

2009 SENATE JUDICIARY

SCR 4032

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4032

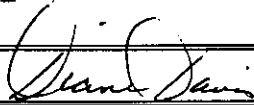
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/2/09

Recorder Job Number: 4032

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Relating to vote requirements for local ordinances or initiated laws imposing requirements for super majority votes.

Senator Tim Flakoll – District 44 – Introduces the bill – See written testimony.

Senator Nething – The language in the amendment talks of changing a law or an ordinance, or a resolution, he asks if this language keeps it away from a constitutional amendment.

Senator Flakol – Responds, if this were to pass in 2010 and there was a constitutional amendment in 2012 to a vote of the people, that would always supercede the previous constitutional change. It doesn't affect the future constitution. The most recent language would take precedence

Senator Nething - Wonders if statute would be a better word to use than law. He would like to keep it away so there is no confusion with the constitution amendment.

Senator Flakoll – Said that is his intent also.

Senator Fiebiger – Asks if other states have adopted anything similar .

Senator Flakoll – He says is not aware.

Senator Nething – Says this will cover local government decisions.

Senator Olafson – Asks for examples, is there anything in ND.

Senator Flakoll – Said he is hesitant to answer because he doesn't want it perceived wrong.

Senator Olafson – Asks if there has been laws been put into place in ND which fall into this category.

Senator Flakoll – Responds, yes.

John Bjornson – Legislative Council – Will answer questions.

Senator Nething – Asks him about initiating the law, asks if it should really say statute.

Asks if it is better to use law or statute.

Bjornson – Replies, they used the word law to differentiate between a statute and a proposed constitutional amendment by the people. He thinks either law or statute would be fine to use.

Senator Fiebiger – Asks if it would help to put initiate a statute, other than a constitutional amendment.

Bjornson – Said it would be repetitive.

Linda Wurtz – AARP – Said they have policy that opposes super majority votes. They support this bill.

Bev Nielson – ND School Boards Association – They also have a resolution opposing super majorities and agree with Senator Flakoll.

Close the hearing on 4032

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR4032

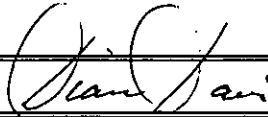
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/2/09

Recorder Job Number: 9947

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Committee work

Senator Olafson moves do pass

Senator Nelson seconds

Committee discusses what local authority vote intent was. Senator Nelson would have liked to see it go one step further and include petitions. Senator Olafson said he understands it that if it passes by a super majority vote then a city council would have to pass it by a supermajority vote.

Vote – 6-0

Senator Olafson will carry.

Date: 3/2/09
 Roll Call Vote #: 1
4032

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Olafson Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Olafson

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

REPORT OF STANDING COMMITTEE

SCR 4032: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4032 was placed on the
Eleventh order on the calendar.

2009 HOUSE CONSTITUTIONAL REVISION

SCR 4032

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4032

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 03/23/09

Recorder Job Number: 11424

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Koppelman opened the hearing on SCR 4032.

Rep. Tim Flakoll offered testimony in support of SCR 4032. See Attachment #1.

Rep. Kretschmar: In the resolution you don't include the state legislature.

Rep. Flakoll: Correct.

Rep. Kretschmar: Was there a reason for that?

Rep. Flakoll: The purpose was to get a vote to the people.

Rep. Griffin: When you include the lectors for introducing something at the state level to initiate a state law, under what circumstance would you envision that they would enact a law that would require them to vote on something?

Rep. Flakoll: It could be through an initiated measure.

Chairman Koppelman: Do you know what types of measures are out there now that require a 60%? Is it strictly tax measure pretty much, or are there other kinds of things that would require a supermajority vote?

Rep. Flakoll: There may be other things. Legislative council may be more familiar with that.

Chairman Koppelman: Since you've not included the legislative assembly, why did you feel it was necessary to do a constitutional amendment to do this versus a bill, just a law?

Rep. Flakoll: I think it's important because that way the people would have a say in it. They can determine if they think this is something that they like. It's hard to go wrong if you take it to the people and get them to weigh in on issues that relate to them. If this were to pass this body, it would be up on the general election in 2010.

Linda Johnson Wurtz offered testimony in support of SCR 4032. See Attachment #2.

Rep. Conrad: Can you think of any that passed this session?

Ms. Wurtz: No.

Chairman Koppelman: It occurs to me that one of the areas where we routinely require a supermajority vote is to override gubernatorial vetos. If that were included in this would you favor that in terms of requiring that the bill passed by a 2/3 majority in order to require a 2/3 majority to override a veto. I assume it would have that effect.

Ms. Wurtz: The policy we have in our policy book regarding majority votes is in our budget chapter. I would set the governor's vetos in another category.

Chairman Koppelman: This doesn't restrict it to that fiscal issue? It would be in the constitution that any measure would require that.

Ms. Wurtz: Yes.

Chairman Koppelman: Any further support for SCR 4032. Seeing none, any testimony in opposition to SCR 4032.

Glen Baltrusch offered testimony in opposition to SCR 4032. See Attachment #3.

Rep. Meier: Did you have an opportunity to testify on this resolution on the Senate side?

Mr. Baltrusch: No, I did not.

Ralph Muecke submitted written testimony in opposition to SCR 4032. See Attachment #4.

Chairman Koppelman: Further testimony in opposition to SCR 4032. Seeing none, any neutral testimony on SCR 4032.

Rep. Schatz: I'm thinking of school board mill levy increases. Are all of those by law mandated at 60%? Is that the only one?

Chairman Koppelman: If we're dealing with measures that are placed on the ballot, it seems pretty understandable from the standpoint that they would require a 2/3 vote initially if it required a 2/3 vote to approve or repeal something. But if it's passed by a school board, township board or whatever, and they are complying with state law that requires a supermajority threshold to pass it, but they put it on the ballot. Does that mean the vote of that board would need a 2/3 majority in order to get a bond issue on the ballot.

Rep. Schatz: I'm also wondering when did we go with supermajorities? Was that in the 70s some time.

Rep. Schatz: We were talking about when the supermajority first came around. Do you remember? It wasn't always there, was it?

John Bjornson, attorney for Legislative Council: I don't know the answer for that.

Rep. Schatz: We were talking about school bond issues. Are those automatically 60% when a school district raises its mill levy over a certain percentage? Some of them they get to do automatically. So many mills per year, but if they are going to build a brand new school or something and they need a whole bunch of money, they can raise the mill levies and that requires a vote. Last I heard was 60%. Are you aware of that?

Mr. Bjornson: I did not draft this resolution. I'm not the person that has the expertise in taxes, but I know there are a number of cases in the code where there are 60% requirements, and they deal with bond issues.

Rep. Griffin: We just looked at the electives the state proposed in administrative law, and it says a law that would require a vote of more than the simple majority for valid measures. What kind of bond would require the electives to approve a ballot issue?

Mr. Bjornson: That portion is referring to the second part, the governing body of a political subdivision adopts an ordinance or resolution that would require a vote of more than a simple majority. That second part of the sentence is applying at the local level. (Inaudible) The vote to initiate a law can apply to any type of an issue. It could be a proposal to require 2/3 vote for any increase in (inaudible). The intent of Sen. Flakoll and the other sponsors is that any time there is a proposal to require more than a supermajority, it would require that much to pass that.

Rep. Griffin: If this were adopted, who would refer to the simple majority based upon the constitutional revision.

Mr. Bjornson: Correct. The constitution provides special procedures.

Chairman Koppelman: The fact that the legislative assembly is not included in this, obviously the legislature is not defined as a political subdivision because it's the state itself. Correct?

Mr. Bjornson: That is correct.

Chairman Koppelman: Secondly, I think the intent is that if either a governing body or a political subdivision or the vote of the people on a measure, if either of those entities are approving a measure that would require a supermajority to pass or to repeal something, it would require a supermajority to pass that measure in the first place. However, I'm wondering if it might not also be true that if a governing body were to put before the people a measure with that 60% requirement, if a school board or township board or city commission were to put that kind of measure on the ballot and this went into the constitution, might it be read that that would require a 2/3 vote of that governing body in order to put that kind of a question before the people?

Mr. Bjornson: If I'm following you, correct. I don't think that was the intent. The idea of this thing was under statute there is a section that says you need a 60% majority to pass a bond

issue. I don't believe is that that body itself needs a 60% majority to do what the statute (inaudible). It is saying that if that local body decides to adopt (inaudible) from this point forward to do this we need 60% to do this.

Chairman Koppelman: I agree with you. That's not the intent, but I don't see any language in the measure that delineates between the two. What you just described is true. If this were to pass that, let's say if a school board wanted to adopt a resolution or do something that would require a 60% majority whether or not they were required by law to do that or just decide on their own initiative to do that, I think the reading of this would indicate that they have to pass it by that same majority.

Mr. Bjornson: Yes. I don't necessarily agree with that. I see that that might be, but there is a way that it can be read. It certainly wasn't the intent. I think that the language itself says if they are putting it on the ballot, it is going to require more than what's required by law if they have to have that. To me that needs to be clarified.

Chairman Koppelman: Further neutral testimony on SCR 4032. Seeing none, we'll close the hearing on SCR 4032.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4032

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 04/01/09

Recorder Job Number: 11615

Committee Clerk Signature

Lou Engleson

Minutes:

Chairman Koppelman opened the hearing on SCR 4032.

Chairman Koppelman: This is the one that deals with the provision that would require a vote by the same margin to put something on the ballot that would require a larger than majority margin to pass.

Rep. Griffin: Would I be able to propose an amendment?

Chairman Koppelman: Sure.

Rep. Griffin: I was reading the first line where it looks like they are talking at the state level. We're referring to a law and the electors of the state but then we drop down to or political subdivision which would leave the question why we're talking state law that would include the legislature or we should talk about local entities. So I think it would read better if we put "if the electors of the state propose to initiate a law, ordinance or resolution" because I think in some political subdivisions you can initiate them. It would make more sense with the second part of that sentence. And then to remove on line 20 "or" and line 21 "the government body".

Chairman Koppelman: So you're saying that in some areas the electors can initiate an ordinance. Does that vary by locality or is that a statewide rule?

Rep. Griffin: I believe it's a home rule. It seems to me that we're focusing on the local level but just talk about the state initiative.

Chairman Koppelman: I guess members of the committee. It all depends on if you want to try and improve this. The concern that I have as I look at this is even though I think this was brought up in the hearing, and I don't think the answer we got was actually correct because I think the way this is drafted now, a governing body would have to vote by the same margin as the measure that putting on the ballot would require a vote of the people. Because of that phrase on line 21 which begins "become effective only if approved by at least the same percentage of the vote of the electors or the governing body as is required by the measure, ordinance or resolution." So in other words if a city commission wanted to put something on the ballot for the people to vote on or if the city commission itself wanted to establish an ordinance that said something took a supermajority to pass, then that city commission would have to vote, I think if this were part of the constitution, by a 2/3 majority in order to adopt that. We've asked that question in the hearing, but I think the answer we got was, no that isn't what would happen. It would strictly be that the vote of the people would have to be that much, but I think it does say that. So do you want to make a formal motion to that effect, or do you just want to let it go.

Rep. Griffin: I would make the motion just because I think the language in here is so confusing as it is that changing it a little bit, I don't know how much it would impact the outcome on the floor.

Chairman Koppelman: Would you repeat your motion?

Rep. Griffin: On line 17 after "law" would be insert a ", ordinance, or resolution". And then on line 20 cross out the last "or", and line 21 cross out "the governing body".

Chairman Koppelman: So it would read, "If the electors of the state propose to initiate a law, ordinance, or resolution or the governing body of a political subdivision adopts an ordinance or resolution that would require a vote of more than a simple majority of the electors to approve a ballot measure, the measure, ordinance, or resolution may become effective only if approved by at least the same percentage of the vote of the electors as is required by that measure, ordinance, or law." I would agree that would improve the language and make it clearer. Is there a second?

Rep. Meier: I'll second.

Rep. Hatlestad: I think by taking out the governing body, you would drastically alter the initial purpose.

Chairman Koppelman: Although it may have been the original intent of the sponsors, but it would make it clear now, if this motion were to pass, that it's strictly a vote of the people that we are talking about, not a vote of the governing body and that it refers to ordinances and resolutions as well as statewide laws.

A voice vote was taken followed by a roll call vote. The amendment passed on a vote of 5 to 4.

Chairman Koppelman: We have the amended resolution before us. Further discussion or what are the wishes of the committee?

Rep. Conrad: I make a motion we do not pass.

Rep. Hatlestad: I will second that motion.

Chairman Koppelman: Motion for a do not pass and a second on the resolution as amended. It seems to me that it's very hypocritical in that the folks who don't like supermajority votes are fond of talking about the fact that majority ought to rule, but then those same people are saying if you want to have a supermajority, it takes a supermajority. It's sort of contradictory. I think it

would be confusing to the public. I think if you're telling the public you want to require a supermajority of you to approve a measure like this, I don't know if that's wise. Plus, I'm not sure the constitution is the place for it if it were initiated. We could do this through statute if folks wanted to. Further discussion. Seeing none I'll ask the clerk to call the roll.

The roll was called by the clerk.

7 yes, 2 no, 0 absent and not voting. Rep. Griffin was assigned to carry the resolution.

April 1, 2009

VR
4/1/09

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4032

Page 1, line 7, remove "or governing body"

Page 1, line 17, after "law" insert ", ordinance, or resolution"

Page 1, line 20, remove "or"

Page 1, line 21, remove "the governing body"

Renumber accordingly

Date: 04/01/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4032

**HOUSE CONSTITUTIONAL
REVISIONS COMMITTEE**

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Griffin Seconded By Lisa Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Rep. Conrad	✓	
Vice Chairman Kretschmar		✓	Rep. Griffin	✓	
Rep. Hatlestad		✓	Rep. Schneider	✓	
Rep. Meier	✓				
Rep. Schatz		✓			
Rep. Uglem	✓				

Total Yes _____ No _____

Absent _____

Floor Carrier: _____

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

Amendment:
1.17 after "law" add ordinance or resolution
1.20 ~~or~~
1.21 ~~governing body~~
PASS on voice vote

REPORT OF STANDING COMMITTEE (410)
April 2, 2009 8:25 a.m.

library

Module No: HR-56-5944
Carrier: Griffin
Insert LC: 93052.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SCR 4032: Constitutional Revision Committee (Rep. Koppelman, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (7 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4032 was
placed on the Sixth order on the calendar.

Page 1, line 7, remove "or governing body"

Page 1, line 17, after "law" insert ", ordinance, or resolution"

Page 1, line 20, remove "or"

Page 1, line 21, remove "the governing body"

Renumber accordingly

2009 TESTIMONY

SCR 4032

SCR 4032

Chairman Nething and members of the Senate Judiciary committee. For the Record I am Senator Tim Flakoll, of District 44 in Fargo.

It seems only fair that if an issue that requires 60% to implement or repeal, that it should take 60% for initial passage. That is the crux of the bill.

SCR 4032 is a Constitutional Amendment that has been introduced so that everyone's vote counts equally. This bill will help insure that a "No" vote does not have more power than a "Yes" vote.

If approved by voters at the next general election, SCR 4032 would require that any referendum that is put into place that contains language for a supermajority for repeal or future passage or requires a supermajority vote in place for future votes, **that the initial vote reach that same threshold. It provides that there should be the same power of one vote for the requirement in the first place.**

The referendum before you requires that if a supermajority is required by any portion of the language in the referendum or measure that that same threshold is necessary for the initial passage of the question.

If at the ballot box we had the requirement that it would take only 40% to pass a referendum, the people of this state would be outraged. But in essence that same 40% can prevent the wishes of 59.99% (or higher) of voters.

The measure is intended to insure that 50% of the people cannot say what 59.99% of the people are not able to say.

So a referendum (example measure #12) requires or has language in the law for a 60% threshold for a future vote, then that initial measure #12 has to pass by that same 60% threshold.

If an issue goes to a vote of the people and has language in it that requires a 2/3 (66.67%) supermajority in its language to repeal it, it again requires that same threshold of 66.67%.

simple majority = simple majority

60% = 60%

66.67% = 66.67%

SCR 4032 is a constitutional amendment that would **not affect the vote threshold of any constitutional amendments.**

SCR 4032 is **prospective and would not affect any laws currently in place** regarding the supermajority requirements that have been established in the past.

What would be some examples?

A city votes to add a ½ cent sales tax for a municipal project and in the referendum it states that it to repeal that added sales tax it takes a 60% vote.

Another example would be a scenario where a county has a vote where a simple majority is asked to vote on an issue that states that **in the future** it takes a 60% vote of the people for the approval of any future “XYZ” project or activity.

Would we think of having legislation that says to be elected to the county commission it only takes a simple majority, but to be replaced, a challenger has to obtain 66.667% of the vote.

Now I am sure that there might be a couple of elected officials back home who might think that would be a clever idea. . . but it would be a wrongheaded idea.

Mr. Chairman and members of the Senate Judiciary committee. Why should a voter’s future vote count less because you were not on the prevailing side of an issue?

The resolution before you is targeted to insure that our voters we represent have equal voting powers.

Mr. Chairman, the resolution before you seems to be a logical and right thing to do and I ask for your vote of support.

SCR 4032

Chairman Koppelman and members of the Constitutional Revision committee. For the Record I am Senator Tim Flakoll, of District 44 in Fargo.

It seems only fair that if there is an issue that requires 60% to implement or repeal, that it should take 60% for initial passage. That is the crux of HCR 4032.

SCR 4032 is a Constitutional Amendment that has been introduced so that everyone's vote counts equally.

The referendum before you requires that if a supermajority is required by any portion of the language in the referendum or measure, that that same threshold is necessary for the initial passage of the question.

If approved by voters at the next general election, SCR 4032 would require that any referendum that is put into place that contains language for a supermajority for repeal or future passage, that that referendum would require that the initial vote reach that same threshold.

So if an issue goes to a vote of the people and has language in it that requires a 2/3 (66.67%) supermajority in its language to repeal it, it again requires that same threshold of 66.67% for initial passage.

Or if a referendum (example measure #12) requires or has language in the law for a 60% threshold for a future vote, then that initial measure #12 has to pass by that same 60% threshold.

simple majority = simple majority

60% = 60%

66.67% = 66.67%

Etc.

SCR 4032 is a constitutional amendment that would **not affect the vote threshold of any constitutional amendments.**

SCR 4032 is prospective and would not affect any laws currently in place regarding the supermajority requirements that have been established in the past.

What would be some examples?

A city votes to add a ½ cent sales tax for a municipal project and in the referendum it states that to repeal that added sales tax it takes a 60% vote. It would take 60% of the vote for initial passage.

Another example would be a scenario where a county has a vote where a simple majority is asked to vote on an issue that states that **in the future** it takes a 60% vote of the people for the approval of any future “XYZ” project or activity. Again it would take a 60% vote for initial passage.

If at the ballot box we had the requirement that it would take only 40% to pass a referendum, the people of this state would be outraged. But in essence that same 40% can prevent the wishes of 59.99% (or higher) of voters.

The measure is intended to insure that 50% (plus one) of the people may not say what 59.99% of the people are not able to say.

Would we think of having legislation that says to be elected as the mayor of a city it only takes a simple majority, but to be replaced, a challenger has to obtain 66.667% of the vote. Now I am sure that there might be a couple of elected officials back home who might think that would be a clever idea. . . but it would be a wrongheaded idea.

Mr. Chairman and members of the committee, why should a voter's future vote count less because a person was not on the prevailing side of an issue?

The resolution before you is targeted to insure that our voters that we represent have equal voting powers. It is a resolution that simple stated . . . **just makes sense.**

Mr. Chairman and committee members, the resolution before you seems to be a logical and right thing to do and I ask for your vote of support.



SCR 4032
Constitutional Revision Committee
March 23, 2009

Chairman Koppelman and members of the committee. My name is Linda Johnson Wurtz, associate state director for advocacy for AARP North Dakota. Today I represent over 88,000 North Dakota members.

AARP has specific policy to avoid supermajority voting requirements. Approval by simple majority is more in line with the democratic process, and does not put added power into the hands of the minority.

However, requests for the supermajority voting requirement are getting more frequent. SCR 4032 would provide a mechanism to give us pause before implementing one. And, it only seems fair to require the same vote to implement a policy as you require within it.

I urge your favorable recommendation for SCR 4032.

SENATE CONCURRENT RESOLUTION 4032 TESTIMONY

Before the House Constitutional Revision Committee

March 23, 2009 at 3:30 P.M.

Submitted by Glen E. Baltrusch

Good afternoon Chairman Koppelman and Representatives of the committee.

My name is Glen Baltrusch. I was born and raised in the great state of North Dakota, and I reside in Harvey, North Dakota, which is in District 14. I stand before you today in opposition to *Senate Concurrent Resolution 4032* and respectfully request that this committee recommends a “**DO NOT PASS**” to the floor of the House of Representatives after this hearing is completed, and is then defeated as written.

Article III; POWERS RESERVED TO THE PEOPLE; of The Constitution of North Dakota; does not need the proposed new section, especially as written in it's current form in *Senate Concurrent Resolution 4032*. It just simply is a bad idea. As members of the Legislative Assembly, can you imagine being held to the same standard when you seek election to your elective office? After all, as provided in *Section 8 of ARTICLE III*, it states in part: *'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.'* Therefore, does that mean we should follow the same standard requiring that those individuals who may honorably seek an elective office be required to receive at least two-thirds of the votes cast by the electors voting? Personally, I believe that is just as unrealistic as is *Senate Concurrent Resolution 4032*.

When a statute or constitutional amendment is proposed or referred by the electors, it generally is done so because the citizens, the electors, may have deemed it necessary because those individuals who have been elected to represent the citizens have failed or are failing to do such. I would describe that as a *'basic fundamental right'*. *Senate Concurrent Resolution 4032* violates that fundamental right. It is a “in your face” type of constitutional amendment. It makes a person question if *Senate Concurrent Resolution 4032*, is it a retaliatory concurrent

resolution against *House Concurrent Resolution 3049*, relating to governmental budget expenditures? Is it because of several egos' being bruised? Is it possible several elected officials of the state or political subdivisions detest being held responsible or accountable? Or is it a power grab?

As you are aware, there is already law that requires a super majority vote, which are safeguards for the citizens of this state, which includes all of the elected officials of the state and its political subdivisions. Carefully read *Senate Concurrent Resolution 4032*. It would provide political subdivisions governing body's constitutional power that only kings and dictators could dream of.

Unfortunately, as the language reads in this concurrent resolution, it is governance at the people, not of the people. It is my humble opinion that *Senate Concurrent Resolution 4032* is an attempt to take away the rights and liberties of free men. Therefore I stand in opposition to *Senate Concurrent Resolution 4032* and respectfully request that this committee recommends 'Do Not Pass' to the floor of the House of Representatives and that it be soundly defeated with a 'NAY' vote.

Chairman Koppelman, committee members, thank-you for your time and consideration in this pertinent matter. If you have any questions, I will try to answer them for you.

NDLA, H ASST

From: Koppelman, Kim A.
Sent: Tuesday, March 24, 2009 1:01 PM
To: NDLA, H ASST
Subject: FW: Testimony in opposition to SCR 4032

Please make copies of this for the committee members' binders. Thank you.

From: Ralph Muecke [mailto:rmuecke@ndgateway.com]
Sent: Tuesday, March 24, 2009 11:33 AM
To: Koppelman, Kim A.; Kretschmar, William E.; Conrad, Kari L.; Griffin, Chris D.; Hatlestad, Patrick; Meier, Lisa M.; Schatz, Mike A.; Schneider, Jasper; Uglem, Gerald P.
Subject: Testimony in opposition to SCR 4032

Testimony in opposition to SCR 4032

March 24, 2009

Dear Mr. Chairman and members of the Constitutional Revision Committee. My name is Ralph Muecke from Gladstone ND and I wish to testify in opposition to Senate Concurrent Resolution 4032.

I regret that due to the impending inclement weather that I am not able to be there in person to present this testimony so I hope you will accept this email of my testimony.

It amazes me to no end. Due to our occupations we cannot be down there ourselves to be part of the legislative process. So instead we elect people to send down there to represent our wishes. But a lot of times we find that when they get down there they are trying to legislate our rights away. SCR 4032 is just one good example of that.

ND is one of ony 24 states to have the Initiative and Referral (I&R) process. But sadly to say the I&R process has come under attack in all 24 states that have itby those we have elected to represent us.

We all know that SCR 4032 is just another monkey wrench to further restrict the I&R process.

I wouldn't be one bit surprised if this idea originated in the Secretary of States office. He always talks about "protecting the integrity of the process".....yeah right!

To me, the I&R process is very important. It represents one of my rights as a citizen to help maintain proper checks and balances in all levels of government. It's another recourse we have when those we elect to represent us turn a deaf ear to us. When I see legislation such as this with its intent I see my rights gradually eroding away, and that makes me very uptight. I see

my legislators becoming more of a ruling monarchy instead of servants of the people that elect them.

I realize that if both houses of the legislature approve this resolution it still has to be voted on by the people. I also realize that the people will probably be lulled into voting in favor of this not realizing what it really is.

The purpose of a constitution is to keep government from getting too powerful, and to protect the people from their government. SCR 4032 defeats both purposes, and is government at and against the people.

I hope and recommend that this committee will give SCR 4032 and 4013 a unanimous "DO NOT PASS" recommendation.

Ralph Muecke
Gladstone, ND
rmuecke@ndgateway.com

Attachment 1
4032

INFORMATION REGARDING SCR 4032

This e-mail was received from John Bjornson of the Legislative Council clarifying usage of the word "law."

Levi,

Here is why we felt comfortable with "law":

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.

John Bjornson
Counsel
North Dakota Legislative Council
Bismarck, ND 58505
701-328-2916