

Mr. Chairman

Thank you for the opportunity to submit testimony in support of HCR 3023, the proposed "Keep Nine" Amendment to the U.S. Constitution.

The Amendment would be the shortest Amendment to the U.S. Constitution.

It simply states:

"The Supreme Court of the United States shall be composed of nine Justices."

The Amendment would set the current number of nine Supreme Court Justices in the Constitution and prohibit a future Congress and President from altering the size of the U.S. Supreme Court.

By doing so it would preserve the independence of the Supreme Court from any effort by a future Congress and President to manipulate the size of the Court for political advantage.

In the first years of our Republic there were several times when Congress passed a law to increase or decrease the size of the Supreme Court to advance the political agenda of the party then in control of Congress.

But in the past 150 years a tradition has been established that the size of the Supreme Court should remain at Nine Justices. This tradition prevents the Supreme Court and its decisions from becoming a mere political extension of the will of the political majority then in control of Congress.

An independent Court free from the political control of Congress is critical to the rule of law and to respect for the rule of law.

When, in 1937, President Franklin D. Roosevelt sought to increase the size of the Court from 9 to 15, his plan was defeated with overwhelming bipartisan opposition.

Today there are powerful politicians in Washington with the same kind of court-packing agenda.

Given the cyclical nature of American politics, there is no guarantee that someday, sooner or later, advocates of Court packing will have the decisive majority in Congress and the ally in the White House they need to pack the Supreme Court.

A successful Supreme Court packing effort would destroy the independence of an institution that has become a critical check and balance on the abuse of power by any power hungry President or Congress.

To permanently end the risk of Court packing, simple opposition to Court packing is not enough. A Constitutional Amendment is required.

Constitutional Amendments are difficult to enact but the success of Amendments to guarantee a woman's right to vote, to enact and then to repeal Prohibition, to impose Presidential term limits, and to give 18 year olds the right to vote, demonstrates that a simple Amendment with enough popular support can be enacted.

Polling shows that voters would support the "Keep Nine" Amendment by a margin of 62-18 percent.

The Keep Nine Amendment has bipartisan support. It was originally proposed by a bipartisan coalition of state Attorneys General and was first introduced by a Democrat in the U.S. House.

It is now backed by more than 75 Members of the U.S. House and Senate including Rep. Kelly Armstrong of North Dakota.

Resolutions urging Congress to propose the Keep Nine Amendment are now pending in more than a dozen states and, as of today, four legislative Chambers in Tennessee, South Dakota, and Idaho have passed such Resolutions.

As the number of Resolutions urging Congress to propose the Amendment, grows, public awareness of the Amendment will increase and pressure on Congress to act will increase as well.

You as state legislators representing the people of North Dakota have many responsibilities. But none is more important than the responsibility entrusted to you by the authors of our Constitution, to be the ultimate check and balance on the abuse of power by the federal government.

Today, your support of the Keep Nine Amendment will help remind political leaders in Washington that you take that responsibility with the utmost seriousness.

There are few elements more fundamental to the survival of our Republic than the rule of law and the preservation of our Constitutional system of checks and balances on the abuse of power.

Your support, as state legislators for the Keep Nine Amendment will help to preserve those checks and balances and protect the Constitutional rights that all of us cherish so deeply.

As former Supreme Court Justice Ruth Bader Ginsburg said when she stated her opposition to Court packing in 2019 "Nine is a good number".

Thank you for the opportunity to present this testimony in support of the "Keep Nine" Amendment and HCR 3023.

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