

**2015 HOUSE JUDICIARY**

**HCR 3047**

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HCR 3047  
3/9/2015  
24494

☐ Subcommittee  
☐ Conference Committee



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

Relating to the fiscal impact of initiated measures.

## **Minutes:**

**Chairman K. Koppelman:** Opened the hearing with testimony in support.

**Rep. Carlson:** Introduced the bill. This is very simple and if it has to be changed then you should kill it. I think that it should state very simply one thing, that if a measure goes on the ballot it takes a minimum of 20 million dollars out of the treasury it should be on the fall ballot where most people vote. There are no restrictors here other than it needs to go on the fall ballot which means in most cases it would be an every other year thing, because we obviously do not have a fall ballot every year. That is critical when it comes to dealing with money out of the treasury.

**Rep. Lois Delmore:** Do think that people are aware of the fiscal note and people are saying that is too much money, that is not enough money and therefore it is changing how we vote?

**Rep. Carlson:** I like to think we are using it more as an educator tool. If they like the idea I think they should understand that it has a cost. I hope they make the decision on two things: the face value of the measure and the long term fiscal effect. When you are changing the constitution or you are spending money you have a seven year window without a two thirds vote that you have to live with. I think it has a significant effect on it and I would hope they did it based upon the sound economics of something. Obviously the people last time thought with all the other things that were put on the bill that it was taking away their privilege or right to have an initiative measure, because it required the legislature to approve it before it could go forward.

**Rep. L. Klemin:** What if the legislative counsel determines the fiscal impact to be less than 20 million dollars?

**Rep. Carlson:** It can go on either ballot. If legislative counsel for and management determine that this has an effect on health department they would ask the health

department to give them a fiscal note, the same procedure they do today for the statement we put on the Secretary of States website. It would be no different at all except if that number exceeds 20 million dollars it would have to go on the fall ballot.

**Rep. Mary Johnson:** Your intent was to have the exact fiscal note number; not this fiscal note impact?

**Rep. Carlson:** No nothing goes on the ballot about the money. It would be listed on the Secretary of States website.

**Rep. K. Wallman:** What is the turnaround time on the legislative management determining a fiscal note on a purposed measure? Is the a scenario where a measure might get put off from the primary to the general election because the legislative counsel is doing its work of investigating what a measure might cost?

**Rep. Carlson:** I don't believe that is the case. During the session it is different.

**Chairman K. Koppelman:** I think we did extend that last session.

**Rep. K. Wallman:** Would you be opposed having a time limit set for when the signatures come in to when that fiscal note might be required to be available?

**Rep. Carlson:** As long as it is reasonable the legislative counsel could make that work. The intent is not to delay the initiated process. I just want to make sure the most people vote on it when it gets to that stage. The more legislative restrictions you put on there the more you might be accused of micromanaging the initiated process and that's not where the intent is. I just want the most people to vote on an issue.

**Chairman K. Koppelman:** If you fix it in the constitution a specific dollars amount would it be morewise to put a percentage of the state budget or some other thing to reflect, because 20 million dollars today is not what it was 20 years ago nor what it will be 20 years from now?

**Rep. Carlson:** I think it becomes confusing when you take a percentage number. The point is if we accomplish the goal of having the most people vote on it I think it is a really good measure.

**Rep. L. Klemin:** The end of line 23 it says the impact of initiative measure and on line 23 it says initiated. So we have initiative verse initiated in the same paragraph referring to the same thing.

**Rep. Carlson:** I just think it is good public policy to have something to state where it goes on which ballot.

**Rep. K. Wallman:** Would it be easy for the Secretary of State have the cost on the website? Couldn't it also have the percentage of the general fund or treasury couldn't be?

**Rep. Carlson:** They are to educate the voter. I do think a number for people is easier to understand other than percentage.

**Opposition:**

**Neutral:**

**Jim Silrum, Deputy Secretary of State:** I stand in neutral testimony just because there was a question that was before you. 16.1.01-17, which says the estimated fiscal impact of an initiated measure and it is at least 90 days before a state wide election at which an initiated measure would be voted upon legislative counsel shall coordinate the determination of the fiscal impact of the initiative measure. It goes on but then it says that statement must be submitted to our office by 30 days before it gets to be voted on and then we are to publish that on the website. My only question for the committee procedurally to contemplate how this all occurs because of the way the measure is stated.

**Chairman K. Koppelman:** In our resolutions when we put something on the ballot for the people we indicate which ballot it is going to be on and sometimes we don't want to make one ballot aluminous with measures so we try to balance that. If this were to pass would this be expensive or not, which would weigh in to which ballot we put it on. The voters might say we want this on the spring ballot. If this were to pass the following legislative session we would be in tweaking the law to comply with the change in the constitution which frequently happens.

**Jim Silrum:** The legislature would need to follow suit if this were to pass.

**Rep. L. Klemin:** We have the existing constitutional language that refers to initiative measure, this resolution reverses to initiated measure. I am wondering what the correct terminology would be?

**Jim Silrum:** Before it is actually qualified for the ballot it is called an initiative petition. Once this has been met then it becomes an initiated measure. We often refer to initiative when we say the initiative process, whether that is for a statutory measure or a constitutional measure.

**Rep. L. Klemin:** My only point is that it should be stated the same way.

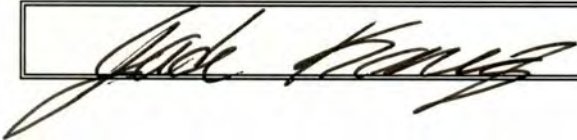
Hearing closed.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HCR 3047  
3/9/2015  
24532

☐ Subcommittee  
☐ Conference Committee



**Minutes:**

**Chairman K. Koppelman:** Let me ask Tessa to explain to the committee what she has discovered.

**Intern:** Not audible

**Chairman K. Koppelman:** The new language in the bill is initiated so the suggestion is that we change initiative on line 21 to initiative.

**Rep. Klemin:** I just heard the reason for changing it and it sounds to me that maybe we should be changing the word measure on line 22 to petition.

**Rep. K. Karls:** I move to amend.

**Rep. D. Larson:** Second.

**Chairman K. Koppelman:** The motion is simply to change the word initiative in the current constitutional language to initiated at the end of line 21.

Motion to Adopt Amendment.

Motion made by Representative Karls.

Seconded by Representative Larson.

Voice Vote.

Motion Carries.

**Chairman K. Koppelman:** We have the amended resolution before us. I know there was some discussion about the dollar amount. Do we want to leave that alone or do we want to touch that?

**Rep. Klemin:** I think the whole point is that it has to be a number sufficient to put it into the general election ballot. Anything less could go either way.

**Rep. Brabant:** I move a Do Pass.



**Rep. D. Larson:** Second

**Rep. Anderson:** Didn't we just vote on this?

**Chairman K. Koppleman:** This is much cleaner. Representative Karls concern is if something is going to have a major fiscal impact on the state treasury that a maximum number of voters should vote on it and we have a much better voter turnout in a general election than we do in a primary.

**Rep. Anderson:** But it does take away some of the power of our citizens to do this?

**Chairman K. Koppleman:** No not at all. All this does is say which ballot it goes on.

**Rep. Wallman:** I'm just looking at the research and it has the code and it says at least 30 days before the public vote on the measure the legislative counsel shall submit a statement of the estimated, I guess the system would be the resolution pass and then you would change that to 90 days?

**Chairman K. Koppleman:** I think what would need to happen is typically if there is a change in the constitution if there is any conflict in law it comes upon the legislature the next time it needs to try to reconcile that. It probably isn't wise to try and change the law now and anticipation and maybe a proposed measure may pass, because it may not but once it is passed then it's important for us to come back and look at it.

**Rep. D. Larson:** Seems to me in listening to this that this just sounds like a school bond issue.

**Rep. Kretschmar:** On line 23 it says if the legislative counsel. Now is that determined to be the 9 or 10 legislatures on the counsel?

**Chairman K. Koppelman:** No, it is now legislative management and legislative counsel is the staff.

**Rep. Brabandt:** Was the last resolution price tagged 20 million dollars as well?

**Rep. K. Wallman:** I am looking at part of the code it says at the end of the first fiscal year the Legislative Management will go back and look at how much fiscal impact it would be. I wonder if we need this? I think that if an estimated fiscal impact were to go up on the Secretary of States website for an initiated measure and people wanted to know how much it costs that they could just go and look. I think that we could say that's what needs to happen rather than having a dollar figure in the measure that changed the constitution. I am going to resist this for that reason.

**Chairman K. Koppelman:** Do you want the public to decide this or do you want to us to deny the opportunity to decide it? Do you want more of the public the chance to weigh in on those things? They can go on the internet now and check out the fiscal note.

**Rep. Lois Delmore:** It has the Legislative Counsel making the determination so maybe we should look at wording a little more in this bill.

**Chairman K. Koppelman:** You have to designate some entity and that is the intent here. My guess is what would happen is legislative counsel would see a measure if it has an impact on the DOCR for example, they would be in contact and try to get as accurate information as they could.

**Rep. Lois Delmore:** In their defense sometimes I think they are less biased than some of our agencies. There is not a better agency to kill the bill than DOT.

**Rep. G. Paur:** would it be better to say in the beginning if the Secretary of State determines the fiscal impact?

**Chairman K. Koppelman:** Legislative Counsel is probably the best entity to gather the information.

**Rep. G. Paur:** Then you also have legislature in here. The secretary of state will probably turn around and ask the legislative counsel, but process would probably continue the way it is.

**Chairman K. Koppelman:** My guess is if he were here he would say his office doesn't have the expertise to do this and I agree with Rep. Lois Delmore.

**Rep. G. Paur:** It is posted on the Secretary of States website?

**Chairman K. Koppelman:** He puts it out there, yeah that's true. We could add if legislative counsel determines the fiscal impact initiated measure be 20 million dollars or more and it is posted as such on the secretary of states website, but then you are getting so specific in a constitutional measure.

**Rep. L. Klemin:** If we look at the statue we have here the Legislative Counsel is the number gather and they aren't making and judgment calls.

**Rep. Brabandt:** The Secretary of State's office has nothing to do with money.

**Chairman K. Koppelman:** There were two animals that were called the Legislative Counsel it was the office that is currently called the legislative counsel and the committee of legislature that meets during the interim when we are not in session and deals with legislative business. Now we call it legislative management.

**Rep. P. Anderson:** I am struggling with the arbitrary number?

**Chairman K. Koppelman:** The sponsor indicated and from what I have heard in our discussion there is probably agreement with this that you have a number that is going to change in value over time but on the other hand it will be a long long time before 20 million dollars isn't a lot of money. It is also something that would be more misunderstood if you start to say x percent of the state budget.

**Rep. Kretschmar:** The Constitution here says on line 20 & 21 they talk about the Legislative Counsel and that measure was passed in 1978 when the legislative counsel was 9 or 10 legislatures. It has the very same language in the new language.

**Chairman K. Koppelman:** In 1978 I am not sure since the office staff was also called Legislative Counsel at that time. When it says the legislative assembly may provide by law for a procedure through which legislative counsel may establish an appropriate method for determining fiscal impact, it probably still would have been staff directed back then.

**Rep. Lois Delmore:** If everybody is called the same thing and it's not separated out in statute then we have legislative interference again and if that's it I can't support this.

**Rep. L. Klemin:** On line 20 and 21 it seems to me a simple way to resolve that would be just to delete the words through which the legislative counsel may and insert the word to. It would be a legislative assembly may provide by law for procedure to establish an appropriate method for determining the fiscal note.

**Chairman K. Koppelman:** I agree with you.

**Rep L. Klemin:** I move that the words through which the legislative counsel may on lines 20 and 21 be replaced by the word to.

**Rep. Brabrant:** Second.

**Rep. Mary Johnson:** 16.10117 differentiates between legislative counsel and legislative management and I am wondering if that section was in contemporaneous with this 1978 language at which case I don't see the need to take out legislative counsel.

**Chairman K. Koppelman:** This is actually much newer and it dealt with the whole issue of informing the public and letting them know what a measure would cost.

**Rep. Mary Johnson:** So in 1978 there were no directional bills at that time.

**Chairman K. Koppelman:** What this says is the legislative counsel is supposed to create and essence of fiscal note or a fiscal impact on every initiative measure and that happens now. What the resolution would do is it would trigger that everything over 20 million dollars based on that determination which is already going on would go on the fall ballot.

**Rep. Mary Johnson:** How does your provide by law for a procedure and I'm wondering well in 1978 did that happen, provide by law?

**Rep. D. Larson:** So what we would be doing is to say that the legislative assembly can provide a procedure to establish a method of determining the fiscal impact, but that is already being done?



**Rep. L. Klemin:** No legislative counsel does not provide the procedure, legislative assembly provided the procedure which is in 16.10117.

**Rep. D. Larson:** So it is already done then.

**Chairman K. Koppelman:** The point is because of the change of the status of what was legislative counsel in 1978 to what it is now I think it is appropriate to make this amendment, because legislative counsel as referred to in the constitution is not the same entity.

**Rep. L. Klemin:** They were the staff for Legislative Counsel.

**Rep. Mary Johnson:** Because it refers to the 16.10117 that is the procedure which differentiates between legislative counsel and legislative management.

**Chairman K. Koppelman:** You also have the terminology of legislative counsel is in the proposed measure. We would be removing it from the current constitution which might raise question too. I see the point although in a practical sense I don't think it makes a lot of difference.

**Rep. G. Paur:** I am getting uncomfortable making all these changes in the constitution. I am not sure it is a good idea. I would feel comfortable with an insertion instead of trying to rewrite the whole thing.

**Chairman K. Koppelman:** I understand the reason for the apposed amendment. The attorneys and legislatures understand the history, I'm not sure that would even come up in discussion when this comes before voters and I think the way the constitution is read today that language would have to be synonymous as we read it.

Motion made to Adopt Amendment.  
Motion made by Representative Klemin.  
Seconded by Representative Brabandt.  
Total Yes 2. No 9. Absent 2.  
Motion fails.

**Chairman K. Koppelman:** So we have the once amended resolution before us only the word change on line 21 from initiative to initiated has been made by the committee. Represent Brabandt do you want to reinstate your motion?

**Rep. Brabandt:** Yes

**Rep. Larson:** I second

Motion for Do Pass As Amended.  
Motion made by Representative Brabandt.

House Judiciary Committee  
HCR 3047  
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Seconded by Representative Larson.  
Total yes 9. No. 2. Absent 2.  
Motion passes  
Floor assignment Representative Johnson.

March 9, 2015

SL  
3/9/15

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3047

Page 1, line 21, overstrike "initiative" and insert immediately thereafter "initiated"

Renumber accordingly

Date: 3-2-1  
Roll Call Vote#:

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO.

House **JUDICIARY** Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description:

Recommendation: ☒ Adopt Amendment

☐ Do Pass      ☐ Do Not Pass      ☐ Without Committee Recommendation

☐ As Amended      ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider      ☐

Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Kerk Seconded By Rep. Larson

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total	(Yes)	No
10	10	0

Absent

## Floor Assignment

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

Change Line 21 to initialize  
Change Line 22 - word - measure

Date: 3-9-15  
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3047

House JUDICIARY

Committee

☐ Subcommittee

☐ Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☒ Adopt Amendment

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

Other Actions:

☐ Reconsider

☐ \_\_\_\_\_

Motion Made By Rep. Klemin Seconded By Rep. Brabandt

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman		✓	Rep. Pamela Anderson		✓
Vice Chairman Karls		✓	Rep. Delmore		✓
Rep. Brabandt	✓		Rep. K. Wallman		✓
Rep. Hawken	<del>AB</del>				
Rep. Mary Johnson		✓			
Rep. Klemin	✓				
Rep. Kretschmar		✓			
Rep. D. Larson		✓			
Rep. Maragos	<del>AB</del>				
Rep. Paur		✓			

Total (Yes) 2 No 9

Absent 2

Floor Assignment Failed

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

difference between Leg Council  
and Leg Management



Date: 3-9-15  
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE HCR  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3047

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.3109.01001

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Brabandt Seconded By Rep. Larson

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson		✓
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman		✓
Rep. Hawken	—	—			
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	—	—			
Rep. Paur	✓				

Total (Yes) 9 No 2

Absent 2

Floor Assignment Rep. Johnson

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

**REPORT OF STANDING COMMITTEE**

**HCR 3047: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HCR 3047 was placed on the Sixth order on the calendar.

Page 1, line 21, overstrike "initiative" and insert immediately thereafter "initiated"

Renumber accordingly

**2015 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HCR 3047**

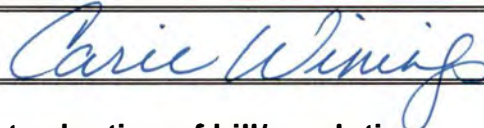
# 2015 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Missouri River Room, State Capitol

HCR 3047  
3/27/2015  
Job # 25555

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

A concurrent resolution to amend and reenact section 2 of article III of the Constitution of North Dakota, relating to the fiscal impact of initiated measures.

### Minutes:

Attachments 1 - 2

**Chairman Dever:** Opened the hearing on HCR 3047.

**Representative Carlson, District 41:** Testified as sponsor and in support of the bill. This measure was on the last ballot but the measure is different in respect that I have always long felt, and this goes back to the days of the youth initiative, that when you have a very large fiscal note on an initiated measure, that it should be put in front of the people when the most of them vote. That is the general election in the fall. In spite of what people are saying that this limits their ability for an initiated measure, it has absolutely nothing to do with that. If you are familiar with our process today on initiated measures, a number of years ago we put a measure in that said that whichever agency or area would have the most expertise is to look at that measure that is on the ballot approved by the secretary of state and assign a value to what they think it is. That statement goes on his website and not on the ballot. So those numbers do not influence anyone on the ballot but if you are looking it up you can find out what they cost. We already do that. What this one says is that if it is over a \$20 million fiscal note, the measure goes on the general election ballot. The purpose is simply to have the most people voting on it. Last time it started out this simple and by the time it got done with the two committees it was legislative review, approval, and it could not go on the ballot unless we said it could go on the ballot and quite honestly it gave lots of reasons to reject it because it was poorly done. I should have asked when it came back to the House and we were as much guilty as the Senate was because we muddled it half the way and then you guys just added a little more. It was a restriction of the initiated process. This does nothing but have someone assign a number and if it is over \$20 million it will have to be voted on in the general election. This does not require the number to be listed on the ballot it just requires it to be in the general election. It needs to be kept as simple as it is and let the people decide if they want it or not. You will hear some arguments that this is restricting our ability to have an initiated measure and quite honestly I cannot find one thing in here that says that.

**(3:48) Chairman Dever:** When we put a measure on a ballot we specify which election it is going to be in. If it is an initiated measure does the committee that puts it together spell that out?

**Representative Carlson:** Usually they do. This would say they have to spell it out.

**Chairman Dever:** This would go into the constitution and \$20 million today might be insignificant 20 years from now.

**Representative Carlson:** That is the point of discussion. I do not know what the exact number is. We just said \$20 million was logical. This is just being more specific. No more. No less. That is it.

**Chairman Dever:** I know that we have one of the most open initiative procedures in the country. In some states people can gather signatures and then the legislature decides whether or not it should go forward. Or the legislature has an opportunity to act on the measure before it goes forward.

**Representative Carlson:** That is basically what the last measure said and it was soundly rejected by the people.

**Chairman Dever:** I am wondering if rather than setting a number if there might be a way to allow legislative management to set that number or to decide whether or not it is significant enough to go to general election.

**Representative Carlson:** The more we give power to someone else the more people are going to line up against us in my biased opinion. I do not know what the right number is because you are right, \$20 million today might mean much of anything tomorrow but I think it is pretty hard to argue with the fact that if you are going to take large amounts from the treasury that the most people should have a say in whether their share is coming or going.

**Senator Flakoll:** One solution that would be confusing would be to put a percentage of the budget. What are your thoughts if it was \$20 million and CPI effective on a specific date so then it would migrate according to the value of \$20 million in essence in perpetuity?

**Representative Carlson:** The harder it is to understand the more people vote no as we found out the last time when 7 out of the 8 measures were voted no on. I think there was measure fatigue and there was a lot of confusion and they were hard to figure out. I do believe the more confusing it gets with formulas and numbers the more people are going to think that we are trying to do something inappropriate. Initiated measures are easy to get in North Dakota. You can go to the state fair and the mall and get 13,000 signatures. This does not change signature requirements or anything. It just says to put a number on it.

**Senator Flakoll:** We could adjust it for the rate of inflation. Is the only way that you would use the state fair, which is kind of the gold standard for getting signatures, is if you put it on the fall ballot anyway?



**Representative Carlson:** It is always a year off. You could start this summer for 2016. You could get a year and a half to get it ready.

**Senator Poolman:** If we do not pass this do you think that it is only a matter of time before special interests are able to really influence a primary and carve out funding for themselves?

**Representative Carlson:** If I was after the treasury in any way I would definitely put my measure on the primary ballot because it is much easier. Only a fourth or less of the people are voting. So if I wanted to increase my mathematical chances I would bring it to the primary election.

**Chairman Dever:** Elections are decided by people that show up.

**Senator Nelson:** Didn't we have something last session about measures with fiscal impact that were supposed to go to the general election.

**Representative Carlson:** I do not remember the bill but I do remember the initiated measure that it was changed a lot. In hind sight I would have said that we should have killed it when it came back to the House. It was not going to work because there were too many requirements on it.

**Senator Nelson:** What was version 1?

**Representative Carlson:** It was just like this. This is what was brought as a version 2.

**(12:34)Ralph Muecke, Resident on Gladstone, North Dakota:** See Attachment #1 for testimony in opposition to HCR 3047.

**(18:00)Chairman Dever:** This is a constitutional resolution that would be voted on by the people. Do you still object to that? It is not the legislature making the change but it would be the people making the change.

**Ralph Muecke:** I am aware of that but you are putting it on a ballot. Anytime the legislature proposes an amendment to be put on the ballot, you could have to do the same thing that we citizens do that we need to go out and get a signature of 4% of the population and put it on the ballot. I think you have a very unfair advantage there because we have to go out and hoof it and do you think it is easy to go out and get 26,000 signatures? Just get out and try it sometime. All you have to do is push a button and it is on the ballot.

**Chairman Dever:** We are not here to represent ourselves; we are here to represent the people who elected us.

**Ralph Muecke:** That is the whole point I am trying to make.

**(19:40) Glen Baltrusch, Resident of Harvey, North Dakota:** See Attachment #2 for testimony in opposition to the bill.

**(27:37) Senator Poolman:** Do you think it would be better if we just made all initiated measures in the fall?

**Glen Baltrusch:** In my opinion that is what I believe; even measures coming out of the legislative assembly. It is much easier to have it passed if it is in the primary election then if it were in the general election. The general election has a much larger turnout. That is the appropriate way to have a decision made.

**Senator Nelson:** Last election there were 8 measures on the ballot and people got rather sick of seeing the measures so for the most part some of them voted no for that reason and others because they really meant to vote no. I am looking at the referrals, referendums, and initiated measures as the wishes of the people and what are your feelings on whether the people with their planning group/steering committee also have the say in what election they wanted? So we would be better off leaving things alone?

**Glen Baltrusch:** I still think they are better on the general because of the larger number of voters.

**Senator Nelson:** So to eliminate another 8 to 12 measures on the ballot in the next general election; we put all the referendums in the primary and the initiated measures in the other?

**Glen Baltrusch:** I think a lot of it has to do with what is proposed on the ballot. In some ways it is like trying to compare apples and lemons.

**Senator Flakoll:** Part of your premise is that we have already voted on this with 56% of the people on a similar measure but yet you offer two amendments that would remove language that was put on about 12 years ago that passed with probably 20% higher to require statements of fiscal impact so that voters would know how much a measure would cost. Help me reconcile your positions on that because they seem incongruent?

**Glen Baltrusch:** I guess what I am looking at when I am talking about is when you look at the last sentence of Article Three, it violates it. What this does, by amending Section 16 of Article Four, is it would require the legislative assembly to do the same thing as what is currently in the Constitution in Article Three. You would have to provide information on fiscal and on Constitutional rights.

**(33:22) Leon Mallberg, Resident of North Dakota:** Testified in opposition to the bill. I agree with both prior testimonies. If we can make a comparison, Measure 4 was like Michelob and what we have in HCR 3047 is like Michelob light but they are both beers. Looking at Representative Carlson's logic, I think we should have the same thing with respect to any industry or revenue producing source that says that you cannot go in the tank until at least 6 months before the next legislative session. We know that is preposterous. What I am hearing from the House members is that we need to prevent out of state organizations from taking control. I must remind the committee that both Measure 1 and 5 went down big time. I had to remind my House members from my district that citizens have maybe a little bit more than sawdust between their ears. If you look at it from the whole concept, we have these two organizations to bring a ton of money into this state and we still told them to get lost. I am wondering if we are securing a solution here where

we really haven't established a problem. The citizens said the two organizations were overboard and that is how the election turned out. We have to put a little bit more trust in the average run of the mill joe six pack because in many cases he has done some homework, probably not enough, but they have done some. If we let the citizens run around without corralling them from a financial aspect, we are not going to be able to budget at the state level or it is going to be a really tough job. If we look at what is happening in the last 8 month, we are in a budget crunch but there seems to be civility here in the legislature and we are making significant cuts. There is not anarchy up and down the streets. I think that sometimes we tend to blow things a little bit out of proportion. Measure 2 did cause a lot of nervousness, but I think that the reason for Measure 2 was 50% frustration. There has been no solution to the property tax problem and we all admit there are some inequalities that seem to exist and have been ignored. The people want something of substance. There are people that won't vote regardless. There are those that vote only when an issue interests them. They may go an average of 1 out of 4 times. There are people that vote strictly by party. They usually don't study the issues and the just vote their party. Not necessarily the best informed voter. Then there is the herd voter. A group gets together and decides to vote a certain way on an issue and the whole group votes for that issue only because that is what the group was doing. There are also people like me that are addicted to voting and will be there any time the polls are open. I am asking that you leave the section alone. It looks to me that the legislature can put an item on the ballot with 73 people. That is a simple majority in both House and Senate. I go to put something on the ballot it is 30,000 signatures and between \$15,000 and \$18,000. I really think that section of the Constitution should be in the spirit of its own tone. Even the legislature, should they find it necessary to change any portion of that section, should do an initiated measure. All you need is 25 sponsors and you have 141 people here. You have the legislative council to write the petition. You don't have to incur a \$4500 bill to write it. You have a captive Secretary of State here. You could be ready in 72 hours. You each represent a district with about 15,000 people in it. It looks like a piece of cake. Representative Carlson made it sound like it is a cake walk to go to the state fair and it is not. I think there is a secondary benefit to making this a requirement. If legislators do it, they certainly are going to understand the process and what is required to do that process. My proposal does not eliminate the change at all, it just sets the rules for how the changes are made in that section.

**(46:00)Chairman Dever:** Closed the hearing on HCR 3047.

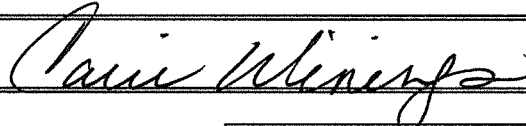
# 2015 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Missouri River Room, State Capitol

HCR 3047  
4/10/2015  
Job # 26006

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Minutes:

Attachments 1 - 2

**Chairman Dever:** Opened HCR 3047 for committee discussion. See Attachments #1 and #2 for proposed amendments. Reviewed the bill. It would be an amendment to put SCR 4010 into the resolution by replacing the language. The House turned SCR 4010 into a study and the reports from the conference committee on our side are that they are not willing to budge from their study.

**(2:58) Senator Cook:** I was not all that warm to the bill as it was introduced but if we put this amendment on there I would start liking it a lot more. **Moved the Amendment on Attachment #1.**

**Senator Davison: Seconded.**

**Chairman Dever:** Is there any further discussion?

**Senator Flakoll:** Is this a hog house amendment?

**Chairman Dever:** Yes.

**Senator Flakoll:** I might have liked if it was just added onto the bottom and make it section 2 but I understand the intent.

**A Roll Call Vote Was Taken: 5 yeas, 1 nay, 1 absent.**

**Motion Carried.**

**Senator Cook: Moved a Do Pass As Amended.**

**Senator Poolman: Seconded.**

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.**

**Motion Carried.**

**Senator Dever will carry the bill.**

April 10, 2015

4/10/15  
JRE

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION  
NO. 3047

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to amend and reenact section 5 of article IV of the Constitution of North Dakota, relating to residency requirements of members of the legislative assembly."

**STATEMENT OF INTENT**

This measure would require a member of the legislative assembly to be a resident of the district from which selected.

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

That the following proposed amendment to section 5 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2016, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 5 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 5.** ~~Each person elected to member of the legislative assembly must be, on the day of the election during the entire term for which selected, a qualified elector in the district from which the member was chosen selected and must have been a resident of the state for one year immediately prior to that election~~ Each person elected to member of the legislative assembly must be, on the day of the election during the entire term for which selected, a qualified elector in the district from which the member was chosen selected and must have been a resident of the state for one year immediately prior to that election selection to the legislative assembly. Each house of the legislative assembly shall adopt rules regarding confirmation and verification of the qualifications, as required under this section, of its members throughout the term for which elected.

Renumber accordingly



Date: 4/10  
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3047

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: Attachment #1 - Senator Dever  
4/10 Amendment

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Cook Seconded By Davison

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	AB	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll		✓			

Total (Yes) 5 No 1

Absent 1

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

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

Date: 4/10  
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3047

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Cook Seconded By Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	AB	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Dever

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

**REPORT OF STANDING COMMITTEE**

**HCR 3047, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3047 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to amend and reenact section 5 of article IV of the Constitution of North Dakota, relating to residency requirements of members of the legislative assembly."

**STATEMENT OF INTENT**

This measure would require a member of the legislative assembly to be a resident of the district from which selected.

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

That the following proposed amendment to section 5 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2016, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 5 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 5.** Each person elected to member of the legislative assembly must be, on the day of the election during the entire term for which selected, a qualified elector in the district from which the member was chosen selected and must have been a resident of the state for one year immediately prior to that election selection to the legislative assembly. Each house of the legislative assembly shall adopt rules regarding confirmation and verification of the qualifications, as required under this section, of its members throughout the term for which elected."

Renumber accordingly

**2015 CONFERENCE COMMITTEE**

**HCR 3047**

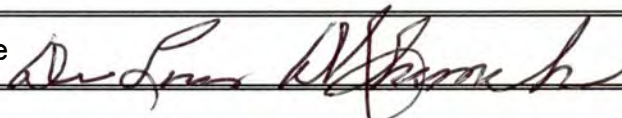
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HCR 3047  
4/21/2015  
26324

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



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

Relating to the residency requirements of the legislative assembly.

## Minutes:

See Handout #1 & #2

**Rep. L. Klemin, (Chair):** Opened the conference committee meeting on HCR 3047.  
All members were present. Did the Senate take any action on HCR 4010 this afternoon?

**Senator Dever:** We would feel more comfortable that we see that action on that before we do this.

**Rep. L. Klemin:** We could certainly do that.

**Motion made that the Senate recede from the Senate amendments by Rep. Karls:  
Seconded by Rep. Lois Delmore:**

Discussion:

**Senator Dever:** We have two issues here. Assuming that the Senate is ready to recede I would prefer to have a conversation about further amending the bill.

**Roll Call Vote:** 3 Yes 3 No 0 Absent Motion Failed.

**Motion Made that the House accede to the Senate amendments by Senator Dever;  
Seconded by Senator Davison**

**Rep. L. Klemin:** We have a motion now that the House accede to the Senate amendments, which is to convert HCR 3047 into SCR 4010.

**Senator Dever:** We come to this with that already accomplished.

**Roll Call Vote:** 3 Yes 3 No 0 Absent 0 Motion Failed



**Rep. L. Klemin:** Let's have a discussion on what might happen in the next conference committee for us to think about.

**Rep. Karls:** I am curious why your body changed this into a completely different resolution than the original? From what I understand that is against our joint rules?

**Senator Dever:** I didn't find anything to that effect and I would be happy to review that if you would like?

**Rep. L. Klemin:** (See handout #1) (See handout #2) There is a constitutional provision in article 4 sections 13 that provides

**Senator Dever:** We sent 4010 to the House as a constitutional resolution. It was converted into a study. We have over the years several legislators out of their districts and one thing they all have in common is they were members of the House and that reflects totally on the entire legislature. So I would like to see a vote in the House up or down. Not a study.

**Rep. L. Klemin:** on 4010 the conference committee has met on that and has an amended report that will be going to the House. It is my understanding that it provides to the effect that they have to live in the residence in order to serve in the legislature. I don't disagree with that. That is the reason the House rejected the conference committee report yesterday because it didn't contain that specificity. The ND Constitution provides that no law may be enacted except by a bill passed by both houses and no bill may be amended on its passage through either house in the manner which changes its general subject matter. (See handout #1) In essence the Senate's action in amending HCR 3047 to turn it into an entirely different amendment to the constitution, which is on a different subject, may violate this constitutional provision and the House and Senate rules on amendments. I am not going to take the position that is the case. I am just saying it may and that would be the version that would apply if it does. I think we should not take any action further on this today, but rather wait until the House acts on SCR 4010, which may then take care of any reason to change 3047 into a mirror image of that same resolution.

**Senator Dever:** I don't disagree with that at all. I opened the conference committee suggesting we do that. Regarding the rule the House considers itself to be perfectly innocent of having ever offended the same.

**Rep. L. Klemin:** I don't disagree that this constitutional amendment, constitutional revision and House and Senate rule seems to have been ignored many times in the past. I have noted it a few times when that is the case in case I ever did need to bring that up. Before we adjourn I would like to discuss a possible amendment when we meet next time.

**Senator Dever:** The concern I have about 3047 as it came to the Senate is the \$20 million. That may mean something different twenty years from now than it does now and it is a constitutional.

**Rep. L. Klemin:** I am looking at version 02000. We could revise this language on line 20 is existing language that says the legislative assembly may provide by law for a procedure

through which the legislative counsel may establish an appropriate method for determining the fiscal impact of an initiative measure and for making information regarding fiscal impact of a measure available to the public. Then we have the new language and I am just going to suggest a potential amendment for you to think about. If the legislative counsel determines that an initiative measure will have a major fiscal impact as provided by law during the next full biennium after the measure is due to become effective etc. with the same language that is in there. What that does is it takes the \$20 million figure out of the constitution and states that a major fiscal impact would be as provided by law. Then the legislative assembly would need to enact a statute to provide by law defining what a major fiscal impact is. That statute then would be subject to amendment as time goes by based on inflation.

**Senator Dever:** I agree with the intent of that.

**Rep. L. Klemin:** I think this question came up and the answer was we should leave that to legislative counsel experts to management in the existing counsel we could make that change too.

.Adjourned.

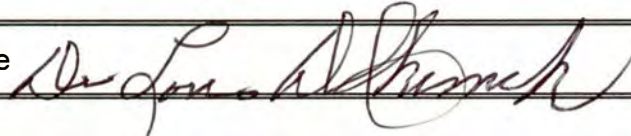
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HCR 3047  
4/22/2015  
Job #26360

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



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

Relating to the residency requirements of the legislative assembly.

## Minutes:

Proposed amendment #1, Handout #2

**Rep. L. Klemin, Chair:** Opened the conference committee meeting on HCR 4037. All members were present. (See the proposed amendment #1 and Handout #2) Went over this amendment proposal. (00:17-2:30)

**Senator Dever:** Do I understand that that followed the Constitutional amendment that created the second paragraph in section 2, Article 3?

**Rep. L. Klemin:** Yes. Section 17 was enacted after the constitutional amendment. We had some questions about legislative counsel or legislative management. That is answered in section 17 where it talks about Legislative Counsel so that is already taken care and we don't need to do anything about that in the constitution. Jim Silrum from the Secretary of State's office had concerns about the timing. So it doesn't affect anything on timing; the timing is in the statute. Then the election on that initiated measure would be at the next general election regardless of whether that is the next election or not. So that is the proposal.

**Senator Dever:** I appreciate your efforts on that and I appreciate your vote on 4010 this morning. Yesterday we talked about whether this could be done statutorily and it was not necessary for it to be in the constitution so I visited with John Bjornson this morning and he said we could if somebody wanted the measure on the ballot. Senator Hogue did some research for me and it says laws may be enacted to facilitate and safe guard, but not to hamper, restrict, or impair these powers. I suppose one could argue a statute that requires large fiscal initiative measure to be on the November ballot is not hampering, but it could be argued that it is restricting the power of an initiative measure. One could argue the requirement safe guards the powers by making certain a specific provision receives the greatest consideration from the electorate. I think the Senate is ready to go along with whatever we chose to be the best language.

**Rep. L. Klemin:** I think what you said about the issue is correct and this would certainly clarify all those objections if we had this in the constitution.

**Senator Dever:** There is a document on the legislative website that you can excess that lists every measure that has ever been on the ballot since statehood.

**Motion made to move the amendment and the Senate recede from the Senate amendments and amend as follows by Rep. Karls: Seconded by Senator Dever.**

Discussion:

**Senator Davison:** Was there any discussion among the House side maybe putting a percentage of revenue as opposed to just major fiscal impact? Being a little bit more specific that would be adjusted as our state revenue went up? As opposed to just saying a major fiscal impact?

**Rep. L. Klemin:** Exactly what it says is major fiscal impact as determined by law so we would have to pass a law defining what that is. Then we can tinker with that and put formulas in the statute or whatever we want to do or just have \$20 million and change it every ten years as necessary. We would just define major fiscal impact so whatever that is that the legislature deems appropriate; which would then be subject to change every session if they want to do it.

**Senator Davison:** When I listened to SCR 4003 and the discussion about that resolution coming forward; how do you describe that to the voter? I am concerned that it will pass based on that it is not very clear?

**Rep. L. Klemin:** I think the Constitution should be more general and should be expanded on by statutes made in accordance with the Constitution and that is what this is.

**Senator Davison:** I think we could agree the less educated and less clear something is to the voter in ND typically vote no. That is my concern.

**Rep. Lois Delmore:** One of my concerns with the bill is the death by fiscal note. I think it is a dangerous route we are taking with this bill. Then they would know what the fiscal impact would be; maybe a certain percentage? That would go up and down depending on what the state's budget is.

**Rep. L. Klemin:** Right now it would be in the neighborhood of \$6 and \$7 billion so if we put a .0025 in the constitution is that going to be clearer. I don't think so.

**Rep. Lois Delmore:** I think we may be asking them to vote on something they don't understand because we don't have it defined anywhere.

**Rep. L. Klemin:** Let's look back on line 20 at the existing language. We do have a provision in Article 4 Section 13 that says the Legislature can provide by law to carry out the provisions of the constitution. This is all consistent with that.

House Judiciary Committee  
HCR 3047  
April 22, 2015  
Page 3

**Senator Dever:** It is a constitutional measure and it on the ballot and it will be decided by the people and it will be on the general election ballot so it is not a contradiction in itself.

**Roll Call Vote:** 6 Yes 0 No 0 Absent

Adjourned.



4/22/15  
8/

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION NO.  
3047

That the Senate recede from its amendments as printed on page 1634 of the House Journal and page 1408 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3047 be amended as follows:

Page 1, line 4, remove "are estimated to"

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

Page 1, line 4, remove "of"

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

Page 1, line 23, remove "the fiscal impact of"

Page 1, line 24, replace "be twenty million dollars or more" with "have a major fiscal impact, as determined by law,"

Renumber accordingly

2015 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES

RESOLUTION, HCR 3047 as (re) engrossed

House Judiciary Committee

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

Motion Made by: Rep. Karls Seconded by: Rep. Delmore

Representatives	4-21-			Yes	No		Senators	4-21			Yes	No
Rep. L. Klemin (Chair)	X			X			Senator D. Dever	X				X
Rep. K. Karls	X			X			Senator K. Davison	X				X
Rep. L. Delmore	X			X			Senator R. Marcellais	X				X
Total Rep. Vote							Total Senate Vote					

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4/21/2015  
Roll Call Vote #: 2

**2015 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

RESOLUTION i HCR 3047 as (re) engrossed

**House Judiciary Committee**

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

Motion Made by: Senator Dever Seconded by: Senator Davison

Representatives	4-21-			Yes	No		Senators	4-21			Yes	No
Rep. L. Klemin (Chair)					X		Senator D. Dever				X	
Rep. K. Karls					X		Senator K. Davison				X	
Rep. L. Delmore					X		Senator R. Marcellais				X	
Total Rep. Vote							Total Senate Vote					

Vote Count Yes: 3 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4/22/2015  
Roll Call Vote #: 1

2015 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES

RESOLUTION HCR 3047 as (re) engrossed

House Judiciary Committee

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

Motion Made by: Rep Karls Seconded by: Sen Dever

Representatives	4-22-		Yes	No		Senators	4-22		Yes	No
Rep. L. Klemin (Chair)	✓		✓			Senator D. Dever	✓		✓	
Rep. K. Karls	✓		✓			Senator K. Davison	✓		✓	
Rep. L. Delmore	✓		✓			Senator R. Marcellais	✓		✓	
Total Rep. Vote						Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number 15.3109.02002 of amendment

LC Number 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HCR 3047, as engrossed:** Your conference committee (Sens. Dever, Davison, Marcellais and Reps. Klemin, Karls, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1634, adopt amendments as follows, and place HCR 3047 on the Seventh order:

That the Senate recede from its amendments as printed on page 1634 of the House Journal and page 1408 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3047 be amended as follows:

Page 1, line 4, remove "are estimated to"

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

Page 1, line 4, remove "of"

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

Page 1, line 23, remove "the fiscal impact of"

Page 1, line 24, replace "be twenty million dollars or more" with "have a major fiscal impact, as determined by law,"

Renumber accordingly

Engrossed HCR 3047 was placed on the Seventh order of business on the calendar.



**2015 TESTIMONY**

**SB 2152**

## TESTIMONY IN OPPOSITION TO HCR 3047

March 25, 2015

Good morning members of the Senate and government affairs committee. My name is Ralph Muecke from Gladstone ND and I am here today to voice my opposition to House Concurrent Resolution (HCR 3047).

I stand before you today to boldly defend my rights granted to me by the framers of the constitution of the great state of North Dakota.

North Dakota is one of only 23 states in the union to have the right of Initiative and Referral (I&R). Sadly to say the I&R process has come under attack in all 23 states that have it and most regrettably by the those that the people elect to represent them. ND is no exception.

As more states joined the union, people became smarter. They saw the need for another recourse for when those they elected would turn a deaf ear to those who elected them.

Over the years as far back as I can remember bills and resolutions have been introduced, to little by little weaken or cripple the I&R process to make it harder and harder to use the process to maintain accountability of those the people elect to represent them in state government. Some of these bills and resolutions have passed and some have failed. We have heard it said that all of these proposed amendments are necessary to protect the integrity of the process. I would dare to say that if anything they do just the opposite.

Last November the voters of ND were asked to vote away a big part of their right of I&R. But thank God they were wise enough to see that Measure 4 meant voting away a big chunk of their rights. It didn't take a rocket scientist to figure out that Measure 4 (HCR 3011) was aimed right square point blank at another attempt to do another measure to abolish property taxes in ND. The special interests and those cemented at the public trough that opposed Measure 2 weren't going to take another chance of that ever happening again.

HCR 3047 is another attack on our right of I&R. It's another follow up to Measure 4. You say there is no connection? I beg to differ. (1) Both have the same main legislator sponsor namely Rep. Al Carlson. (2) Both are mentioning 20 million dollars. (3) Had Measure 4 passed, HCR 3047 would have never have been conceived. I believe that HCR 3047 is part of a way of sneaking a part of HCR 3011 into the back door camouflaging it to make it look like something far more innocent. I think that everyone in this room in the back of their mind knows it. I also believe that HCR 3047 is incomplete and is part of another bill or resolution either already in existence or that will be introduced in a future legislative session. HCR 3047 in itself doesn't really make any sense. It has a very peculiar odor to it.

The idea of having all constitutional amendments voted on in a general election doesn't make any sense. Measure 2 that would have abolished property taxes proved that any amendment or issue of great importance will draw a strong voter turnout no matter when it's held.

This proposed resolution makes very little sense and is just a waste of time. Please give HCR 3047 a "Do not Pass" recommendation. Don't waste the taxpayers time and money on something like this. As legislators you have more important bills and resolutions than this that need your attention.

Thank You

Ralph Muecke, Gladstone, ND

Before the 64<sup>th</sup> Legislative Assembly  
Senate Government and Veterans Affairs Committee  
House Concurrent Resolution No. 3047  
Tuesday, March 27, 2015 at 10:45 A.M.  
By Glen E. Baltrusch

Mr. Chairman and Committee Members,

Good morning! My name is Glen Baltrusch, and I reside at Harvey, ND; which is in District 14. I stand before you this morning in opposition to House Concurrent Resolution No. 3047 for a number of reasons.

One of the reasons that I stand in opposition to **House Concurrent Resolution No. 3047** is the fact that a similar resolution, 'House Concurrent Resolution No. 3011' was enacted by the 63<sup>rd</sup> Legislative Assembly and placed on the 2014 General Election Ballot as Measure 4. To refresh our memories, I have attached the 'Statewide Measures, Official Results General Election – November 4, 2014' for review and informational purposes. In reviewing the results of Measure 4, we notice that it was soundly 'defeated or rejected by 31,654 votes'. In other words to clarify for simplicity, it was 'defeated or rejected with 56.59% No votes verses 43.41% Yes votes'.

This may sound a bit harsh, but, **House Concurrent Resolution No. 3047** questions the integrity of the 64<sup>th</sup> Legislative Assembly with respect to the votes cast by the Electorate.

In reviewing **House Concurrent Resolution No. 3047**, I find myself questioning the reasoning that the North Dakota Legislature has continuously proposed amendments to the Constitution of North Dakota over the past several; not several, but many Legislative Sessions. For some reason, the North Dakota Legislature continuously attempts to fool the Citizens and to intentionally deprive and strip us of our Constitutional Rights. Unfortunately, the Legislatures Assemblies have been far too successful in taking advantage of our trusting Citizens. As the Electorate, they believed they could trust the members of the legislature, especially since we believed we truly had a 'citizen legislature' and you are known and referred to as "our neighbors". When it comes to amending the Constitution of North Dakota, the Legislative Assemblies have continued to act like it is changing diapers on a baby – often and frequently.

In reading **House Concurrent Resolution No. 3047**, I do understand the reasoning and theory as to why HCR 3047 has come about. Should **House Concurrent Resolution No. 3047** be amended, I believe at that point I would request a "Do Pass" recommendation for concurrence of the Senate. For your consideration, I have done something that I normally

would not do, but I have attached two versions of amendments to HCR 3047. **Version 1** (one) in my humble opinion, is the very least or minimum that must be adopted by this Committee and the Senate of the 64<sup>th</sup> Legislative Assembly, then adopted and enacted by the House of Representatives of the 64<sup>th</sup> Legislative Assembly. **Version 2** (two), are the preferred amendments to HCR 3047. The adoption of the amendments in **Version 2** of the proposed amendments to **House Concurrent Resolution No. 3047** would 'right some of the wrongs' that have been done by other Legislative Assemblies.

In reviewing the **Version 1** proposed amendments to HCR 3047 on page 1, lines 20 thru 22 and part of line 23 removes that part that violates the last sentence of Section 1. of Article III, POWERS RESERVED TO THE PEOPLE that was placed upon the ballot by a previous legislative assembly.

On page 1, lines 23 thru 25, parts of the current amending language relating to the legislative council and the dollar amount are removed, and some language is replaced. When amended with the new proposed amendment language, it would require that all initiated measures be placed upon the ballot at the next general election.

In reviewing **Version 2** of the proposed amendments to **House Concurrent Resolution No. 3047**, on page 1, lines 1 thru 8, parts of the title, statement of intent, and concurring language is amended as would be required to be placed on the ballot should these recommended amendments be adopted.

On page 1, lines 20 thru part of line 23 are overstruck to remove that portion of language that violates the last sentence of Section 1. of Article III, POWERS RESERVED TO THE PEOPLE that was placed upon the ballot by a previous legislative assembly.

On page 1, lines 23 thru 25, parts of the current amending language relating to the legislative council and the dollar amount are removed, and some language is replaced with the new proposed amendment language which would require that all initiated measures must be placed upon the ballot at the next general election.

On page 2, after line 2, is the proposed amendment language to amend and reenact Section 16. of Article IV. These proposed amendments to section 16 of article IV makes any proposed amendment by the legislative assembly would be required to be placed upon the ballot at the next general election. The proposed amendment language at the end of section 16 would require the legislative council to provide to the public the information of any fiscal impact of the proposed amendment by the legislative assembly, as well as the amending of, loss of, or any restriction of, any constitutional right of a proposed amendment by the legislative assembly.

Mr. Chairman, and Committee Members, I believe the answer to these problems is the adoption of the **Version 2 proposed amendments to Engrossed House Concurrent Resolution No. 3047**; and the other part of the equation already exists; they are commonly

known as Citizens, and / or the Electorate. I firmly believe it is not only the Citizen that needs to protect our Constitution; but the Legislative Assemblies as well. As demonstrated at the last General Election, I believe the Citizens cast the proper votes on the vast majority of the Ballot Measures at the last General Election.

Mr. Chairman, and Committee Members, I respectfully request that you seriously consider your decision of **House Concurrent Resolution No. 3047**; and that this committee vote for a **"DO PASS"** recommendation to the floor of the Senate if amended with the proposed amendments submitted to you this morning. Should the proposed amendments not be adopted for ratification, I then respectfully request a **"DO NOT PASS"** recommendation to the floor of the Senate from this Committee.

Thank you for your time and consideration in this pertinent matter.



**North Dakota  
Voting Information & Central Election Systems**

North Dakota Election Officials, County Auditors and Secretary of State

**Official Results General Election - November 4, 2014**

Last Updated: 11/17/2014 9:16:11 AM

Auto Update: 0:00

Precincts Reporting

427 **100.00%** 427

Ballots Cast

255,128 **46.81%** 545,020Total VAP [ND Elections Home](#)[Results Home](#)[My Tracked Contests](#)**CONTESTS**[Statewide](#)[Legislative](#)[Judicial](#)[County](#)[Soil Conservation](#)[City](#)**MEASURES**[Statewide](#)[County](#)[City](#)**BY DISTRICT**[Statewide](#)[Legislative](#)[Judicial](#)[County](#)**MAPS**[State House](#)[State Senate](#)[Precincts Reporting](#)**RESOURCES**[Election Terminology](#)[Voter Turnout](#)[Possible Recounts](#) [Precincts Reporting Map](#)[Media](#)[County Websites](#)[Archived Elections](#)[Search By Contest](#)[Search By Candidate](#)[Export Results to Excel](#)[Sort By Candidate](#)[Sort By Votes](#)**Constitutional Measure No. 1 Relating to the inalienable rights to life of every human being at every stage of development. - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

	Votes ▼	Percent	
Rejected No	161,303	64.13%	
Yes	90,224	35.87%	
<b>Total Votes</b>	<b>251,527</b>		

**Constitutional Measure No. 2 Relating to the prohibition of the imposition of mortgage taxes or any sales or transfer taxes on the mortgage or transfer of real property. - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

	Votes ▼	Percent	
Accepted Yes	188,283	75.69%	
No	60,478	24.31%	
<b>Total Votes</b>	<b>248,761</b>		

**Constitutional Measure No. 3 Relating to repealing the existing Board of Higher Education and to creating a three member commission of higher education appointed by the Governor. - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

	Votes ▼	Percent	
Rejected No	182,492	74.95%	
Yes	61,007	25.05%	
<b>Total Votes</b>	<b>243,499</b>		

**Constitutional Measure No. 4 Relating to the fiscal impact of measures to initiate constitutional amendments and to the placing of initiated measures on the ballot - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

	Votes ▼	Percent	
Rejected No	135,899	56.59%	
Yes	104,245	43.41%	
<b>Total Votes</b>	<b>240,144</b>		

**Initiated Constitutional Measure No. 5 Constitutional Petition Related to a Clean Water, Wildlife, and Parks Trust and a Clean Water, Wildlife, and Parks Fund - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

	Votes ▼	Percent	
Rejected No	199,305	79.38%	
Yes	51,775	20.62%	
<b>Total Votes</b>	<b>251,080</b>		

**Initiated Statutory Measure No. 6 Relating to Parental Rights and Responsibilities - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

	Votes ▼	Percent	
Rejected No	152,004	62.09%	
Yes	92,807	37.91%	
<b>Total Votes</b>	<b>244,811</b>		

[County Results](#)

**Initiated Statutory Measure No. 7 Relating to the Operation of a Pharmacy - Vote For 1 ☐ Follow This Contest**

Precincts Reporting: 427/427

[Legislative District Results](#)  
[Results Map](#)

		Votes ▼	Percent		
Rejected	No	147,644	58.97%		
	Yes	102,731	41.03%		
	Total Votes	250,375			

**Initiated Statutory Measure No. 8 Statutory Petition Related to School Classes Beginning After Labor Day - Vote For 1 ☐ Follow This Contest**

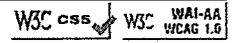
Precincts Reporting: 427/427

[County Results](#)  
[Legislative District Results](#)  
[Results Map](#)

		Votes ▼	Percent		
Rejected	No	136,963	55.57%		
	Yes	109,489	44.43%		
	Total Votes	246,452			

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Version 1

## **PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION NO. 3047**

Page 1, overstrike lines 20 thru 21

Page 1, line 22, remove the overstrike over "~~initiative~~"

Page 1, line 22, remove "initiated"

Page 1, overstrike line 22

Page 1, line 23, overstrike "~~measure available to the public.~~"

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

Page 1, remove line 24

Page 1, line 25, remove "measure is due to become effective and"

Page 1, line 25, replace "and" with "If"

Page 1, line 25, replace "the petition" with "an initiated measure"

Version 2

**PROPOSED AMENDMENTS TO HOUSE CONCURRENT  
RESOLUTION NO. 3047**

Page 1, line 1, immediately after "section" insert "s"

Page 1, line 1, after "III" insert "and section 16 of article IV"

Page 1, line 2, overstrike "~~the fiscal impact of~~"

Page 1, line 4, overstrike "~~that are estimated to have a fiscal impact of~~"

Page 1, line 4, after "and any amendment proposed to the Constitution of North Dakota by either house of the legislative assembly"

Page 1, line 5, overstrike "~~twenty million dollars or more~~"

Page 1, line 8, immediately after "section" insert "s"

Page 1, line 8, after "III" insert "and section 16 of article IV"

Page 1, overstrike lines 20 and 21

Page 1, line 22, remove the overstrike over "~~initiative~~"

Page 1, line 22, remove "initiated"

Page 1, overstrike line 22

Page 1, overstrike "~~measure available to the public.~~"

Page 1, line 23, remove "if the legislative council determines the fiscal impact of an"

Page 1, remove line 24

Page 1, line 25, remove "measure is due to become effective and"

Page 1, line 25, replace "and" with "If"

Page 1, line 25, replace "the petition" with "and initiated measure"

Page 2, after line 2, insert:

**"SECTION 2. AMENDMENT.** Section 16 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 16.** Any amendment to this constitution may be proposed in either house of the legislative assembly, and if agreed to upon a roll call by a majority of the members

elected to each house, must be placed on the next general election ballot and must be submitted to the electors and if a majority of the votes cast thereon are in the affirmative, the amendment is a part of this constitution. The legislative council shall determine the fiscal impact of a proposed amendment by the legislative assembly, the amending of, the loss of, or any restriction of, a citizens constitutional right of a proposed amendment by the legislative assembly, and make the information regarding the fiscal impact of the proposed amendment by the legislative assembly, and the amending of, loss of, or any restriction of, any constitutional right of a proposed amendment by the legislative assembly available to the public."

## PROPOSED AMENDMENTS TO HCR 3047

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to amend and reenact section 5 of article IV of the Constitution of North Dakota, relating to residency requirements of members of the legislative assembly"

**STATEMENT OF INTENT**

This measure would require a member of the legislative assembly to be a resident of the district from which selected.

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

That the following proposed amendment to section 5 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2016, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 5 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 5.** Each member of the legislative assembly must be, during the entire term for which selected, a qualified elector in the district from which the member was selected and must have been a resident of the state for one year immediately prior to selection to the legislative assembly. Each house of the legislative assembly shall adopt rules regarding confirmation and verification of the qualifications, as required under this section, of its members throughout the term for which elected.

Renumber Accordingly



4/10 #2

15.3001.03000

**FIRST ENGROSSMENT**

Sixty-fourth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE CONCURRENT  
RESOLUTION NO. 4010**

Introduced by

Senators Wardner, Schneider

Representatives Carlson, Onstad

1 A concurrent resolution to amend and reenact section 5 of article IV of the Constitution of North  
2 Dakota, relating to residency requirements of members of the legislative assembly.

3 **STATEMENT OF INTENT**

4 This measure would require a member of the legislative assembly to be a resident of the district  
5 from which selected.

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

8 That the following proposed amendment to section 5 of article IV of the Constitution of  
9 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the  
10 primary election to be held in 2016, in accordance with section 16 of article IV of the  
11 Constitution of North Dakota.

12 **SECTION 1. AMENDMENT.** Section 5 of article IV of the Constitution of North Dakota is  
13 amended and reenacted as follows:

14 **Section 5.** Each ~~person elected to member of~~ the legislative assembly must be, ~~on the day~~  
15 ~~of the election~~ during the entire term for which selected, a qualified elector in the district from  
16 which the member was ~~chosen~~ selected and must have been a resident of the state for one year  
17 immediately prior to ~~that election~~ selection to the legislative assembly. Each house of the  
18 legislative assembly shall adopt rules regarding confirmation and verification of the  
19 qualifications, as required under this section, of its members throughout the term for which  
20 elected.

#1  
HCR 3047  
4-21-15

SR/HR 332 (2015)

**332. Amending bills.** No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions, but the portion amended, extended, or incorporated must be set out at length and reenacted. No bill may be amended during its pendency in the Senate in a manner that changes its general subject matter. 332. Amending bills. No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions, but the portion amended, extended, or incorporated must be set out at length and reenacted. No bill may be amended during its pendency in the Senate in a manner that changes its general subject matter.

#2  
HCR 3047  
4-21-15

**Section 13. [Journals — Recorded vote — Voting by lieutenant governor — Bill passage — Effective date of acts — Laws to implement constitution — Local or special laws]**

Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly during its eighty natural meeting days takes effect on August first after its filing with the secretary of state, or if filed on or after August first and before January first of the following year ninety days after its filing, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

15.3109.02002  
Title.

#1  
HCR 3047  
Prepared by the Legislative Council staff for 4-22-15  
Representative Klemin  
April 22, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION NO.  
3047

That the Senate recede from its amendments as printed on page 1634 of the House Journal and page 1408 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3047 be amended as follows:

Page 1, line 4, remove "are estimated to"

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

Page 1, line 4, remove "of"

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

Page 1, line 23, remove "the fiscal impact of"

Page 1, line 24, replace "be twenty million dollars or more" with "have a major fiscal impact, as determined by law."

Renumber accordingly

#2  
HCR 3047  
4-22-15

#### **16.1-01-17. Estimated fiscal impact of an initiated measure.**

At least ninety days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative management shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council for identifying the estimated fiscal impact of an initiated measure. At least thirty days before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative management under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative management under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

#### **History.**

S.L. 2005, ch. 180, § 1; 2009, ch. 482, § 14.

#### **Effective Date.**

The 2009 amendment of this section by section 14 of chapter 482, S.L. 2009 became effective August 1, 2009.