

HB 1452 Testimony by Dustin Gawrylow, N.D. Watchdog Network (#266)

Mr. Chairman and Members of the Committee,

I rise in opposition to this this bill on the basis that it is a tax increase, and in fact inventing a new tax on on political speech of all things. Something both the U.S. Constitution and North Dakota Constituton protect. And something our North Dakota Constitution dedicates an entire article to and titles "Article III - Powers Reserved To The People.

Unfortunately, not many legislators understand what the word "reserved means"

1st Amendment, U.S. Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

N.D. Constitution, Article 1 "Declaration of Rights":

Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

Section 5. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

However, with all that said I do understand the motivations to this bill.

Back in 2017, I drafted a bill with the assistance of Senator Mathern, and it was introduced by Senator Kannianen (2017 - SB 2336) and co-sponsored by Sen. Vedaa, Rep. Beadle, Rep. Becker, Rep. Mock.

That bill sought to do two things:

1. Limits contributions to committees involved in initiated measures from taking more than 30% from one single donor.
2. Require that all initiated measure campaigns receive at least 50% of their total funding from inside the state of North Dakota.

The opponents of that bill, and I am sure the other opponents of this bill will say that this will put North Dakota into legal limbo and force us to goto court because of the precedent set by Citizens United.

While I am opposed to the idea of creating a tax, especially a 50% tax - I am not opposed to the idea of North Dakota taking the lead on challenging the right of states to try to put their own citizens on an equal playing field with non-residents. I would recommend that you look at the language of 2017 SB 2336 and see if that may do better what you are trying to do with this bill today.

It's my non-lawyer opinion that a challenge by a Conservative Red State seeking to exercise its 10th Amendment sovereignty over direct democracy ballot measures may have a better chance of winning and establishing a carve out. This is solely speculation on my part.

What I can tell you is that the continued and endless attacks on the Powers Reserved to the People need to stop.

As you know, I have lead previous coalitions against efforts to diminish the Powers Reserved to the People. In 2019, this legislature passed SCR 4001 placed a measure on the 2020 ballot as Measure 2.

Last year, the N.D. Chamber of Commerce tried and failed after spending nearly a half-million dollars to get a 60% threshold for constitutional measures placed on the ballot.

SCR 4013 this year is an even more egregious attack on the Powers Reserved To The People, trying to impose a 67% threshold and ban paid signature collectors, among other things.

Furthermore, I would like to announce here today that I am seeing bill sponsors for a constitutional measure that would end the need for out-state-money for signature collections.

Included in my testimony is language and would ask the voters to authorize a secure online petition system on the Secretary of State's website.

This would allow citizens to read and sign petitions on their own time, end the need for people with clipboards and no knowledge of the issues to ask for signatures, and eliminate North Dakota as a market that needs paid signature collectors.

In exchange for online petitioning, I would support increasing the signature threshold to 6-percent for statutory measures and 15-percent for constitutional measures.

Instead of finding ways to make it tougher, let's find ways to involve more people and less money.

I will stand for any questions, and if anyone wants to help introduce this constitutional measure, let me know.

ARTICLE III POWERS RESERVED TO THE PEOPLE

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

The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.

The legislative assembly shall appropriate to the Secretary of State appropriations necessary to establish a secure electronic petition signature gathering system to be hosted on the Secretary of State's website. The Secretary of State shall procure the technical resources to allow any North Dakota resident with a valid drivers license, or other proof of residency, to electronically sign any and all legal forms of petitions at the state and local level including those for initiated measures, initiated constitutional measures, referendum, recall, or candidate nominations. This provision shall be implemented by December 31st, 2025.

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. **Upon implementation of an electronic signature collection process, this requirement shall be increased to six percent of the resident population of the state at the last federal decennial census.**

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. **Upon implementation of an electronic signature collection process, this requirement shall be increased to fifteen percent of the resident population of the state at the last federal decennial census.** All other provisions relating to initiative measures apply hereto.