general election ballot for the initiative to be considered for that ballot. However, there are several additional criteria that must be met prior to the certification of an initiative for the ballot. This includes the requirement that the proposed initiative has been approved for the ballot by the state supreme court. An initiative can only be submitted to the court for review after 10% of the required number of signatures have been collected and certified to the Secretary of State by the county supervisors. The court is under no statutory time frame to render a decision. Therefore, there is no precise date in which the signatures must be submitted in order to insure that you qualify for any specific general election ballot.

⁴ This distribution requirement was struck down as unconstitutional by the Federal District Court of Idaho in early 2002. The decision was appealed by the state and as of the writing of this Almanac, the appeal had not been decided.

⁵ In Maine, signatures must be submitted on or before the 50th day after the convening of the Legislature in the first regular session or on or before the 25th day after the convening of the Legislature in the second regular session.

⁶ In Massachusetts, the initial petition must include 3% of the total votes cast for Governor. If the legislature has not passed an initiated statute by the first Wednesday in May, petitioners must file a supplementary petition with petitions equal in number to one-half of one percent of the total votes cast in the previous gubernatorial election to place the issue on the ballot.

⁷ In Massachusetts, the initial petition signatures shall be submitted no later than the first Wednesday in December in the year in which the Initiative was submitted. If the legislature has not passed the initiated statute by the first Wednesday in May, petitioners must file a supplementary petition with petitions equal in number to one-half of one percent of the total votes cast in the previous gubernatorial election no sooner than the first Wednesday in June and no later than the first Wednesday in July in for the initiative statute to be placed on the ballot.

⁸ In Michigan, signatures for constitutional amendments must be submitted not less than 120 days prior to the general election.

⁹ In Michigan, signatures for statutes must be submitted ten days prior to the start of the legislative session.

¹⁰ The legislature has placed a constitutional amendment on the November 2002 that would increase the state's distribution requirement. If it passes the requirement will be based on counties and not on legislative districts.

State	Type	SS	Net Signature Requirement for Constitutional Amendments	Net Signature Requirement for Statutes	Geographic Distribution	Deadline for Signature Submission	Circulation Period
NV	DA/IDS	No	10% of registered voters	10% of votes cast in last general election.	10% in 13 of 17 counties	Constitutional amendment ¹¹ Statute ¹²	CA: 11 months ¹³ Statute: 10 months ¹⁴
ND	DA/DS	No	4% of population	2% of population	No geographical distribution	90 days prior to election	1 year
OH	DA/IDS	Yes	10% of votes cast for Governor	6% of votes cast for Governor ¹⁵	Statute: 1½% in 44 of 88 counties Amendment: 5% in 44 of 88 counties	Constitutional amendment ¹⁶ Statute ¹⁷	Unlimited
OK	DA/DS	Yes	15% of votes cast for Governor	8% of votes cast for Governor	No geographical distribution	Eight months prior to election ¹⁸	90 days
OR	DA/DS	Yes	8% of votes cast for Governor	6% of votes cast for Governor	No geographical distribution	Four months prior to election	Unlimited
SD	DA/DS	No	10% of votes cast for Governor	5% of votes cast for Governor	No geographical distribution	Constitutional amendment ¹⁹ Statute ²⁰	1 year
UT	DS/IDS	No	Not allowed by state constitution	Direct statute: 10% of votes cast for Governor In-direct statute: 10% of votes cast for Governor ²¹	10% in 20 of 29 counties	Direct statute ²² In-direct statute ²³	Direct: Unlimited In-direct: Unlimited
WA	DS/IDS	No	Not allowed by state constitution	8% of votes cast for Governor	No geographical distribution	Direct: statute ²⁴ In-direct statute ²⁵	Direct: 6 months In-direct: 10 months
WY	IDS	Yes	Not allowed by state constitution	15% of votes cast in the last general election.	15% of total votes cast in the last election from at least 2/3 of the counties	One day prior to the convening of the legislature ²⁶	18 months

¹¹ In Nevada, signatures for constitutional amendments must be submitted 90 days prior to the election.

¹² In Nevada, signatures for statutes must be submitted 30 days prior to the convening of the legislature.

¹³ In Nevada, petition language for constitutional amendments can be filed no sooner than September 1 of the year preceding the election and all signatures are due 90 days prior to the election.

¹⁴ In Nevada, petition language for statutes can be filed no sooner than January 1st of an even numbered year and signatures must be submitted no later than November 1st of that same even numbered year.

¹⁵ In Ohio, the initial petition must include 3% of the total votes cast for Governor. A supplementary petition containing an additional 3% is required in the event the proposed statute is defeated, amended or left idle by the legislature.

¹⁶ In Ohio, signatures for amendments must be submitted 90 days prior to the election.

¹⁷ In Ohio, signatures for statutes must be submitted 10 days prior to the convening of legislature.

¹⁸ In Oklahoma, an initiative must be submitted to the state Supreme Court for review before it can be certified for the ballot by the Secretary of State. Due to the fact that there is no statutory deadline for the court to make this determination, the state recommends that you submit your signatures eight months prior to the election that you desire the measure to be considered for.

¹⁹ In South Dakota, signatures for amendments must be submitted at least one year prior to the election.

²⁰ In South Dakota, signatures for statutes must be submitted by the first Tuesday in May in the general election year.

²¹ In Utah, direct statutes require signatures equal in number to 10% of the votes cast for all candidates for Governor in the next preceding gubernatorial election for the statute to be placed on the ballot. Indirect statutes must contain signatures from 5% of the votes cast for all candidates for Governor in the next preceding gubernatorial election. If the legislature rejects or does not enact the proposed statute, a supplemental petition contacting additional signatures equal in number to 5% of the votes cast for all candidates for Governor in the next preceding gubernatorial election for the statute to be placed on the ballot.

²² In Utah, signatures for direct statutes must be submitted at least four months prior to the election.

²³ In Utah, signatures for in-direct statutes must be submitted at least 10 days before the commencement of the annual general legislative session.

²⁴ In Washington, signatures for direct statutes must be submitted four months prior to the election.

²⁵ In Washington, signatures for indirect statutes must be submitted ten days prior to the convening of the regular session of the legislature.

²⁶ In Wyoming, signatures must be submitted prior to the convening of the legislature. The state constitution states that the legislature shall convene at noon on the second Tuesday in January.

April 2, 2013

3011 (1)
Comm. wk.

PROPOSED AMENDMENTS TO ENGROSSED
HOUSE CONCURRENT RESOLUTION NO. 3011

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "2" insert "and 3"

Page 1, line 2, after "the" insert "circulation of petitions and the"

Page 1, line 5, replace "twenty" with "forty"

Page 1, line 5, after "ballot" insert "and provide that the legislative assembly may establish the qualifications for petition circulators"

Page 1, line 8, replace "amendment" with "amendments"

Page 1, line 8, replace "section" with "sections"

Page 1, line 8, after "2" insert "and 3"

Page 1, line 9, replace "is" with "are"

Page 1, line 24, replace "twenty" with "forty"

Page 2, after line 2, insert:

"SECTION 2. AMENDMENT. Section 3 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 3. The legislative assembly may establish qualifications for petition circulators. However, a petition ~~shall~~ may be circulated only by electors. ~~They~~ Each petition circulator shall swear thereon on the petition that the electors who have signed the petition did so in ~~their~~ the presence of that circulator. Each elector signing a petition shall also write in the date of signing and ~~his~~ the elector's post-office address. No law ~~shall~~ may be enacted limiting the number of copies of a petition. The copies ~~shall~~ become part of the original petition when filed."

Renumber accordingly

Section 2. [Petition]

A petition to initiate or to refer a measure must be presented to the secretary of state for approval as to form. A request for approval must be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom must be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.

Section 3. [Circulation]

The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post-office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

Add to HCR 3011:

If a petition to initiate a constitutional amendment would make a direct appropriation of public funds for a specific purpose or would require the legislative assembly to appropriate funds for a specific purpose, the petition may not be approved for circulation.

PROPOSED AMENDMENTS TO ENGROSSED
HOUSE CONCURRENT RESOLUTION NO. 3011

That the Senate recede from its amendments as printed on pages 1232 and 1233 of the House Journal and pages 1073 and 1074 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3011 be amended as follows:

Page 1, line 2, after "impact" insert "of measures to initiate constitutional amendments and to the placing"

Page 1, line 2, after "measures" insert "on the ballot"

Page 1, line 4, after "a" insert "significant"

Page 1, line 4, remove "of"

Page 1, line 5, remove "twenty million dollars or more"

Page 1, line 5, after the period insert "The measure also would prohibit the approval for circulation of any petition to initiate a constitutional amendment that would make a direct appropriation of public funds for a specific purpose or require the legislative assembly to appropriate funds for a specific purpose."

Page 1, line 20, overstrike "a procedure through which the legislative"

Page 1, line 21, overstrike "council may establish"

Page 1, line 21, after "the" insert "extent of the"

Page 1, line 23, remove "If the legislative council determines the fiscal impact of an initiated measure will be"

Page 1, remove lines 24 and 25

Page 2, replace lines 1 and 2 with "A measure determined to have a significant fiscal impact must be voted on at a general election."

If a petition to initiate a constitutional amendment would make a direct appropriation of public funds for a specific purpose or would require the legislative assembly to appropriate funds for a specific purpose, the petition may not be approved for circulation."

Renumber accordingly