

ND SENATE STATE & LOCAL GOV. COMMITTEE

SCR 4013

February 9TH, 2023

Madam Chairman and members of the committee. My name is David Hanson and I reside in Bismarck. Thank you for allowing me to submit testimony for SCR 4013.

While I am officially neutral concerning this proposal, I do support putting better safeguards in place for protecting our state constitution. This amendment seeks to correct a weakness in our current amendment process. I would also like to thank the sponsors of this amendment for bringing this up for discussion.

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. It is the supreme law of our state. 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forward and treating the constitution as a super Century Code to prevent initiatives from being quickly amended or repealed.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 the domain of 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 the highest law. By requiring a higher threshold, it will also demonstrate a greater unity among the people to uphold and support the constitution.

For this amendment, there are aspects that I applaud and appreciate, but there are other parts that I am uncertain that I fully back, but appreciate the intentions behind those nonetheless.

First, I applaud raising the signature threshold to 5%. By requiring a higher threshold, the less serious proposals will be weeded out. In fact, earlier in our state's history we required 10% in order to place initiatives on the ballot.

Secondly, on lines 18-21 on the first page, I appreciate what is intended here to truly make this a grass-roots movement of citizens coming together for a common proposal. However, I am uncertain how this would be practically enforced until after the petitions have been submitted. I imagine the Secretary of State would have to look into every circulator to make sure that these terms of circulating a petition are met. How would this be implemented?

Finally, I appreciate the proposal for raising the percentage threshold for passage, but I think 67% may be too high. I think a more reasonable proposal would be 65% or even 60%. With the higher percent to pass it would also encourage more mobilization and debate, so that an amendment can pass, rather than put it on the ballot without hardly any debate during an election. By requiring a higher threshold, it will demonstrate a greater unity of the people to uphold and support the constitution.

If this committee is not comfortable with the increased vote threshold in order for passage, you may want to consider an amendment to require that a constitutional amendment go to the vote of the people in two different statewide elections. This process is used by many other states and allows for serious reflection and contemplation before final passage. This would cause the people to re-evaluate whether a certain proposal is truly a good idea or not without rushing

something through at the heat of the moment. A good example of this is Nevada. In the last election, the voters passed a constitutional amendment by 52% of the vote to implement a ranked choice voting system. But this has to go to another vote of the people in 2024 before it is finally added to their constitution. Nevada voters have the benefit of observing Alaska's new ranked choice voting system before they finally decide if they want to change their constitution and change the way they choose their leaders. Just like there are two houses in a legislature, it is a good thing in my view to look at something a second time around. That is a feature, not a bug.

I would also like to suggest one more amendment to this proposal. Another section should be added to address Article IV Section 16 of the constitution, so that it is consistent with how amendments are ratified by the initiative method. I suggest that to propose an amendment it requires two thirds vote of both houses of the Legislative Assembly and also a 65% (or 60%) vote of the people (or two separate votes of the people). **Whichever method this committee decides how an amendment should be ratified by the initiative; it should mirror how it is ratified when the legislature places it on the ballot.**

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.

We in North Dakota have a good constitution, let's not let it become something that is treated flippantly. Let's put better safeguards in place to protect it and make it a stable document for years to come. Thank you.