

2019 HOUSE JUDICIARY

HCR 3010

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HCR 3010
2/27/2019
32939

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures for constitutional amendments.

Minutes:

1,2,3

Chairman Koppelman: Opened the hearing on HCR 3010.

Rep. Vetter: (Attachment #1) Read testimony. (: 22-4:50) What I am trying to say when talking with some of the proponents of the bill I asked the question why didn't you just make it a statutorily measure and they would reply back to me; we don't want the legislator to mess with it and that is why we want to put it into a constitution. I don't think that is the way we need to be amending our constitution because we don't like what the legislator is doing.

Rep. McWilliams: When you talk about 2/3's majority quite a few times; why not put this measure at that instead of 60%?

Rep. Vetter: I think that threshold can be easily met with 60% so that is why I used that number?

Rep. Magrum: How long has it been this way?

Rep. Vetter: I do not know the history. It is how I wrote it out, but I didn't testify that way.

Chairman K. Koppelman: Currently it takes a majority vote of the legislature to put a measure on the ballot to amend the constitution and a majority vote of the people to approve it. Historically the legislature has been very resistant to change what has been approved by the people.

Rep. Rick Becker: I like the idea of 60%, but I am concerned how that takes effect. Maybe we should have the same threshold required to make change that it would enact. You could have a resolution that would change it to that 67% or even 90% and that would be passed with only a 50% plus one vote. There seems to be a disconnect. If we had it to enact this would require 60% of the vote.

Rep. Vetter: That was brought up to me. That could be done and this is our process how we change this thing. It would be going before the people to do this and they would decide. I think it would be a very good educational lesson for the people.

Dave Hanson, Bismarck: (Attachment #2) Read testimony. (12:00-15:00) The amendment process required the approval of the legislature and a subsequent legislative session; so about two sessions and then it would go to a vote of the people.

Opposition:

Kevin Herrmann, Beulah, ND: (Attachment #3) Read testimony. (16:20-19:15)

Neutral: None

Hearing closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HCR 3010
3/4/2019
33149

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures for constitutional amendments.

Minutes:

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Chairman Koppelman: Opened the meeting on HCR 3010.

Rep. Vetter: I like this because it keeps the legislator out of the process. If someone is going to bring something as an initiated measure; I don't think that is a way to be adding something to the constitution. If we can't get 60% of the population to believe in something I don't think it belongs in the constitution.

Do Pass Motion Made by Rep. Paur; Seconded by Rep. Bob Paulson

Chairman K. Koppelman: I really don't think our initiative and referendum process has been abused until recent years. I think it is being abuse now primarily by big money and out of state interests. Ever since the legislature overturned the medical marijuana measure that the people passed there has been a sense we can pass something as a statute and the legislature can change it. We were very careful over history with meddling with something the people had passed. What is happening now in ND is a lot of folks watching our process are saying why mess with the Century Code. The legislature can meddle with that if we do that? if we want something done in ND lets go straight to the Constitution. Now we have things like Marcy's law; ethic's measure that have been added to our Constitution and really the constitution is intended to be the skeleton and statutes and century code is intended to be the meat on the bones.

Rep. Jones: I was hoping to move the 60% up to 65% so it is closer to the two thirds?

Rep. Vetter: I felt going to 60% would be more palpable for the general public. If this fails with the public I think this is an educational piece.

Rep. Hanson: I am going to reside the motion. I understand the points about needing a higher threshold for a constitutional change. I want to preserve the peoples right; whether it amends the state statute or amends the constitution.

Rep. Magrum: Do you have any statistics on how many of these measures were in between the 50 and 60 percent?

Rep. Vetter: I came from idea of two thirds and then I went down to make it more palpable. If you look at Marcy's law and the ethics bill; those were under 60%. It seems like too big a change to make it 65%.

Rep. Paur: Last Saturday we had a couple forums? One person asked why are you rising the initiated measure requirement to 60%? I told him it was for a constitutional amendment so it was OK.

Rep. Magrum: Out of all the measures that passed does everybody think they have been bad for the state?

Rep. Rick Becker: Yes I think those are bad. If you look at what occurred a decade ago we were getting changes that were heavily endorsed by the republican side of the isle; so it is not a reaction to those particular measure 1, Marcy's law because of the low population of ND we are a foot hold for outside interests to be able to change things. When people feel passionately about some law they want enshrine it in the constitution and that is just plain wrong. These types of things don't belong in the constitution.

Chairman K. Koppelman: They are now ignoring the century code because they are afraid the legislature will change it and going right for the constitution and that creates a constitution with a lot of things that are better placed in statute. To use the medical marijuana law; and the legislature felt they had to deal with that was because it was poorly done. When you pass a measure that says we have legalized medical marijuana, but we forgot to legalize possession of marijuana we have a problem. Had that been in our constitution rather than our law books, how do you deal with that other than putting a fix on the ballot the next election and try to articulate to people why it is necessary. Many of these special interest groups and are big money and can run a big add campaign to favor a measure when the legislature puts something on the ballot with some of these measures, we don't have a budget to go out and advertise and convince people to vote for it or against it.

Rep. Jones: We have a perfect example of the measure that was brought forward to give special license plates to emergency responders. It did not say anything about paying the registration costs of those vehicles. The people when they went to work it into our system went to our proponent and said what was your intent and they said I intended for them to pay the registration costs for that. it wasn't just a license plate given to honor an emergency responder. Now when you go to register a vehicle it will tell you that you will be paying \$2 extra dollars for specialized plates for emergency responders. I was told 80% of California's budget is now dictated by initiated measure so the legislature is only dealing with 20% of the budget. So they have made their legislators ineffective.

Rep. McWilliams: I was very disappointed on the citizen's measure that I was involved in because most of it was funded from out of state money. I would love to see a bill come up saying that initiated measures could not accept out of state funds.

Rep. Vetter: When I started this process that was one of the questions I talked to legislative counsel about and they said certainly you can restrict those things, but the legislative counsel said some other state had passed it but right now they are currently in court and being sued. You can put this on a measure, but you probably will end up being sued.

Rep. McWilliams: I agree with you. That would inevitable be a court issue.

Roll Call Vote: 11 Yes 2 No 1 Absent **Carrier:** Rep. McWilliams

Closed.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HCR 3010**

House Judiciary 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. Paur Seconded By Rep. Paulson

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo		X
Vice Chairman Karls	X		Rep. Karla Rose Hanson		X
Rep. Becker	X				
Rep. Terry Jones	X				
Rep. Magrum	X				
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons	-----				
Rep. Vetter	X				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. McWilliams

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

REPORT OF STANDING COMMITTEE

HCR 3010: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HCR 3010 was placed on the Eleventh order on the calendar.

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

HCR 3010

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HCR3010
3/28/20019
#34321

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures for constitutional amendments.

Minutes:

Att # 1-Rep. Vetter; Att # 2-David Hanson; Att #3- Kevin Hermann
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Chairman Davison: Let's open the hearing on HCR3010.

Rep. Steven Vetter, Dist. 18. Grand Forks: I am here to introduce this resolution. (see att # 1) This is to let the people of N.D. decide if they want to strengthen the constitution. This would change the threshold of votes to change the constitution to 60%. It should not be easy to add to the constitution or change it. (1.51)

Sen. Kristin Roers: (8.21) Have you seen 4015 in the House? We added the 60% for legislature. Would you like that? This resolution is a bit cleaner than 1415.

Rep. Vetter: Yes. It is in Judiciary. Just liked the idea. (9.05)

Chairman Davison: How many constitutional measures on the ballot are too many? (9.37) If they are the same topic.

Rep. Vetter: Not sure if there is an exact number. One or two ideas maybe.

Chairman Davison: We have heard six bills dealing with this already. At some point we will have to put all these bills together. What should be the focus?

Rep. Vetter: I think we will have quite a few.

David Hanson, Bismarck: (see att # 2) (12.05-15.65) I am in support of this resolution. I do recommend some amendments, however. We need a greater threshold to amend the constitution so thanks for addressing this issue.

Waylon Hedegaard, N.D. AFL-CIO: We are opposed to this. We want no change in this system since it was established in 1918. We stand for the people of N.D. This is how the

system has worked for 101 years. This is a long standing tradition. This is trying to make the constitution idiot proof. (18.42)

Vice Chair Meyer: We are a republic. Why do you think the threshold should be the same for a statutory measure as a constitutional measure? I think it is broken. (20.56)

Waylon: In the federal system, we are a republic. On a state, we are not. We have direct democracy built in to our state constitution for 101 years. That makes us a combination of the both.

Vice Chair Meyer: Please answer the question.

Waylon: We don't, that is true. There is a signature threshold. I am unwilling to change the traditions. I am not answering the question.

Charles Tuttle, Minot: (22.11) I know all about gathering signatures. I am opposed. I have done tons in my lifetime. Our rights are granted by God. You are asking the people to vote away a right. We need to educate the public more and then there would not be a measure issue. Big money wins all the time.

Vice Chair Meyer: (24.40) Sound like you are making the argument for this bill.

Charles: You have done nothing to restrict out of state money.

Sen. Shawn Vedaa: This would go to the people and ask 50% or more to approve or not approve. Wouldn't that be proper to do?

Charles: No. I would challenge each one of these in court myself. (26.16)

Dustin Gauvylou, N.D. Watchdog: Here opposed to bill. The issue of making it harder for the public and giving them an option is not the job of the legislature to do. They can do like the citizens do and get signatures to the SOS. It should be a bottom up change. The current system is 50% plus one. If 53% vote for it. The 7% between 60% and 53% are disenfranchised. Having this process for 101 years would be the conservative view and not change the traditional. The liberal approach would be to change it and take away the people's right. If out of state money is the problem, that is a campaign finance issue. You are punishing the people who don't have access of big money. (31.25)

Chairman Davison: Any more against? Hearing is closed.

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HCR3010
4/4/2019
#34519

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures for constitutional amendments.

Minutes:

Att # 1 – Sen. Davison

Chairman Davison: (see att# 1) Take out HCR3010. I brought you an amendment 19.3059.01001 to look at. This would combine HCR3034 with this resolution. I thought changing the 60% to 55 % would make it easier for public to handle. HCR1034 just says an initiated measure to amend the constitution may be placed on the ballot only at a general election. (1.24) We are changing 3010 from 60% to 55%. I visited with both of them today. I am not against the 60%, but 55% is easier to pass with the people.

Sen. Erin Oban: Does this amendment include that legislative constitutional amendments go on the general election ballot. Both initiated constitutional measure and a constitutional placed on ballot by legislature are on general ballot, too. (3.55)

Sen. Kristin Roers: Yes, look at section 16. Both have to be on the general election. I like the 60%, so have a problem with 55%.

Vice Chair Meyer: I like how we are combining some of the elements into 3010. I have a problem with 55%. (5.02)

Chairman Davison: This will go to conference committee.

Sen. Erin Oban: I move to adopts amendment 19.3059.01001.

Sen. Richard Marcellais: I second.

Chairman Davison: Discussion?

Sen. Erin Oban: I am happy to support the amendment but will not support the bill.

Chairman Davison: Other discussion? Call roll: **YES -- 5 NO -- 2 -0-absent.**
Amendment PASSED. (No other vote happened.) done (7.35)

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HCR3010
4/11/2019
#34673

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures for constitutional amendments.

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Chairman Davison: We will come back to this after the House deals with SCR4001.
Adjourned until call of the chair.

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HCR3010
4/12/2019
#34706

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures for constitutional measures.

Minutes:

Chairman Davison: We need to get this resolution out of committee. We voted to adopt amendment 19.3059.01001 awhile back. He explained the amendment they passed. (1.45) Do we all agree? What are the committee wishes?

Sen. Erin Oban: I move a DO NOT PASS as amended. **Sen. Jay Elkin:** I second.

Chairman Davison: Discussion? Take roll: **YES -- 7 NO -- 0 -0-absent**
The DO NOT PASS as amended – passed. Chairman Davison will carry the bill.

Done (3.49)

April 3, 2019

OK
1301
4/17

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3010

Page 1, line 1, after "III" insert "and section 16 of article IV"

Page 1, line 2, remove "initiated measures for"

Page 1, after line 3, insert:

"This measure would require at least fifty-five percent of the members of each house of the legislative assembly to approve a constitutional amendment to be placed on the ballot at the next general election."

Page 1, line 4, remove "an initiated measure for"

Page 1, line 5, replace "sixty" with "at least fifty-five"

Page 1, line 8, replace "amendment" with "amendments"

Page 1, line 8, after "III" insert "and section 16 of article IV"

Page 1, line 16, after the period insert "An initiated measure to amend the constitution may be placed on the ballot only at a general election."

Page 1, line 16, replace "sixty" with "fifty-five"

Page 1, after line 19, insert:

"SECTION 2. AMENDMENT. Section 16 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

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~~ at least fifty-five percent of the members elected to each house, must be submitted to the electors ~~and if a majority~~ at the following general election. If at least fifty-five percent of the votes cast thereon the constitutional amendment are in the affirmative, the amendment is a part of this constitution."

Renumber accordingly

4-4-19

Date:

Roll Call Vote #:

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

HCR 3010

Senate Government and Veterans Affairs Committee☐ SubcommitteeAmendment LC# or Description: 19.3059 .01001

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 Oban Seconded By Sen Marcellais

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 _____

Floor Assignment _____

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

original

4-12-19
Date:
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES *Her 3010*
BILL/RESOLUTION NO.

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: 19.3059.01001

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. Oban Seconded By Sen. Elkin

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Chair Davison

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

REPORT OF STANDING COMMITTEE

HCR 3010: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3010 was
placed on the Sixth order on the calendar.

Page 1, line 1, after "III" insert "and section 16 of article IV"

Page 1, line 2, remove "initiated measures for"

Page 1, after line 3, insert:

"This measure would require at least fifty-five percent of the members of each house
of the legislative assembly to approve a constitutional amendment to be placed on
the ballot at the next general election."

Page 1, line 4, remove "an initiated measure for"

Page 1, line 5, replace "sixty" with "at least fifty-five"

Page 1, line 8, replace "amendment" with "amendments"

Page 1, line 8, after "III" insert "and section 16 of article IV"

Page 1, line 16, after the period insert "An initiated measure to amend the constitution may
be placed on the ballot only at a general election."

Page 1, line 16, replace "sixty" with "fifty-five"

Page 1, after line 19, insert:

"SECTION 2. AMENDMENT. Section 16 of article IV of the Constitution of
North Dakota is amended and reenacted as follows:

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~~
at least-fifty-five percent of the members elected to each house, must be submitted to
the electors ~~and if a majority~~at the following general election. If at least fifty-five
percent of the votes cast thereon the constitutional amendment are in the
affirmative, the amendment is a part of this constitution."

Renumber accordingly

2019 TESTIMONY

HCR 3010

From: Vetter, Steve M. smvetter@nd.gov
Subject: Chairman Koppelman and Members of Judiciary committee, my name is...

Date: Feb 27, 2019 at 10:20:12 AM

To: Vetter, Steve M. smvetter@nd.gov

#1
HCR 3010
2-27-19
P.1

Chairman Koppelman and Members of Judiciary committee, my name is Steve Vetter, I represent district 18, which is a small chunk of South Grand Forks, downtown, half of North Grand Forks and a small rural area extending to the Grand Forks Air Force Base.

The resolution you have before you, if passed, it would be placed on the ballot for the people of North Dakota to decide if they would like to strengthen the constitution.

The resolution you have before you is simple. It changes the threshold of votes to change the constitution to 60%. To add to the constitution should not be easier than to change the constitution. In order to change the constitution, it requires 2/3 a vote of both chambers then a majority vote of the people. To add unlimited New language to the constitution, it only takes a majority vote of the people and slightly more signatures than a initiated measure. Along with a good sounding paragraph and a few hundred thousand dollar advertisement campaign and you can add unlimited new language to the constitution of ND. However, to go back and fix what has been done takes 2/3 vote of the legislature and a majority vote. All this bill does is change the threshold to constitutional measures from a majority vote to a vote of 60%. This puts in closer in line with how the law is to change the constitution.

This ONLY effects constitutional measures and has NO effect on initiated measures.

Either you believe the constitution is a living, changing document or if you believe the constitution is the base or foundation for our laws and legal system. I believe the constitution is the foundation for our laws and it should not be easy to change the constitution. This is the main purpose of this resolution. If you think the constitution should not be changed with a simple majority vote then you should vote for this measure. This bill strengthens the constitution of

#1
HCR 3010
2-22-19
P. 2

ND that we currently have. If you like what we have, then this is a good bill for you.

This DOES NOT take power away from the people. In order for this to go into effect the people would need to vote for it. Putting this measure on the ballot serves two purposes. 1) As said, It strengthens the constitution. The 2nd purpose is to educate the public. Most of the public does not know there is a difference between laws in the constitution and laws in statute. "Why do we need 60% on this vote?"

Also, Measures that should be introduced as initiated measures will be introduced that way unless it is truly something that belongs in the constitution.

With all the initiated measures that are being purposed this session. This resolution makes the most sense because it keeps the people in control and leaves the legislature out of the process. It is the best compromise to keep groups from trying to change the constitution with laws that should be in statute instead.

What if the Medical MJ or measure 5 would've been a constitutional measure? How does it get fixed? This resolution is very good compromise that leaves the legislature out of the process. The people retain their power and what is currently in the constitution is protected. Although, I am currently in the legislature, I view myself as one of the people and will not always be in the legislature. I do not want to take power from the people and give it to the legislature. This resolution is the best compromise for the current moment.

If you value our constitution and do not think it should be changed with a

#1
HCR 3010
2-27-19
P. 3

simple majority vote than vote for a Do Pass recommendation on HCR 3010.

Thank you,

I will stand for questions.

#2
HCR 3010
2-27-19
P. 1

Testimony for HCR 3010 David Hanson, Bismarck

Mr. Chairman and members of the committee. Thank you for allowing me to testify in support of HCR 3010. I would also like to thank the sponsors of this amendment which seeks to address a weakness in our current amendment process. Currently in order to pass an amendment to our constitution you need to get a simple majority vote of the people. This is a weakness, because the constitution is binding, not only on the people, but the state government as well. In recent years there has been a disturbing trend of bringing constitutional amendments forward and treating the constitution as a super Century Code to prevent them from being quickly amended or repealed. The constitution ought to be used to set the guidelines and mode of governing our state, not to set policy. Policy setting should be more of a domain of the ordinary course of legislation. While there will always be areas in the constitution that individuals may not agree should be there, for most of the time we all as a state ought to be united in supporting it. There ought to be a higher threshold to amend the constitution, since it is a higher law. By requiring a higher threshold it will also demonstrate a greater unity of the people to uphold and support the constitution.

This proposal is not unreasonable. Many other states require supermajorities in their legislatures as well as supermajorities among the people in order to pass amendments to their state constitutions. We can also look to our own U.S. Constitution in the way that it is amended. To amend it you must get two thirds of the House and Senate or two thirds of the states to call a convention to submit amendments to the states. Once the states have the amendments, you must also get 38 (three fourths) to ratify them. With those high thresholds to meet, there is a greater unity of the people and the states to support the Constitution and also a great urge to protect it.

With that said I would recommend some amendments to 3010. This proposal should also address the ND Constitution in Article IV Section 16's method of amendment. I recommend that it also requires a two thirds vote from both houses of the Legislative Assembly and also 60% vote of the people to ratify amendments. Perhaps this committee might also want to consider raising the voter threshold to 65% as well instead of 60%. With the higher percent it would also encourage more mobilization and debate so that an amendment can pass, rather than put an amendment on the ballot with hardly any debate during an election.

I would also like to commend Senator Hogue for addressing this issue as well with his current bill HCR 4001. Whether 3010 or 4001 passes or a combination of the both; we need greater thresholds to amend the constitution and I'm glad it's being addressed.

We have a good constitution, let's not let it become something that is treated flippantly and put better safeguards in place to protect it and make it a stable document in the future.

#3
H.C.R. 3010
2-27-19
P. 1

Written testimony for House Concurrent Resolution 3010

Chairman Koppelman and Judiciary Committee members

My name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND. I oppose House Concurrent Resolution 3010. House Concurrent Resolution 3010 is an attempt to change Article III "Powers Reserved to the People" of section 9 for any initiative measure to amend the North Dakota Constitution to the election ballot would need 60 percent to pass instead of over 50 percent as it has been for many years. This is an attack against North Dakota citizens because certain legislators are upset of initiative measures passed in the last few elections. If over 50 percent of legislators would have pass legislative bills in past legislative sessions for an example 2013 House Bill 1442 and 2015 House Concurrent Resolution 3060 were ethics bills, the citizens of North Dakota would not been force to get initiative petitions on the election ballot for medical marijuana and ethics committee .

Why isn't Article IV section 16 included in this bill? Shouldn't the legislative assembly be held the same standard of 60 percent vote outcome to forward a constitution amendment to the voters?

I attended every meeting that was scheduled of the Initiated and Referred Measures Study Commission. The commission consist of 1 individual appointed from Chief Justice of the Supreme Court as commission chairman, 6 legislators, 1 individual appointed from Secretary of State office, 7 citizens appointed by the Governor and 4 individuals appointed by 4 separate organizations. The commission consider a resolution draft that would have amended the constitution to require at least 60 percent of votes cast on a measure be affirmative for the measure to be deemed approved. Commission members opposing the draft defended the current requirements as sufficient so the commission made no recommendation to proceed with draft.

It seems certain legislators want to restrict the power from the citizens of North Dakota. Maybe the citizens of North Dakota should consider to amend Article XI "General Provisions" section 26 to change the wording that "North Dakota citizens will vote on compensation for the legislative assembly". It is amazing how certain legislators complain about out of state money funding initiative measure campaign but some legislators accept out of state money for their campaign.

I am asking for a DO NOT PASS on House Concurrent Resolution 3010.

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

Her 3010
3-28-19
Att #1
PS1

From: Vetter, Steve M. smvetter@nd.gov
Subject: Chairman Davison and Senators of the GVA committee, my name is Steve...

Date: Mar 28, 2019 at 8:17:24 AM

To: Vetter, Steve M. smvetter@nd.gov

Chairman Davison and Senators of the GVA committee, my name is Steve Vetter, I represent district 18, which is a small chunk of South Grand Forks, downtown, half of North Grand Forks and a small rural area extending to the Grand Forks Air Force Base. I serve in the Judiciary and GVA committees. I am serving in my 2nd session. The resolution you have before you, if passed, it would be placed on the ballot for the people of North Dakota to decide if they would like to strengthen the constitution.

The resolution you have before you is simple. It changes the threshold of votes to change the constitution to 60%. To add to the constitution should not be easier than to change the constitution. In order to change the constitution, it requires a vote of both chambers then a majority vote of the people. To add unlimited New language to the constitution, it only takes a majority vote of the people and slightly more signatures than an initiated measure. Along with a good sounding paragraph and a few hundred thousand dollar advertisement campaign and you can add unlimited new language to the constitution of ND. Plus, it cannot even be fixed right away. To fix what's been done requires the process of the legislature and the people and at least two years.

In contrast, to fix or change an initiated measure by the people, it takes 2/3 vote of the legislature and the governor.

All this bill does is change the threshold for constitutional measures from a majority vote to a vote of 60%. Most states have stricter thresholds and other conditions to make it more difficult to change the constitution. The national government makes it extremely difficult to change the constitution.

This ONLY effects constitutional measures and has NO effect on initiated measures.

Either you believe the constitution is a living, changing document or if you believe the constitution is the base or foundation for our laws and legal system.

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I believe the constitution is the base or foundation for our laws and it should not be easy to change the constitution. This is the main purpose of this resolution.

If you think the constitution should not be changed with a simple majority vote then you should vote for this measure. This bill strengthens the constitution of ND that we currently have. If you like what we have in the constitution, then this is a good bill for you. If you oppose this bill, what part of the constitution do we need to change that isn't popular enough to get 60% of the vote?

This DOES NOT take power away from the people. In order for this to go into effect the people would need to vote for it. Putting this measure on the ballot serves two purposes. 1) As said, It strengthens the constitution. The 2nd purpose is to educate the public. Most of the public does not know their is a difference between laws in the constitution and laws in statue. "Why do we need 60% on this vote?"

Also, Measures that should be introduced as initiated measures will be introduced that way unless it is truly something that belongs in the constitution. If an initiated committee needs 60% to pass, they will go the easier route unless its a popular measure that belongs in the constitution.

Why 60%? I thought about going with the traditional 2/3 vote, which a more traditional vote with higher forms of law. I'm not sure about Senate rules but with House rules, certain motions like to reconsider after a day takes a 2/3 vote or to break the rules for a certain day a bill has to be passed. When I introduced this bill in the house, half of the committee thought 2/3 was a better idea than 60%. I think 3/5 vote or 60% is a good compromise and more of an incremental change and more acceptable by more people.

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What if the Medical MJ or measure 5 would've been a constitutional measure? How does it even get fixed? You would've had the government selling a product that was also illegal. We don't need to put more laws that belong in century code into our constitution.

With all the initiated measures that are being purposed this session. This resolution makes the most sense because it keeps the people in control and leaves the legislature out of the process. It is the best compromise to keep groups from trying to change the constitution with laws that should be in statute instead.

This resolution is very good compromise that leaves the legislature out of the process. The people retain their power and what is currently in the constitution is protected. Although, I am currently in the legislature, I view myself as one of the people and will not always be in the legislature. I do not personally want to take power from the people and give it to the legislature. This resolution is the best compromise for the current moment.

***Additional Amendments: I would like to purpose 2 additional amendments to this bill to make it more popular to garner more support with the public. Adding HCR 3034 into the bill and raising the threshold for the legislature for constitutional amendments proposed to the legislature to 60%.

To reduce the amount of measures on the ballot I would suggest combining HCR3034 into HCR3010 because it is the same subject material. It requires constitutional measures to be voted on in the general election only not the primary election.

After talking to my colleagues in the other party and talking to those opposed to the bill, changing the legislature threshold to 60% makes them ok with the bill. I realize that the legislature only proposes constitutional where as the

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people change the constitution but if it makes it more popular and serves the same purpose< i don't think that's unreasonable.

If you value our constitution and do not think it should be changed with a simple majority vote than vote for a Do Pass recommendation on HCR 3010.

Thank you,

I will stand for questions

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Mr. Chairman and members of the committee, my name is David Hanson and I am from Bismarck. Thank you for allowing me to testify in support of HCR 3010. I would also like to thank the sponsors of this amendment which seeks to address a weakness in our current amendment process. Currently in order to pass an amendment to our constitution you need to get a simple majority vote of the people. This is a weakness, because the constitution is binding, not only on the people, but the state government as well. In recent years there has been a disturbing trend of bringing constitutional amendments forward and treating the constitution as a super Century Code to prevent them from being quickly amended or repealed. The constitution ought to be used to set the guidelines and mode of governing our state, not to set policy. Policy setting should be more of a domain of the ordinary course of legislation. While there will always be areas in the constitution that individuals may not agree should be there, for most of the time we all as a state ought to be united in supporting it. There ought to be a higher threshold to amend the constitution, since it is a higher law. By requiring a higher threshold it will also demonstrate a greater unity of the people to uphold and support the constitution.

This proposal is not unreasonable. Many other states require supermajorities in their legislatures as well as supermajorities among the people in order to pass amendments to their state constitutions. We can also look to our own U.S. Constitution in the way that it is amended. To amend it you must get two thirds of the House and Senate or two thirds of the states to call a convention to submit amendments to the states. Once the states have the amendments, you must also get 38 (three fourths) to ratify them. With those high thresholds to meet, there is a greater unity of the people and the states to support the Constitution and also a great urge to protect it.

X

With that said I would recommend some amendments to 3010. This proposal should also address the ND Constitution in Article IV Section 16's method of amendment. I recommend that it also requires a two thirds vote from both houses of the Legislative Assembly and also 60% vote of the people to ratify amendments. Perhaps this committee might also want to consider raising the voter threshold to 65% as well instead of 60%. With the higher percent it would also encourage more mobilization and debate so that an amendment can pass, rather than put an amendment on the ballot with hardly any debate during an election.

I would also like to commend Senate for addressing this issue with passage of SCR 4001 and 4015. Whether 3010, 4001, or 4015 passes or a combination of the three; we need greater thresholds to amend the constitution and I'm glad it's being addressed.

The constitution should be something that is predictable and promotes continuity. We have a good constitution, let's not let it become something that is treated flippantly and put better safeguards in place to protect it and make it a stable document in the future.

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Written testimony on House Concurrent Resolution 3010

Chairman Davison and Government and Veterans Affairs committee members

My Name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND. I oppose House Concurrent Resolution 3010. House Concurrent Resolution 3010 is an attempt to change Article III "Powers Reserved to the People" of section 9 for any initiative measure to amend the North Dakota Constitution to the election ballot would need 60 percent to pass instead of over 50 plus 1 percent as it been for many years. This is an attack against North Dakota citizens because certain legislators are upset of initiative measures passed in last few elections. If over 50 percent of legislators would have legislative bills in pass legislative sessions, the citizens of North Dakota would not been force to get initiative measures on the election ballot such as medical marijuana and ethics measures. If this resolution passes, shouldn't the legislative assembly be held the same standard of 60 percent vote outcome to forward a constitution amendment to the voters?

I attended every meeting that was scheduled of the Initiated and Referred Measures Study Commission. The commission consider a resolution draft that would have amended the constitution to require at least 60 percent of votes cast on a measure be affirmative for the measure to be deemed approved. Commission members opposing the draft defended the current requirements as sufficient so the study commission made no recommendation to proceed with draft.

It seems certain legislators are determined to restrict the power form the citizens of North Dakota. Maybe the citizens of North Dakota should consider to amend Article XI "General Provisions" section 26 to change the wording where the North Dakota voters will vote on compensation for the legislative assembly.

I am asking for a DO NOT PASS on House Concurrent Resolution 3010.
Thank you for allowing me to send my written testimony

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

April 3, 2019

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3010

Page 1, line 1, after "III" insert "and section 16 of article IV"

Page 1, line 2, remove "initiated measures for"

Page 1, after line 3, insert:

"This measure would require at least fifty-five percent of the members of each house of the legislative assembly to approve a constitutional amendment to be placed on the ballot at the next general election."

Page 1, line 4, remove "an initiated measure for"

Page 1, line 5, replace "sixty" with "at least fifty-five"

Page 1, line 8, replace "amendment" with "amendments"

Page 1, line 8, after "III" insert "and section 16 of article IV"

Page 1, line 16, after the period insert "An initiated measure to amend the constitution may be placed on the ballot only at a general election."

Page 1, line 16, replace "sixty" with "fifty-five"

Page 1, after line 19, insert:

"SECTION 2. AMENDMENT. Section 16 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

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~~ at least fifty-five percent of the members elected to each house, must be submitted to the electors ~~and if a majority~~ at the following general election. If at least fifty-five percent of the votes cast ~~thereon~~ on the constitutional amendment are in the affirmative, the amendment is a part of this constitution."

Renumber accordingly