

SCR 4013 - Testimony by Dustin Gawrylow, ND Watchdog Network (#266)

Mr. Chairman and Members of the Committee,

I would like to thank Representative Vetter for taking the lead on this resolution.

This resolution is my attempt to end the constant attack on the initiated measure process by developing a package of changes that would reduce the amount of money needed for measure sponsors to collect signatures and extend an olive branch to the legislature by increasing the thresholds once the process is modernized.

Included in this testimony is the press release I issued when this resolution was introduced.

I want to make several things clear:

If the legislature did not continuously attack the Powers Reserved to the People in Article III of the state constitution, there really would be no need to have this bill.

SCR 4013 has been moderated from its original version, but the way it started made it very clear direction some in the Senate would like to go.

There are several bills changing statute related to initiated measures.

Almost all of these efforts are reactionary attempts to curtail the voters that elect legislators.

It is my hope that you will actually think this measure goes to far on the changes beyond the electronic signatures - which is a deal breaker when it comes to my support for any changes. If a measure is placed on the ballot that does not include an electronic signature provision it will not get the support of those who have opposed previous legislative efforts.

If the legislature goes beyond these changes, it will only make it more difficult to pass as the ballot box.

The point of this approach is to give legislators a chance to support a compromise to the usual attacks that will at the very least nullify the usual opposition to these efforts.

Press Release: Constitutional Amendment Introduced To Modernize Initiated Measures

House Concurrent Resolution would place a ballot measure on the November 2024 ballot to make North Dakota the first state in the union to authorize electronic signatures for formal petitioning.

Pro-Grassroots Constitutional Amendment Also Addresses Long-Standing Concerns By Legislators By Raising The Bar On Passage Of Future Constitutional Measures, Without Disenfranchising Citizens Of The Powers Reserved To The People In Article III Of The State Constitution

This afternoon, Representative Steve Vetter (R-Grand Forks) with co-sponsors Rep. Larry Klemin (R-Bismarck), Rep. Mike Motschenbacher (R-Bismarck), Rep. Jeff Hoverson (R-Minot), Rep. Claire Cory (R-Grand Forks), Rep. Nico Rios (R-Williston) and Sen. Bob Paulson (R-Minot) introduced a House Concurrent Resolution that would enact several constitutional changes:

Requires the legislature to fully fund and authorize a secure electronic signature gathering system by the end of 2025 - this date could be pushed to 2026 if the

Secretary of State thinks that it will take more than a year.

1. **Contingent on #1: Increases the signature requirement for statutory from 2% to 5% of population.**
2. **Contingent on #1: Increases the signature requirement for constitutional from 4% to 10% of population.**

3. **Contingent on #1: Requires constitutional to obtain a simple-majority statewide AND a simple-majority in a majority of counties in both the primary and general elections of the same year.**
4. **Adds a “single-subject” clause to the requirements for measures - this will have to be fine-tuned in committee to ensure it is not abused.**

The thresholds and requirements for other referendum, recall, candidate petitions, and all local petitions signature requirements stay the same as they are now, but would also be consolidated under the Secretary of State’s electronic signature system - which will create an on-going cost and manpower savings for local governments as well as the Secretary of State’s Office itself on the data-entry and validation side of the process currently used.

There have been many attempts by the legislature to make the initiated measure harder in the name of “protecting the constitution” in the last 10 years.

This approach seeks to “facilitate and safeguard” the powers reserved to the people without “hampering, restricting, and impairing” the citizen’s constitutional rights granted by Article III of the North Dakota Constitution by:

- **increases grassroots citizen involvement by making it easier for citizens to read, understand, and sign petitions on their own schedule,**
- **decreases the demand for out-of-state money for the petitioning phase, while making it easier for genuine grassroots to use the process,**
- **automates the signature validation process, essentially eliminating the possibility of fraud,**

- **increases the number of citizen signatures needed to get on the ballot without making it harder to achieve that higher number,**
- **maintains a “majority-rule” principle instead of letting a minority of voters over-ride the will of the majority as a 60% or 67% vote requirement would, and avoids giving the legislature more power than Article III intended, while raising the bar on the level of broad and sustained of voter support needed to change the constitution,**
- **limits the ability for the constitution to become a “Super-Century Code”.**

If passed, North Dakota would become the first state to have formal and binding electronic signatures for government petitioning.

The City of Denver (Colorado) has been using a form of eSignatures for local city petitions since 2015, so there is a model for it.

As far as security, other state agencies such as Job Service use 3rd party online secure ID systems for their clients, such a system could be repurposed for petitioning.

There will be an up-front development cost to this, but, as stated before, there will be a long-term savings in time and money at the state and local level when it comes to processing and validating signatures. After an indeterminate number of years, the savings would likely offset the upfront costs. Hopefully, the fiscal note attached will recognize these savings.

“If the legislature is serious about driving out the big-money for initiated measures, and is serious about not fearing the genuine grassroots, this measure will empower citizens and

enhance the electoral process without creating a minority rule problem associated with previous attempts at forcing a super-majority vote.”

- Dustin Gawrylow, Managing Director

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Sixty-eighth
Legislative Assembly
of North Dakota

CONCURRENT RESOLUTION NO.

Introduced by

Representative Vetter

1 A concurrent resolution to amend and reenact sections 2, 4, 8, and 9 of article III of the
2 Constitution of North Dakota, relating to the subject matter of initiated measures and
3 constitutional amendments, the establishment of an electronic signature gathering system by
4 the secretary of state, and the threshold for placing a measure on the ballot; to provide for
5 application; and to provide an effective date.

6 **STATEMENT OF INTENT**

7 This measure prohibits an initiated measure and a constitutional amendment placed on the
8 ballot from comprising more than one subject. This measure also requires the secretary of state
9 to implement, by December 31, 2025, and maintain an electronic signature gathering system for
10 receiving signatures for proposed measures. The measure provides after December 31, 2025,
11 the threshold for placing a constitutional amendment on the ballot is ten percent of the resident
12 population of the state at the last federal decennial census, and for all other measures, five
13 percent of the resident population of the state at the last federal decennial census. The
14 measure provides that if the majority of the total votes cast upon an initiated constitution
15 measure are affirmative and a majority affirmative vote is received in a majority of the counties
16 in the state, at both the primary and general election, the measure is enacted.

17 **BE IT RESOLVED BY THE OF NORTH DAKOTA, THE**

18 **CONCURRING THEREIN:**

19 That the following proposed amendments to sections 2, 4, 8, and 9 of article III of the
20 Constitution of North Dakota are agreed to and must be submitted to the qualified electors of
21 North Dakota at the general election to be held in 2024, in accordance with section 16 of
22 article IV of the Constitution of North Dakota.

23 **SECTION 1. AMENDMENT.** Section 2 of article III of the Constitution of North Dakota is
24 amended and reenacted as follows:

1 **Section 2.** An initiated measure may not comprise more than one subject. A petition to
2 initiate or to refer a measure must be presented to the secretary of state for approval as to form
3 and compliance with the single subject requirement. A request for approval must be presented
4 over the names and signatures of twenty-five or more electors as sponsors, one of whom must
5 be designated as chairman of the sponsoring committee. The secretary of state shall approve
6 the petition for circulation if it is in proper form and contains the names and addresses of the
7 sponsors and the full text of the measure.

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

12 The secretary of state shall establish and maintain a secure electronic signature gathering
13 system to be hosted on the website of the secretary of state. The secretary of state shall
14 procure the technical resources to allow any elector, upon proof of qualification, to electronically
15 sign forms and petitions relating to all initiated and referred measures, recall petitions, and
16 candidate nominations.

17 **SECTION 2. AMENDMENT.** Section 4 of article III of the Constitution of North Dakota is
18 amended and reenacted as follows:

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

22 **SECTION 3. AMENDMENT.** Section 8 of article III of the Constitution of North Dakota is
23 amended and reenacted as follows:

24 **Section 8.** If a majority of votes cast upon an initiated statutory measure or a referred
25 measure are affirmative, ~~it shall be~~the measure is deemed enacted. An initiated statutory or
26 referred measure ~~which that~~ is approved ~~shall become~~becomes law thirty days after the election,
27 and a referred measure ~~which that~~ is rejected ~~shall be~~is void immediately. If conflicting measures
28 are approved, the ~~one~~measure receiving the highest number of affirmative votes shall be law. A
29 measure approved by the electors may not be repealed or amended by the legislative assembly
30 for seven years from ~~its~~the effective date of the measure, except by a two-thirds vote of the
31 members elected to each house.

1 **SECTION 4. AMENDMENT.** Section 9 of article III of the Constitution of North Dakota is
2 amended and reenacted as follows:

3 **Section 9.**

- 4 1. A constitutional amendment may be proposed by initiative petition. The proposed
5 amendment may not comprise more than one subject, and the secretary of state may
6 not approve the initiative petition for circulation if the proposed amendment comprises
7 more than one subject.
- 8 2. If signed by electors equal in number to ~~four~~ten percent of the resident population of
9 the state at the last federal decennial census, the petition may be submitted to the
10 secretary of state. The secretary of state shall place the proposed constitutional
11 amendment on the ballot at the next primary election. If the majority of the total votes
12 cast on the measure are affirmative and the measure is approved by a majority of the
13 votes cast in a majority of the counties in the state, the measure must be placed on
14 the ballot at the next general election for final consideration. If a majority of the total
15 votes cast for a proposed constitutional amendment are affirmative and the measure is
16 approved by a majority of the votes cast in a majority of the counties in the state in the
17 general election, the measure is deemed enacted.
- 18 3. All other provisions relating to initiative measures apply ~~heretofore~~ initiative measures for
19 constitutional amendments.

20 **SECTION 5. APPLICATION - EFFECTIVE DATE.** The requirement in section 1 of this
21 measure which requires the secretary of state to establish and maintain a secure electronic
22 signature gathering system becomes effective January 1, 2026. Section 2 of this measure
23 becomes effective January 1, 2026, and does not apply to any measure approved for circulation
24 before that date. The amendment to section 9 of article III of the Constitution of North Dakota in
25 section 4 of this measure becomes effective January 1, 2026, and does not apply to any
26 measure approved for circulation before that date.