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ROLL NUMBER
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DESCRIPTION

3011

2007 HOUSE CONSTITUTIONAL REVISION

HCR 3011

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3011

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1312 & 1313

Committee Clerk Signature

*Diane Haan*

Minutes:

**Chairman Koppelman:** Opened the hearing on HCR 3011 and the attendance was taken.

**Rep Belter:** appeared in support of HCR 3011. I call this a taxpayer protection act. This bill is a constitutional amendment which requires a 60% vote in the legislature in order for us to increase income sales use, gross receipts or motor vehicle excise tax. I had this bill here last session & am introducing it again because property tax seems to be the big issue & there are all kinds of legislation being introduced that will cap or put various controls on political subdivisions. If we, as a legislature, are going to be capping & putting restraints on political subdivisions over property tax, I question what are we going to do to hold the line on spending. The best way to do that is to hold the line on the amount of revenue that we have to spend, because as we are experiencing this session, there are many ideas on ways to spend this money. We'll probably give authority to political subdivisions to vote to raise their taxes but I don't think it's very practical that every time the legislature feels like we need a tax that we'll have a special election & ask the entire population of ND to vote. I believe we need some restraints ... I think the 60% is not that high.

**Chairman Koppelman:** Do you see increasing taxes coming to the point where it should be included in one of those levels of raising the bar association in terms of legislature happening

... sometimes they have a 2/3 majority to pass. Is that why you're bringing this forward ... that it's serious enough?

**Rep Belter:** Yes, this being my 12<sup>th</sup> session, tells me that in order to protect the taxpayer in excessive spending, we need protection on the revenue. If the legislature feels the need to raise taxes is so great, asking for a 60% vote is not going to jeopardize the future of ND.

**Representative Conrad:** When was the last time we raised these taxes?

**Rep Belter:** The last time we tried was in 1987 or 1989, then the people rereferred them & that sent a real message to the legislature so we've not needed to do that. The good times have been on our side, but history will tell us that the good times don't last & if we ever need it I think these are the rules we ought to be operating under.

**Representative Schneider:** One of my concerns with this resolution is that it handcuffs the ability of the legislature to raise taxes & if we do that won't it make it more tempting to pass on the burden to establish to raised property taxes since there are only so many ways to raise revenue?

**Rep Belter:** I don't believe that 60% handcuffs the legislature, if the need is there 60% will be easy to come by. If we're going to start giving out money for property tax relief, along with that will come controls.

**Representative Schneider:** If we're going to address the property tax issue, now doesn't seem to be a good time to make it harder to raise the other points of record.

**Rep Belter:** My legislative experience tells me that these are the types of measures you want to bring up in the good times, so when the tough times come, legislators have to make sure that increasing taxes is really the only answer. You'll never be able to pass this type of legislation when we're strapped for money, you need to make the moves when we have the money. In order to protect the taxpayer in the future, we need to this now.

**Rep Kretschmar:** Have you ever considered putting this idea into a bill form instead of a constitutional amendment?

**Rep Belter:** I could have put it in a bill form, but that's only good for the next legislative session & then it can get voted out again. I feel this should be put before the people.

**Chairman Koppelman:** The operation on this committee is different then the others, because what we deal with are proposed amendments to the constitution which need to go to a vote of the people. This deals with specific increases in certain types of taxes, is there a reason why you selected those taxes & didn't apply it to all fees & taxes?

**Rep Belter:** I wanted to leave fees out because in many instances fees should be a user fee & they aren't always that way, but I felt that would be going overboard. I was just interested in the big ticket items.

**Chairman Koppelman:** Any more questions, if not any more support?

**Bill Butcher, State Director of National Federation Independent Business (NFIB):**  
appeared in support of HCR 3011. NFIB has nearly 3000 members in ND, all small business owners & all the positions we take on issues that are before the legislature are determined by member ballots. We took a poll to determine NFIB's position on the enacting a new section of the constitution requirements on the 60% that is before you now & the result was overwhelmingly in favor of. Our members believe that the government should only tax its citizens when necessary & if needed it should be at least 60% of the votes to do that. If a proposed tax increase did pass the legislature by such a super majority it would not likely be referred for a vote by the people & not as likely to be rejected. One of the concerns that I have is in this time that we have such a huge surplus, there's a real temptation to enact bills that increase spending that have to be sustained. That's great now when we have a large surplus, but perhaps there will come a time when we won't & we might not be able to sustain the

spending we've put in place. The obvious solution to that would be to raise taxes, so as Rep Belter suggested, that in the good times would be a good time to pass this kind of a safeguard. I think the passage of this bill would protect & assure our future.

**Representative Conrad:** When did you do this survey?

**Bill Butcher:** I believe it was about 4 years ago.

**Representative Conrad:** What percentage of the membership responded?

**Bill Butcher:** What our statisticians tell us is that we stop counting at 5% because the numbers don't change after that. These are submitted nationally.

**Representative Conrad:** So 5% of the people will tell you what 100% of the people are thinking.

**Bill Butcher:** The numbers aren't going to change.

**Representative Griffin:** Will this (*can't understand*) on the motor vehicle excise tax?

**Bill Butcher:** I'm sure that was used because that was the survey at the time.

**Representative Griffin:** Is the motor vehicle excise tax used for matching funds for transportation?

**Bill Butcher:** I'm not sure.

**Representative Owens:** I serve on the Transportation Committee and no, it's not used for transportation ... general fund.

**Representative Klemin :** With times being good, I know there are bills in to reduce tax rates ... what if one of those bills passed to reduce all of these taxes by a simple majority, so now they're lower, is it still reasonable to require a system to (*can't understand*) to raise them again or should that one be applied to raise them up above the levels that they are?

**Bill Butcher:** I don't know that anyone can say that this is the level that we should start at, I think that wherever the taxes are, that would have to be the base. I don't think we can apply a "what if".

**Representative Klemin:** Would it be reasonable to require a 60% or more vote to decrease as well as increase them?

**Bill Butcher:** Yes.

**Representative Klemin:** Maybe a bill amending or altering the rate of income tax would be subject to a 60% vote, instead of saying increasing or decreasing.

**Bill Butcher:** I wouldn't object that.

**Chairman Koppelman:** Any more testimony in support of HCR 3011 ... if not any opposition?

**Mary Wahl, representing the ND Council of Educational Leaders (NDCEL):** appeared against HCR 3011. NDCEL supports simple majority to pass mill levy increases, bond issues & today we add sales, income tax, gross receipts, use tax or motor vehicle tax. We believe that the majority should decide, not the minority. A commission has worked for the last 2 yrs & they've addressed the issue of equity. The next step to be addressed is the adequacy of funding & what the state's roll in funding that. That will be studied for at least the next 2 yrs. We don't know what it will mean to the state in terms of financial resources it will take to be able to address them. Our position is always that we believe that the majority should make decisions, especially in light of involving these educational issues which are hugely significant to the state & to ensure that when all is said & done that people feel issues have been voted on fairly. To do that we feel strongly that those votes need to be simple majority votes. It seems ironic to me that in the legislature, everything is passed by a majority vote of 50%.

**Chairman Koppelman:** This measure calls for "super majority".

**Mary Wahl:** I should have clarified that as a "simple majority".

**Chairman Koppelman:** My 2<sup>nd</sup> question is, there are some measures which require bond issues which require 60% ... how do those get passed?

**Mary Wahl:** I don't have that information, but I can find out.

**Chairman Koppelman :** Any other opposition, if not any neutral? If not we'll close the hearing on HCR 3011.

*HCR 3011 continued ... discussion*

**Chairman Koppelman :** reopened meeting for discussion.

**Representative Klemin:** Can we get the information on when the taxes were last increased? In 1989 they were increased, but that was referred.

**Chairman Koppelman :** We'll have research done to find out when they were last successfully increased. Any questions, if not we'll continue HCR 3011 after we have our requested information.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3011

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 2-26-07

Recorder Job Number: 3910

Committee Clerk Signature

*Marianne Haam*

Minutes:

**Chairman Koppelman:** Is there any discussion on HCR 3011?

**Representative Conrad:** I make a motion for a **DO NOT PASS**

**Representative Schneider:** I second the motion

**Representative Conrad:** My reason for the Do Not Pass motion is because I don't think it's workable ... I think sometimes we need to raise fees in response to a situation and 60% is a lot and I think the majority is good enough.

**Representative Klemin:** I know this is referred to as the super majority but to me it's a minority rule, because basically 40% will tell 60% what to do. I'm a firm supporter of majority rule and don't agree with minority.

**Chairman Koppelman:** It would take a larger majority.

**Representative Klemin:** 40.1% would decide.

**Vice Chairman Kretschmar:** I would support the do not pass

**Chairman Koppelman:** Any further discussion from the committee? ... if not we'll take the roll call vote.

**DO NOT PASS Motion made by Rep Conrad Seconded by Representative Schneider**

9 Yes      0 No      0 Absent and not voting

Carrier    Representative Conrad



**REPORT OF STANDING COMMITTEE (410)**  
February 27, 2007 8:14 a.m.

**Module No: HR-37-3956**  
**Carrier: Conrad**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HCR 3011: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **DO NOT PASS** (9 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HCR 3011 was placed on the Eleventh order on the calendar.