

Kasper, Jim M.

From: Kasper, Jim M.
Sent: Monday, April 3, 2023 9:53 AM
To: Kasper, Jim M.
Subject: FW: PRESENTATION TO SENATE JUDICIARY COMMITTEE----HCR 3019---MONDAY
APRIL 4, 2023, 2:30 PM

HCR 3019 TERM LIMITS CONSTITUTIONAL AMENDMENT MONDAY, APRIL 4, 2023, FROM REPRESENTATIVE JIM KASPER DISTRICT 46 FARGO

CHAIRMAN LARSON AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE:

FOR THE RECORD, MY NAME IS REPRESENTATIVE JIM KASPER, DISTRICT 46 IN FARGO.

1. IT IS MY PLEASURE TO INTRODUCE HCR 3019, WHICH IS A CONCURRENT RESOLUTION TO AMEND ARTICLE 15 OF THE NORTH DAKOTA CONSTITUTION AND ASK THE VOTERS OF THE STATE OF NORTH DAKOTA TO REPEAL ARTICLE 15 OF THE ND CONSTITUTION AND REPLACE IT WITH THE TERMS OF HCR 3019. IF THE SENATE VOTES IN FAVOR OF HCR 3019, THIS RESOLUTION WILL APPEAR ON THE PRIMARY BALLOT IN JUNE OF 2024, FOR THE VOTERS OF NORTH DAKOTA TO DECIDE IF THEY WANT TO STAY WITH THE CURRENT TERM LIMIT MEASURE THAT WAS PASSED IN NOVEMBER OF 2022, OR REPEAL AND REPLACE IT WITH THE NEW TERM LIMIT LANGUAGE OF HCR 3019.
2. THE CURRENT ARTICLE 15 IMPOSES AN 8 YEAR LIFETIME TERM LIMIT THAT A PERSON CAN SERVE IN EITHER THE HOUSE OR THE SENATE. IT DOES NOT COUNT THE TIME THAT A SITTING LEGISLATOR HAS SERVED BEFORE JANUARY 1, 2023. IT ALSO ALLOWS A PERSON TO SERVE A MAXIMUM OF 8 YEARS IN ONE CHAMBER AND CAN ALSO SERVE 8 YEARS IN THE OTHER CHAMBER. ONCE A PERSON SERVES THOSE EIGHT YEARS, HE/SHE IS BANNED FOR THE REMAINDER OF THAT PERSON'S LIFE FROM EVER SERVING AGAIN IN EITHER THE HOUSE OR THE SENATE.
3. CURRENT ARTICLE 15 ALSO STATES THAT A PERSON CANNOT BE ELECTED TO THE OFFICE OF GOVERNOR MORE THAN TWICE AFTER JANUARY 1, 2023. THIS RESTRICTION WILL ALLOW OUR CURRENT GOVERNOR TO RUN TWICE IN THE FUTURE, IF HE CHOOSES TO DO SO. THERE ARE NO TERM LIMITS IMPOSED ON ANY OF THE OTHER STATEWIDE OFFICE HOLDERS, SUCH AS ATTORNEY GENERAL, SECRETARY OF STATE, ETC.
4. CURRENT ARTICLE 15 HAS A NUMBER OF POTENTIAL CONSTITUTIONAL FLAWS, ACCORDING TO CONSTITUTIONAL ATTORNEYS I HAVE VISITED WITH. IN THE CURRENT TERM LIMIT LAW, IN SECTION 1 OF ARTICLE 15, IT STATES AS FOLLOWS:
5. "AN INDIVIDUAL SHALL NOT BE ELIGIBLE TO SERVE A FULL OR REMAINING TERM AS MEMBER OF THE HOUSE OF REPRESENTATIVES OR THE SENATE IF SERVING THE FULL OR REMAINING TERM WOULD CAUSE THE INDIVIDUAL TO SERVE FOR A CUMULATIVE PERIOD OF TIME AMOUNTING TO MORE THAN EIGHT YEARS IN THAT RESPECTIVE HOUSE"
6. WHAT THIS CLAUSE IN ARTICLE 15 DOES IS TREAT LEGISLATORS UNEQUALLY, DEPENDING UPON WHEN ONES CURRENT TERM BEGAN. AS AN EXAMPLE, I SERVE IN DISTRICT 46. I WAS ELECTED IN 2020 AND AM IN THE MIDDLE OF MY 4 YEAR TERM IN OFFICE. IF I CHOOSE TO RUN AGAIN IN 2024, AND WERE TO BE RE-ELECTED, AT THE END OF THIS TERM IN 2028, I WILL HAVE SERVED FOR 6 YEARS FROM THE EFFECTIVE DATE OF ARTICLE 15,

WHICH WAS JANUARY 1, 2023. SO, IN 2028, SHOULD I DESIRE TO RUN AGAIN FOR THE HOUSE, I WOULD BE PROHIBITED FROM RUNNING, ACCORDING TO ARTICLE 15, BECAUSE SHOULD I RUN AND BE RE-ELECTED IN 2028, THE END OF THAT TERM, WHICH WOULD BE 2032, WOULD MEAN I WOULD HAVE SERVED FOR 10 YEARS. ARTICLE 15 PROHIBITS SERVING MORE THAN 8 YEARS FROM ITS EFFECTIVE DATE. SO, LEGISLATORS LIKE ME, WHO SERVE IN EVEN NUMBERED DISTRICTS ARE ACTUALLY TERM LIMITED TO SERVING 6 YEARS.

7. ON THE OTHER HAND, THOSE LEGISLATORS WHO SERVE IN ODD NUMBERED DISTRICTS, AND WERE JUST ELECTED, WILL BE ABLE TO COMPLETE THEIR CURRENT TERM, WHICH WILL END IN 2026, AND THEY CAN RUN AGAIN FOR ANOTHER 4 YEAR TERM IF THEY CHOOSE. THEREFORE, ALL LEGISLATORS SERVING IN ODD NUMBERED DISTRICTS HAVE THE ABILITY TO SERVE A FULL 8 YEARS IN THEIR CURRENT CHAMBER. CONSTITUTIONAL ATTORNEYS BELIEVE ARTICLE 15 HAS A HUGE CONSTITUTIONAL FLAW IN IT AS IT TREATS CURRENT LEGISLATORS UNEQUALLY, DEPENDING ON WHETHER YOU SERVE IN AN EVEN OR AN ODD NUMBERED DISTRICT. OUR NORTH DAKOTA CONSTITUTION REQUIRES EQUAL TREATMENT UNDER THE LAW FOR ALL NORTH DAKOTANS.
8. OUR NORTH DAKOTA CONSTITUTION, IN ARTICLE 1, DECLARATION OF RIGHTS, IN SECTION 21 AND 22 STATES AS FOLLOWS:
9. "SECTION 21: NO SPECIAL PRIVILEGES OR IMMUNITIES SHALL EVER BE GRANTED WHICH MAY NOT BE ALTERED, REVOKED OR REPEALED BY THE LEGISLATIVE ASSEMBLY; NOR SHALL ANY CITIZEN OR CLASS OF CITIZENS BE GRANTED PRIVILEGES OR IMMUNITIES WHICH UPON THE SAME TERMS SHALL NOT BE GRANTED TO ALL CITIZENS."
10. "SECTION 22 STATES: ALL LAWS OF A GENERAL NATURE SHALL HAVE A UNIFORM OPERATION."
11. THE CONSTITUTION OF NORTH DAKOTA CLEARLY GUARANTEES EACH CITIZEN EQUAL RIGHTS IN ARTICLE 1 OF SECTION 21 AND SECTION 22. THE TERM LIMITS ARTICLE 15 CLEARLY CONFLICTS WITH THE EQUAL PROTECTION CLAUSES IN SECTION 21 AND SECTION 22 OF ARTICLE 1.
12. TERM LIMITS CURRENT ARTICLE 15 ALSO HAS ANOTHER POTENTIAL CONSTITUTIONAL FLAW IN ITS SECTION 4 OF ARTICLE 15, WHICH STATES:
13. TERM LIMITS ARTICLE 15, SECTION 4: "NOTWITHSTANDING THE LEGISLATIVE ASSEMBLY'S AUTHORITY TO PROPOSE AMENDMENTS TO THIS CONSTITUTION UNDER ARTICLE IV, SECTION 16 THEREOF, THE LEGISLATIVE ASSEMBLY SHALL NOT HAVE AUTHORITY TO PROPOSE AN AMENDMENT TO THIS CONSTITUTION TO ALTER OR REPEAL THE TERM LIMITATIONS ESTABLISHED IN SECTION 1 OF THIS ARTICLE. THE AUTHORITY TO PROPOSE AN AMENDMENT TO THIS CONSTITUTION TO ALTER OR REPEAL THE TERM LIMITATIONS ESTABLISHED IN SECTION 1 OF THIS ARTICLE IS RESERVED TO INITIATIVE PETITION OF THE PEOPLE UNDER ARTICLE III OF THIS CONSTITUTION."(WHAT IS IMPORTANT TO NOTE IS THAT THE TERM LIMITS MEASURE DID NOT REPEAL ARTICLE 4, SECTION 16 OF THE NORTH DAKOTA CONSTITUTION.)
14. TERM LIMITS ARTICLE 15 ATTEMPTS TO OVERRIDE AND NULLIFY OUR CURRENT CONSTITUTION IN ARTICLE IV, SECTION 16, WHICH STATES:
15. "ARTICLE IV, SECTION 16: "ANY AMENDMENTS TO THIS CONSTITUTION MAY BE PROPOSED IN EITHER HOUSE OF THE LEGISLATIVE ASSEMBLY, AND IF AGREED TO UPON A ROLL CALL BY A MAJORITY OF THE MEMBERS ELECTED TO EACH HOUSE, MUST BE SUBMITTED TO THE ELECTORS AND IF A MAJORITY OF THE VOTES CAST THEREON ARE IN THE AFFIRMATIVE, THE AMENDMENT IS A PART OF THIS CONSTITUTION."
16. CLEARLY, THE SUPPORTERS OF ARTICLE 15 FAILED TO REPEAL ARTICLE 4, SECTION 16 OF OUR CONSTITUTION. THEY ALSO FAILED TO CONSIDER THE REMAINDER OF THE GUARANTEES AND POWERS OF THE LEGISLATIVE BRANCH THAT ARE DELEGATED TO THE LEGISLATIVE BRANCH IN THE OTHER ARTICLES OF THE CONSTITUTION

OF THE STATE OF NORTH DAKOTA. AS A RESULT, THE TERM LIMIT CLAUSE CREATES AN ADDITIONAL CONFLICT WITH THE NORTH DAKOTA CONSTITUTION REGARDING THE POWERS DELEGATED TO THE LEGISLATIVE BRANCH.

17. THE OUT OF STATE GROUP THAT FUNDED THE EFFORT TO PUT THE TERM LIMITS AMENDMENT ON THE NORTH DAKOTA BALLOT, FAILED TO CONSIDER THE FACT THAT OUR NORTH DAKOTA CONSTITUTION PROVIDES THREE CO-EQUAL BRANCHES OF GOVERNMENT, THE EXECUTIVE BRANCH, THE LEGISLATIVE BRANCH AND THE JUDICIAL BRANCH. IT IS OBVIOUS THAT THE TERM LIMIT SUPPORTERS ATTEMPTED TO WRITE A SELF-SERVING AMENDMENT TO LIMIT THE POWERS OF THE LEGISLATIVE BRANCH. BUT THEY FAILED TO ADDRESS THE OTHER CONSTITUTIONAL GUARANTEES AND POWERS OF THE LEGISLATIVE BRANCH IN OUR CONSTITUTION.
18. ANOTHER AREA OF THE POWERS OF THE LEGISLATIVE BRANCH IN OUR CONSTITUTION THAT THE TERM LIMIT PEOPLE FAILED TO CONSIDER AND ADDRESS ARE THE ADDITIONAL POWERS BESTOWED UPON THE LEGISLATIVE BRANCH IN ARTICLE IV SECTION 13, IN THE CONSTITUTION. IN SECTION 13 OF ARTICLE IV, THE CONSTITUTION STATES: "THE LEGISLATIVE ASSEMBLY SHALL ENACT ALL LAWS NECESSARY TO CARRY INTO EFFECT THE PROVISIONS OF THIS CONSTITUTION."
19. THE TERM LIMIT SECTION 4 OF THEIR AMENDMENT IN ARTICLE 15 ONLY PROHIBITS LEGISLATIVE POWERS IN ARTICLE IV SECTION 16 OF THE CURRENT NORTH DAKOTA CONSTITUTION. THE TERM LIMIT LANGUAGE COMPLETELY OVERLOOKED AND IGNORED THE POWERS OF THE LEGISLATURE BRANCH IN ARTICLE IV SECTION 13 OF OUR CONSTITUTION, AS WELL AS ALL OTHER PARTS OF THE ND CONSTITUTION DEALING WITH THE POWERS OF THE LEGISLATURE.
20. THERE IS AN ADDITIONAL CONSTITUTIONAL CONFLICT THE TERM LIMIT LANGUAGE CREATES. THE TERM LIMIT AMENDMENT ADDRESSES TWO SEPARATE ISSUES. THE FIRST ISSUE IS IN SECTION 1 OF THE TERM LIMIT ARTICLE WHICH PROVIDES FOR AN 8 YEAR TERM LIMIT FOR THE HOUSE AND THE SENATE. SO, THE ISSUE HERE IS LIMITING TERMS OF OFFICE FOR INDIVIDUALS.
21. THE SECOND ISSUE IN SECTION 4 ATTEMPTS TO LIMIT THE POWER AND SCOPE OF THE LEGISLATURE BY LIMITING THE ABILITY OF THE LEGISLATURE TO PROPOSE A CONSTITUTIONAL AMENDMENT FOR THE PEOPLE TO VOTE ON TO REPEAL OR AMEND THE TERM LIMITATIONS ESTABLISHED IN ARTICLE 15. THIS PORTION OF THE TERM LIMITS LANGUAGE DIRECTLY CONFLICTS WITH THE CONSTITUTIONAL POWERS OF THE LEGISLATURE TO PROPOSE AND ENACT LEGISLATION. IT IS A DIRECT ATTACK ON THE POWERS OF THE LEGISLATIVE ASSEMBLY TO DRAFT LEGISLATION.

HCR 3019 KEY POINTS AND FACTS

22. HCR 3019 WILL REPEAL THE CURRENT ARTICLE 15 TERM LIMITS AMENDMENT AND ITS DEEPLY FLAWED LANGUAGE AND REPLACE IT WITH THE FOLLOWING LANGUAGE:
 1. AN INDIVIDUAL COULD SERVE 12 CONSECUTIVE YEARS AS A MEMBER OF THE HOUSE OR SENATE.
 2. A PERSON MAY NOT SERVE AFTER 12 CONSECUTIVE YEARS IN THE HOUSE OR SENATE, IN THAT SAME CHAMBER, UNTIL AT LEAST 4 YEARS HAVE PASSED, AT WHICH TIME THE INDIVIDUAL MAY SERVE ANOTHER 12 CONSECUTIVE YEARS.
 3. A MEMBER OF THE HOUSE OR SENATE APPOINTED OR ELECTED TO A TERM OF LESS THAN 4 YEARS WILL BE ELIGIBLE TO SERVE 12 CONSECUTIVE YEARS FOLLOWING THE COMPLETION OF THE PARTIAL TERM.
 4. AN INDIVIDUAL COULD SERVE 12 CONSECUTIVE YEARS IN ONE CHAMBER AND IMMEDIATELY BE ABLE TO SERVE 12 ADDITIONAL CONSECUTIVE YEARS IN THE OTHER CHAMBER, WITHOUT SITTING OUT 4 YEARS.
 5. HCR 3019 IMPOSES TERM LIMITS OF NOT MORE THAN 12 CONSECUTIVE YEARS ON THE OTHER STATEWIDE OFFICES OF AGRICULTURE COMMISSIONER, ATTORNEY GENERAL, AUDITOR, GOVERNOR, INSURANCE COMMISSIONER, LIEUTENANT GOVERNOR, PUBLIC SERVICE COMMISSIONER, SECRETARY OF STATE, SUPERINTENDENT OF PUBLIC INSTRUCTION, TAX COMMISSIONER, OR TREASURER UNLESS AT LEAST FOUR YEARS HAVE PASSED AFTER HAVING COMPLETED 12 YEARS OF CONSECUTIVE SERVICE. AN INDIVIDUAL ELECTED

OR APPOINTED TO COMPLETE A PARTIAL TERM WILL BE ELIGIBLE TO SERVE 12 CONSECUTIVE YEARS FOLLOWING THE COMPLETION OF THE PARTIAL TERM.

CONCLUDING REMARKS AND OBSERVATIONS

23. HCR 3019 WILL ALLOW THE PEOPLE OF NORTH DAKOTA TO RECONSIDER WHETHER OR NOT THEY WANT TO KEEP THE CURRENT 8 YEAR LIFETIME LIMIT FOR AN INDIVIDUAL TO SERVE THE PEOPLE OF OUR STATE IN THE LEGISLATURE, OR TO REPLACE THE TERM LIMIT LANGUAGE WITH A MORE REASONABLE APPROACH TO TERM LIMITS. AS A PART TIME LEGISLATURE, MEETING ONLY UP TO 80 DAYS EVERY OTHER YEAR, THE CURRENT 8 YEAR LIFETIME LIMIT IS UNREASONABLE AND UNWORKABLE. THE PEOPLE WHO PUSHED THE PASSAGE OF ARTICLE 15 LAST YEAR USED MISLEADING METHODS TO GET THE MEASURE PASSED. MANY OF OUR CITIZENS THOUGHT THEY WERE TERM LIMITING CONGRESS. I HAVE TALKED TO NUMEROUS PEOPLE WHO HAVE STATED THEY WERE MISINFORMED ON WHAT THE MEASURE DID.
24. PLEASE REFER TO THE CHART IN YOUR PACKET OF INFORMATION. IT PROVIDES DATA COMPILED BY LEGISLATIVE COUNCIL ON THE TURNOVER OF THE ND LEGISLATURE FROM THE 2001 TO 2021 LEGISLATIVE SESSIONS. NOTICE THAT THE 8 YEAR PERIOD OF TIME FROM 2001 TO 2007 SHOWS THAT 86 LEGISLATORS LEFT OFFICE OR WERE DEFEATED. THAT WAS A 61% TURNOVER PERCENTAGE. FROM 2009 TO 2015, NINETY LEGISLATORS LEFT OFFICE FOR A TURNOVER RATE OF 64%. AND FROM 2017 TO 2023 AT LEAST 98 LEGISLATORS LEFT OFFICE, FOR A TURNOVER RATE OF 70%.
25. LET ME POSE A HYPOTHETICAL SCENARIO TO YOU. SUPPOSE YOU ARE A BUSINESS OWNER AND HAVE 141 EMPLOYEES ON YOUR PAYROLL. ALL OF THESE EMPLOYEES ARE A VALUABLE PART OF YOUR BUSINESS SUCCESS. THEY ARE HAPPY WORKING FOR YOUR COMPANY AND YOU ARE HAPPY THEY ARE THERE. MOST WILL AGREE THAT THE MOST VALUABLE ASSET ANY BUSINESS HAS IS ITS EMPLOYEES. LET'S FURTHER ASSUME THAT A NEW LAW IS PASSED THAT REQUIRES YOU TO FIRE 100% OF YOUR EMPLOYEES EVERY EIGHT YEARS AND YOU MUST REPLACE THESE VALUABLE PEOPLE WITH ENTIRELY NEW EMPLOYEES. AND YOU CAN NEVER, EVER HIRE THESE PEOPLE BACK AGAIN.
26. WHAT KIND OF DEVASTATION WOULD THIS KIND OF LAW BRING TO YOUR BUSINESS AND ITS SUCCESS??? I SUBMIT THAT THIS IS EXACTLY WHAT ARTICLE 15 DOES TO THE STATE OF NORTH DAKOTA. IN 8 YEARS, 100% OF THE CURRENT MEMBERS OF THE NORTH DAKOTA LEGISLATURE WILL BE FIRED AND CAN NEVER COME BACK, REGARDLESS OF THEIR POTENTIAL VALUE TO OUR STATE. 100% OF ALL CURRENT LEGISLATORS WILL BE FIRED IN 8 YEARS DUE TO THE INTERFERENCE WITH OUR NORTH DAKOTA CONSTITUTION BY AN OUT OF STATE GROUP OF MEDDLERS AND MILLIONAIRES. THEY DON'T LIVE HERE. THEY HAD NO REASON TO IMPOSE THEIR TERM LIMITS IN NORTH DAKOTA EXCEPT THEY WANTED TO.
27. I SINCERELY BELIEVE THAT WE HAVE NO IDEA HOW NEGATIVELY AFFECTED THE PEOPLE OF NORTH DAKOTA AND OUR GOVERNMENT PROCESSES WILL BE IF WE ALLOW THE CURRENT TERM LIMIT LAW TO CONTINUE TO BE THE LAW IN NORTH DAKOTA.
28. LET'S TAKE OUR STATE BACK FROM THESE INTERLOPERS. PASS HCR 3019 AND LET THE PEOPLE OF NORTH DAKOTA HAVE THE OPPORTUNITY TO CORRECT THE TREMENDOUS FLAWS AND CONFLICTS WITHIN OUR CONSTITUTION THAT THE CURRENT TERM LIMITS LAW WILL HAVE ON NORTH DAKOTA AND OUR WAY OF LIFE. LET'S NOT ALLOW TO STAND A LAW THAT A WELL FUNDED OUT OF STATE GROUP, WHO DOESN'T LIVE IN NORTH DAKOTA AND WHO COULD CARE LESS WHAT THEIR TERM LIMITS MEASURE WILL DO TO THE FUTURE OF OUR GREAT STATE, HAS IMPOSED ON OUR CITIZENS. PASS HCR 3019 AND LET'S TAKE OUR STATE BACK.

THANK YOU, CHAIRMAN LARSON AND COMMITTEE MEMBERS. I WILL BE HAPPY TO ANSWER ANY QUESTIONS.

Representative Jim Kasper
North Dakota House of Representatives

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