

**OPINION
51-103**

January 25, 1951 (OPINION)

LEGISLATURE

RE: Initiated Measure

Your letter of January 23, 1951, has been received.

You ask whether or not Senate Bill No. 115 requires a two-thirds majority vote for passage. You ask further whether it requires a two-thirds majority vote to pass upon or reinstate an initiated measure in its original form.

I refer you to section 1-0225 of the North Dakota Revised Code of 1943, which reads as follows:

CONTINUATION OF EXISTING STATUTES. The provisions of this code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments."

Section 1-0226 of the North Dakota Revised Code of 1943 provides:

EFFECT OF REVISION UPON INITIATED MEASURES. Any provision of this code which was enacted as an initiated measure, or as a part of such a measure, notwithstanding the revision, shall remain in effect as an initiated provision and shall be subject to amendment, reenactment, or repeal only as provided by section 25 of the constitution of this state."

Article II. The Legislative Department - page 1702, paragraphs 4 and 5, North Dakota state constitution.

The word 'measure' as used herein shall include any law or amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the Governor shall not extend to the measures initiated by or referred to the electors. No measure enacted or approved by a vote of the electors shall be repealed or amended by the legislature, except upon a yea or nay vote upon roll call of two-thirds of all the members elected to each house."

I refer you to the case of State ex rel. Strutz v. Baker, 71 N.D., 153, wherein it is held that:

STATUTES - an act initiated by the people can be amended by the legislature only by a two-thirds majority of all the members elected to each house."

INITIATED MEASURES - where the legislature amends and reenacts an initiated measure, the initiative character of the measure

is not destroyed."

I also call your attention to an opinion of the attorney general cited at page 102 of the Report of the Attorney General of North Dakota to the Governor - July 1, 1948 to June 30, 1950.

It is our opinion, therefore, that Senate Bill No. 115, which was an initiated measure in 1935, will require a two-thirds majority vote in each house to pass and become law.

ELMO T. CHRISTIANSON

Attorney General