

**2019 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SCR 4015**

# 2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Sheyenne River Room, State Capitol

SCR4015  
2/28/2019  
#32960

- Subcommittee  
 Conference Committee

Committee Clerk: Pam Dever

## Explanation or reason for introduction of bill/resolution:

Relating to petitions and voter approval for constitutional amendments.

## Minutes:

Att # 1 – Sen Unruh; Att #2 – Kevin Herrman;

**Vice Chair Meyer:** Call to order. Attendance was taken and all were present. Let's open the hearing on SCR4015.

**Sen. Jessica Unruh, Dist. 33, Beulah:** I am here to introduce SCR4015. (see att #1)

**Sen. Kristin Roers:** Do you know what the3 split has been in the past?

**Sen. Unruh:** You have to put our address down and that is public record. I am not sure how easy that is to sort. (6.00)

**Vice Chair Meyer:** Any more in support? Against?

**Kevin Herrman, Beulah:** I am here opposed to this resolution. (see att# 2) (7.00-9.45) This attacks article 3 section 9, powers reserved for the people.

**Waylon Hedegaard, N.D. AFLCIO:** We are opposed to SCR4015. (10.00-10.28) We think this is against the power of the people. We think article 3 is sacred. Please DO NOT PASS.

**Vice Chair Meyer:** Any neutral testimony? Seeing none, we will close the hearing. (10.45)

# 2019 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SCR4015  
2/28/2019  
# 32995

- Subcommittee  
 Conference Committee

Committee Clerk: Pam Dever

### Explanation or reason for introduction of bill/resolution:

Relating to petitions and voter approval for constitutional amendments.

### Minutes:

Att #1 – Jim Silrum;

**Chairman Davison:** Take up SCR4015 again.

**Sen. Kristin Roers:** Explained her potential amendments. None in print yet. I have heartburn because I want to see if all constitutional changes need a 60 % to pass whether it comes from legislature or people to get it on the ballot.

**Sen. Erin Oban:** So your potential amendment would add language and not remove anything.

**Sen. Kristin Roers:** It would remove the geographic representation. I don't care about the number of signatures.

**Sen. Erin Oban:** Do you know what the current deadline is.

**Sen. Kristin Roers:** 120 days.

**Sen. Shawn Vedaa:** I would be against what Sen. Kristin Roers said about the geographic. I think it is in there so that you can't just sit at one event and get all the signatures.

**Sen. Kristin Roers:** I love the intent, but the administration part is a night mare for SOS.

**Sen. Shawn Vedaa:** I thought the SOS said it was doable.

**Chairman Davison:** I think it is doable, just lots of work.

**Vice Chair Meyer:** I got an e-mail from Jim Silrum. (see att#1) I will forward to all.

**Chairman Davison:** Adjourned. See you in the Pioneer Room in the morning.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SCR4015  
3/1/2019  
# 33075

- Subcommittee  
 Conference Committee

Committee Clerk: Pam Dever

### Explanation or reason for introduction of bill/resolution:

Relating to petitions and voter approval for constitutional amendments.

### Minutes:

Att #1 and #2 and #3-Sen. Kristin Roers

**Chairman Davison:** Look at SCR4015. We have to pass this out. We have amendment 3001 and 3002, and the X-mas tree.

**Sen. Kristin Roers:** The only difference between the two is the part I circled. One is 4% and one is 8%. Only difference. This is removing the geographic representation of the bill. It will require anything that is a constitutional amendment that is passed out of legislature, also needs to meet the 60% threshold in both chambers. I am open to what percentage you want. (1.14) If we initiate it we need 60% before it goes to the people. If they initiate it, they just need the 60%. This amendment 001, does not need the legislature to vote on it. (3.26)

**Sen. Shawn Vedaa:** Once the people bring 60%, it does not require that it goes to legislature.

**Chairman Davison:** On your amendment, .001, maintains the 8% and removes the population. 002 leaves it at 4%. 6% is not an option.  
(Paused until 2:30)

**Chairman Davison:** Bring us back to order. What are the committee wishes? We have some amendments before us.

**Sen. Kristin Roers:** The X-mas tree is .03001.

**Chairman Davison:** What are the committee wishes?

**Sen. Kristin Roers:** I would like to hear from committee regarding the percent before we move this.

**Sen. Shawn Vedaa:** I am for the 8%.

**Sen. Kristin Roers:** I feel that is you have a constitutional amendment; you should have a higher bar. I move amendment .03001. **Sen. Shawn Vedaa:** I second.

**Chairman Davison:** Discussion?

**Sen. Erin Oban:** I remind everyone that the bar is higher. For initiated measure it is 2%. For a constitutional it is 4%. Line 1 is different.

**Sen. Kristin Roers:** L.C. removed allocation and not the number. When you do not change the percent, you do not have to change the other language.

**Sen. Erin Oban:** You are right. Thanks.

**Chairman Davison:** More discussion? Call roll on amendment: **YES -- 7 NO -- 0 -0-a.b. 19.3064.03001 amendment PASSED.**

**Sen. Kristin Roers:** I move a DO PASS as amended. **Vice Chair Meyer:** I second.

**Sen. Erin Oban:** All I say is drip, drip, drip. (11.39)

**Chairman Davison:** Take the roll: **YES -- 4 NO -- 3 -0- absent.**

**Sen. Kristin Roers will carry the bill. DO PASS as AMENDED – passed.**

Adjourned (12.52)

SK  
3/1  
1001

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4015

Page 1, line 2, after "petitions" insert ", legislative measures,"

Page 1, line 6, remove "and allocation"

Page 1, line 7, remove "and"

Page 1, line 7, after "required" insert "for the legislative assembly to place a constitutional amendment on the ballot, and the percentage of votes required"

Page 1, line 18, remove "At least fifty"

Page 1, remove lines 19 and 20

Page 1, line 21, remove "population to the total resident population of the state."

Page 2, line 6, overstrike "a majority" and insert immediately thereafter "sixty percent"

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**SCR 4015: Government and Veterans Affairs Committee (Sen. Davison, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SCR 4015 was placed on the Sixth order on the calendar.

Page 1, line 2, after "petitions" insert ", legislative measures,"

Page 1, line 6, remove "and allocation"

Page 1, line 7, remove "and"

Page 1, line 7, after "required" insert "for the legislative assembly to place a constitutional amendment on the ballot, and the percentage of votes required"

Page 1, line 18, remove "At least fifty"

Page 1, remove lines 19 and 20

Page 1, line 21, remove "population to the total resident population of the state."

Page 2, line 6, overstrike "a majority" and insert immediately thereafter "sixty percent"

Renumber accordingly

**2019 HOUSE JUDICIARY**

**SCR 4015**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SCR 4015  
3/20/2019  
34031

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek
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## **Explanation or reason for introduction of bill/resolution:**

Relating to petitions, legislative measures, and voter approval for constitutional amendments.

## **Minutes:**

1,2,3,4,5
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**Chairman Koppelman:** Opened the hearing on SCR 4015.

**Senator Unruh:** Introduced the bill. (Attachment #1) (2:00-6:30) Went through testimony.

**Chairman K. Koppelman:** The basic provision of your SCR is the 60% threshold and then you mentioned earlier that there was a county provision that the Senate took out. Is that correct?

**Senator Unruh:** Yes, it increases the passage threshold to 60% and also increases the passage threshold for constitutional amendments proposed by the legislature to 60% as well. I think that is appropriate. Our body would have to pass it by 60% and it has to pass the peoples vote by 60%. The other change is for the initiated process; the other two changes; would apply whether we proposed it or the people proposed a change to our constitution it would have to be filed earlier in the year; and I doubled the signature threshold from 4% to 8%.

**Chairman K. Koppelman:** When you talk about changing the threshold of the peoples vote to 60% for the people approval of an amendment and the changes to the legislatures threshold also to 60%; that would involve the legislature voting on the proposed amendment?

**Senator Unruh:** To make sure we have the same expectations for changing the Constitution; whether the legislature is trying to change the constitution or whether the people are trying to change it; so for this when this goes on the ballot it would have to pass by 60%.

**Chairman K. Koppelman:** Are you talking about a 60% for the legislature to place the measure before the people to vote on or are you proposing the legislature vote on the approval of the measure. I know there is another measure that does that.

**Senator Unruh:** The other legislature you are talking about I did not vote for it.

**Chairman K. Koppelman:** When you talk about a 60% for a legislature vote; that would make sense if you were making a proposal that legislative vote was required. The threshold of the people now is 4% of the voters to initiate something and put it on the ballot. The threshold for the legislature to put something on the ballot is a vote of 50% or more; so it is already significantly higher than the threshold for the people.

**Senator Unruh:** There are different thresholds. Obtaining signatures to place a measure on the ballot which requires a 4% vote.

**Chairman K. Koppelman:** Explained the preparation and signatures required for putting something on the ballot. 50% is a lot more than 4%.

**Senator Unruh:** I agree. These issues are complicated. People are very protective of their right to utilize direct democracy. For something as simple as a switch to the legislature having to have a 60% passage threshold instead of a 50% for something we are putting on the ballot for people to vote on themselves I didn't think was an unreasonable request. It is hard to get the majority of people in ND to understand that it is far more complicated than just 50% or 60%. Also I weld to your point as to the amount of signatures being based on population rather than on how many people voted in the last election. I can't remember which state that their threshold as they were looking at this legislative session was 20% of everybody who voted in the last election had to sign the petition to be able to change the Constitution. That is far more than anything we have considered.

**Chairman K. Koppelman:** There is a lot of misinformation; confusion and conflating of those two things which are very different from one another. I have no problem if there is a vote in the legislature somehow to actually approve the constitutional amendment, but to approve it and that vote would be the same percentage as the peoples.

**Rep. Paur:** I understand the 8%, but I don't understand the doubling of the days? We had just recently increased those at the Secretary of State's request. I can see no really good reason to double them. Can you provide one please.

**Senator Unruh:** The signature doubling is not necessarily to make the process more difficult. I could see how changing it from 4% to 8% will make it more difficult for people to get something on the ballot, but the purpose is so more people learn about what is going to be put on the ballot. It is about education.

**Chairman K. Koppelman:** Is the current window of time in the Constitution or is it just statutory?

**Senator Unruh:** I am not sure it is statutory, but I am not sure it is in the Constitution.

**Chairman K. Koppelman:** I think your measure is inserting one in the bill.

**Senator Unruh:** In section 1 which changes section 9 of the constitution and it is tied in with the 60% threshold.

**David Hanson, Bismarck:** (Attachment #2) (17:45-20:52) Went over testimony.

**Rep. Vetter:** Comparing HCR 3010 and this one; do you like the simplicity of where only one thing has changed is a more popular idea because you have that compromise and you also have the additional signature requirement? In your opinion if you had to choose one; what would you like?

**David Hanson:** I think this would be a better compromise; because not only are you increasing the voter requirement to pass constitutional amendments to 60%, but then you are also applying it to the legislature to submit it themselves I think that would come across as more favorable; perhaps.

**Chairman K. Koppelman:** You mentioned some other states require a 60% vote of their legislature; are those states that require legislative action to amend the constitution as well as to simply propose for the people to vote on?

**David Hanson:** I don't know the specific states that do that. I believe there is one state where the legislature proposes an amendment and then they pass it in a subsequent legislature and doesn't even go to a vote of the people. Other states in the south require a  $\frac{3}{4}$  vote to submit amendments to their people and then 65% to pass it. It varies from state to state.

**Vice Chairman Karls:** You have obviously studied this quite a bit. Do you follow measures like Marcy's law? Do these measure people tend to go after the low hanging fruit like ND where our threshold is comparatively low to get a constitutional amendment passed?

**David Hanson:** I do believe ND is a favorable place to put measures on the ballot; specifically, constitutional measures because it is so easy and I think other outside groups can take advantage of the vulnerability.

**Chairman K. Koppelman:** Historically the legislature has been very hesitant to meddle with what the people have done. In recent years the exception to that was the medical marijuana measure. The legislature did try to make what the people voted for workable. That was a rare occasion where the legislature tried to fix what the people intended and make it work. Some people disagree completely with the fix. Since then is that is being abused because those interested in the initiative process and changing whatever the issue is in ND are likely to say; we won't even mess with the laws because the legislature will just undo what we do so they go to the constitution. You have the same type of attitude from special interests from out of state who have a lot of money behind them that have a pet project or issue they want to see happen and because our state is relatively easy to amend out constitution and statute by popular vote so they go straight to the constitution. Our constitution is becoming a super law book and that was never the intent for any constitution. Discussed the changes and how they affect ND constitution.

**David Hanson:** I totally agree. The problem is the Constitution as a document should be setting out the modes and guidelines on how to govern the state. When it comes to policy it ought to be made in the ordinary course of legislation. Whether that be the initiative or through the legislature.

Opposition:

**Dustin Gawrylow, Managing Director of the ND Watchdog Network:** Of the resolutions that have come through this session; this one is the most aggressive. The issue of days doubling from 120 to 40; I believe that is in the constitution because the people voted to move it from 90 to 120 in 2014. The out of state money issue and the legislating Constitution issues I think a lot of issues aren't as cut and dried as it seems. This issue comes up constantly but there is never an attempt to address it and deal with it. Address the problems instead of making it more difficult for ND people to do it. If the issue is the content of a measure and the funding of a measure; these proposals to make it more difficult to get on the ballot, will actually cause more problems than solutions. As far as the 60% rule; my concern is under the current system it only takes 50% plus one to change this very feature in the constitution. Because of that; you are asking 50% plus one today to say in the future it has to be 60% so that 9% gap; they are in the cold. Disenfranchised because if they don't agree with that then their vote didn't matter. I proposed to the sponsor of HCR 3010; you create a two-step process where if you really want to do a 60% rule on the threshold at the ballot; first do a 60% on changing Article 3 itself. If the people are OK with that processing of increasing that threshold on changing the process on themselves, then come back with a second measure on the entire constitution. You still have that gap issue, but at least you have put it to them twice and you know for sure that is the case.

**Rep. Vetter:** You said with the disenfranchising of 9% so aren't we doing that now? Just on this measure it has to be 60%; so everything else up to this time you only needed 51%; you can pass anything it is just like every other measure have done, but now you want to say OK you need to vote on it twice; then why aren't we voting on the other measures twice?

**Dustin Gawrylow:** This is addressing the process itself. The current setup for the Constitution to amend it you need 50% + 1. Making that leap will have some people out in the cold. The minority is always going to be on the losing side. That is how democracy works. Yes, I am asking you to hold yourself to a higher standard. If 60% said to move it up to 60% then nobody would have a problem with that. this comes down to whether it is the legislatures job to offer the public the opportunity to vote away its own rights. I don't tend to think that is the role of the legislature.

**Rep. Vetter:** Do you currently think how the system is now and how we amend our constitution you think that is completely fair right now to have 50% plus 1 amend the constitution that way it is; you think it is fair now.

**Dustin Gawrylow:** This is what we have. If the legislature changed the rules every time, there is abuse you would be here a lot more than 80 days because there is a lot more abuse. Are we changing the way the process for the people that use it correctly, or are we changing it for those that we don't like? That is not a good way to govern.

**Rep. Vetter:** There is going to be a resolution so what do you want to see that resolution look like and is there a resolution you can live with? You are telling me you agree with none

of these things. I would like to come up with something that is going to pass. Something should be done.

**Dustin Gawrylow:** if you are asking which one is less bad then the standalone 60% is less bad. If you want to proactively push out of state out of the state, you could look at setting up some secured digital system at the Secretary of States website which where people could start their petitions on there. Every voter gets a unique ID based on their driver's license and let the people sign up there. Making it easier would be the way to do it. I don't mean lowering thresholds, but ND could become a leader on electronic petitioning because we have the numbers and you could get people involved very quickly. There are plenty of other things that can be looked at and there is kind of a tunnel vision going on right now. I would be opposed to it.

**Rep. Vetter:** So you are saying you can't agree with none of these scenarios. You are against anything of raising the threshold so we are supposed to be OK on how everything is right now and we would do no resolutions right now? Is that what you are telling me?

**Dustin Gawrylow:** My take on this is like on any tax increase bills that come through here. Yes, I would be opposed to it.

**Chairman K. Koppelman:** You are suggesting the legislature should take some other approach. If this is a process you value, why haven't you and others come forth with a proposed solution?

**Dustin Gawrylow:** We did last session. It was introduced on the Senate side and got five votes. Any initiated measure would have to have a dollar to dollar match for instate money versus out of state money. It would have put a 30% rule on saying that no more than 30% of your initiated measures total take can be from one source. That is a rule as I as a managing director of a 501 3 c have to abide by under IRS rules. The Citizens United sited a document that talked about candidates, but there was this fear it would become an issue.

**Chairman K. Koppelman:** I understand the concerns about legal challenges. You know the process; have you proposed the measure to change it.

**Dustin Gawrylow:** No I have not.

**Chairman K. Koppelman:** I think what is happening and people in ND are worried about their constitution being misused. I think the legislature are trying to respond to that.

**Dustin Gawrylow:** You are going in a certain direction using this as a justification. Then the burden of proof is on you in this situation. You are saying there is a problem.

**Chairman K. Koppelman:** You go to the poles and you ask the question do you think victim's rights are a good idea and do you think they should be in our Constitution. How many people do you think will say yes, versus if they read the 30-page document would say yes?

**Dustin Gawrylow:** Whether the people understand what they are voting on is a separate issue that plays into it. I think the ballot title that is on the ballot would be language that goes into the constitution. That should be limited to 150 words.

**Chairman K. Koppelman:** That has been discussed. The people should be able to see the totality of what they are voting on.

**Dustin Gawrylow:** I think you would be better off of pushing the concept that the amendments themselves be shorter.

**Vice Chairman Karls:** We are working on a bill on GVA that deals with the length of ballot and sends a copy of the measure to all of the voters. What was the number of the bill SB 2336?

**Chairman K. Koppelman:** We used to have a committee that was called the Constitutional Revision would come before that committee. You talked about the days in the constitution; might it had been an initiated measure that was statutory? Your point about the thresholds. There are some areas where we do require super majority vote. Do you oppose those kinds of measures?

**Dustin Gawrylow:** No, if they were initiated by the people. If there was a citizen initiated measure to do what you are proposing right now it wouldn't be as egregious in my view because it is a bottom up solution rather than a top down solution. Where things start matter and it is my view when you are amending an article of the constitution which that is titled powers reserved to the people and the legislature is starting that to change that and make those powers more difficult to exercise, then those powers are no longer reserved for the people.

**Chairman K. Koppelman:** Section 5, Article 3 is where that was amended in the constitution and talks about an initiative petition shall be submitted not less than 120 days before the statewide election.

**Senator Unruh:** The 120-day threshold is in Section 5 of Article 3 of the Constitution and applies to all initiated petitions. Read amendment.

**Chairman K. Koppelman:** The perception difference. Our founding fathers did not talk about a democracy, they talked about a republic. Explain why this is seen at top down? I see us as doing it from bottoms up.

**Dustin Gawrylow:** Because Article 3 reserves these powers to the people the constitution actually establishes the people as a fourth branch of government. Because of that it is not apples to apples, because the constitution as written outlines the citizens as their own branch of government. That is the whole point of the initiated process.

**Chairman K. Koppelman:** I see the people as a fundamental part of the government.

**Dustin Gawrylow:** I think it is both.

**Chairman K. Koppelman:** With respect to the super majority votes; on the local level then there is a disenfranchise no matter what way you look at it if you say it only takes 60% to raise taxes; the other 40% are suffering from the result of that. If you say it shouldn't take more than 50% plus 1 then your point about disenfranchise of voters comes into play. I don't know how to get a handle around the debate.

**Dustin Gawrylow:** On those issues I support those. It is not a strict constitutional thinking; it is a fairness thinking.

**Chairman K. Koppelman:** Then the Legacy fund comes to mind. The first time that measure that the people did approve that; the first time it was put before the people it required a 75% vote of the legislature in order to get at the principal of the Legacy fund after the 7-year window during which it was locked up. That failed. The second on the threshold was lowered to 67% and that passed. There are some things you should make more difficult to change.

**Dustin Gawrylow:** That comes down to timing.

**Chairman K. Koppelman (1:10:19-1:14:34)** Much discussion on constitutional measure and ND having a state convention.

**Waylon Hedegaard, President, ND AFLCIO:** We stand opposed to any unreasonable change to the ballot initiative system. Direct democracy does have a long standing tradition in ND and we feel it is a good check and balance for us. We do feel 4015 is an abuse of the citizen's power in spite of the well-meaning intention and we will oppose this. ND has had a ND Constitutional ballot initiative well before 1978. They changed it from 20,000 votes to 4% of the population based on the last federal census. On a federal level we certainly are a republic. There is no constitutional right for people to initiate anything. The doubling of the time moves the signatures gathering time out of the summer at all. How does someone gather signatures when it is 20 below? We keep saying we need to get out of state money out of our politics. It is money in our politics. This doesn't get out of state money out of politics. It just makes it more expensive to pass ballot measures. If someone wanted to spend \$5 million to change a ND Constitution they could hire hundreds of signature gatherers to go around in the winter months and go door to door and get those signatures, but it makes it next to impossible for citizen groups to do the same thing. This is a serious problem. That doesn't mean I want to go back and take the power away from the people.

**Rep. McWilliams:** Would you be opposed if on the measure there were two numbers that appears on the bottom of every initiated measure; 1. you would put in state; 2. out of state money so the electorate could see exactly how much money went into passing that measure?

**Waylon Hedegaard:** That is a great question. What is out of state and in state money? The terms become difficult to determine. I love the idea of transparency and what was spent. That would be great and elected officials also.

**Rep. Vetter:** Is there any of these measure you could live with?

**Waylon Hedegaard:** I am opposed to change if we are not looking at the root of the problem. The root of the problem is the money in politics. Everything else is a bandage to a system. I have not seen a bill here yet.

**Rep. Vetter:** Do you believe the system is being abused?

**Waylon Hedegaard:** Yes, I think it is being abused. It is the fixes that makes me more nervous right now.

**Rep. Vetter:** The Ethics Measure and the Ethics Commission and how it is essentially set up. Why do we have the governor and the Senate Majority Leader the ones that pick out the ethics commission; whereas the majority leader of the house is completely left out even though his is the leader of the most elected officials out there? The reason he is left out is the former majority leader was not liked by the particular group that had the ethics measure so now because the particular group didn't like an elected official we now have in our constitution the House left out basically approving who is on the ethics commission. We don't get to approve any of the people on this commission. There is a clear example of abuse.

**Waylon Hedegaard:** I was part of those discussions. I do not remember the discussion to exclude Al Carlson. We do not have to like every constitutional measure put out there. We can't restrict the right of people to hinder or initiate them. I am not going to like  $\frac{3}{4}$  of the things that are put out there. That doesn't mean I am willing to give up on our long standing tradition of having a direct democracy in ND.

**Rep. McWilliams:** We have seen a lot of these measures come through our committee. Do you think there should be a maximum amount of measures that should be on the ballot?

**Waylon Hedegaard:** Why are there 20 ballot measures? Are there citizens out there that don't feel that the legislatures are not meeting their needs? I think that number of ballot measures should be a problem with us modeling everything after our federal system. I do not think anybody in North America has less faith in it than our top federal congress right now.

**Rep. McWilliams:** If you had to put a number of how many measures could appear on a ballot where would that number be?

**Waylon Hedegaard:** I don't think I could put a number on it. If there is 40 that is a sign we have other problems in our state.

**Rep. McWilliams:** We talk about out of state money?

**Waylon Hedegaard:** I would agree with that. There are changes that could be made. I don't think changes to the ballot system that you are looking at is one. More education on the issues would be needed. Maybe so they could read them ahead of time would help.

**Charles Tuttle, Minot:** I am probably the most expert in this field in this area in the room. We have to look at a lot of those issues. My opposition is always the same. I have petitioned in every state. I love ND because it has more freedom when it comes to the initiated measure

than any other state. Measure 1 happened because of the legislature. We had a 100-year-old grand jury law where you could actually go out a petition in a county and get 10% of the electorate and you could actually ask the district judge to convene a grand jury to investigate public corruption. That was a law we had. The legislature went into session and abolished that law because it wasn't in the constitution; it was a legislative law. We lost the right to be able to investigate public corruption through a grand jury. The US Grand Jury said it is an inherent right of the citizens. Discussed how this happened. The Constitution is everything we do. The people you are going to hurt by these petitions aren't the big guys.

**Chairman K. Koppelman:** Do you feel that the Constitution should be viewed differently than other documents. I am trying to protect that document.

**Charles Tuttle:** It varies on what the issues are. Measure 2 was written by legislative council. They wrote the whole thing for us. It depends on what your goal and objective is whether you want to put it into the constitution or not.

**Chairman K. Koppelman:** What do you think about this? Your solution is to put it in the constitution. The trouble with that is it becomes a huge law book. How do we fix that problem?

**Charles Tuttle:** The legislature has to be more active when it comes to initiatives. I am shocked how fast we can get something on the ballot.

**Chairman K. Koppelman:** That is interesting that you say the legislature is more active. I don't speak out more publically on most initiatives measures is because I don't feel it is my job as a legislature to tell the people how to vote on something they have initiated I will respond if they ask. Maybe I need to rethink that.

**Charles Tuttle:** I am talking about in the legislature itself.

**Chairman K. Koppelman:** Now I have taken a different approach with respect to items with Constitutional Revision charring years ago and now this one relative to the items we put on the ballot. Then people come to us as legislatures and ask what does this mean and why did you do that and then I feel it is our job to explain it. Discussed the medical marijuana issue.

**Charles Tuttle:** I agree with that. The voters are smart. They turned down recreational marijuana. There is a lot of corruption going on out there and a lot of money around.

**Chairman K. Koppelman:** We had a bill before us in the legislature prior to the medical marijuana bill. One was the federal government's interference.

**Ralph Muecke, Gladstone, ND:** (Attachment #3) Went over testimony. (1:47:43-1:56:00)

**Leon Mellberg:** (Attachment #4) (1:57:01) It is not the ethic's bill. If you refer an action by the legislature you have 90 days from the time the governor signs it. Way back we had an effort by the legislature of Minot wanted a name change for Minot State to Dakota Northwestern University, but they knew that would not stand on its own power. They said

who can we go to a coalition for? Why don't we propose to the Junior colleges who are now paid for by their local school district to be included in the public trough, so we had a coalition between Devils Lake, Williston and Minot. Now all institutions of higher education are in the constitution. Did the legislature propose they be put into the constitution? No. it was decided neither issue would stand the muster of the vote of the people. Name change was approved by the legislature simply majority. The inclusion of three junior colleges were included by statute. Neither one of them would stand the test of the voter. Why do I bring this up? I referred both of them. There was no name change in Minot, but I don't think the junior colleges would be included. I did that because all institutions of higher education are in the constitution, but the legislature decided so they did it by statute. It would have been nice to have had 120 days there. No one took into account the committee; the quality of the signatures or where they were from. They just threw out the signatures. Described all kinds of things that happened in processing bills and measures and the problems with them. It is the money. The ethics bill is just the facade. I think state government should only take what they need to operate the state for the next 24 months. Now we have money that people have designs on because they say it is just sitting there. I am opposed to all three of these bills. We the people are not perfect, but we pay all the bills.

**Rep. Rick Becker:** Each of these things are items you began work on as an initiated measure; have you or an organization considered suing the government. Have you considered by what means you have standing to file the suit?

**Leon Mellberg:** I don't have unlimited funds. I don't want to put my family in bankruptcy. I don't intent to sue the state who has unlimited funds. If you see what is going on in Washington DC with hearings; they are bankrupt.

**Rep. Rick Becker:** You mentioned by name involved with two legislatures involved with ethics; you have not named them.

**Leon Mellberg:** I don't think it is my position to embarrass them. If you don't know who they are I am sure a few questions would determine who they are.

Neutral:

**John Arnold, State Elections Director for Secretary of State:** Senator Unruh did come up and clarify the Article 3 section 5. It was HCR 3034 that changed the deadline for filing signatures.

**Rep. Paur:** That was in GVA. I remember the testimony quite well. I assumed it was a bill.

Hearing closed.

Email: Kevin Herrmann ( Attachment #5)

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SCR 4015  
3/27/2019  
34257

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek

## **Explanation or reason for introduction of bill/resolution:**

Relating to petitions, legislative measures, and voter approval for constitutional amendments.

## **Minutes:**

**Chairman Koppelman:** Opened the meeting on SCR 4015. This deals with the threshold of votes for legislative measures. What are the wishes of the committee?

**Vice Chairman Karls:** Looking over this bill there is just too much going on and since we have a lot of ballot measures facing us in that general election I would vote a do not pass.

**Do Not Pass Motion Made by Vice Chairman Karls; Seconded by Rep. Rick Becker**

Discussion:

**Roll Call Vote: 12 Yes 0 Absent 2 Absent Carrier: Rep. Rick Becker**

Closed.

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 SCR 4015**

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. Karls   Seconded By   Rep. Rick Becker  

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Koppelman	X		Rep. Buffalo	-----	
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)   12                             No   0  

Absent   2  

Floor Assignment   Rep. Becker  

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

REPORT OF STANDING COMMITTEE

**SCR 4015, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman)**  
recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed SCR 4015 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SCR 4015**



# North Dakota Senate

State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0360

## Senator Jessica Unruh

District 33  
1224 First Avenue NE  
Beulah, ND 58523-6301

[jkunruh@nd.gov](mailto:jkunruh@nd.gov)

### Committees:

Energy and Natural Resources,  
Chairman  
Finance and Taxation

SCR 4015  
2-28-19  
AH #1  
P81

02/28/2019

I'm here this morning to talk about how we change our most important government document - our constitution. All the authority we have as legislators to make laws, the governor to veto them and the judicial branch to interpret them are derived from our constitution. I work every day here in the legislature to protect and fight for the values held in our constitution as it is fundamental to how our government in North Dakota functions.

The ability to change our constitution by initiated petition began in 1978 when the people passed an amendment to the constitution proposed by the legislature. The desire of the people to enact change through their own efforts may be stronger now than it was then. To bring an idea directly to the electorate, usurping the government structure that can be difficult to break through - it's important we preserve that power.

But our constitution is vulnerable. The code to change it has been cracked, and it's an easy one. Changing our constitution should be hard. And I believe the current petitioning method was hard in 1978. But the people in 1978 couldn't possibly see the technology today. And that is why I'm here with this proposed change. I have no desire to usurp the power of the people. I also have no desire to leave our constitution vulnerable.

For the past decade, I've thought about these previously mentioned values and the way our world has changed, I finally have a resolution which I think fairly reflects the values of the people of our state now while simultaneously reflecting the intent of the 1977 legislature, and that is SCR 4015. This resolution adjusts three thresholds that already exist in the constitution.

First, it increases the passage threshold from a simple majority to 60%. You can see on the attached document that means three of the past seven measures proposed to have amended our constitution would have been successful.

Second, it lengthens the deadline to file the proposed constitutional amendment, requiring its filing eight months prior to the election. This aligns more closely with our candidate selection process, current political cycles and allows more time for education on the proposed amendment.

Finally, it doubles the current signature requirements from 4% to 8% of the population. Half of the signatures can be gathered at large, half must come from each county based on population during the last census. As you can see on the attached document, at this time, that would require approximately 31 from Slope County, 175 from Sioux County, 3,801 from Burleigh County and 7,111 from Cass County. Not only would this require a level of buy-in from each part of our state, it also requires signature gatherers to speak to all North Dakotans to gain support for their concept, allowing additional education through the signature process.

Changing our constitution should be hard. And it should require some buy in from the entire state. It's not the structure of how it's changed that's broken, it's that existing thresholds are outdated and don't align with our current communication technology and influence on elections. Adjusting standards to reflect the importance of setting a high bar to change the constitution is more than appropriate - it is necessary.

SCR 4015  
2-28-19  
AH #1  
Pg 2

**Percent Votes on Measures**

	<b>% YES</b>	<b>% NO</b>
<b>2018 General</b>		
Measure 1 on Ethics	53.63	46.37
Measure 2 on Qualified Electors	65.93	34.07
<b>2016 General</b>		
Measure 3 on Marsy's law	62.03	37.97
<b>2014 General</b>		
Measure 5 on Water, Wildlife, and Parks	20.62	79.38
<b>2012 General</b>		
Measure 3 on Farming and Ranching	66.89	33.11
<b>2012 Primary</b>		
Measure 2 on Eliminating Property Taxes	23.46	76.54
Measure 3 on Religious Liberty	35.98	64.02

SR 4015  
22819  
AH #1  
Pg 3

	2% of resident population based on 2017 Census Bureau estimates	4% of resident population based on 2017 Census Bureau estimates	10% of voters based on 2017 Census Bureau estimate of residents who are 18 and older	10% of voters who cast ballots for the president in 2016
<b>North Dakota</b>	<b>15,108 (current threshold for statutory initiated measures)</b>	<b>30,216 (current threshold for constitutional amendments)</b>		
Slope	15	31	62	43
Billings	19	38	76	61
Sheridan	27	54	110	79
Golden Valley	36	72	139	96
Logan	38	77	150	107
Adams	46	93	188	122
Dunn	86	172	330	224
Sioux	88	175	275	123
Rolette	291	581	965	375
Cass	3555	7111	13,814	8082
Burleigh	1901	3801	7289	4798
Ward	1379	2758	5281	2741

SCR 4015  
2-28-19  
AH #2  
PSI  
agst

Written testimony on Senate Concurrent Resolution 4015

Chairman Davison and Government and Veterans Affairs Committee

My name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND. I oppose Senate Concurrent Resolution 4015. This resolution attacks section 9 of Article III "Powers Reserved to the People" of North Dakota Constitution. This resolution requirements for amount of signatures of 50 percent from each county in North Dakota is unrealistic and more restrictive compare to the start of initiative or referendum after 1914. This resolution will hamper or stop initiative petitions from the citizens of North Dakota. There is no reason for increasing the number of signed electors needed from 4 percent to 8 percent of the population of North Dakota on an initiative petition. How many petitions trying to get the required signatures did not get on the election ballot in the history of North Dakota?

I attended every meeting scheduled for the Initiated Measures and Referred Study Commission. The Initiated Measures and Referred Study 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. There was enough commission members opposed the draft defending the current requirements as sufficient so the commission made no recommendation to proceed with draft.

The legislators in this legislative session are determine to attack Article III "Powers Reserved to the People" to restrict the power away from the citizens of North Dakota. If over 50 percent of the legislators would have pass legislative bills in past legislative sessions for an example 2013 House Bill 1442 and House Concurrent Resolution 3060 were ethic bills, the citizens of North Dakota would not been force to get initiative petitions on the election ballot such as medical marijuana and ethics committee. Maybe the citizens of North Dakota should consider to amend Article XI "General Provisions" section 26 change the wording that "North Dakota electors will vote on compensation for the legislative assembly". It is amazing how certain legislators complain about out of state money funding the campaign of initiative measures but some legislators accept out of state money for their campaign. Isn't that out of state influence towards legislators?

I am asking for a DO NOT Pass on Senate Concurrent Resolution 4015.

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

**NDLA, S GVA - Dever, Pam**

*job 32995 discussion in p.m.*

*SCR 4015  
2-28-19  
AH #1*

**From:** Meyer, Scott  
**Sent:** Thursday, February 28, 2019 10:55 AM  
**To:** jelkin@nd.gov; Oban, Erin; Vedaa, Shawn A.; Davison, Kyle; Marcellais, Richard; NDLA, S GVA - Dever, Pam  
**Subject:** Fwd: Your Question Re SCR 4015

*p81*

*not during hearing*

Begin forwarded message:

**From:** "Silrum, Jim" <[jsilrum@nd.gov](mailto:jsilrum@nd.gov)>  
**Date:** February 28, 2019 at 9:52:24 AM CST  
**To:** "Roers, Kristin" <[kroers@nd.gov](mailto:kroers@nd.gov)>  
**Cc:** "Meyer, Scott" <[scottmeyer@nd.gov](mailto:scottmeyer@nd.gov)>, "Unruh, Jessica K." <[jkunruh@nd.gov](mailto:jkunruh@nd.gov)>  
**Subject:** Your Question Re SCR 4015

Good Morning Senator Roers,

This morning you asked whether or not it could be determined from recent Constitutional initiated measures what the breakdown of signatures were by county. The simple answer is that this information is not known at this time, but it could be determined with monumental effort that would take many days if not weeks or months to figure out. Yes, it is true that everyone who signs a petition must include their address, but since these are hand-written on the petitions, I would need to assign several staff to do nothing but look over each signature and determine the county in which each signer lived at the time of signing the petition. At the end of their exhaustive review, only then could we say how many signatures came from each county for each measure.

When Senator Unruh spoke with me about this resolution earlier, I noted that the only way this could be achieved is if we were to change the way that signatures are gathered on future petitions. For example, if someone wanting to sign a petition were to do so electronically on a tablet or some other electronic device, we could have them look up their name and address from the Central Voter File and then sign the tablet with their finger or a stylus as we sometimes are asked to do with merchants for transactional purposes. This would have several benefits, it would make sure that everyone who signs is a qualified elector in ND and, because a signer would need to first find their record from the Central Voter File by entering their date of birth and ID number, we could make sure that the one signing is who they say they are and that each individual would only sign a particular petition one time. We eliminate many signatures from each submitted petition because the signer is not from ND, because they have signed more than once (we do our best to catch these by a line by line review of all signatures), and because some signers have felt that it is their right to sign a petition for other people. You may remember that several years ago we discovered that a number of the NDSU football players were hired to gather signatures for a petition and instead of gathering the signatures legitimately, they wrote down the names of people from phone books on the petitions that were submitted. It was after that abuse of the process that the legislature changed the penalty to a class C felony for anyone who signs more than two names other than their own on a petition – it is a class A misdemeanor for an individual to sign 1 or 2 names other than their own on a petition. Please see [NDCC 16.1-01-12\(2\)\(d\)](#) for verification of this law.

SCR 4015  
2-28-19  
AH #1  
PS 2

I'm certain that we would not change how petition signatures are to be gathered by including that detail within the Constitution, but rather this detail should be in the NDCC or the Administrative Code. However, I think the legislature would need to be committed to changing the law as well if this resolution were to be adopted by a vote of the people.

Please don't hesitate to ask if you have any other questions.

Sincerely,

P.S. Please don't read the above as anything other than providing you with greater detail for the answer to your simple question.

**Jim Silrum**

Deputy Secretary of State  
600 E Blvd Ave Dept 108  
Bismarck ND 58505-0500  
701-328-3660 – Desk  
[sos.nd.gov](http://sos.nd.gov)



February 28, 2019

SCR 4015  
31-19  
AH #1  
PSI

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4015

Page 1, line 2, after "petitions" insert ", legislative measures,"

Page 1, line 6, remove "and allocation"

Page 1, line 7, remove "and"

Page 1, line 7, after "required" insert "for the legislative assembly to place a constitutional amendment on the ballot, and the percentage of votes required"

Page 1, line 18, remove "At least fifty"

Page 1, remove lines 19 and 20

Page 1, line 21, remove "population to the total resident population of the state."

Page 2, line 6, overstrike "a majority" and insert immediately thereafter "sixty percent"

Renumber accordingly

SCR 4015

19.3064.03002  
Title.

Prepared by the Legislative Council staff for  
Senator K. Roers  
February 28, 2019

3-1-19  
Att # 2  
pg 1

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4015

- Page 1, line 2, after "petitions" insert ", legislative measures,"
- Page 1, line 6, remove "the number and allocation of signatures required for petitions for constitutional"
- Page 1, line 7, remove "amendments, and"
- Page 1, line 7, after "required" insert "for the legislative assembly to place a constitutional amendment on the ballot, and the percentage of votes required"
- Page 1, line 17, remove the overstrike over "four"
- Page 1, line 17, remove "eight"
- Page 1, line 18, remove "At least fifty"
- Page 1, remove lines 19 and 20
- Page 1, line 21, remove "population to the total resident population of the state."
- Page 2, line 6, overstrike "a majority" and insert immediately thereafter "sixty percent"
- Renumber accordingly

*talked about*

SCR 4015  
3-1-19

Sixty-sixth  
Legislative Assembly  
of North Dakota

**SENATE CONCURRENT RESOLUTION NO. 4015**

Introduced by

Senators Unruh, Wardner

Representative Pollert

AH #3  
pg 1

1 A concurrent resolution to amend and reenact section 9 of article III and section 16 of article IV  
2 of the Constitution of North Dakota, relating to petitions <sup>legislative measures,</sup> and voter approval for constitutional  
3 amendments.

**STATEMENT OF INTENT**

5 This measure changes the deadline by which petitions for constitutional amendments must be  
6 submitted, ~~the number and allocation of signatures required for petitions for constitutional~~  
7 ~~amendments, and~~ the percentage of votes required to approve constitutional amendments.

*for the legislative assembly to place a constitutional amendment on the ballot, and the percentage of votes required*

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

10 That the following proposed amendments to section 9 of article III and section 16 of  
11 article IV of the Constitution of North Dakota are agreed to and must be submitted to the  
12 qualified electors of North Dakota at the general election to be held in 2020, in accordance with  
13 section 16 of article IV of the Constitution of North Dakota.

14 **SECTION 1. AMENDMENT.** Section 9 of article III of the Constitution of North Dakota is  
15 amended and reenacted as follows:

16 **Section 9.** A constitutional amendment may be proposed by initiative petition. If signed by  
17 electors equal in number to four eight percent of the resident population of the state at the last  
18 federal decennial census, the petition may be submitted to the secretary of state. ~~At least fifty~~  
19 ~~percent of the required signatures must be from residents of each county of the state and the~~  
20 ~~number of required signatures from each county must be in proportion of the county's~~  
21 ~~population to the total resident population of the state.~~ The petition must be submitted to the  
22 secretary of state not less than two hundred forty days before the statewide election at which  
23 the measure will appear on the ballot. If at least sixty percent of the votes cast on the  
24 constitutional amendment are affirmative, the amendment is deemed enacted. All other

SER 4015  
3-1-19  
AH #3  
pg 2

Sixty-sixth  
Legislative Assembly

1 provisions relating to initiative measures apply ~~hereto~~ to initiative measures for constitutional  
2 amendments.

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

5 **Section 16.** Any amendment to this constitution may be proposed in either house of the  
6 legislative assembly, and if agreed to upon a roll call by a ~~majority~~ <sup>Sixty Percent</sup> of the members elected to  
7 each house, must be submitted to the electors ~~and if a majority.~~ If at least sixty percent of the  
8 votes cast ~~thereon~~ on the amendment are in the affirmative, the amendment is a part of this  
9 constitution.



## North Dakota Senate

State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0360

---

### Senator Jessica Unruh

District 33  
1224 First Avenue NE  
Beulah, ND 58523-6301

[jkunruh@nd.gov](mailto:jkunruh@nd.gov)

#### Committees:

Energy and Natural Resources,  
Chairman  
Finance and Taxation

03/20/2019

#1  
SCR 4015  
3-20-19  
P.1

I'm here this morning to talk about how we change our most important government document - our constitution. All the authority we have as legislators to make laws, the governor to veto them and the judicial branch to interpret them are derived from our constitution. I work every day here in the legislature to protect and fight for the values held in our constitution as it is fundamental to how our government in North Dakota functions.

The ability to change our constitution by initiated petition began in 1978 when the people passed an amendment to the constitution proposed by the legislature. The desire of the people to enact change through their own efforts may be stronger now than it was then. To bring an idea directly to the electorate, usurping the government structure that can be difficult to break through - it's important we preserve that power.

But our constitution is vulnerable. The code to change it has been cracked, and it's an easy one. Changing our constitution should be hard. And I believe the current petitioning method was hard in 1978. But the people in 1978 couldn't possibly see the technology today. And that is why I'm here with this proposed change. I have no desire to usurp the power of the people. I also have no desire to leave our constitution vulnerable.

For the past decade, I've thought about these previously mentioned values and the way our world has changed, I finally have a resolution which I think fairly reflects the values of the people of our state now while simultaneously reflecting the intent of the 1977 legislature, and that is SCR 4015. This resolution adjusts three thresholds that already exist in the constitution.

First, it increases the passage threshold from a simple majority to 60%. You can see on the attached document that means three of the past seven measures proposed to have amended our constitution would have been successful.

Second, it lengthens the deadline to file the proposed constitutional amendment, requiring its filing eight months prior to the election. This aligns more closely with our candidate selection process, current political cycles and allows more time for education on the proposed amendment.

Finally, it doubles the current signature requirements from 4% to 8% of the population.

Changing our constitution should be hard. And it should require some buy in from the entire state. It's not the structure of how it's changed that's broken, it's that existing thresholds are outdated and don't align with our current communication technology and influence on elections. Adjusting standards to reflect the importance of setting a high bar to change the constitution is more than appropriate - it is necessary.

#1  
SCR 4015  
3-20-19  
pg 2

**Percent Votes on Measures**

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Measure 3 on Religious Liberty	35.98	64.02

#2  
SCR 4015  
3-20-19  
P. 1

## Testimony for SCR 4015 David Hanson

Mr. Chairman and members of the committee, my name is David Hanson from Bismarck and I am in support of SCR 4015.

I would 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 petition of 4% and 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.

By requiring a higher signature threshold, the less serious measures will be weeded out. Requiring 8% for petitions is not unreasonable. In fact, early on in our state, it first required 10% for initiatives. Our signature threshold is too low with only 4%, especially compared with other states. Utah requires 10% and also specific thresholds from 26 of its 29 senatorial districts. Colorado requires 5% statewide for laws and 2% from each one of its senatorial districts for constitutional amendments. And other states do have greater thresholds for submitting initiatives. The constitution should be something that we don't amend frequently. Also, it's not so high when you take into account that some states with initiatives restrict their citizens from proposing constitutional amendments altogether.

I would also like to commend the Senate for amending this proposal to require a 60% vote of both houses of the Legislative Assembly to submit an amendment to the electors in addition to requiring a 60% approval from the electors. This seems to be a fair compromise.

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 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 greater urge to protect it.

#2  
SCR 4015  
3-20-19  
Pg 2

I would also like to thank this committee for moving this issue forward with further discussion by passing HCR 3010 and with passage in the House. The process of amending the constitution is an important issue and I'm glad it is being addressed by other house and senate resolutions. Whether we pass this resolution or 4001 or 3010 or a combination of the three; we need greater thresholds to amend the constitution.

We have a good constitution. It is the supreme law in this state, therefore, we should have higher thresholds to change it. 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 Thank you.

#3  
SCR 4015  
3-20-19  
P.1

## TESTIMONY IN OPPOSITION TO SCR 4001 & SCR4015

Good morning! My name is Ralph Muecke from Gladstone ND and this is my testimony in opposition to Senate Concurrent Resolution 4001.

Mark Twain once said: "No mans life, liberty, or property are safe while the legislature is in session." Never did he speak truer words. SCR 4001 and SCR 4015 are very good examples.

There are only 23 states in the union that have the Initiative and Referral (I&R) process. ND is privileged to be one of them. But sadly to say the I&R process is under attack in all 23 states that have it, by those they elect to represent them in state government. ND is no exception.

The I&R process is an issue that is near and dear to me. I have worked both ends of the process, from the top as being a chairman of a petition drive to pounding the pavement obtaining signatures to put an issue on the ballot.

There are those that say the process is too easy. Obviously, they have never done it. I can tell you from experience that there is a lot of work involved, all the way from gathering signatures to managing a campaign. It takes signatures of 2% of the states population for a referral or a statute and 4% of the states population to initiate a constitutional amendment. With all of the work, time and money involved, people simply aren't going initiate or refer something that they feel isn't important or necessary. They simply can't afford the money and the time that it takes to do a measure.

Do you ever read the constitution? Article III Section 1 explicitly states:

**While the legislative power of this state shall be invested 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 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.**

But over the years certain legislators keep coming up with some bill or resolution designed to cripple or throw a monkey wrench into the I&R process. They say it's to improve and protect the process. It doesn't take a rocket scientist to see what the real intention is. SCR 4001 and SCR 4015 are a witch hunt. A solution in search of a problem that doesn't exist. It's plain to see that you people won't quit until you completely eliminate the I&R process or disable it so bad that it is unusable.

You talk about out of state monies that influence initiative campaigns. What about all of the monies that influence the outcomes of political campaigns? I sense some hypocrisy here. No wonder you hated the passage of the ethics measure.

#3  
SCR 4015  
3-20-19  
P.2

I have testified against many of these bills over the years. SCR 4001 and SCR 4015 are by far the worst I have ever seen. If passed, these will virtually wipe out the peoples ability to initiate a constitutional amendment of any kind. It's all about eliminating accountability and those that we elect distancing themselves from those that elect them. SCR 4001 along with SCR 4015 and all of the rest of the bills and resolutions pertaining to the Initiative and Referral process are unconstitutional skunks in the wood pile and must be defeated.

ND state government is becoming much like the our Federal United States government. The only difference is the perpetrators here in ND have an "R" behind their name instead of a "D". It's plain to see why you people hate the ethics measure so bad.

I realize that if passed by the legislature this resolution requires voter approval. But this resolution is so bad that it needs to be stopped dead in its tracks right here and now. It must not see the light of day at the ballot box.

We hear talk about the peoples right of I&R being mob rule. I think the real mob rule here is our Legislative assembly. Taking the power of many and putting it into the hands of a few is communism.

The purpose of the constitution is to protect the people from their government and to keep their government from getting too powerful. Instead those we elect to represent us in state government are trying to amend the constitution to protect themselves from the people they are supposed to represent. Remember, we the people are the government. The people we elect are to represent us in state government. Instead they are rapidly becoming a ruling monarchy.

I think maybe we the people need to propose an amendment to the constitution that would require you legislators to go out and collect the required number od signatures to place amendments on to the ballot, instead of just pushing a button on your desk to do the same thing. Wouldn't that be fair?

Maybe we need to consider term limits for all legislators.

Anybody that takes away my rights had better have their running shoes on.

Please vote "NO" on SCR 4001 and SCR 4015.

**LEAVE THE INITIATIVE AND REFERRAL PROCESS ALONE!!!!!!**

**KEEP NORTH DAKOTA GREAT!!!!!!**



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Question from Representative Vicky Steiner to Dustin Gawrylow: "You keep saying that these resolutions go against the will of the people, why are you so worried about the will of the people when they keep approving bad measures?"

Yet the legislature wants a simple majority in both houses (71 of 141) to put anything on the ballot. As I understand it, the legislature wants 60,000 signatures (8%)( might include all the voters in Slope County), turn all the completed petitions in eight months before a general election plus a 60% majority at a general election. And don't tell me it is just for Constitutional Measures. Experience tells the average citizen, bureaucratic and legislative creep will have it apply to ALL initiatives and referrals so there won't be any irritant to the legislative process. Now, if a citizen asks that the sales tax be reduced the normal legislative responds is "But then you'll never give it back". I'm applying your own standards to initiated measures.

1. With a simple majority the legislature put three (3) more institutions of higher education at the State trough and the state knew we didn't need them. Ever since that inclusion, the State has been funding them without clear constitutional authority. But this situation fell under that legislative process, "You vote for my cockamamie idea and I'll vote for your cockamamie idea. (I'll explain if you wish)

2. The legislature spent almost \$17,000,000.00 on a new Grand Stand at the fairgrounds in Minot without authority or permission from the taxpayer. It had nothing to do with administering or managing State Government. The title "State Fair" was granted by statute with absolutely no authority to fund anything. On the floor of the North Dakota Senate a request was made "Please designate Minot as the 'North Dakota State Fair' and appropriate \$50,000.00 to clean up the present grounds and **you will never hear from us again.**" Need I say more? On top of that it is a "for Profit" situation for the Minot.

3. When Dickinson State needed a new stadium (which is totally owned, operated and controlled by the State) the area was told by a local legislator "Oh, we don't do that anymore". Source: Frank Wald

4. Now I'm informed that the legislature considering up to \$50,000,000 of taxpayer money toward a library which has absolutely nothing to do with the administration or management of the State Government. If it's going to be spent, it should be with the approval of the taxpayer/citizens of the State of North Dakota. It's their money, ask them if they want to spend it on a ballot.

5. You talk about "approving bad measures". Have you talked to the two legislators that shepherded the ethics measure through the whole process, to include where the money came from? Since they were part of that august group with standing and position, I'm sure they knew how 'bad' the measure was for North Dakota. On top of that, are you saying there are NO ethics lapses or challenges within State Government, to include the legislature?

I could continue this ad infinitum but I think the point is made. Think about your own foibles before you ask the great unwashed to stand down in every and all cases?

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3-20-19  
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Written testimony on Engrossed Senate Concurrent Resolution 4015

Chairman Koppelman and House Judiciary committee members

My name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND. I wish I was testifying in person but I had to work my scheduled dayshift.

I oppose engrossed Senate Concurrent Resolution 4015. This resolution changes section 9 of Article III "Powers Reserved to the People" more restrictive in the amount of signatures required from four percent (26,904) to eight percent (53,808) and constitution measure has to pass sixty percent on election ballot instead of simple majority. After the 2020 federal census, the amount of signatures for four percent could increase. It is hard enough to gather the current signatures amount required.

I attended to every meeting to Initiated Measures and Referred Study Commission. The commission discussed two draft resolutions with one draft would increase the percent of signatures required for a petition and other draft was a constitution measure requiring 60 percent votes cast. The appointed citizens did not agree with the legislators on the study commission. The appointed citizens said the current requirements of section 9 of Article "Powers Reserved to the People" were sufficient with no changes. Why don't the legislators in this 66<sup>th</sup> legislative assembly respect the appointed citizen's decisions?

Majority of legislators are upset over past measures being passed forcing the legislators to legislate. The bottom line is the legislative assembly is trying to get power back over the citizens of North Dakota. There is no vulnerability or loophole in Article III "Powers Reserved to the People" in our North Dakota Constitution as certain legislators are claiming which is false or fake news.

Maybe it is time for the citizens of North Dakota to send a message to the legislators that the citizens will continue to have the power over the legislative assembly by amending Article XI "General Provisions" section 26 changing some of the wording that "North Dakota electors will vote on compensation for the legislative assembly".

I am asking the House Judiciary committee give a DO NOT PASS on engrossed Senate Concurrent Resolution 4015.

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