

2011 HOUSE CONSTITUTIONAL REVISION

HCR 3051

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee  
Prairie Room, State Capitol

HCR 3051  
March 16, 2011  
Job #15543

Conference Committee

Committee Clerk Signature	<i>Mary Mair</i>
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**Explanation or reason for introduction of bill/resolution:**

A concurrent resolution to create and enact a new section to article IV of the Constitution of North Dakota, relating to the submission of proposed laws to the electorate for approval.

**Minutes:**

Attachment #1
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**Chairman Koppelman:** We will open the hearing for HCR 3051.

**Representative Schatz:** HCR 3051 is a section that deals with voting. I will read the underlined part of the bill starting on line 14. (Refer to HCR 3051 – line 14-22.) The basic purpose of this resolution is to clean up language or work on a measure that is flawed. Representative Rick Berg in the last session proposed this. It was voted down and I'm bringing it back. If there's new evidence that comes to light after a vote, the legislature would be able to put back on the ballot for the next election. The next time that this could occur would be 2014 because if we put it on the ballot in 2012 it would be approved and then a measure could be put back up in 2014. We can already change a measure and a ballot in our statute with a two thirds vote. If there's unintended consequences which we didn't realize until it became law, this would allow us to put it back up. Sometimes measures are poorly worded. Once they are written, they are fixed and they can't be amended after they're filed. We have lawyers going through measures, petitions are signed, election dates are in place and then the measure is placed on the ballot. If after that happens, we find a flaw there's no going back. This would give the legislature the opportunity to go back and clean up language that was flawed on the measure. It talks about section 1 of article IV, the legislative branch. I will take any questions.

**Chairman Koppelman:** I recall the measure that Representative Berg sponsored and I think that it was different in that it allowed the legislature to put statutes on the ballot in general.

Right now the people can put a either statute or a constitutional amendment on the ballot through and initiated measure process however the legislature can only put a constitutional measure on the ballot. The reason that the legislature defeated Representative Berg's measure last session was the concern that it would become an escape hatch for the legislature if we had a bill that was a hot potato, we would just say we'll let the people decide and put it on the ballot instead of voting on it. Am I correct in that?

**Representative Schatz:** Yes

**Chairman Koppelman:** This is different in that it only allows the legislature to put a measure on a ballot that is already been initiated by the voters.

**Representative Schatz:** Correct.

**Representative Meier:** You stated that a measure may not be brought up before a legislative body for seven years. Why the seven years?

**Representative Schatz:** I believe that's in the Constitution.

**Vice Chairman Kretschmar:** This would only apply to initiated measures that the people defeated because if the people approve an initiated measure it would be the law.

**Representative Schatz:** It says on line 16 'a statutory measure submitted by the legislative assembly which is approved by a majority of the votes cast'.

**Vice Chairman Kretschmar:** You're talking about a measure that would be put on the ballot by the legislative assembly.

**Representative Schatz:** I read that as if it was voted on by the people then if it was approved by the people and becomes effective 30 days after the election. We're talking about the people voting and approving a measure. This resolution would change that to say we could clean up the language and then put it on the ballot again.

**Vice Chairman Kretschmar:** That's very possible but as I read it is the first step is the people have to initiate something. That's your first sentence 'if the proposed law is identical to or is a revised version of an initiated measure that was previously submitted by the people and placed on the ballot'. If it's on the ballot, there are only two ways it can go up or down. If it goes up, it's the law of the state. If it goes down, I think the legislative assembly would, at their own peril, put something on the ballot that the people defeated.

**Representative Schatz:** I'm not a lawyer so I'll stop at that. I'm reading it one way and that was the way I intended it to be anyway.

**Chairman Koppelman:** We can get into that more in committee discussion.

**Representative Winrich:** It's somewhat along the same lines I guess. Your amendment talks about the 'proposed law that's identical to a revision of an initiated measure that was previously submitted to the people'. I'm having a little trouble with the concept of revision. How revised can it get?

**Representative Schatz:** I believe it would be as revised as the legislature would want it to be. That's how I read it. It's basically designed to if something comes up in a measure that has some dire consequences that we're not aware of and then after the thing becomes law, we have to get two thirds vote in order to change it. We can change any measure that

comes before us. This would allow us to do that without a two thirds vote, I'm assuming, and put it back on the ballot.

**Representative Winrich:** Would what we commonly refer to in this assembly as a hog house amendment be considered a revision?

**Representative Schatz:** I'm not qualified to say that. I'm assuming it's a minor change but I'm not sure.

**Chairman Koppelman:** I did speak with legislative counsel about this. The interpretation that I received is that if an initiated measure were placed on the ballot by the people, the legislature could, whether approved or defeated, put that measure back before the people and ask them to vote on it again either in its original form or in a revised form if this were to go through. I think the way that would work is if more information came before the legislature and after the vote, and there were some unintended consequence, you could revise the measure a bit, put it back before the people, and ask them to vote as to whether they approve the idea from before but with a revision. If they passed, I suppose the legislature could put something before them saying take another look. Did you really mean it? Vice Chairman Kretschmar mentioned that they're peril but if more information came up.

**Representative Kasper:** Is it your intent of this bill to allow the legislature to put forth this initiated measure that was either enacted or defeated? Is that the intent?

**Representative Schatz:** Yes it would be.

**Representative Kasper:** I would suggest that we modify the language a bit. If you look at line 16 where you have the words 'submitted by the people'. I would put a comma there and strike 'and' so it would read 'submitted by the people, placed on the ballot, and approve or rejected by the people'. Now you know the intent of this resolution so the legislature can revise something that was approved or we can bring back something that was rejected if that's what we want to do.

**Representative Holman:** I'm trying to wrap my head around an application of this. Suppose the initiated measure this fall for the pharmacy law that didn't get through the legislature two years ago was successful this last year and suppose the people of North Dakota repealed the pharmacy restriction. Would this change allow us as a legislature to revisit that issue if, in the fall election, that had become law; in other words, if the people overruled what we voted on two years ago. Would this allow the legislature to revisit the vote of the people on an issue like that? That's what I'm seeing here; allow us to tell them that they were wrong.

**Representative Schatz:** As I'm reading it it says that any measure that has been placed on the ballot so if it's been placed on the ballot then there's the possibility of it being revised.

**Representative Winrich:** Let's suppose that an initiated measure is put on the ballot and it passes. It is now state law or 30 days after it becomes state law. The legislature meets

in January after the election and decides they want to revisit it so they exercise this provision to put it on the ballot. Is it State law for the year or two that we're in limbo waiting for the new vote or does the legislature nullify that in the mean time or what?

**Representative Schatz:** I'm not sure how that would work. I'm assuming that depending on when the measure became law. I suppose if it became law August 1<sup>st</sup>, is that what you mean if you pass it in November and in August 1<sup>st</sup> it becomes a law.

**Representative Winrich:** I think it becomes law much quicker than that. I think it's 30 days after.

**Representative Schatz:** If the legislature takes that bill up and it passes without an emergency clause that it would be the law 30 days from the time it passed until the legislature decided to vote on it again. I'm not sure and shouldn't say.

**Chairman Koppelman:** If the law that was passed by the people became the law 30 days after, that wouldn't change unless it was changed by the legislature or by the people in a future election. The legislature could change it with a two thirds majority now without this constitutional change in the next session. If it chose instead to place it back before the people, it would remain the law until the people voted again. If they voted it down, what they had voted for previously would continue to be the law. If they changed it then 30 days later, that change would take place.

**Representative Schatz:** If they did both, changed it by 2/3 vote and then they decided to put it back up for a vote again, that would also be a possibility. If there is a major flaw in something like that then two thirds might be the way they would have to go and then have it modified and then voted on again.

**Representative Carlson, District 41:** (See attachment #1). There are always unintended consequences. Vice Chairman Kretschmar made a good point, why would you want to bring this up if the people just defeated it. I'm not sure that I would want to be one of the names on there. I can only understand this from a perspective of unintended consequences. I'm going to use a controversial measure that was passed; measure 3, the tobacco settlement. On the surface if you read what was on the ballot, it was pretty convincing if you were against smoking that you would be in favor of having programs for smoking cessation if you read the initiated measure. It passed with 53% of the vote but what it did not say and what a majority of the electorate voted on was the fact that we were now taking 80% of the money not only from the advanced payments on our tobacco settlement but we were taking 80% of the money from the Community Health Trust Fund. And if that wasn't enough, they had the ability to go to our water trust fund and take the money that we're using for dollars for water projects around the state. I don't think that the public understood all of the things that were in there. If they would have just said you're getting one payment, that would have been one thing. It was a very long measure if you read it. So there are unintended consequences sometimes to a measure. I know that with a two thirds vote, we can overrule the people which is extremely difficult to do and I understand the reason for the two thirds because we work for them and they had the chance to voice their opinion. There are unintended consequences that you cannot possibly put all that information on the ballot and because of that should there be a

mechanism. I don't know that this is the right mechanism. We can wait seven years. Last time we attempted to make some changes and we heard more than anything that we were overriding the will of the people so what better solution than to let the people vote on it again. There are some merits to it. Whether the mechanics are right; Representative Winrich is right, it's confusing whether you should do it or not do it or which one you're doing or which one you're not doing or what vote should be required to put it out there and when does it go into effect. There are some things that aren't here. It's up to this committee but I can tell you that there are unintended consequences in measures sometimes because you can't possibly know all the facts that went into it. Had you went on the radio and TV and said they're going to take the water money from NAWS and SW Water and from the water supply project to the valley, I guarantee there would have been a different vote by some people than to vote what they did. The loyal opposition had no money to state their case. Should we do it? I don't have the answer to that but I do know there are unintended consequences sometimes in measures and it's a worthwhile discussion for your committee.

**Chairman Koppelman:** Further testimony in support of HCR 3051? Opposition? Seeing none we will close the hearing.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee  
Prairie Room, State Capitol

HCR 3051  
March 24, 2011  
Job #15983

Conference Committee

Committee Clerk Signature

*Mary Main*

## Minutes:

**Chairman Koppelman:** HCR 3051 would allow the legislature to put before the electorate a measure that had previously been on the ballot. Currently the legislature can put a constitutional amendment resolution before the public to be voted on. The public can do the same thing. The public can propose a statute through initiated measure. What cannot happen now is that the legislature cannot put a law before the public for a vote. There was an effort by Rick Berg that was different than this and that would have allowed the legislature to put any statute before the public. The legislature defeated that in the House and I supported the defeat a couple of years ago as most of us did. The reason was there was a fear that the legislature could treat this as an escape hatch and any hot issue could be put on the ballot to let the people decide. This is different in that the legislature could put before the people a measure that had been previously before the people either in the original form or in an amended form. The purpose for this is to say if there is a measure on the ballot that is defeated that we thought was a good idea, we could ask the people to take a second look. The other thing this could do is ask the people to take a look at one that had passed by the people in either the original form or amended form. The thought was in cases where something isn't very clear in the beginning or there are unintended consequences or there are portions of the measure that was on the ballot that weren't clear to the public, weren't contained in the description that is actually on the ballot, there could be some clarification. Also, if there were unintended consequences discovered for something that passed, it could be placed on the ballot in a changed form for the people to consider. This is on the general election ballot and probably should reside in the primary ballot.

**Representative Schatz:** I move that we move 3051 to the primary ballot.

**Representative Streyle:** Second.

**Voice vote taken. Motion carries.**

**Representative Kasper:** I think we need an amendment on line 16. We need to put a comma after people, cross off "and", and add "and approved by the people" after.

**Chairman Koppelman:** We could do that however as it appears before us; this would allow the legislature to place a measure on the ballot that had previously been placed there

by the people whether approved or rejected. I think that was the original intent of the sponsor.

**Vice Chairman Kretschmar:** I would not support this resolution. I think it is a way of trying to get around the Constitution that we have today. Perhaps it would be straighter forward to just repeal the provision in our Constitution that the legislative assembly takes a two thirds vote to change an initiated measure for seven years after its adoption. It seems that this resolution is trying to get at the tobacco measure that the people passed in 2008. The legislature would have to determine if a measure that they put on the ballot is a revised version or the same version. It might be a little bit difficult. If the people approve an initiated measure, it's the law in our state. That's the Constitution right now and if the people defeat an initiated measure, the legislature touches it at its peril. I don't think this is a good resolution and I'm not going to support it. If it's a do not pass motion, I will support it.

**Chairman Koppelman:** The legislature can overrule the people and the legislature has done that before such as measure #6 back in the 1980's. The intent of the people was to take oil revenue and have it pay for education. It could have been a noble idea but the details had some dire consequences and the legislature overruled. Representative Kretschmar has a point when he says that the legislature does that at its own peril but constitutionally, the legislature can do that by a two thirds vote. The question is, is that wise? Is that a stick in the eye to the people if you do that? I think that's the reason for this is to say is there a middle ground. There really is no middle ground today. Either taking a measure hook, line, and sinker if it's a good idea but has some bad provisions and that's where the revised version comes into play or overruling it by a two thirds majority and that's where it could be a stab to the people. I think a middle ground is to say, is there a way to retain what the people intended but get rid of some unintended consequences. I think that was the intent here to say can you put a revised version before the people. Take another look, we heard you, here's what you said but maybe you didn't realize the way that was written also did this. Whether it's a Constitutional measure or a statute that comes before the public, when you stand in that voting booth, you don't even see the full measure but a synopsis. The public doesn't have the opportunity to amend something if there's problematic language. What this says is the legislature could put it back before the public and say take another look at this but maybe it should read this way instead. It's still up to the people to decide yes or no.

**Representative Holman:** The main problem I have with this is it appears to be a reaction to a specific instance. It may be changing the Constitution to react to a single instance that at this point in time, the majority of the legislature does not agree with is probably a dangerous move. I think we have to consider that at this point in time the legislature does not approve of what the public did with measure 3. This appears to be a reaction to that specific one time instance.

**Representative Schatz:** I don't believe it is that. In the bill it can't take place until 2015 and there would only be one year left on measure 3 and so that's not the intent of this. If there is federal laws or other circumstances that come up that change the idea that we at our own peril would be able to put it back on the ballot for them to say yes or no again. I

don't know that people would be opposed to that especially if there are new things that come to light.

**Chairman Koppelman:** If this were retaliation for measure #3, I think it's a poor one because it wouldn't really have any logistical effect. It would be too late to do anything to change that. I think that's our job as this committee. I don't think we should be proposing to the people of North Dakota that we amend the Constitution to deal with a specific issue. What we should do in this committee when we make recommendations that the people look at a Constitutional amendment, is look at the overall structure of the Constitution, how it works, and whether that idea should have merit and should stand on its own. I think that's how we should view this. If it's a good idea structurally, that's up to each of the committee members to decide.

**Vice Chairman Kretschmar:** When I began in the legislature, it took two thirds votes in each house to change any initiated measure no matter when it was adopted. Whenever judicial salaries were to be increased, it took two third in each house and usually the legislature got them. About 1930, the people in North Dakota initiated a measure and made the salaries of judges very low. In the middle 80's, the people did adopt a measure out of the 1972 Constitution to put the 7 year provision which is currently in there. Measure #6 put the oil extraction tax on the books that was passed in 1980 by the people. In the 1981 session, the republican majority in the House and in the Senate got two thirds to change that in some ways. In the 1983 session, Republicans were in the minority and so I don't know whether that followed but something like that can happen.

**Chairman Koppelman:** The question with anything that we pass is do we put it before a vote of the people. That would be the case with this as well. What are the wishes of the committee?

**Representative Schatz:** I will move a do pass as amended.

**Representative Meier:** Second.

**Representative Winrich:** I am in agreement with some of my predecessors who have objected to this. When I first read the text of this amendment, I thought it was primarily intended for initiated measures that had failed and that the legislature had thought should be reconsidered. It became clear in testimony that was not the concern. The concern was when an initiated measure passed and the legislature didn't like it. Everything that has been mentioned as an advantage of this in terms of modifying it because of unforeseen consequences or something like that can be dealt with under the current system. The legislature can repeal the initiated measure by a two thirds vote and can then pass just about any law it wants, a modified version of what was voted on by the people. I don't see any problem with that if there truly is some sort of crisis or federal law changes or something. I don't think that would present the kind of political peril for overturning the will of the people. I find it inconsistent that having just passed a requirement for a super majority; we now seem to be upset because there is a requirement for a super majority in the Constitution. This is a case where the super majority indeed is required for a very major action, turning over the vote of the people. I think it's entirely appropriate in this case. Finally, I think this bill horribly written. What if we do get a situation where we do get

an initiated measure that passes and it passes on the primary election? It becomes law 30 days later. If it passes in the primary election it becomes law around the middle of July or so. It's already law for 6 months before the legislature goes into session. If the legislature then refers it back to the people, and it's at least another year or 18 months, what happens in that 2 year period when we have to administer under one law with another one pending. I think that creates a real nightmare. I think there are a lot of problems with this bill and it's based on a flawed principal and I hope we can reject it.

**Chairman Koppelman:** What you've objected to is really the current status as well. If the legislature were to vote by a two thirds majority to overturn a ballot measure, it would do so during the session. What you just objected to is status quo isn't it?

**Representative Winrich:** It would be in effect for a much shorter period of time.

**Chairman Koppelman:** Now?

**Representative Winrich:** Yes, if an initiated measure passes now on the primary ballot, it goes into effect but it's only in effect 6 months before the legislature meets. If the legislature then votes to overturn it, it's no longer law.

**Chairman Koppelman:** Your point is if they voted to put it on the ballot again, it would be a longer period of time.

**Representative Winrich:** It would still be law for another 2 years. The legislature can certainly overturn it with two thirds majority and then pass its preferred modified version if it chooses to do so if it really only wants to modify something that the people had voted on rather than simply reject it.

**Chairman Koppelman:** It could do that in the election cycle immediately after the measure passed currently or it could wait and maybe unintended consequences wouldn't come to light until a year or two later in which case it might be a later legislative session that voted by two thirds to do that. Some of those scenarios still exist but I see your point. The question of the measures that failed, currently the legislature could also pass a law. If the people turned down an initiated measure, any of you could introduce a bill for the same measure and you could pass it. This actually bows a little bit to the will of the people in that sense because it would say you just defeated this a few months ago but we think it's a good idea and we want you to look at it again and here is why versus saying well you just defeated it but we like it so we're going to pass it anyway. Further discussion. Call the roll on a do pass as amended recommendation on HCR 3051.

**5 Yes, 5 No, 1 Absent**

**Chairman Koppelman:** We have two options. We can try a do not pass and see where that goes or we can refer without committee recommendation to the floor.

**Representative Winrich:** I'll move a do not pass.

**Representative Holman:** Second.

House Constitutional Revision Committee

HCR 3051

March 24, 2011

Page 5

**Chairman Koppelman:** Further discussion? Call the roll on a do not pass as amended recommendation on HCR 3051.

**6 Yes, 4 No, 1 Absent**

**Do Not Pass as Amended**

**Carrier: Rep. Winrich**

March 24, 2011

VR  
3/24/11

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3051

Page 1, line 9, replace "general" with "primary"

Renumber accordingly

Date: March 24, 2011  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3051

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Schatz Seconded By Rep. Streyle

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Representative Conklin		
Vice Chairman Kretschmar			Representative Holman		
Representative Kasper			Representative Winrich		
Representative Louser					
Representative Meier					
Representative Owens	AB				
Representative Schatz					
Representative Streyle					

Total (Yes) 10 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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

*Move to primary ballot*

*voice vote carries*

Date: March 24, 2011  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3051

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Schatz Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conklin		✓
Vice Chairman Kretschmar		✓	Representative Holman		✓
Representative Kasper	✓		Representative Winrich		✓
Representative Louser		✓			
Representative Meier	✓				
Representative Owens	AB				
Representative Schatz	✓				
Representative Streyle	✓				

Total (Yes) 5 No 5

Absent 1

Floor Assignment \_\_\_\_\_

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

Tie

Date: March 24, 2011  
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3051

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Winrich Seconded By Rep. Holman

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Representative Conklin	✓	
Vice Chairman Kretschmar	✓		Representative Holman	✓	
Representative Kasper		✓	Representative Winrich	✓	
Representative Louser	✓				
Representative Meier	✓				
Representative Owens	AB				
Representative Schatz		✓			
Representative Streyle		✓			

Total (Yes) 6 No 4

Absent 1

Floor Assignment Representative Winrich

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

**REPORT OF STANDING COMMITTEE**

**HCR 3051: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO NOT PASS** (6 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HCR 3051 was  
placed on the Sixth order on the calendar.

Page 1, line 9, replace "general" with "primary"

Renumber accordingly

2011 TESTIMONY

HCR 3051

11.3108.02000

Attachment #1

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE CONCURRENT RESOLUTION NO. 3051**

Introduced by

Representatives Schatz, Boehning, Carlson, Heilman, Skarphol

Senator Andrist

1 A concurrent resolution to create and enact a new section to article IV of the Constitution of  
2 North Dakota, relating to the submission of proposed laws to the electorate for approval.

3 **STATEMENT OF INTENT**

4 This measure authorizes the legislative assembly to submit proposed laws to the electorate for  
5 approval if the electorate previously placed the proposed law on the ballot.

6 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**  
7 **SENATE CONCURRING THEREIN:**

8 That the following proposed new section to article IV of the Constitution of North Dakota  
9 is agreed to and must be submitted to the qualified electors of North Dakota at the general  
10 election to be held in 2012, in accordance with section 16 of article IV of the Constitution of  
11 North Dakota.

12 **SECTION 1.** A new section to article IV of the Constitution of North Dakota is created and  
13 enacted as follows:

14 Notwithstanding section 1 of article III, the legislative assembly may submit a proposed law  
15 to the electorate for approval if the proposed law is identical to or is a revised version of an  
16 initiated measure that was previously submitted by the people and placed on the ballot. A  
17 statutory measure submitted by the legislative assembly which is approved by a majority of  
18 votes cast is deemed enacted and becomes effective thirty days after the election or on a later  
19 date specified in the measure, and a statutory measure that is rejected is void immediately. A  
20 statutory measure approved by the electors may not be repealed or amended by the legislative  
21 assembly for seven years from its effective date, except by a two-thirds vote of the members  
22 elected to each house.

## Hcr 3051

- Clean up work on a measure that is flawed
- Rick Berg proposed in the last session – voted down
- If new evidence comes to light after a vote
- Legislature could put back on ballot in next election
- 2014 first year it would be in affect
- We can already change a ballot measure or statute with a 2/3 vote
- Unintended consequences we didn't realize until it is law
- Poorly worded measures
- Measures are fixed, can't be amended after filed
- Lawyers, petitions signed, election date, placed on ballot
- Gives legislature a chance to clean up language

## ARTICLE III

# 1, pg 3

### 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 ninety 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 he finds it insufficient, he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the secretary of state in regard to any such petition shall be subject to review by the supreme court. But if the sufficiency of such 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 such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

**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. If his decision is being reviewed at the time the ballot is prepared, he 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.

## ARTICLE IV

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### 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 person elected to the legislative assembly must be, on the day of the election, a qualified elector in the district from which the member was chosen and must have been a resident of the state for one year immediately prior to that election.

**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 which has been created, or to any office for which the compensation has been increased, by the legislative assembly during that term.

**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.

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.