

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

HCR 3007

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

HCR 3007
2/14/2019
32778

- Subcommittee
 Conference Committee

Committee Clerk: Carmen Hart By: Elaine Stromme

Explanation or reason for introduction of bill/resolution:

Relating to an alternative process for enacting initiated measures

Minutes:

Attachments: 1 - 5

Chairman Kasper opened the hearing on HCR 3007.

Rep. Louser: appeared in support and handed out an amendment which is (Attachment 1). This requires access to council. 7:34

Vice Chair Steiner: Page 2, Line 5, It says that the measure may be presented to a member of the Legislative Assembly, is it permissive language? Then it says the Legislator shall submit the proposal. If someone comes to me, that I must submit it to Legislative Council?

Rep. Louser: The amendment changes (May) to (Must). Page 2, Line 5.

Rep. Schauer: I am concerned about the timing of this bill. I know in the Eastern part of the state we issue with trust; we are being criticized for lack of transparency. Not following the will of the people. Then we hit them with this. What do you think their reaction will be?

Rep. Louser: Timing meaning what?

Rep. Schauer: Meaning this may be a poor time to do this.

Rep. Louser: I think that this is the best time to do this. The criticism was all the same, we are taking away our right to petition. This grants access to legislative council. You can do this now but it is optional. This assures the language would be consistent with the century code. 10:11

Rep. Schauer: Just to be clear it's "requiring and must" as opposed to initiative measure people, this is an option that you have that may help you go forward with your bill.

Rep. Louser: The option exists now but it seems people don't know the option exists

Rep. Laning: My understanding is that following this process we can get better language on initiated measures right away.

Rep. Louser: We want the language to reflect the intent of the sponsoring committee, but to fit our century code, and structurally to get it in the right format.

Rep. C. Johnson: So will every bill have to be submitted to the legislative process?

Rep. Louser: No, it just has to go legislative council to get the content before signatures are gathered.

Rep. Hoverson: Are you just talking about measures that change the constitution?

Rep. Louser: No, whether they are constitutional amendments or just measures the threshold is half the number of signatures to be collected. The process would be the same.

Rep. Vetter: If this were to pass this would be something the people would vote on?

Rep. Louser: Yes, this changes the process, to require a vote of the people.

Chairman Kasper: Rep. Louser, so let's just walk through this, the sponsoring committee gets their measure drafted the way they think they want it, they follow the requirements and they submit it to the Legislative Council, then the Legislative Council brings them back something they don't agree with. What happens then?

Rep. Louser: They would get in the language that they want, then present it to the Secretary of State for approval, then go out and get signatures.

Chairman Kasper: So if the sponsoring committee disagrees with the formant what do they do?

Rep. Louser: The Legislative Council does the same for us. They can go back to LC and say you missed something, this is not what I wanted. They do as directed. They may have to plan 3 months in advance to get it right.

Chairman Kasper: If there is a disagreement with the style and form that the council has given does the sponsoring committee have the right to continue it anyway?

Rep. Louser: Yes, at that point the committee can amend it the way they want then take it to the Sec. of State for approval then go get signatures. So the sponsoring committee has the ultimate final decision. 18:22

Rep. Karls: In the case of the really long ballet measure, that took months last session, how do you see the LC fixing something like that before it can go on the ballot? Then what goes on the ballot just the bill title?

Rep. Louser: Yes, the bill title goes on the ballot. The Sec. of State and the Attorney General determine the ballot language.

Opposition?

Kevin Hermann, Beulah, appeared in opposition. (Attachment # 2) (21:05-24:06)

(Attachments #3 and # 4) were handed out by the law intern.

Rep. B. Koppelman: If the belief is that the legislature should never put any kind of statues together, then is it fair that the legislature can wash their hands of any negative outcomes or unintended consequences that those that initiated the measure left out?

Mr. Hermann: My concern with this resolution is having this assembly involved more with article 3 with this initiative measure concept that's been like this for many years.

Rep. B. Koppelman: There is a Component of Article 3, that does involve the legislature. The people are initiating an idea directing the legislature to do something. Sometimes the legislature has to get involved to make sure everything is right. Isn't it fair that the legislature tries to help on the front end and the back end?

Mr. Hermann: How much more will the legislature want to be involved?

Rep. Schauer: I can see inconsistency's there. Can you see them or are you comfortable with this?

Mr. Hermann: I am comfortable with this. There is a difference between the public understanding and an elected official.

Rep. Louser: So you are not opposed to this bill now? You are opposed to what might be coming in the future. Is that correct?

Mr. Hermann: Yes.

Rep. Louser: The commission will grant access to legislative council to a sponsoring committee and directed the legislature to figure out how to do it. If not this way how else do we do it?

Mr. Hermann: I don't know.

Rep. Louser: SB 2033 33:13-33:41 If this isn't the solution what is?

Mr. Hermann: No one could come up with the exact answer or idea.

Rep. Louser: There is no perfect idea, but there was an idea.

Rep. Rohr: You talked about some members on the committee were frustrated with out of state influence, and you are right. Are you frustrated with that too?

Mr. Hermann: Not necessarily. Because there has been out of state influence for many years.

Rep. Rohr: How about the money?

Mr. Hermann: You can't get around that. I don't know how you are going to solve that.

Chairman Kasper: Those organizations give us ideas.

Rep. Johnston: Are you afraid the people of the state can make the wrong decision?

Mr. Hermann: If it goes to ballot and the people approve it. That's what's part of the constitution.

Dustin Gawryluk, appeared in opposition. This is the least dangerous bill. There is no guarantee that it will make it a bullet proof measure. What do the citizens want?

Rep. Louser: This exists now and the senate's language says that may occur. So there is nothing to that resolution. Is that right?

Mr. Gawryluk: The senate version is a bill not a resolution. It is not going to solve every problem. But the idea of mandating it I think that every committee should go through LC whether it be through a legislator or directly.

Rep. Louser: This is pursuant to legislative management so if that were to pass legislative management would be right back in the same scenario next interim. Can you see my argument that this gives more power to the people?

Mr. Gawryluk: Yes, I just questioned if it should be mandated.48:02

Rep. B. Koppelman: I think the constitution clearly sets up the legislature to propose ideas to the people, I don't think the constitution would contemplate that to be a challenge. If the people are to vote on a measure that has a fraction of the wording of the entire measure printed on the ballot and they are expected to go and research to find out what the rest of the measure says, then they could make the right decision on whether or not this proposal on the ballot is a good idea or not without considering the legislature challenging them.

Mr. Gawryluk: I think the constitution is divided into two sections by initiative of the people This whole concept would only be changed by the people by a signature gathering not by a legislative process. The idea that the legislature is giving the people a measure to vote their rights away is absurd.

Rep. Hoverson: Are we agreeing on the problem?

Mr. Gawryluk: Yes

Rep. Hoverson: If not this than what?

Mr. Gawryluk: The simple approach that the people can go to LC then they don't have to bother you.

Scott Nodland, appeared in opposition. I see this as a step in making the process more difficult. I didn't see a timeline. Is there a fiscal note that needs to be attached?

Neutral

Dustin Peyer: Vice Chairman of the nonpartisan league 55:42 I would be against mandating the legislators and some time frame, because we only get a year to collect signatures.

Rep. Schauer: Don't you think the product would be better if it goes the LC then it goes to the people?

Closed the hearing

Chairman Kasper: opened the meeting on HCR 3007.

Rep. Louser: (Attachment #5) is a copy of that SB 2033, Just in case it comes up in discussion. I move to adopt the amendment.

Rep. Vetter; seconded

Chairman Kasper: Rep Louser please give us a brief overview of what the amendment does to the bill HCR 3007 (58:30)

Rep. Louser: It requires a sponsoring committee to use a legislator to access LC for drafting purposes.

Chairman Kasper: Voice vote on the amendment. 19.3068.01004

A voice vote was taken: **voice vote carried**

Rep. Laning: I think we need a time deadline for the LC.

Rep. Schneider: There was no testimony in support of this bill.

Rep. Vetter: Talking about these roadblocks and a lot more work. Dustin said the bill gave the people more power.

Rep. B. Koppelman: Working with a legislator has built in mechanisms.

Chairman Kasper: The Senate version is a may.

Rep. Louser: Senate version upon legislative management directive then LC may provide services.

Rep. P. Anderson: Oppose this didn't come

Rep. Schauer: I am going to vote No, I don't think the timing is there.

Rep. Johnston: I trust the people and they will have the final say in this.

Chairman Kasper:

Rep. Louser: My original proposal was to require the legislature to vote on a sponsoring committees language.

Chairman Kasper: Rep. Koppleman

Rep B. Koppelman: Motion to Do Pass as amended HCR 3007

Rep. C. Johnson: seconded

A Roll Call Vote was taken: Yes 9 No 5 Absent 0

A Do Pass and amended Carries

Rep. Lo user will carry HCR 3007

Meeting closed.

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3007

Page 1, line 5, after "statutes" insert "and requires a sponsoring committee to have its measure drafted by the legislative council"

Page 1, line 20, overstrike "petition" and insert immediately thereafter "proposal to initiate or refer a measure for placement on the ballot without submission to the legislative assembly which is signed by twenty-five or more electors as sponsors, one of whom must be designated as chairman of the sponsoring committee, must be presented to a member of the legislative assembly. The legislator shall submit the proposal to the legislative council to prepare a measure that satisfies the intended purpose of the sponsoring committee. A petition with the measure"

Page 1, line 21, after "assembly" insert "then"

Page 1, line 21, after "presented" insert "by the sponsoring committee"

Page 1, line 22, overstrike "A request for approval must be presented over the names and signatures of"

Page 1, overstrike line 23

Page 1, line 24, overstrike "chairman of the sponsoring committee."

Page 2, line 5, replace "may" with "must"

Renumber accordingly

Date: 2-14-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3007**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.3068.01004

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Louser Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Pamela Anderson		
Vice Chair Vicky Steiner			Rep. Mary Schneider		
Rep. Jeff Hoverson					
Rep. Craig Johnson					
Rep. Daniel Johnston					
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Karen Rohr					
Rep. Austen Schauer					
Rep. Steve Vetter					

*Voice
 Vote
 motion
 carries*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3007

House Government and Veterans Affairs Committee
 Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. B. Koppelman Seconded By Rep. C. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper		X	Rep. Pamela Anderson		X
Vice Chair Vicky Steiner		X	Rep. Mary Schneider		X
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	X				
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer		X			
Rep. Steve Vetter	X				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Louser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3007: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HCR 3007 was placed on the Sixth order on the calendar.

Page 1, line 5, after "statutes" insert "and requires a sponsoring committee to have its measure drafted by the legislative council"

Page 1, line 20, overstrike "petition" and insert immediately thereafter "proposal to initiate or refer a measure for placement on the ballot without submission to the legislative assembly which is signed by twenty-five or more electors as sponsors, one of whom must be designated as chairman of the sponsoring committee, must be presented to a member of the legislative assembly. The legislator shall submit the proposal to the legislative council to prepare a measure that satisfies the intended purpose of the sponsoring committee. A petition with the measure"

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Page 2, line 5, replace "may" with "must"

Re-number accordingly

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

HCR 3007

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HCR3007
3/28/2019
#34306

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to an alternative process for enacting initiated measures.

Minutes:

Att # 1 – David Hanson; Att # 2 – Kevin Herrmann

Chairman Davison: Attendance was taken and all were present. Let's open HCR3007. Rep. Louser call me and said he would not be here today. We will keep this open to give him a chance to talk. Any in support? Agency? Against?

Dustin Gauvylou, N.D. Watchdog: Here in opposed to this resolution. Of the measures related to the initiated process, this is the least egregious. (1.45) I do like the concept of giving the sponsoring committee an alternative route if they don't get their signatures in on time. I don't like the mandatory language in the bill. SB2033 is better. Any questions?

Sen. Erin Oban: I have not been following that senate bill. Do you know where it is?

Dustin: No, I don't.

Sen. Kristin Roers: One of the arguments I heard when we passed one of the senate resolutions about allowing not mandatory to go through L.C. L.C. is our lawyers. You should not be able to use our lawyers free if you don't have a legislator on your side.

Dustin: (4.31) I do understand that issue.

Sen. Erin Oban: It is true that now a group could approach a legislator and ask this process. It is just not forced.

Dustin: This is written that it is required to take it forward. Now you have to shop around. The average person in the public would not be able to do that. (6.28)

Sen. Erin Oban: This does not force the legislator.

Waylon Hedegaard, AFL-CIO of N.D.: Very strange when I am agreement with Mr. Gauvlou. We are opposed to this resolution. I agree with him. I like the alternate path idea.

(7.22) Using the legislator as a middleman is a mistake. Since 1919 we have had a good path in N.D. to initiated system.

David Hanson, Bismarck: I am unclear what this resolution does. I am neutral on my position. (8.30) (att # 1)

Chairman Davison: Any more testimony against? We will close the hearing.

e-mailed: Kevin Herrmann - Att # 2

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HCR3007
4/4/2019
#34520

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to an alternative process for enacting initiated measures.

Minutes:

Chairman Davison: We will reopen the hearing on HCR3007.

Rep. Scott Louser, Dist. 5, Minot: Thank you for letting me talk about this as I was out of the state during the regular hearing. The person who was to come in my stead, did not. This resolution came from the initiated and referred measures commission. It is a group of three House members and three Senate members and 12 citizens of N.D. Their task was to come up with improvements for the measures process. The commission received over 24 ideas. Some were bill drafts this session. This one resolution received the most discussion. Sen. Oban was on the commission. 3007 would require a sponsoring committee for measures that will be placed on the ballot, access to L.C. through an individual legislator. That option is available now. There was a Senate bill that sponsoring committees had the opportunity to access council. It was left up to legislative management to determine how to do that. The sponsoring committee may request that the measure be submitted to the legislative assembly upon getting the appropriate number of signature on the petition. This measure insures that the legislative assembly may not amend the language when considering a vote. That language was in the original proposal and was contentious. You can't change language once you have 25,000 signatures. This resolution provides greater access to the people of N.D. to effect measure language. Some discussion was that we are removing a right of the citizens to petition. I suggest that you are giving them more options by providing them council. (6.29)

Sen. Erin Oban: If they had gone out and gotten the signatures and that language was submitted to the legislature for a vote, they couldn't change the language anyway. (6.53)

Rep. Louser: I am talking about before in the beginning of the process. (6.59) L.C. helps us a great deal with bill drafting. Think about when out of state lawyers are used. They do not know our laws. How can they write language that is consistent with our Code? It should not be our job, after we convene, to correct the inconsistencies that were passed at the ballot box two months earlier. (10.06)

Chairman Davison: Thank you. Close hearing. What are the committee wishes? He hinted he wants this passed, but we have too many to go on the ballot.

Sen. Kristin Roers: We passed one already to allow sponsoring committee access to L.C. I don't know why we should pay for lawyers for the public sponsoring committee. This is very difficult to explain in 3007. (12.09)

Sen. Kristin Roers: I move a DO NOT PASS. **Sen. Erin Oban:** I second.

Sen. Erin Oban: Just a comment. The taxpayers are actually paying for the sponsors lawyers in the end. (12.40)

Chairman Davison: Call roll: **YES -- 5 NO -- 2 -0-absent.**
The **DO NOT PASS – passed.** **Sen. Kristin Roers will carry the bill.**

Done (13.10)

4-4-19
 Date:
 Roll Call Vote #: /

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES *HR 3007*
 BILL/RESOLUTION NO.**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen Roers Seconded By Sen. Oban

Senators	Yes	No	Senators	Yes	No
Chairman Davison	/		Sen. Oban	/	
Vice Chair Meyer		/	Sen. Marcellais	/	
Sen. Elkin	/				
Sen. K. Roers	/				
Sen. Vedaa		/			

Total (Yes) 5 No 2

Absent -0-

Floor Assignment Sen. Roers.

If the vote is on an amendment, briefly indicate intent:

original

REPORT OF STANDING COMMITTEE

HCR 3007, as engrossed: Government and Veterans Affairs Committee (Sen. Davison, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3007 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HCR 3007

19.3068.01004
Title.

#1. HCR 3007
2-14-19
Prepared by the Legislative Council staff for
Representative Louser
January 23, 2019

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3007

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Page 2, line 5, replace "may" with "must"

Re-number accordingly

#2
HCR 3007
2-14-19

Written testimony on House Concurrent Resolution 3007

Chairman Kasper and House Government and Veterans Affairs committee members

My name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND. I oppose House Concurrent Resolution 3007. Article III of North Dakota Constitution "Powers Reserved to the People" is for North Dakota electors in having the power to be able to initiate a petition to be place on a ballot either to amend North Dakota Constitution or amend North Dakota Century Code or referred measure. House Concurrent Resolution 3007 would put the Legislative assembly involved in Article III taking away the concept of "Powers Reserved to the People". Some parts of House Concurrent Resolution 3007 wording was in Representative Louser draft presented to Initiated and Referred Measures Study Commission which Representative Louser withdrew prior to the commission voting on approving drafts.

Three sponsors on this bill were on the Initiated and Referred Measures Study Commission. There were 1 individual appointed by Chief Justice of the Supreme Court as commission chairman, 6 Legislators, 1 individual from Secretary of state Office, 7 citizens appointed by the Governor and 4 individuals appointed from 4 separate organizations. I attended every meeting that was scheduled. Some of the Legislators on the commission mention their frustration with initiative measures getting on the election ballot being passed and out of state influence. Marcy's Law and Medical Marijuana was the two measures which passed on the election ballot discuss more often than any other measures.

Attending these meetings, I observed some legislators were trying to make their case to the other commission members on the Initiated and Referred Measures Study Commission in changing a section or more than one section of Article III Powers Reserved to the People. The appointed citizens did not agree with some of the legislators draft ideas which certain legislators decided on their

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2-14-19

own to introduced bills like House Concurrent Resolution 3007, House Concurrent Resolution 3010, House Concurrent Resolution 3034 and Senate Concurrent Resolution 4001 in this legislative session. House Bill 1035, House Bill 1036, House Bill 1037 and Senate Bill 2033 were the only draft bills from Initiated and Referred Measures Study Commission approved which all 4 bills have passed in this 2019 Legislative session so far.

Article IV of the North Dakota Constitution is the guideline for the Legislative Branch for legislative assembly not Article III.

I am asking the Government and Veterans Affairs committee to give House Concurrent Resolution 3007 a DO NOT PASS so that Article III Powers Reserved to the People stays with the people.

Thank you for allowing me to speak.

Kevin Herrmann
300 Fair St. SW
Beulah, ND 58523
701-873-4163

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HJR 3007
2-14-19

**ARTICLE III
POWERS RESERVED TO THE PEOPLE**

Section 1. While the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative Acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

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.

Section 3. The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post-office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

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.

Section 5. An initiative petition shall be submitted not less than one hundred twenty days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

Section 6. The secretary of state shall pass upon each petition, and if the secretary of state finds it insufficient, the secretary of state shall notify the "committee for the petitioners" and allow twenty days for correction. All decisions of the secretary of state in regard to any petition are subject to review by the supreme court. But if the sufficiency of the petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate the measure if it is at the election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof is upon the party attacking it and the

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2-14-19

proceedings must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon.

Section 7. All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. A proceeding to review a decision of the secretary of state must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon. If the decision of the secretary of state is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

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

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. All other provisions relating to initiative measures apply hereto.

Section 10. Any elected official of the state, of any county or of any legislative or county commissioner district shall be subject to recall by petition of electors equal in number to twenty-five percent of those who voted at the preceding general election for the office of governor in the state, county, or district in which the official is to be recalled.

The petition shall be filed with the official with whom a petition for nomination to the office in question is filed, who shall call a special election if he finds the petition valid and sufficient. No elector may remove his name from a recall petition.

The name of the official to be recalled shall be placed on the ballot unless he resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which he was elected.

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2-14-19

**ARTICLE IV
LEGISLATIVE BRANCH**

Section 1. The senate must be composed of not less than forty nor more than fifty-four members, and the house of representatives must be composed of not less than eighty nor more than one hundred eight members. These houses are jointly designated as the legislative assembly of the state of North Dakota.

Section 2. The legislative assembly shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The districts thus ascertained and determined after the 1990 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.

The legislative assembly shall guarantee, as nearly as is practicable, that every elector is equal to every other elector in the state in the power to cast ballots for legislative candidates. A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts. The legislative assembly may combine two senatorial districts only when a single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of a single member senatorial district, and may provide for the election of senators at large and representatives at large or from subdistricts from those districts.

Section 3. The legislative assembly shall establish by law a procedure whereby one-half of the members of the senate and one-half of the members of the house of representatives, as nearly as is practicable, are elected biennially.

Section 4. Senators and representatives must be elected for terms of four years.

Section 5. Each individual elected or appointed to the legislative assembly must be, on the day of the election or appointment, a qualified elector in the district from which the member was selected and must have been a resident of the state for one year immediately prior to that election. An individual may not serve in the legislative assembly unless the individual lives in the district from which selected.

Section 6. While serving in the legislative assembly, no member may hold any full-time appointive state office established by this constitution or designated by law. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office that has been created by the legislative assembly. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office for which the legislative assembly has increased the compensation in an amount greater than the general rate of increase provided to full-time state employees.

Section 7. The terms of members of the legislative assembly begin on the first day of December following their election.

The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until twelve noon on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January.

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No regular session of the legislative assembly may exceed eighty natural days during the biennium. The organizational meeting of the legislative assembly may not be counted as part of those eighty natural days, nor may days spent in session at the call of the governor or while engaged in impeachment proceedings, be counted. Days spent in regular session need not be consecutive, and the legislative assembly may authorize its committees to meet at any time during the biennium. As used in this section, a "natural day" means a period of twenty-four consecutive hours.

Neither house may recess nor adjourn for more than three days without consent of the other house.

Section 8. The house of representatives shall elect one of its members to act as presiding officer at the beginning of each organizational session.

Section 9. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the legislative assembly, in consideration, or upon conditions, that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly, shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such legislative assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such legislative assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery. And any person, member of the legislative assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the legislative assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

Section 10. No member of the legislative assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the legislative assembly, or to any office in either branch thereof.

Section 11. The legislative assembly may provide by law a procedure to fill vacancies occurring in either house of the legislative assembly.

Section 12. A majority of the members elected to each house constitutes a quorum. A smaller number may adjourn from day to day and may compel attendance of absent members in a manner, and under a penalty, as may be provided by law.

Each house is the judge of the qualifications of its members, but election contests are subject to judicial review as provided by law. If two or more candidates for the same office receive an equal and highest number of votes, the secretary of state shall choose one of them by the toss of a coin.

Each house shall determine its rules of procedure, and may punish its members or other persons for contempt or disorderly behavior in its presence. With the concurrence of two-thirds of its elected members, either house may expel a member.

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Section 13. Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly during its eighty natural meeting days takes effect on August first after its filing with the secretary of state, or if filed on or after August first and before January first of the following year ninety days after its filing, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

Section 14. All sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees, must be open and public.

Section 15. Members of the legislative assembly are immune from arrest during their attendance at the sessions, and in going to or returning from the sessions, except in cases of felony. Members of the legislative assembly may not be questioned in any other place for any words used in any speech or debate in legislative proceedings.

Section 16. Any amendment 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.

Sections 17 and 18. Repealed.

Section 19. Renumbered.

Sections 20 to 46. Repealed.

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Sixty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2033

Introduced by

Legislative Management

(Initiated and Referred Measures Study Commission)

1 A BILL for an Act to create and enact section 16.1-01-18 of the North Dakota Century Code,
2 relating to legislative council drafting services for initiated measures.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Section 16.1-01-18 of the North Dakota Century Code is created and enacted
5 as follows:

6 **16.1-01-18. Initiated measures - Legislative council drafting services.**

7 Pursuant to guidelines provided by the legislative management, the legislative council may
8 provide drafting services for an initiated measure sponsoring committee to ensure the initiated
9 measure conforms to legislative council form and style drafting guidelines. The legislative
10 council may not alter the intent of the sponsoring committee of a proposed initiated measure.

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Mr. Chairman and members of the committee, thank you for allowing me testify on this resolution. My name is David Hanson and I am from Bismarck.

As I read this proposal, I understand it to make a secondary process for initiating measures. I commend the sponsors of this proposal, because I think they understand that our initiative process needs some adjustments, but I am unclear if this will have a practical effect of improving it.

Officially I am neutral to this proposal, but we need to reform the way do initiatives in our state. The tendency usually is to go around the legislature and take proposals directly to the people. I don't think that is the way it is supposed to work. I think the initiative should be used as a last resort, not the other way around. If you would allow me, I would like to make some recommendations to amend this proposal.

First, all initiatives should be submitted to the Legislative Assembly. There it would be given a formal process to hear and debate the proposal. The legislature could pass the measure and if signed by the governor it becomes law with no vote of the people necessary. If, however, the legislature votes the measure down or refuses to consider it, it will go directly to the vote of the people. The legislature could also offer a counter-proposal to be voted alongside that measure. The measure or counter-measure passing with the highest number of votes wins in that election.

Secondly, for constitutional amendment initiatives they would also be submitted to the Legislative Assembly. There it would also be given a formal process to hear and debate it. It would still go to the vote of the people, but the legislature could indicate its support or rejection or it could also offer a counter-proposal as well. The measure or counter-measure passing with the highest number of votes wins in that election.

By clearing all measures through the Legislative Assembly, it provides a formal process to vet the proposals and identify weaknesses and perhaps come up with something better. This is similar to what Washington State does. The goal should be to establish good public policy, not push something through the heat of the moment with little time to scrutinize it.

The effects of these reforms would be to encourage citizens to take advantage of our representative form of government and go to their legislators first and use the initiative as a last resort instead of the other way around. The process to make law should have a few more checks and balances, but the referendum, however, I think should remain as it is. The referendum acts as a people's veto on laws made by the legislature and I think remains an important check on the Legislative Assembly.

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Written testimony on Engrossed House Concurrent Resolution 3007

Chairman Davison and House Government and Veterans Affairs committee members

My name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND. I oppose engrossed House Concurrent Resolution 3007. This resolution changes different sections of Article III of North Dakota Constitution "Powers Reserved to the People". House Concurrent Resolution 3007 would put the Legislative assembly involved in Article III taking away the concept of "Powers Reserved to the People". Why would any sponsoring committee submit an initiative petition to the legislative assembly instead to the voters of North Dakota? If over 50 percent of legislators would have pass legislative bills in pass legislative sessions, the citizens of North Dakota would not been force to get initiative measures on the election ballot. In this resolution, the sponsoring committee must find a member of the legislative assembly in order for the proposal to be submitted to the legislative council to assist in the wording of the measure. Senate Bill 2033, which came from Initiated and Referred Measures Study Commission, allowed legislative council may provide drafting services to an initiated measure sponsoring committee. Senate Bill 2033 has been amended that a legislator would make the request to legislative council to provide drafting services. Why do we need this resolution?

Three sponsors on this bill were on the Initiated and Referred Measures Study Commission. I attended every meeting that was scheduled. Some of the Legislators on the commission mention their frustration with initiative measures getting on the election ballot being passed and out of state influence. Marcy's Law and Medical Marijuana was the two measures which passed on the election ballot discuss more often than any other measures.

Attending these meetings, I observed some legislators were trying to make their case to the appointed citizen's members on the

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Initiated and Referred Measures Study Commission in changing a section or sections of Article III Powers Reserved to the People. The appointed citizens did not agree with the legislators draft ideas which certain legislators decided on their own to introduced bills like House Concurrent Resolution 3007, House Concurrent Resolution 3010, House Concurrent Resolution 3034, Senate Concurrent Resolution 4001 and Senate Concurrent Resolution 4015 in this legislative session. This proves the majority of legislators do not like the voters of North Dakota in having the power over legislators to legislate.

Article IV of the North Dakota Constitution is the guideline for the Legislative Branch for legislative assembly not Article III.

I am asking the Government and Veterans Affairs committee to give engrossed House Concurrent Resolution 3007 a DO NOT PASS so that Article III Powers Reserved to the People stays with the people.

Thank you for allowing me to send my written testimony.

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