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DESCRIPTION

3009

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HCR 3009

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3009

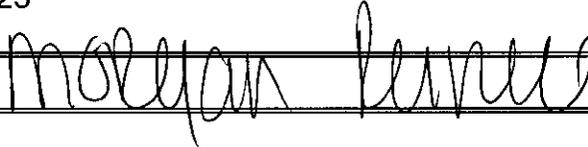
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2023

Committee Clerk Signature



Minutes:

**Rep. Froehlich:** *This resolution study probably leads to right to your hometown Mr. Chairman. This resolution is about lost revenue. It's about lost revenue to the oil dealers, the billers, and the state of ND. There are many questions that need to be answered. Oil is not unlike any other product. There are various qualities of it. I believe that we need to bring the producers, refiners, and the individuals involved with transportation of this natural resource together to solve our problems. Some of the questions I believe that need to be answered are about building a pipeline out of state to help ship our product. If we do get it out of state where are we going to go with it? What are the current capacities of the refineries in the United States? My understanding that current refineries are right at 95% capacity and that is almost max. If we build a pipeline going to Minneapolis or whatever, are we going to have an outlook? I did a little research and foreign oil products increase greatly. I think that Mr. Helms will tell you that Canadian oil will have a bigger effect on ND than the Persian Gulf will. This resolution is about the past, the present, and the future for the state of ND. Where are we now? What potential do we have? What are the consequences if we do nothing? This resolution has to go hand in hand with the pipeline resolution and everything that is being talked about there. Where do we go with the oil we pump out? If somehow we refine it here, great. Just think of all the jobs and*

*all the money that we would have in the state. We still have to get the refined products. What are our future needs? I think that is key. Everybody has heard about the oil industry. What is holding us back? Mr. Helms can tell you what is happening with the future of the oil industry. I'd like you to turn to the back page of this legislation. Line 8 is the meat and potatoes of the whole legislation. If the legislative council studied the feasibility and the desirability of building a state owned oil refinery or cooperating with other states to refine oil and providing incentives. We could provide some incentives for the oil refinery we may have another one lying down the road. If we could provide them some incentives of having capacity, I think that would help straighten this out. I would like you to consider this. This is not about me; I have no money involved with the oil industry.*

**Rep. Froseth:** On line 3 the study would expand current refinery capacity in the state. I don't know how the state and a private owned refinery would work. Also, what is the status of the Fort Berthold Reservations plans on their refinery?

**Rep. Froehlich:** I'm not sure where it is at right now. I know there are some problems they are dealing with. I sat and visited with them this summer. I'd rather have them tell you. My point in being is that what would it take to sit down with someone and ask them to expand their facilities? That is the kind of incentive they need. I don't even know if they can do it and that is why I think we need to study this. I'm not saying that we have to work this out. Let's not lose our state resources.

**Sen. Heitkamp:** *The resolution comes to you as recognition of the fact that America needs oil and we have it. Are we getting enough of what we have out to it at the price we could be getting for it? That alone begs a study. What can be done? We talked many times about renewable fuels, we talked about the oil patch, and we talked about all of these things. It is all part of it. Everyone needs to recognize that when it comes to ND, what we could do is far*

*beyond what we are doing. I like the fact in relation to a previous question, that there is an incentive here to take a look at what capacity we could be sharing with private industry. In what we could be doing to more incentives the investment of private industry. That should be part of that. This doesn't put anything in place yet. It just has the legislature take a serious look at what legislation, if any, should come forward. In regards to dealing with very viable products that we have is going underutilized right now. That is why the resolution is in front of you and I hope that your committee can support this.*

**Lynn Helms:** *The industrial commission has not taken a position on this bill. I realize that neutral testimony is very popular. However, I do need to say that this resolution is one of a dozen possible solutions that were identified last spring at the peak of these oil prices. The work of this resolution is one of some solutions that will identify the things that pipeline transportation authority of state or people should be working on, which is to look at the refinery construction. Rep. Froehlich asked me to provide some figures for you and you have probably heard some of these before. With the situation that we had developing the oil business last year for 2006, the state lost almost \$20 million in production taxes. What we typically would have gotten in terms of a price differential or basis from the crude prices. If you translate that to what the mineral owners lost with their 12.5% share of oil, they lost about \$22 million. The working interest owners would have lost anywhere from \$180 million. Would additional refining capacity in this area fix that? I don't know. We haven't studied that. Part of the problem with ND is that we aren't a growing product market. We were very flat at 40,000 barrels a day of consumption. So our current refinery is exporting about 1/3 of the refined products. This is a very complicated industry. Producers produce, pipelines ship, refiners refine, and retailers retail. They are each in their own box. They work together where their businesses cross. It is not one big industry top to bottom, like it is in a lot of countries where they have national oil*

companies. Refineries are extremely expensive and difficult to build. At our peak during the crude oil transportation situation last March, we had about 30,000 barrels a day that didn't have a home. That was the reason that prices got discounted so deeply. If you were going to build a 30,000 barrel a day refinery it would be close to \$400 million. Based on some studies I did on refineries being looked at around the world. If you were going to build a refinery that could take the other 60,000 barrels a day that Tesoro is not refining. You'd be talking close to \$1 billion to build such a factory. It's a very expensive thing to get into. I can comment on the two refinery projects that have been trying to get formative. One is in Arizona and the other in Makoti. They have been working for 10 years, spent \$30 million and they still don't have the necessary air and water permits. Our friends up here at Makoti have been working for seven years. They have spent in the neighborhood of \$4-5 million and don't have the permits yet. The status of that refinery is that they are currently working on EPA permits and they are out in the public portion of that. It seems strange that you would work on it for seven years before you could get it out for public comment. But that is the kind of process that we are dealing with to build a new refinery. It's a monumental undertaking. Will they get those permits? Also, I need to comment that the Makoti refinery is planned to refine 100% Canadian crude oil. So they are planning to bring those in either by railcar or by pipeline. There is a lot of money at stake here and like I said it's a very complicated industry and it is hard to understand how our oil could be selling at a discount when our gas and diesel were at US market prices. They are two completely separate markets. We ship most of our oil out of the state to be refined, and then we bring the stuff back to consume it.

**Rep. Kasper:** What is the bottle neck holdup for the 7 and 10 years?

**Lynn Helms:** The bottleneck is the EPA and their abusal to permit these things. What typically is happening is that it took them 6 or 7 years to get the EPA permits which were then

conditioned to local permits within a 12 month period. We have not built a new refinery in this country for 30 years. It's because of the EPA regulations and permitting restrictions. Would state involvement be able to speed that up? Perhaps it would. I don't know. That is the bottleneck, getting the air and water permits.

**Rep. Kasper:** Does the US Congress change the requirements that the EPA operates under so that those regulations could be used?

**Lynn Helms:** They have the power, not sure about the will. They do have the power to change those requirements. Interestingly enough, during those 30 years where we haven't built a new refinery, we have expanded refinery capacity for existing requirements a great deal. To the extent that we have actually built an equivalent of 17 new refineries, but it's all been expansion of existing ones. We seem to be able to get that permit, but new ones just can't get through.

**Ron Day:** *I'm here representing the Mandan Tesoro refinery. We are here in support of this resolution. Any time you can educate and understand an industry when you are getting ready to legislate is a very powerful, positive thing. To go forward and look at building a comprehensive energy policy in ND, that is a powerful thing to have that knowledge. Again, Tesoro is in support of this.*

**Rep. Schneider:** If the state were to partner with your company would there be any permanent issues if you were to expand?

**Ron Day:** There is always a challenge when you permit a new facility or a new source. It is much easier when the source is there, because there again it is already in someone's backyard. As Mr. Helms stated, the challenges are wide. There is the EPA and lawsuits. We have a good community and we enjoy doing business. They are receptive to us.

**Rep. Froseth:** Can you see a marriage between the state and your company for the state working and supporting and addition or expansion of your facility? I don't know how that would

work, if it would even work at all. Would there be tax exemptions or tax credits so it would enable you to go out and put the dollars into expanding your facility? In exchange you may get a tax base where the state could recoup that investment and benefit from the extra tax revenues. What kind of comparison could you make on that?

**Ron Day:** There is no real business model out there to work on with the terms of a private refinery in conjunction with the state in the US. We hear a lot of information out there of wanting to grow and expand the refineries. It isn't so much how the state can support us in terms of financial exemptions. Yes, that is a positive incentive. The real critical piece is how we expand a refinery in the middle of ND with really no new market out there that we can go out and grasp. It goes back to the pipeline transmission. We don't have a pipeline out to a new market, so we don't have a new market to expand this refinery. How do we get our product out of ND to a new market? New markets are hard to find because there again, even if you pipeline into say Rapid City, how would you get there and displace someone else's product. It is a big challenge to find that new market.

**Rep. Froseth:** If we went ahead and built a new facility without having a market in line, we could have a new facility for the oil to come to.

**Ron Day:** You are absolutely right. That would be a distinct challenge to find that market, and where do you go?

**Rep. Kasper:** In our IBL committee we are working on a pipeline authority similar to the Electrical Transmission Authority which is designed for production out of ND. If that is successful do you see that helping your company with opening up new markets, or is that not going to help you much at all.

**Ron Day:** Absolutely. That is going to be a positive step in having the ability to go out and find

partners and facilities. We would try to gather the information, the desire if you will, to go to new markets. It would be a very positive step for the state to take to help facilitate that project.

**Rep. Boehning:** Do you know the amount of product that is shipped into this country from another country?

**Ron Day:** I don't know that answer. There is definitely ships of product that come into the US daily.

**Rep. Froseth:** Along that line, I know there are several oil companies who bring that refined product in from Canada. Why do they? Do they have long term agreements that they have to fulfill? Can they switch their companies and just drop agreements? How does that work?

**Ron Day:** There are long term contracts. We supply retail stations; we develop contracts and long term agreements with the retailer to sell our product. There again it is all supply and demand. Right now there are pipelines that go across the US. The products move in a multitude of directions. It's all about where can they go to get the most of that product?

**Rep. Haas:** Is there any more testimony on HCR 3009? If not we will close the hearing on HCR 3009.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3009

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2525

Committee Clerk Signature

*Morgan Penick*

Minutes:

**Rep. Weiler:** Amendment attached.

**Rep. Weiler:** Simply what this does is basically removes any reference to the state or to us studying anything to do with the state owning or building a refinery. I don't think that is the road we want to go down. I don't think we want to have the state of ND competing with private business. It's not a good idea. Therefore, that is why you have what you have in front of you.

**Rep. Weiler:** I move the amendments.

**Rep. Meier:** I second that.

**Rep. Froseth:** I support the amendments but I think I'll vote against the entire resolution. The same day we heard this bill, on the way home, there was an economist talk show on the radio. The topic of this discussion was refineries. The study probably won't hurt. But ND looking at a state owned refinery could be the fastest thing to bankruptcy that the state has had. This talk show brought out a lot of things. We import a great share of our oil. 50% of our imports come from Canada. The next biggest is Mexico, then Argentina, then Nigeria, and the fifth largest is Saudi Arabia. The theme of the discussion was the war in Iraq and all that. That was not necessarily true. They talked about the cost of a refinery and the competition. If ND is going to get into the oil refinery business they would have to first establish markets. There is such a

battle for markets and pipeline and shipping. The battle is for getting the space on the pipelines to move the product, and then to find markets to assess it. We would just be eating up oil. The other refineries have been in business for 30 years and are paid for by private industry. They would drive competition out and make it so tough that the state would never be able to establish a market.

**Rep. Weiler:** I think that scenario would really be something that would bankrupt the state.

**Rep. Haas:** I think those are very cogent comments. I recall from the testimony that somebody said that the cost of a new refinery would be anywhere from \$800 million to over \$1 billion. That is half of our biennial budget.

**Rep. Froseth:** One other thing that made me think of the studying aspects of a refinery is that I don't know if there is any information out there that the oil companies and the industries don't know now. What information would they derive from?

**Rep. Weiler:** Thank you for bringing all that forward because I agree. These oil companies do research and they know what they need. If they need it they will attempt to put it up and if they don't they won't even give it a shot.

**Rep. Wolf:** Isn't a study resolution just asking to be studied, so what are your concerns about having it be studied? Wouldn't having a broader scope for the study be helpful?

**Rep. Haas:** I think that is correct.

**Rep. Weiler:** I was just thinking along the lines that as we go on in the session there is going to be many things that the legislative council will be asked to study during the interim. In my three interims that I have served so far, there are so many things that we study that we can't really take one issue and spend enough time on it. Some times we do but for the most part there is too much to study that we put in there. I believe that this is something that the state of ND

should not be involved in. Again, if it needs to be studied the oil refineries will do what they need to do. That is what they do everyday.

**Rep. Haas:** I get the feeling when resolutions come in like this that sometimes there are some people who don't even want to spend the money to do the study. I sense that this is part of the decision.

**Rep. Potter:** From my understanding is that we pass all sorts of study during the session. Then it goes to legislative council and they choose to study what they want done. There is no way that all of the different things passed are included in the study. They pick and choose the ones that they think are the best. If we pass this there is nothing guaranteeing that this will be chosen.

**Rep. Haas:** That is true but however, the amendment says that we don't even want the legislative council to have the option of trying to decide whether or not they want to study a state owned refinery.

**Rep. Weiler:** In these studies isn't the wording kind of demanding. If we put the word shall in there. I have heard the last two sessions that if you put the word shall in there that they have to.

**Rep. Haas;** But this doesn't say shall.

**Rep. Weiler:** But it doesn't say may either. It just says that they study the feasibility which means they have to do it.

**Rep. Haas:** Do you want to add the word may in your amendment?

**Rep. Weiler:** We could add may or consider, that would be fine.

**Rep. Kasper:** Shall consider does not mean they have to just that they shall consider doing it. Most of the resolutions are shall consider.

**Rep. Haas:** We have one amendment on the floor. We will ask for a voice vote on Rep.

Weiler's amendment. All in favor say 'aye' all opposed say 'no'. The motion carries. You can further amend now if you wish.

**Rep. Weiler:** I move to further amend HCR 3009 page 2 line 8, after the word 'council' add 'may consider a'. After the word 'study' include the word 'of'.

**Rep. Kasper:** I second that.

**Rep. Haas:** Is there any discussion on the amendment?

**Rep. Amerman:** I still like shall consider. That means they have to consider it. May consider means they don't even have to consider it. I would like to see the word shall instead of may.

**Rep. Haas:** I think the legislative council considers all of the resolutions.

**Rep. Froseth:** I haven't seen as many resolutions come through this year as in the past. Do you know what percent of the resolutions are actually chosen for a study?

**Rep. Haas:** It's very small. Is there any further discussion on the amendment? If not we will take a voice vote on the amendment. All in favor say 'aye' all opposed say 'no'. Amendment carries. We have the amended bill before us. What are your wishes?

**Rep. Weiler:** I move a do not pass as amended.

**Rep. Boehning:** I second that.

**Rep. Haas:** Is there any further discussion on HCR 3009? If not we will take a roll call vote on a do not pass as amended motion on HCR 3009. The do not pass as amended motion passes with a vote of 7-3-3. Is there a volunteer to carry this to the floor?

**Rep. Weiler:** I will.

Date: 2-1-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HCR 3009

Action Taken move amendment

Motion Made By Rep Weiler Seconded By Rep Meier

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Rep

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

Date: 2-1-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HCR 3009

Action Taken move to further amend 3009

Motion Made By Rep. Weiler Seconded By Rep. Kasper

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Rep.

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

Date: 2-1-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HCR 3009

Action Taken Do not pass as amended

Motion Made By Rep Weiler Seconded By Rep Boehning

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman		X
Rep. Bette Grande VC			Rep. Louise Potter		X
Rep. Randy Boehning	X		Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		X
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 7 No 3

Absent 3

Floor Assignment Rep. Weiler

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

**REPORT OF STANDING COMMITTEE**

**HCR 3009: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO NOT PASS** (7 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). HCR 3009 was  
placed on the Sixth order on the calendar.

Page 1, line 2, remove "building a state-owned oil refinery or cooperating with other states to  
refine oil or"

Page 2, remove lines 1 and 2

Page 2, line 3, remove "state ownership of a refinery or"

Page 2, line 8, remove "building a"

Page 2, line 9, remove "state-owned oil refinery or cooperating with other states to refine oil or"

Renumber accordingly