

ND HOUSE JUDICIARY COMMITTEE

SCR 4005

March 24TH, 2021

Mr. Chairman and members of the committee. My name is David Hanson and I reside in Bismarck. Thank you for allowing to submit testimony in support of SCR 4005.

I would also like to thank the sponsors of this amendment which seeks to correct a weakness in our current amendment process. Currently in order to pass an amendment to our constitution you need to get a simple majority vote of the people. This is a weakness, because the constitution is binding, not only on the people, but the state government as well. In recent years there has been a disturbing trend of bringing constitutional amendments forward and treating the constitution as a super Century Code to prevent initiatives from being quickly amended or repealed. The constitution, as a general rule, 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, 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 among the people to uphold and support the constitution.

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

With that said, I would recommend some adjustments to 4005. Beginning on line 21 it should be amended to read, "An initiated measure to amend the constitution must be placed before the electors on the ballot only at a general election and if at least a majority of sixty percent of the votes cast are affirmative, the amendment shall be deemed enacted." This would correct the proposal on the initiative side of amending the constitution.

Perhaps this committee may want to consider changing the vote requirement to a two thirds vote for both houses of the Legislative Assembly and also raise the voter threshold to 65% as well instead of 60%. By raising the legislative vote to two-thirds, that would be more in line with Congress and most other state legislatures submitting constitutional amendments. And with a higher percentage of the people's vote, it would encourage more mobilization and debate so that an amendment can pass, rather than put an amendment on the ballot with hardly any debate or discussion during an election.

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