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*Richard Costa*  
Operator's Signature

*10/16/03*  
Date

2003 JOINT CONSTITUTIONAL REVISION

HCR 3069

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10/16/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3069

Joint Constitutional Revision Committee

☐ Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
2	X		1754-end
2		X	334-2018
Committee Clerk Signature <i>Elizabeth R. Feier</i>			

Minutes: **Chair Kretchmar:** Opened hearing on HCR 3069.

**Sen. Flakoll:** Supports with written testimony.

**Rep. Winrich:** Initiated measures usually go hand-in-hand with referendums. Why is this just on initiated measures. Sen. Flakoll responded that referrals usually come from the legislature and already have fiscal consideration.

**Sen. Krebsbach:** Why not a bill to make a statute? Sen. Flakoll said that it could be done, but feels they should let the people decide if this is what they want.

**Rep. Hawken:** Asked if Sen. Flakoll was aware of HCR 3016 and if so, how is this different.

Sen. Flakoll replied that 3016 required to put the fiscal impact on the ballot. This does not.

**Rep. Devlin:** This promotes openness in government. This lets the people decide if they want the Legislature to do this.

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*La Costa Richard*  
Operator's Signature

*10/16/03*  
Date

Page 2  
Joint Constitutional Revision Committee  
Bill/Resolution Number HCR 3069  
Hearing Date February 26, 2003

**Rep. Maragos:** Why not do this anyway as a Legislative assembly? Why not have Legislative Council do this? Rep. Devlin said that the people should tell us so that it does not seem like it is coming from the Legislature only.

**Sen. Tollefson:** Looking at lines 21-24, is this permissive, not mandatory. Rep. Devlin agreed that yes, this is permissive

**Rep. Winrich:** Doesn't the media already do this? Rep. Devlin said that the members of the free press do a great job, but the information is so varied and voters get confused when one paper differs from another. Rep. Winrich then asked why they single out this issue than to depend on the free press. Rep. Winrich then added that OMB, the Bank of ND, and private firms gave the initiative fiscal numbers and he is not sure they were partisan estimates. Rep. Devlin believes people are better served if the numbers come from one place.

**Rep. Maragos:** Do you not see Legislative Council as partisan? No, he doesn't consider them partisan.

**Glenn Baltrusch:** Opposed with written testimony.

**K.W. Simons:** Opposed with written testimony.

**Roger Johnson:** Opposed with written testimony.

**Mark Sitz (ND Farmers Union):** Opposed to HCR 3069. From an information standpoint, more is better, but he does not want initiated measure to be more prohibitive.

**Ralph Muecke:** Opposed HCR 3069. Says it is much like 3016, which was doomed for failure. This creates abuse of the IR & R process. This opens the process and will create more problems. Says 3069 is unconstitutional.

**Russell Odegard:** Opposed. Do not need a change in law to get a fiscal report.

Page 3

Joint Constitutional Revision Committee

Bill/Resolution Number HCR 3069

Hearing Date February 26, 2003

Mrs. Gary Zentz: It's a privilege to have the initiative process. Opposed to 3069.

Tom Bauman: Opposed.

Chair Kretschmar: Closed hearing on HCR 3069

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La Costa Richard  
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10/6/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3069

Joint Constitutional Revision Committee

☐ Conference Committee

Hearing Date March 5, 2003

Tape Number	Side A	Side B	Meter #
1	X		2741-3140
Committee Clerk Signature <i>Elizabeth R. Linn</i>			

Minutes: **Chair Kretschmar**: Opened discussion on HCR 3069.

Sen. Nichols moved DNP on HCR 3069. 2nd by Rep. Maragos.

**Sen. Nichols**: The problem with fiscal notes is that we always show the costs and never the rewards. Fiscal notes would be tough to do.

Vote: **2** Yes **1** No **0** Absent and not voting

Carriers: Rep. Maragos

Sen. Seymour

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*La Costa Rickford*  
Operator's Signature

*10/16/03*  
Date

Date: 3/5  
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 3069**

House Joint Constitutional Revision Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DNP

Motion Made By Nichols Seconded By Maragos

Representatives	Yes	No	Senators	Yes	No
Rep. Kretschmar, Chair	✓		Sen. Tollefson, Co-Chair	✓	
Rep. Maragos	✓		Sen. Mutch		✓
Rep. Hawken	✓		Sen. Krebsbach	✓	
Rep. Eckre	✓		Sen. Nichols	✓	
Rep. Winrich	✓		Sen. Seymour	✓	

Total (Yes) 9 No 1

Absent \_\_\_\_\_

Floor Assignment Maragos Seymour

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

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Valeria Richardson  
Operator's Signature

10/16/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 6, 2003 11:08 a.m.

Module No: HR-40-4077  
Carrier: Maragos  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HCR 3069: Joint Constitutional Revision Committee (Rep. Kretschmar, Chairman)**  
recommends **DO NOT PASS** (9 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).  
HCR 3069 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-40-4077

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*Richard Costa*  
Operator's Signature

*10/16/03*  
Date



2003 TESTIMONY

HCR 3069

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Yolanda Richardson  
Operator's Signature

10/16/03  
Date

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com



Phone (701) 328-2231  
Toll Free (800) 242-7535  
Fax (701) 328-4567

600 E. Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Roger Johnson  
Agriculture Commissioner  
House Concurrent Resolution No. 3069  
Joint Constitutional Revision Committee  
Prairie Room  
February 26, 2003**

Chairman Kretschmar and members of the House Constitutional Revision Committee, I am Agriculture Commissioner Roger Johnson. I am here today in opposition to HCR 3069, which grants the legislative assembly the authority to provide a procedure for determining the fiscal impact of initiated measures.

**Preserving the people's constitutional rights**

Every piece of legislation introduced in this legislature should be in the best interest of our citizens. Section 1. of the North Dakota Constitution gives the people the right to "propose and enact laws by the initiative...to approve or reject legislative Acts, or parts thereof, by the referendum...and to propose and adopt constitutional amendments by the initiative." That section concludes with this statement: "Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers." Clearly, it was the people's intention for these powers to be safeguarded.

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10/6/03  
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I can tell you from personal experience that getting an initiated measure on the ballot in the first place is no easy task; nor should it be. However, if 13,000 people—roughly the population of Williston—say they want the right to vote on an idea, we should not put roadblocks in their way. Unfortunately, that is what this resolution would do. I have no doubt that people will shy away from initiating measures if they believe the main focus of a measure will be on its cost and not its merits. Of course, we all recognize that most ideas have a price tag. During the campaign supporters and opponents of initiated measures have the opportunity to discuss the fiscal impact, and they do.

The reason I am opposed to this resolution is because it is often difficult---indeed impossible at times---to have an accurate assessment of prospective costs. This was precisely the case with HB 1492 (tax exemptions and credits for qualified investments in cities that have established renaissance zones) during the 1999 legislative session. Three separate fiscal notes were requested on 1/20/99, 2/21/99, and 3/26/99. All three responses prepared by the office of the State Tax Commissioner said, "The overall net impact of HB 1492 is unknown." (Attachment 1) If this bill had instead been an initiated measure and if the bill before you today were, in fact, the law of the land, what information regarding the fiscal impact of the measure would be made available to the public?

**Fiscal notes can vary greatly in accuracy**

Since my most recent personal experience with initiated measures is the Youth Investment Initiative, I will use it to illustrate the difficulty in obtaining reliable, accurate fiscal information.

As you may recall, the provisions of the Youth Investment Initiative were two-fold for individuals under age thirty who lived and worked in North Dakota. The measure provided for an income tax reduction of up to \$1,000 per year and a student loan forgiveness of up to \$1,000 per year, both for five consecutive years. In this testimony, I will focus on the estimated cost of the student loan reimbursement portion of the measure.

Legislative Council asked the Bank of North Dakota to determine the cost of the student loan reimbursement section of the measure. BND President Eric Hardmeyer said in his letter of May 9, 2002, "...our assessment is that on an annual basis the impact to the state is \$24,350,000." He went on to say, "Our calculation is somewhat crude in that we do not specifically measure some of the elements that are needed to make an accurate assessment."

(Attachment 2) Mr. Hardmeyer's analysis failed to account for graduation by those older than age thirty, failed to consider whether borrowers were employed, and also failed to sufficiently consider graduation rates for North Dakota colleges.

After considerable public discussion concerning the cost of the measure, Mr. Hardmeyer revised his original assessment. In a September 23, 2002, letter to Legislative Council, he said, "I would estimate the fiscal impact to be in the range from \$13 million to \$20 million per year, and a middle of the road estimate of \$16.5 million." (Attachment 3)

So, in the end, there were four estimates from the Bank of North Dakota: \$24 million, \$20 million, \$16.5 million, and \$13 million. Had this proposed process been in effect, the number

would have been \$24 million, which may, in fact, have been as much as \$11 million off the mark, just in terms of BND estimates.

**Accurate, useful information for voters must be the goal**

Recognizing that the voters were confused by conflicting cost estimates, I requested a fiscal impact analysis of the student loan reimbursement portion of the measure from the Center on Budget and Policy Priorities in Washington, DC. The Center's total estimated annual cost for student loan reimbursement was \$7.5 million. (Attachment 4) The Center's report discusses in some depth on pages 8 and 9 what it says are "significant flaws" in BND's estimate of the fiscal impact.

First, the Bank "does not take into account the possibility that many of its current borrowers could be over thirty or not employed and therefore not eligible to claim the rebate...Second, the Bank has provided no verifiable documentation of its estimate of its share of the North Dakota student loan market. Finally, the Bank assumes that any student loan billing statement mailed to a borrower at a North Dakota address represents a resident of the state. This seems like a questionable assumption; many young people move frequently and use their parents' addresses as their mailing addresses—particularly for critical mail like student loan bills."

This independent analysis reveals that BND's fiscal note could have been in error by as much as \$16.5 million. Incorrect information on the ballot title of an initiated measure would be worse than no information at all.

While it is good to consider the fiscal impact of an initiated measure, that alone should not determine our acceptance or rejection of it. But even more importantly, accuracy of the numbers used must somehow be assured. Such assurance is neither is neither contemplated nor provided in this resolution. Rather, the debate over these numbers more appropriately belongs in the public arena.

**Additional shortcomings of this resolution**

While undoubtedly well-intentioned, this resolution has three additional shortcomings. Why does it want to provide for a procedure for determining the fiscal impact of initiated measures and not referendums? Why does it not include a provision for an independent, credible third party to verify the fiscal impact statement? Why doesn't it require the benefits to also be identified?

Chairman Kretschmar and committee members, I urge a do not pass on HCR 3069. I would be happy to answer any questions you may have.

## FISCAL NOTE

Return original and 14 copies)

Resolution No.: HB 1492

Amendment to: \_\_\_\_\_

Requested by Legislative Council

Date of Request: 1/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: HB 1492 provides various tax exemptions and credits for qualified investments in cities that have established renaissance zones. A portion of the revenue loss attributable to the tax exemption and credit provisions of the bill will be off set by economic expansion in participating communities. The overall net impact of HB 1492 is unknown.

## 2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						

## 3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: \_\_\_\_\_

## 4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: Kathryn L. StrombeckTyped Name: Kathryn L. StrombeckDepartment: TaxDate Prepared: January 25, 1999Phone Number: 328-3402

Sal Costa Richardson  
Operator's Signature

10/16/03  
Date

## FISCAL NOTE

(original and 14 copies)

Bill/Resolution No.: \_\_\_\_\_

Amendment to: HB 1492

Requested by Legislative Council

Date of Request: 2/12/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: HB 1492 provides various tax exemptions and credits for qualified investments in cities that have established renaissance zones. A portion of the revenue loss attributable to the tax exemption and credit provisions of the bill will be off set by economic expansion in participating communities. The overall net impact of HB 1492 is unknown.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: \_\_\_\_\_

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: \_\_\_\_\_

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: February 15, 1999

Phone Number: 328-3402

La Costa Rickford  
Operator's Signature

10/6/03  
Date



# FISCAL NOTE

Return original and 14 copies)

Bill/Resolution No.: \_\_\_\_\_

Amendment to: Eng. HB 1492

Requested by Legislative Council

Date of Request: 3-26-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: Engrossed HB 1492 as amended provides various tax exemptions and credits for qualified investments in cities that have established renaissance zones. A portion of the revenue loss attributable to the tax exemption and credit provisions of the bill will be offset by economic expansion in participating communities. The overall net impact of HB 1492 is unknown.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						

What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: \_\_\_\_\_

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: Kathryn L. Strombeck

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: March 26, 1999

Phone Number: 328-3402

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10/16/03  
Date

Attachment 2

# BND

BANK OF NORTH DAKOTA

May 9, 2002

MAY -- 9 2002

Mr. John Walstad  
North Dakota Legislative Council  
State Capitol, 600 East Boulevard  
Bismarck, ND 58505-0360

Dear John:

Regarding your letter dated April 26, 2002 requesting the fiscal effect to the state of section 1 of the initiated measure which relates to student loan reimbursement, our assessment is that on an annual basis the impact to the state is \$24,350,000.

Our calculation is somewhat crude in that we do not specifically measure some of the elements that are needed to make an accurate assessment, but let me walk you through our calculation. Bank of North Dakota has approximately 31,000 borrowers that are in repayment, and since BND does about 67% of the guaranty volume in North Dakota, we estimate the total pool to be about 46,000. Based on zip code we estimate that approximately 55.3% of the 46,000 borrowers, or 27,000 reside in ND and would be eligible for the reimbursement. Further, at any given time our delinquency percentage runs at about 10%, which would reduce the pool to 24,300 applicants. We have made no provision for the under 30 years of age feature associated with the bill.

Consequently, with 24,300 eligible applicants at \$1,000 it will cost about \$24,300,000 per year in student loan reimbursement, plus administrative expense of \$50,000 totaling \$24,350,000.

If you have further questions, please contact me at 328-5674.

Sincerely,

  
Eric Hardmeyer  
President

700 EAST MAIN AVENUE, P.O. BOX 5509

BISMARCK, NORTH DAKOTA 58505-5509

1-800-472-3144

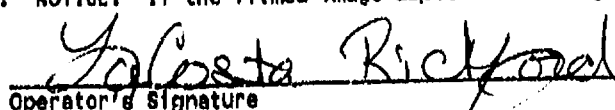
NO 435

1-701-328-5600

TDD: 1-800-472-3144

MAY 15 2002 11:12AM

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Operator's Signature

10/16/03  
Date

SLND serviced borrowers who are in repayment (est)	31,000
portion of NDGSLP's guarantee volume which is serviced by SLND (est)	67.00%
NDGSLP borrowers who are in repayment (est)	46,000
percentage of NDGSLP borrowers which qualify as graduates (assumed)	80.00%
NDGSLP borrowers who have graduated and are in repayment (est)	37,000
NDGSLP's share of the total ND student loan volume (est)	80.00%
student loan borrowers who are in repayment (est - all lenders)	46,000
SLND billing envelopes addressed to zip code 56000 (all ND)	58.30%
student loan borrowers who are in repayment and reside in ND (est - all lenders)	27,000
borrowers who are not delinquent as of eoy (est)	90.30%
borrowers who are not delinquent as of eoy (est)	24,000
average student loan reduction from the proposed initiated measure (est)	1,000
impact of the payment reimbursement payments (annual est)	\$24,000,000
annual operating cost increase to BND	\$40,000
one time costs for development of system enhancements etc	\$5,000

The proposed legislation specifies that the borrower must have graduated with at least a two year degree in order to qualify for the loan payment reimbursement benefit. The base numbers that I started with would undoubtedly include some borrowers who did not meet those requirements (i.e. either they did not graduate, or they went to a proprietary school which does not issue a two year degree). The legislation talks about "accredited post secondary education institution" but does not define that term. I have assumed herein that 20% of SLND borrowers would be excluded because they did not meet the two year degree or accredited institution requirements.

The legislation requires that the borrower must be gainfully employed at least 180 days in the year in order to qualify for the loan payment reimbursement benefit. I have assumed that those borrowers who are not now employed are not in repayment status and thus are not included herein. I haven't anyway to identify the impact of employment for 180 days and have not adjusted accordingly.

The legislation limits eligibility for the loan payment reimbursement benefit to only repayment on a "nondefaulting student loan", but does not indicate if the borrower must remain current throughout the year, or must only be current at the time of the reimbursement payment. In this version of the calculations I have assumed that the delinquency prohibition applies to borrowers who were delinquent at any time during the year. The examples shown suggest that for every 5% change in total delinquencies the payment reimbursement changes by \$1 million per year.

The proposed legislation has an age limit of 30 years beyond which the borrower is not eligible for the loan reduction benefit. I have ignored this limit herein because the majority of borrowers will have attained five years of repayment prior to age 30.

*Salvatore Riccardi*  
Operator's Signature

*10/16/03*  
Date

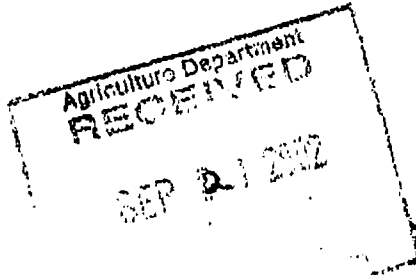
# BND

Attachment 3

BANK OF NORTH DAKOTA

September 23, 2002

Mr. John Walstad  
North Dakota Legislative Council  
State Capitol, 600 East Boulevard  
Bismarck, ND 58505-0360



Dear John:

I submit to you a revised fiscal note for section one of the initiated measure which relates to student loan reimbursement. Please find enclosed worksheets detailing the calculation.

In my earlier correspondence to you dated May 9, 2002, I made you aware that we had made no allowance for the under 30 years of age provision associated with this bill. I chose not to put that feature in because I felt our information in this area lacked the necessary integrity to give an accurate assessment. I still feel that way. However, based on information provided by proponents of the Initiative which indicate that 82% would qualify, seems reasonable and is a number I am comfortable using. Consequently, I will use that in my calculation.

Another area that has caused some controversy is the percentage of student loan borrowers who received a two or four year degree. This is not a specific item that we measure at BND, however, in our earlier calculation to you we estimated this to be about 80%. This is not easily obtainable and requires some estimation for that reason I will provide a range of 50% on the low side to 80% on the high side, our earlier estimate.

With these changes I would estimate the fiscal impact to be in a range from \$13 million to \$20 million per year, and a middle of the road estimate of \$16.5 million.

Sincerely,

Eric Hardmeyer  
President

C. John Hoeven, Governor  
Wayne Stenehjem, Attorney General  
✓ Roger Johnson, Agricultural Commissioner

700 EAST MAIN AVENUE, P.O. BOX 5509

BISMARCK, NORTH DAKOTA 58506-5509

1-800-472-2166

1-701-328-5600

TDD: 1-800-643-3916

www.banknd.com

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10/16/03  
Date

## YOUTH INITIATIVE CALCULATION

SLND serviced borrowers who are in repayment (est.)	31,000
Portion of NDGSLP's guarantee volume which is serviced by SLND (est.)	67.00%
NDGSLP borrowers who are in repayment (est.)	46,000
NDGSLP's share of the total ND student loan volume (est.)	80.00%
Total students in repayment	58,000
Percentage of borrowers which qualify as graduates (est.)	50.00%
Total ND borrowers who have graduated and are in repayment (est.)	29,000
Percentage of graduates who are under 30 years of age (est.)	82.00%
Student loan graduates under 30 years of age who are in repayment (est. - all lenders)	24,000
SLND billing envelopes addressed to zip codes 58xxx (all ND)	58.00%
Student loan graduates who are in repayment and reside in ND (est. - all lenders)	14,000
Graduates who are in repayment and not delinquent as of eoy (est.)	90.00%
Graduates who are in repayment and not delinquent as of eoy (est.)	13,000
Average student loan reduction from the proposed initiated measure (est.)	1,000
Impact of the payment reimbursement payments (annual est.)	\$13,000,000
Annual operating cost increase to BND	\$40,000
One time costs for development of system enhancements etc.	\$5,000
<b>TOTAL</b>	<b>\$13,045,000</b>

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Ja Costa Richardson  
Operator's Signature

10/16/03  
Date

## YOUTH INITIATIVE CALCULATION

SLND serviced borrowers who are in repayment (est.)	31,000
Portion of NDGSLP's guarantee volume which is serviced by SLND (est.)	67.00%
NDGSLP borrowers who are in repayment (est.)	46,000
NDGSLP's share of the total ND student loan volume (est.)	80.00%
Total students in repayment	58,000
Percentage of borrowers which qualify as graduates (est.)	65.00%
Total ND borrowers who have graduated and are in repayment (est.)	37,700
Percentage of graduates who are under 30 years of age (est.)	82.00%
Student loan graduates under 30 years of age who are in repayment (est. - all lenders)	31,000
SLND billing envelopes addressed to zip codes 58xxx (all ND)	58.00%
Student loan graduates who are in repayment and reside in ND (est. - all lenders)	18,000
Graduates who are in repayment and not delinquent as of eoy (est.)	90.00%
Graduates who are in repayment and not delinquent as of eoy (est.)	16,000
Average student loan reduction from the proposed initiated measure (est.)	1,000
Impact of the payment reimbursement payments (annual est.)	\$16,000,000
Annual operating cost increase to BND	\$40,000
One time costs for development of system enhancements etc.	\$5,000
<b>TOTAL</b>	<b>\$16,045,000</b>

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*Yolanda Richardson*  
Operator's Signature

*10/16/03*  
Date

September 20, 2002

## Estimating the Cost of the Proposal to Reimburse Student Loan Payments by Young, Employed North Dakota Residents

An initiative measure that recently qualified for the November ballot in North Dakota seeks to encourage young college and university graduates to remain in or return to the state to work. If approved by the voters, the measure would establish a state program allowing college and university graduates who both live and work in the state and are under the age of 30 to receive up to a \$1000 annual reimbursement of their student loan costs for a period of up to five years.<sup>1</sup> The measure would also provide a state income tax credit of up to \$1000 annually for a similar class of individuals.

Roger Johnson, Chairman of the North Dakota Youth Investment Initiative asked the Center on Budget and Policy Priorities to develop an estimate of the annual cost to the state of the student loan reimbursement portion of the measure (hereafter referred to as the "rebate" provision). This is a "static" estimate. A static cost estimate does not seek to factor in any effects on the state's costs that result from changes in behavior that occur in response to economic incentives that may be created by the program. The proponents of the measure believe that income tax reductions and direct reimbursement of student loan payments could lead additional young people to remain in North Dakota after graduating from college there and/or return to North Dakota after attending college in other states, or, even, perhaps move to North Dakota for the first time after graduating from a university outside the state. To the extent that the financial incentives contained in the measure produced such results, there could be a partial offset to the direct costs of the rebates incurred by the state in the form of additional tax revenues flowing from additional employment. However, performing a complete "dynamic cost analysis" that factors in all potential economic effects of the measure is beyond the scope of this analysis. Such a study would have to incorporate many economic factors besides potential changes in North Dakota employment of recent university graduates, including, for example, how the net costs to the state of the rebates would be financed. The assumptions required would be too speculative to be valid. In sum, the following analysis is intended to be a technical, static cost estimate of the rebate portion of the measure. It should not be interpreted as endorsing the ballot measure or offering conclusions concerning its dynamic effects.

<sup>1</sup>The loans could be incurred in connection with two- and four-year undergraduate programs as well as graduate degree programs in any accredited postsecondary institution in or out of North Dakota. Additional eligibility criteria are specified in the measure; most of them are discussed below.



Table 1: Summary of Methodology

Average number of new, likely eligible recipients graduating from NDUS institutions each year and still in ND and employed one year post-graduation ("Employed in North Dakota Only," sum of under 20 and 20-29 age groups, Table 9, NDUS tracking studies, average for 1994-1999 graduates)	1983	
Previous number divided by .9 to account for NDUS estimate that its employed count reflects only 90% of those actually employed	+ .9	2203
Estimated number of graduates of ND private post-secondary institutions (US Dept. of Ed. data for 1997-1999 graduates averaged)	801	
Estimate of new under-30 private school graduates employed in ND one year post-graduation (previous number times 33%, same ratio of potential eligibles to total graduates in NDUS institutions averaged for 1994-99)	x .33	+ 264
Total annual addition to pool (graduates of public plus private institutions)		2467
Times 5, number of years worth of previous eligible new graduates that will remain eligible for reimbursement in any given program year	x 5	12335
Adjustment for graduates lacking student loan debt (68% have such debt)	x .68	8388
Adjustment for graduates ineligible due to loan delinquency (90% not delinquent)	x .9	7549
Times \$1000 per eligible recipient per year	x \$1000	\$7,549,000
Equals: total estimated annual cost of rebate program		\$7.5 million

### Estimate

The Center estimates that the annual cost of providing the student loan rebates to all persons eligible for them would be approximately \$7.5 million.<sup>2</sup> The estimate is based on incomplete information and requires a number of significant assumptions. As will be discussed below, the assumptions seem reasonable and, in a number of key respects, conservative. Nonetheless, the use of different assumptions would affect the estimate. Table 1 is a summary "walk-through" of the methodology leading to the estimate and should be referred to while reviewing the description of the methodology in the remainder of this paper.

<sup>2</sup> This analysis does not include an evaluation of the likelihood that eligible individuals would fail to claim the rebate or that ineligible persons would claim it but not be identified by the state as being ineligible.

## Methodology

For a number of years, the North Dakota University System (NDUS) has tracked the employment status of its graduates one year after graduation. The most recent such report looks at the 2000 employment status of 1999 graduates.<sup>3</sup> Table 9 of the report provides the key information underpinning the Center's cost estimate for the rebate program. Table 9 shows that in 2000, some 1861 graduates of the state university system under the age of 30 were working in North Dakota – satisfying the three central criteria for eligibility for the rebate – degree completion, age under 30, and employment within the state.<sup>4</sup> The remaining 3721 graduates in this age group had either left the state, were unemployed, had re-enrolled in a state university, or had re-enrolled and were also working. (The relevance of the latter two groups to this analysis is discussed at the end of this discussion.)

### Correcting for Uncounted Workers

The employment status of graduates is determined by cross-checking social security numbers of graduates with social security numbers of North Dakota workers for whom unemployment taxes are currently being paid. The state acknowledges that this misses self-employed workers and estimates that its employment numbers represent only 90 percent of graduates actually employed.<sup>5</sup> Therefore, the state's figure of 1861 employed, under-30 graduates from Table 9 is divided by .9 to obtain a revised estimate of the number actually employed, yielding 2068 persons. To take account of the possibility that 2000 was an atypical year for employment of North Dakota state university graduates, the comparable figures for the five previous years were taken from the previous NDUS reports, divided by the same .9 weighting factor, and averaged along with the 1999 figure. This yielded an estimate that in an average recent year, 2203 graduates of North Dakota state institutions under the age of 30 remain in North Dakota and are employed in the state one year after their graduations.

### Adding Private Institution Graduates

Graduates from private post-secondary institutions are also eligible for the rebate if they satisfy the other criteria. Thus, it is necessary to supplement the NDUS data with data on graduates of *private* North Dakota colleges and universities. Such data are collected by the U.S. Department of Education (USDE). For a recent three-year period for which the data were readily available, USDE reports that an average of 801 students graduated from private North Dakota

<sup>3</sup> North Dakota University System, *Creating a University System for the 21<sup>st</sup> Century: Follow-up Report on 2000 Placements of 1999 North Dakota University System Graduates*, June 2002. (Hereafter, "NDUS Report.")

<sup>4</sup> It is possible that a small number of these individuals lived outside North Dakota, since the data look at location of employment rather than residence. For purposes of this estimate, it is assumed that all of these individuals also reside in North Dakota. Making the alternative assumption, that some reside outside North Dakota, would reduce the cost estimate, because people must live and work in North Dakota to be eligible for the rebate.

<sup>5</sup> NDUS Report, p. 3.

post-secondary institutions.<sup>6</sup> USDE does not track the residency and employment status of these students after graduation. Accordingly, the Center's cost estimate assumes that graduates of private North Dakota institutions have the same age, residency, and employment profile as the NDUS graduates tracked by the state. The 2203 individuals under the age of 30 who were working one year after graduation represent 33 percent of the 6735 individuals graduating in an average year. Thus it is assumed that 33 percent of the 801 private graduates, or 264 persons, are also under 30 years of age, North Dakota residents, and employed in North Dakota one year after graduation.

#### Estimating the Total Potential Pool of Claimants from Annual Additions to the Pool

To this point, we have estimated that in an average recent year, a total of 2467 individuals (2203 graduates of public North Dakota post-secondary institutions plus 264 graduates of private institutions) would satisfy the three key eligibility criteria for the rebate program -- that they be degreed graduates, employed in the state, and under the age of 30 -- one year following their graduation. We now make two other key assumptions.

We assume, first, that this estimate of 2467 eligible recent graduates based on academic years ending from 1994 through 1999 is representative as well of academic years ending in 2000, 2001, and 2002 (for which data are not yet available). If the measure is approved, loan payments made by eligible students after December 2002 will be eligible for reimbursement; many loans taken out by 2000, 2001, and 2002 graduates are likely to be reimbursed. (It is worth noting here that it is at least possible that a loan taken out as long ago as 1994 could be eligible for reimbursement in the first year the rebate program is in effect. For example, a 1994 graduate of a two-year community college who was 20 in 1994 would be 29 in 2003 when the program goes into effect and could have payments on an outstanding loan reimbursed.)

The second key assumption is that all of the 2467 individuals under the age of 30 who graduate in an average year and are employed in North Dakota one year after graduation will stay employed for at least five years while they are under 30, and so be eligible to receive the maximum \$1000 reimbursement in all of the five years for which it may be provided. In reality, this seems unlikely to be true for a number of reasons and so biases the cost estimate upward. First, and most importantly, it seems likely that many graduates who are working in the state one year after graduation will leave the state in subsequent years and therefore lose eligibility for the rebates. Table 9 of the NDUS report indicates that by 2000, close to half of the 1999 graduates might have left North Dakota.<sup>7</sup> If such a high proportion of graduates leave in the first year, it seems reasonable to assume that some will leave for good subsequently and so be ineligible to receive the maximum of five rebates. Second, many graduates will reach age 30 before the five

<sup>6</sup> National Center for Education Statistics, U.S. Department of Education, *Digest of Education Statistics*, various years. The number of graduates of private North Dakota institutions for the 1998-99 academic year is taken from Table 249, which actually reports degrees granted. It is assumed that each student receives one degree, although a small number of graduates likely receive multiple degrees.

<sup>7</sup> Even after adjusting for the undercount of employed persons discussed above, some of the "non-retained" graduates may still be in the state; they could be out of the labor force, unemployed, or re-enrolled in private North Dakota post-secondary institutions.

years are up; according to an unpublished breakdown of the Table 9 statistics provided by NDUS to the Center, approximately one-fifth of the 1999 graduates in the 20-29 age group were 25 or older at graduation and so would be unlikely to receive all five possible rebates. Third, the measure provides that once the first rebate is received, the remaining four must be claimed in the subsequent four years. It seems possible that some proportion of the reimbursements will be forfeited by people who claim them for a few years and then become ineligible for the remainder because they have returned to school, dropped out of the labor force for personal reasons, or lost their jobs.

No hard data appear to be available that could permit a defensible estimate of the effects of these factors on the full five year eligibility of any particular individual. For that reason, and because other assumptions that arguably bias the estimate in a downward direction have also been made (these will be discussed shortly), we bias the estimate upward at this stage of the analysis by assuming that an individual who satisfies the eligibility criteria one year after graduation will eventually be able to claim all five \$1000 rebates available under the program.

If one assumed that, year in and year out, 2467 graduates under the age of 30 joined and remained in the North Dakota workforce (and that they all made student loan payments for at least five years), then by the fifth year of the program 2467 times 5, or 12335 people, would be receiving reimbursements. In the absence of any growth in graduates or any increase in the proportion of graduates taking jobs in North Dakota, this 12335 figure would be the maximum number of people receiving reimbursements in a particular year. (While 2467 new eligible graduates would enter the labor force in the sixth year, 2467 of the previous recipients would have exhausted their benefits.)

If the rebate program is approved, outstanding student loans of former graduates who remain employed in North Dakota will also be eligible for the reimbursement. As noted above, loans issued to people graduating from a two-year college as long ago as 1994 conceivably could be eligible for reimbursement in 2003. If one were willing to assume that every employed post-1994 graduate conceivably eligible could claim a rebate in 2003, it would be necessary to multiply 2467 times eight rather than five to estimate the number of rebates that would be issued in that year.

While it is possible that in the early years of the rebate program some relatively old loans will be eligible for reimbursement, the Center's \$7.6 million annual cost estimate is based on the estimate that the number of eligible recipients is the 12335 figure derived above.<sup>5</sup> In other words, we do assume that even in the first year of the program it is reasonable to estimate the total pool of eligibles by multiplying each year's average addition of new graduates to the pool by five rather than by a number between five and eight. The reasons for this choice were touched upon above — we have already made the assumption that all people that are eligible for the rebate one year after graduation will receive all five possible payments. Because this seems particularly unlikely with respect to 1994-1997 era graduates — those most likely to have

<sup>5</sup> This is the estimate before subtracting estimated numbers of both employed under-30 graduates who do not actually have outstanding student loans and employed graduates who are nonetheless ineligible for reimbursement because their loans are delinquent. These adjustments are made below.

reached age 30 or to have left the state at a point beyond the one year post-graduation mark — it seems reasonable to choose a multiplier of 5 to estimate the total pool.

#### Adjusting for Graduates without Student Loan Debt

Two additional adjustments must be made. First, not all otherwise-eligible graduates will actually have student loan debt. According to a recent U.S. Department of Education study, "62 percent of the graduating seniors at 4-year colleges and universities in 1999-2000 had borrowed... federal student loans by the time they had finished their university degrees" and an additional 3 percent had non-federal loans only.<sup>9</sup> A second USDE study found that 68 percent of those graduating from post-bachelors degree programs had borrowed from public and private sources at some point in their education.<sup>10</sup> We take the upper bound of the share of borrowers provided by the post-bachelors degree figure and assume that only 68 percent of the 12335 individuals potentially eligible for rebates actually have student loans that are being paid off. This reduces the estimate of recipients to 8388 persons (68 percent of 12335).

#### Adjusting for Ineligibility Due to Delinquent Repayment Status

Finally, the ballot measure provides that students are only eligible for reimbursement of payments on non-delinquent student loans. The Bank of North Dakota, which issues a large number of student loans to North Dakota residents, estimates that at any point in time approximately 10 percent of its loans to such students are delinquent.<sup>11</sup> We assume this figure is representative of the delinquency rate of North Dakota student loan borrowers from all lenders. Assuming that 90 percent of the 8388 remaining individuals in the pool of eligibles are non-delinquent yields an estimate that 7549 persons would be eligible to receive the rebate annually. Multiplying this figure by the maximum rebate of \$1000 per person yields the Center's final cost estimate of \$7.5 million.<sup>12</sup>

#### Data Are Unavailable to Adjust for Return of Eligible Graduates from Non-North Dakota Institutions

The Center's cost estimate is built on the key assumption that the potential eligible pool of reimbursement claimants flows from employed under-30 graduates of North Dakota public and private colleges and universities. It does not include in the pool an estimate of the number of North Dakota young people who leave the state to attend college and graduate school in other

<sup>9</sup> National Center for Education Statistics, *Student Financing of Undergraduate Education: 1999-2000*, July 2002, pp. 17 and 29.

<sup>10</sup> National Center for Education Statistics, *Student Financing of Graduate and First-Professional Education, 1999-2000*, July 2002, p. 103.

<sup>11</sup> Letter from Bank of North Dakota President Eric Hardmayer to John Walstad, North Dakota Legislative Council, dated May 9, 2002 (providing the Bank's estimate of the cost of the rebate program).

<sup>12</sup> The USDE studies in cited in footnotes 9 and 10 indicate that bachelors and post-bachelors graduates took out an average of \$17,000 and \$39,000 in student loans, respectively. It therefore seems reasonable to assume that every eligible borrower will receive the maximum \$1000 annual reimbursement for the full five years.

states but return to North Dakota to work after graduating. Neither does it include an estimate of the number of college and post-bachelors degree graduates under the age of 30 who move to North Dakota for the first time after graduating and would be eligible for the rebates as well.

It does not appear that reliable data are available to revise the estimate to account for these two categories of individuals. To put the significance of the first category in perspective, however, it is worth noting, first, that in the most recent year for which data are available (Fall, 1998), only 18 percent of North Dakota residents who entered college attended non-North Dakota institutions.<sup>13</sup> Second, an unpublished paper by USDE statistician Kristin Keough Perry estimates that while "Sixty-four percent of students who graduated from an out-of-state college [in 1993] had moved back to their original state of residence one year after graduation," this had dropped to 52 percent by 1997.<sup>14</sup> These are national averages, and no state-specific or even regional breakdowns are available. It seems reasonable to assume that North Dakota would experience lower rates of return and long-term retention of students who left the state for college than the average state. Even if one were to assume that 52 percent of the 1226 North Dakota freshmen who started attending out-of-state colleges in the Fall of 1998 would return to the state (along with a comparable number of their peers matriculating in other years), adjustments would still have to be made for those who return to attend graduate school, would be unemployed, not have student loan debt, or have other disqualifying characteristics. In the absence of reliable data on these issues, we have declined to make any adjustment to the cost estimate to account for returning graduates. It should be noted again that focusing on recent graduates of North Dakota institutions does in fact capture the lion's share of the likely pool of eligible rebate recipients from among previous North Dakota residents. Policymakers and citizens in North Dakota may be able to assess from their own personal experience how frequently North Dakota young people return to the state to work after graduating from out-of-state schools.

#### Data Are Unavailable to Adjust for New Immigration by Eligible Non-residents

Nor are there reliable data to make an adjustment for people who move to North Dakota for the first time following college and university graduation, have reimbursable student loans, and would meet the other eligibility criteria. Internal Revenue Service data indicate that 8828 taxpayers (representing 16766 claimed personal exemptions) filed federal tax returns from North Dakota in 1999 after having filed their return as a resident of another state or foreign country in 1998.<sup>15</sup> Again, however, there is no available information concerning the age or employment status of these in-migrants, or indeed with respect to any of the other characteristics affecting their potential eligibility for the rebates. In the absence of reliable data, we decline to adjust the cost estimate to incorporate potentially eligible persons in this category. Again, we would argue that our assumption that any person who is eligible for the rebate one year after graduation will

<sup>13</sup> National Center for Education Statistics, 2001 Digest of Education Statistics, Table 204.

<sup>14</sup> Kristin Keough Perry, *Where College Students Live after They Graduate*, unpublished paper dated June 11, 2001, p. 3. The study is based on the Department of Education's "Baccalaureate and Beyond Longitudinal Study."

<sup>15</sup> IRS Statistics of Income interstate migration data, unpublished. It is worth noting that between these two years there was a net out-migration from North Dakota of 3207 federal taxpayers, representing 6832 claimed personal exemptions.

remain employed in North Dakota and under the age of 30 for the full five years so significantly biases the cost estimate upward that it is not unreasonable to make no adjustments for returning North Dakota residents or new in-migration of rebate-eligible persons.

#### Why Current North Dakota University System Enrollees Are Not Included in the Potential Claimant Pool

One final methodological question may arise that it seems advisable to anticipate and answer. In addition to graduates who are employed in North Dakota, Table 9 of the NDUS study reports on two additional categories of NDUS graduates who remain residents of the state one year post-graduation. One category consists of individuals who have re-enrolled in NDUS institutions, and the other consists of persons who have both re-enrolled and are working. A question may arise as to why under-30 individuals in these two categories were not also counted as people likely to remain in the state long-term and eventually claim the rebates. Indeed, it might be asserted that the second category would be likely to claim the rebate as soon as it is available, while they are still enrolled in their second NDUS institution.

With respect to this latter argument, we have assumed that people who are re-enrolled in NDUS institutions, even if they are working, are not currently paying off student loans but rather are deferring payment until they have graduated (as federal student loan rules permit). The program is a reimbursement of actual borrower repayments, not a repayment of outstanding principal; if no repayments are occurring, no reimbursement occurs. The answer to the first, broader question, is that many of the persons in these two categories are, in fact, effectively captured in the pool. If they graduate from the second program and are at work in North Dakota one year following graduation, they will be counted in the estimated annual addition to the pool represented by the "Employed in North Dakota Only" column of Table 9 in that year.

#### The Bank of North Dakota's Cost Estimate

The Bank of North Dakota has prepared its own estimate of the annual cost of the rebate program, \$24.3 million (exclusive of administrative costs).<sup>16</sup> The Bank's methodology starts by taking its own pool of what it believes to be North Dakota-resident borrowers currently repaying loans. It then weights this figure up based on rough estimates of the share of all outstanding student loans to North Dakota residents that it believes its own loans represent. Finally, the Bank then cuts this number by 10 percent to account for ineligibility due to loan delinquency and multiplies the resulting figure by the \$1000 rebate per person per year.

This methodology potentially suffers from several significant flaws. Most importantly, it does not take into account the possibility that many of its current borrowers could be over thirty or not employed and therefore not eligible to claim the rebate. (Note that a 28 year old graduate of a post-bachelors program could easily be repaying loans well into his/her thirties.) Second, the Bank has provided no verifiable documentation of its estimate of its share of the North Dakota student loan market. Finally, the Bank assumes that any student loan billing statement mailed to a borrower at a North Dakota address represents a resident of the state. This seems

<sup>16</sup> See footnote 11.



SEP. 20. 2002 4:00PM

like a questionable assumption; many young people move frequently and use their parents' addresses as their mailing address — particularly for critical mail like student loan bills. (In addition, some parents of non-resident graduates may be receiving their children's student loan bills because the parents are actually repaying them.)

Because the Bank's borrower data do not include information about — and may not correlate closely with — most of the critical eligibility criteria for the rebate program, it seems preferable to use the type of "bottom-up" analysis underlying the Center's cost estimate. The North Dakota University System's tracking data provide a solid foundation for this analysis because they permit a ready identification of degreed graduates under the age of 30 who are employed in North Dakota — the three most important eligibility criteria for the program.

-9

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Operator's Signature

*Salvatore Riccardi*

Date

10/16/03



K.W. Simons

Box 7  
Rolla, North Dakota 58367

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STATEMENT OF K. W. SIMONS, ROLLA, NORTH DAKOTA, ON HOUSE CONCURRENT  
RESOLUTION 3069 BEFORE THE JOINT CONSTITUTIONAL REVISION COMMITTEE  
OF THE NORTH DAKOTA LEGISLATURE ON WEDNESDAY, FEBRUARY 26, 2003

Saturday morning, November 7, 1959 -- six hours before  
the legendary A. C. Townley died in a car crash near Makoti and  
18 hours before the equally legendary United States Senator "Wild  
Bill" Langer was found dead in his apartment in Washington, D. C.  
(Repeatedly, I heard Bill Langer proclaim, "I will outlive Art  
Townley, even if it's the very last thing I ever do." It was --  
by about nine hours.)

That Saturday morning I heard ~~the late~~ Howard Snortland  
address a group of school superintendents. At one point Howard  
paused and said, sharply: "You guys know the definition of an  
experienced school superintendent?" For five seconds the silence  
was so thick you could have cut it with a knife. Howard's eyes  
roamed the room. Then he intoned: "They're the old rats with the  
slick tails."

This afternoon I appear before another pack of old rats  
with slick tails. You come to Bismarck swearing to protect the  
people's interests and their pocketbooks. Nonsense. You are here  
to advance your own personal agenda because you know your constituents  
back home have -- with rare exceptions -- no idea what you are doing  
down here in Bismarck. This is because Dale Wetzel and Kellyn Brown  
of the Associated Press concentrate, and properly so, on giving the  
public an overview of what the Legislature as a whole is doing, and

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document being filmed.

*La Costa Rickford*  
Operator's Signature

*10/6/03*  
Date

our four major daily newspapers fail, miserably, to pick up the slack.

All of you legislators are fond of telling anyone who will listen how broke the State of North Dakota is. Yet here we have you wasting time -- and that money that is repeatedly declared to be so precious -- hashing over a matter that the public had every right to believe was already decided on February 13.

I refer, specifically, to House Concurrent Resolution 3016 -- which, on Thursday, February 13, was resoundingly defeated, 78-15, with only my neighbor Gene Nicholas absent -- and the matter before us now, HCR 3069, which is nothing more than the same tired, old dog being sneaked through the back door of the Legislature.

It reflects nothing but discredit on Representatives Carlson, Belter, and Devlin, and Senators Flakoll, O'Connell, and Wardner, that they "loaned" their names to this nefarious piece of legislation that had already been decided by a huge margin.

Comparative study of HCR 3016 and HCR 3096 reveals that whoever drafted HCR 3096 simply used HCR 3016 as his model (or, these days, was it HER model?). Most of the wording is identical. I even note, with amusement, that in each piece of proposed legislation, the word "shall" has been changed to "must" -- as if there's any difference. I ask, "What kind of grades in English did this lawyer get when he/she was in school?"

At a time when we repeatedly -- ad nauseum -- are told that North Dakota is broke, broke, broke, this ill-fated and ill-advised little piece of legislation proposes to write a blank check on the state treasury. Its sponsors talk about determining the cost of proposed initiated measures. I'd like to know what the cost of these open-ended "studies" -- with no time limit -- will be to the taxpayer.

-2- more

*John Costa Richardson*  
Operator's Signature

*10/16/03*  
Date

Worse, the figures they would come up with could not be trusted. Why? Because the bureaucrats who would do the calculating know full well what you guys want and what the dude who signs their paychecks and determines their promotions wants. And what those folks want most certainly will not be what the sponsors of the putative legislation will want.

Thus, by voting Yes you clearly will put yourselves in the position of wantonly, willfully, wasting the taxpayers' substance.

For more than 80 years, North Dakota's newspapers have given their readers an analysis of pending ballot legislation. They have done the job well. They will continue to do so. Their efforts cost the taxpayers of North Dakota absolutely nothing. Clearly, they were responsible for the two-to-one defeat of what I call the "Roger Johnson" ballot proposal in our most recent election.

What's at stake here is the maniacal determination of a handful of legislators to throw sand in the gears of the "I R & R" machine (Initiative, Referendum, and Recall) -- one of the masterful legacies of the Non-Partisan League of North Dakota some 80 years ago.

HCR 3096 is a redundant, duplicative, theoretical solution in search of a problem that does not exist. Therefore, I urge you to vote No.

K. W. Simons  
Lock Box 7  
Rolla, North Dakota 58367  
701-477-5855  
kwsimons@utma.com

-3-

*John Costa Richardson*  
Operator's Signature

10/16/03  
Date

4:20 PM on February 26, Prairie Room

Chairman Kretschmar and members of the Joint Constitutional Revision Committee. For the record I am Senator Tim Flakoll of District 44 in Fargo. HCR 3069 is allowable legislation that lets voters decide if they want a policy and procedure put into place on probable financial impact of initiated measures.

A Greek philosopher from Minot once told me a great piece of advice. He said "you can never go wrong when you give the people a chance to vote on an issue." That is an important consideration for HCR 3069. Since this idea was forwarded, I have never had some many citizens encouraging me to move forward, as with this issue.

SCR 3069 mirrors a measure just passed in the 2002 general election in the state of Florida. It passed with 78% of the voters favoring their right to have greater information and greater access to fiscal information. Yes 78% of their voters said they would like to have better information, or information like is provided for legislators when they act on proposals during a session.

Should voters and those who forward ideas for consideration through an initiated measure not have the same access to professional assistance that we as legislators have on other major issues?

We all believe in the value and power of the initiated measure process. It is an excellent tool for those who seek changes. I find it interesting that some that oppose HCR 3069 do so because they feel it will restrict their ability to forward an initiated measure. This is simply not true. The bill does not require one additional signature or one additional hour of work.

Why would those who hold the basic value of letting the people decide through initiated measures be opposed to letting the public

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*Tal Costa Richardson*  
Operator's Signature

10/6/03  
Date

decide if they want more information? They are asking you to not let the people decide if they want more pieces of the puzzle.

It could be argued that our current system favors the wealthy or well-funded organizations. Those groups have the ability to hire consultants to make determinations on the projected income or outflow of a proposal.

Nothing in this resolution would prohibit proponents or opponents from promoting their idea or the anticipated cost or value of that idea.

It is also important to remember that people tend to vote against a position if they don't feel well informed, or accurately informed. We have all seen ballot issues where more time was dedicated to discussing what an income or outflow might be, rather than spending time on the mechanism or debating the merit(s) of the measure(s). Distractions take away from the importance of the issue.

Chairman Kretschmar and committee members, think of what happens when an initiated measure passes and the Legislature carries out the people's wishes? Any proposed legislation that is put before us will come with a fiscal note reflecting these fiscal implications.

Thank you for your time and I encourage your support for HCR 3069. I think it is a responsible thing to do. As you will note by the sponsors, it has bi-partisan support and I think there will be support from the voters. Much like the 78% of voters who favored this legislation in Florida.

I would be happy to stand for any questions.

**Reference:**

Article XI, Section 5

**Ballot Title:**

ECONOMIC IMPACT STATEMENTS FOR PROPOSED CONSTITUTIONAL AMENDMENTS  
OR REVISIONS

**Ballot Summary:**

Requires the Legislature to provide by general law for the provision of an economic impact statement to the public prior to the public voting on an amendment of the Florida Constitution proposed by Initiative.

**Full Text:**

SECTION 5. Amendment or revision election.--

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to Section 3.

(c)(b) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(d)(c) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

2002 General Election.

Passed  
with 78% of  
public in  
favor.

<http://election.dos.state.fl.us/initiatives/fulltext/10-37.htm>

12/2/2002

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*Salvatore Riccardi*  
Operator's Signature

10/6/03  
Date

## ARTICLE III

### POWERS RESERVED TO THE PEOPLE

**Section 1.** While the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative Acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

**Section 2.** A petition to initiate or to refer a measure shall be presented to the secretary of state for approval as to form. A request for approval shall be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom shall 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.

**Section 3.** 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.

**Section 4.** The petition may be submitted to the secretary of state if signed by electors equal in number to two percent of the resident population of the state at the last federal decennial census.

**Section 5.** An initiative petition shall be submitted not less than ninety days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

**Section 6.** The secretary of state shall pass upon each petition, and if he finds it insufficient, he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the secretary of state in regard to any such petition shall be subject to review by the supreme court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

**Section 7.** All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. If his decision is being reviewed at the time the ballot is prepared, he shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

**Section 8.** If a majority of votes cast upon an initiated or a referred measure are affirmative, it shall be deemed enacted. An initiated or referred measure which is approved shall become law thirty days after the election, and a referred measure which is rejected shall be void immediately. If conflicting measures are approved, the one receiving the highest number of affirmative votes shall be law. A measure approved by the electors may not be repealed or

Page No. 6

Richard Costa  
Operator's Signature

10/16/03  
Date

amended by the legislative assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

**Section 9.** A constitutional amendment may be proposed by initiative petition. If signed by electors equal in number to four percent of the resident population of the state at the last federal decennial census, the petition may be submitted to the secretary of state. All other provisions relating to initiative measures apply hereto.

**Section 10.** Any elected official of the state, of any county or of any legislative or county commissioner district shall be subject to recall by petition of electors equal in number to twenty-five percent of those who voted at the preceding general election for the office of governor in the state, county, or district in which the official is to be recalled.

The petition shall be filed with the official with whom a petition for nomination to the office in question is filed, who shall call a special election if he finds the petition valid and sufficient. No elector may remove his name from a recall petition.

The name of the official to be recalled shall be placed on the ballot unless he resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which he was elected.

Page No. 7

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**HOUSE CONCURRENT RESOLUTION NO. 3069  
TESTIMONY BEFORE THE  
JOINT CONSTITUTIONAL REVISION COMMITTEE**

**Praire Room @ 4:20 P.M.**

**February 26, 2003**

**By Glen E. Baltrusch**

Mr. Chairman, Members of the Committee:

I would like to thank the Committee for the opportunity to address the proposed *House Concurrent Resolution 3069* that is before this Committee today.

Some of you know me as I have spent some time here in Bismarck during the past several Legislative Sessions. My name is Glen Baltrusch, and I am a citizen of the great state of North Dakota by birth, and am disabled from accidental injuries incurred during employment.

I am here today and stand before you to testify in opposition to *House Concurrent Resolution 3069*.

**AMENDING OF CONSTITUTIONAL LANGUAGE**

First, I must inform you of a serious problem that is occurring under your watch that has serious complications that not only must this Legislative Committee address, but that the Legislative Assembly must address and prohibit. The problem stems from the Legislative Councils drafting of Concurrent Resolutions and amending language that is not specifically specified or requested by a Legislative Member. This problem has been occurring for at least three (3) Legislative Sessions that I am aware of, and maybe more if one inquires, and must be stopped immediately. I, and others, would truly like to believe that the Legislature does not condone these actions or is an active participant in these misguided actions. The problem arises from language that is being improperly amended, or is attempted in being amended out of the *Constitution of North Dakota*, but yet is continually being placed into the *North Dakota Century Code* by Legislative action.

The main concern is the word "*shall*" which also applies to the resolution before us today as well. This is not the only language or word that is improperly and wrongfully being amended in proposed Constitutional Amendments put forth in House or Senate Concurrent Resolutions.

The word "*shall*" is a directive. It is explicit in its definition, and is wrongfully being amended in every proposed Concurrent Resolution that proposes amendments to the *Constitution of North Dakota* over the past several Legislative Sessions, including this Fifty-Eighth Legislative Assembly. I, as well as other concerned citizens of this state are questioning the reason or reasons for these actions and are concerned where our elected officials stand in regards to this pertinent matter. Questions must be answered and someone needs to be accountable. Hopefully the saying, "the inmates are running the asylum", does not apply in this case. We pray that we are not witness to acts of "*government at the people*" instead of "*government of the people*". I, and others look forward to this pertinent problem being completely rectified very quickly.

#### HOUSE CONCURRENT RESOLUTION 3069

The proposed *House Concurrent Resolution 3069* is another gross perversion of an attempt to invalidate "*Powers Reserved To The People*" as mandated in *section 1 of Article III* of the *Constitution of North Dakota*. Again the North Dakota Legislative Assembly is being requested to infringe upon the Constitutional Rights of the Citizens of this State. While Articles of the Constitution and the Bill of Rights or the Declaration of Rights of the Citizens are always under attack, it is disgraceful when our elected officials and representatives continually seek to usurp these powers of the people. *House Concurrent Resolution 3069* is nothing more than a subversive attempt to "*influence the vote*" on any initiated measure or constitutional amendment proposed by the people at the discretion of either elected officials or governmental entities, if not both by one small word, "*may*". In other words, "*may not*" applies to this resolution as well.

Mr. Chairman, Members of the Committee, that alone is enough reason for a "DO NOT PASS" recommendation from this Legislative Committee. However, this resolution applies only to initiated measures but not to referendums or recalls. Why?

Over the past several sessions there have been other bills proposed to manipulate and influence the vote of initiated measures and amendments. Fortunately, not one has ever received a Do Pass recommendation out of committee, or was passed by vote on the floor, including one that others and I believe was an attempt to thwart the process and become law without opposing testimony several sessions ago. Today, during the Fifty-eighth Legislative Assembly of North Dakota, we are again in a similar situation with **House Concurrent Resolution 3069**. With **House Concurrent Resolution 3016**, it was quite evident from the language in the proposed amendment and press statements made by Legislative Members prior to the beginning of the Fifty-eighth Legislative Assembly in December 2002, that this resolution was in part a retaliatory move against members of the Democratic/NPL Party of North Dakota. **House Concurrent Resolution 3016** however had far reaching effects that the sponsors did not realize, but may have been assisted by some who despise **Article III**. I do suspect though that not all of the actors involved may have been aware of previous attempts in which elected officials have, and still do resent **Article III** of the **Constitution of North Dakota** because it provides for "**POWERS RESERVED TO THE PEOPLE**".

**House Concurrent Resolution 3069** is nothing more than a mirror reflection of **House Concurrent Resolution 3016** with a major drawback. It lowers the standard from the hypothetical one million dollars or more, to any hypothetical dollar amount; therefore influencing the vote. If you carefully read the language in **House Concurrent Resolution 3069**, the fiscal impact of an initiative measure ballot itself is subject to a fiscal impact statement.

Mr. Chairman, Members of the Committee, **House Concurrent Resolution 3069** is not about fiscal responsibility but an attempt to subvert the initiative process of the citizen when or if the Legislature fails to respond to the wishes of the citizens. Every initiative, referendum, or recall that has complied with **Article III** of the **Constitution of North Dakota** is subject to open debate in the public arena. After that debate, the electors cast their vote based on personal beliefs and the information they believe to be true, as they did in this past general election that was held in November 2002. **House Concurrent Resolution 3069** is a mirror of **House Concurrent Resolution 3016**. This resolution still grants constitutional power for any governmental entity to manipulate an election to its wishes, by preparing a hypothetical fiscal analysis.

For your benefit I have attached *Article III* of the *Constitution of North Dakota* to my testimony. If you will take note of *section 1* of *Article III*, it states in part "...the people reserve the power to propose and enact laws by the initiative," It also states in part "...to propose and adopt constitutional amendments by the initiative;" and states "*This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.*"

*House Concurrent Resolution 3069* clearly violates *section 1* of *Article III* by attempting to amend *section 2* of *Article III* of the *Constitution of North Dakota* since it is prohibited from being enacted into law by the Legislative Assembly and requires a "DO NOT PASS". I also wish to bring to your attention something that I am quite sure no person has considered. In the event that this resolution or any similar resolution be placed on any election ballot, I predict that North Dakota will have the longest ballot in its history, and that my friends, is not what I would like.

Mr. Chairman, Members of the Committee, I respectfully request and urge a "DO NOT PASS" recommendation vote on *House Concurrent Resolution 3069* as there still remain additional questions in this matter. Would this resolution apply to a term limit initiative? Why or why not? Would this resolution apply to proposed amendments by the Legislative Assembly? Why or why not? Would this resolution apply to a physician choice initiative? Why or why not? Would this resolution apply to a title repeal initiative? Why or why not? Would this resolution apply to a health care initiative? Why or why not? Would this resolution apply only to selective or selected initiatives? Why or why not? If this resolution is enacted do we need bicameral – unicameral – no legislative body since now fiscal notes may be attached to the ballot? Why or why not? These are just a few more reasons for a "DO NOT PASS". This *Concurrent House Resolution 3069* is a poor idea which mirrors *House Concurrent Resolution 3016* with the same results but lowers the standard even further.

Again, this is in part a power – play between the Democratic and Republican parties; except this time I firmly believe that *Senator O'Connell* has been manipulated into being a sponsor of *House Concurrent Resolution 3069* in an attempt to show bi-partisan support and to manipulate

not only the outcome of this hearing and but the primary election vote to be held in 2004 as well.

*We may citizens of North Dakota, but we are not fools!*

Thank you for your time and consideration in this pertinent matter. I would be happy to answer any questions you may have.