

2021 SENATE GOVERNMENT AND VETERANS AFFAIRS

SCR 4005

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Room JW216, State Capitol

SCR 4005
1/28/2021

Relating to voting on constitutional amendments at general elections & constitutional amendments proposed by the legislature.
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Chair Vedaa opened the hearing at 2:28 p.m. with Sen Vedaa, Sen Meyer, Sen Elkin, Sen K Roers, Sen Wobbema, Sen Weber, and Sen Marcellais present.

Discussion Topics:

- Public perception
- Informing voters

Senator Holmberg introduced SCR 4005 #4112

Kevin Hermann testified opposed #3945

Don Morrison testified opposed #4115

Adjourned at 2:58 pm

Pam Dever, Committee Clerk

SCR 4005: 60% Constitutional Amendment

Sen. Holmberg 1/28/2021

Amending a basic document of government like the constitution should require a heavier lift than what currently exists in North Dakota. For example, to amend the U.S Constitution requires a 2/3 vote of Congress and ratification of $\frac{3}{4}$ of the states. Over half of the states require at least 60% legislative vote, while 17 states require a 2/3 vote. In North Dakota it's a simple majority of the legislature and a simple majority of the voters.

SCR 4005 does not change any of the processes by which the people initiate measures.

Under 4005, Legislature can't put a proposed constitutional amendment on the ballot unless it passes by 60% of the members elect in each house. A constitutional amendment must receive 60% of the vote by the people in order to be put in the constitution.

All constitutional amendments must be on a general election ballot.

Recent History:

The legislature has placed 8 amendments on the ballot since Nov. 2014.

3 passed by voters, all receiving over 60% vote in legislature and in the election.

2014 Prohibition of mortgage taxes

2016 Foundation Aid Stabilization Fund

2016 legislator must live in district

None of the 5 measures defeated by the voters passed by over 60% vote in legislature.

2020 Board of Higher Education. 72.52% No

2020 Initiated Constitutional Amendments 61.61% No

2014 initiated constitutional amendments 57% No

2014 3 member BOHE 74.9% No

2014 Personhood 64% No

Written testimony on Senate Concurrent Resolution 4005

Chairman Vedaa and Senate Government and Veterans Affairs Committee Members

My name is Kevin Herrmann from Beulah, ND. I am representing myself as a lifelong citizen of North Dakota.

I stand in opposition of Senate Concurrent Resolution 4005. Senate Concurrent Resolution 4005 will change Article III "Powers Reserved to the People" section 9 with a sentence added "An initiated measure to amend the constitution may be placed on the ballot only at a general election". This wording was in House Concurrent Resolution 3034 which failed but the wording was amended to Senate Concurrent Resolution 4001 in 66th Legislative session. Engrossed Senate Concurrent Resolution 4001 passed in the 66th Legislative session to be voted in the 2020 general election which the voters of North Dakota defeated the measure. The voters of North Dakota did not want any changes to Article III "Powers Reserved to the People". When are the legislators going to listen to the voters of North Dakota?

The propose change in Section 2 which affects section 16 of Article IV in my opinion might be ok since the legislative assembly would need 60 percent also.

I attended every meeting of the Initiated and Referred Measure Study Commission during the 2017-2018 65th Legislative Interim. The citizens on the study commission rejected the legislators ideas like this resolution of section 1 and the resolutions in the 66th Legislative session pertaining to Article III "Powers Reserved to the People".

I am asking for a "DO NOT PASS" on Senate Concurrent Resolution 4005 unless this committee amends to take out section 1 in this resolution.

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

Testimony SCR 4005
Senate Government and Veterans Affairs Committee
January 28, 2021

Mr. Chairman and members of the Senate Government and Veterans Affairs Committee, good afternoon. My name is Don Morrison. I live in Bismarck and I am here as a volunteer for North Dakota Voters First, which is a non-partisan, grassroots North Dakota group working to strengthen our democracy, help make our elections and public policy more open, ethical, and accountable to the people of our state.

I would like to address concerns we have about increasing the percentage required to pass these amendments from 50 percent to 60 percent.

We looked at the 514 ballot measures that North Dakotans have voted on since 1889. Voters defeated 258 of them and approved 256 under the 50% plus one threshold. The number of measures approved by over 60% of the voters was 128 and those approved by between 50% and 60% was interestingly also 128.

Looking at just those approved with between 50% and 60% of the voters, we can look at approved measures that would have failed under this amendment. Look at the table on the next page for a selection of measures that would have failed.

There are times when the legislature and citizens do not agree. Citizens vote for legislators and other candidates for office based on a 50% or even a plurality threshold. We don't hear anyone saying that should be raised to 60%.

Each of us has experienced disappointment about the outcome of constitutional amendment ballot measures. But, we should trust the voters, even when we disagree. We recommend that the Senate Government and Veterans Affairs Committee give SB 4005 a Do Not Pass.

Thank you for the opportunity to talk with you this afternoon.

Selected North Dakota Ballot Measures 50%-60% Approval

Type of Election	Election Date	Type of Action	Subject Content (Session Laws Citation)	Votes		
				For	Against	% FOR
Primary	1964 (6/30)	Const. Amend. (Petit.)	Changes two-year terms to four-year terms for most state officials and the county superintendent of schools. (S.L. 1965, ch. 475)	60,099	55,294	52.08%
Primary	1980 (9/2)	Const. Amend. (Legis.)	Prohibits the state from raising state revenue with a property tax. (S.L. 1981, ch. 654; S.L. 1979, ch. 703) (HCR 3009)	63,699	56,618	52.94%
General	1992 (11/3)	Const. Amend. (Legis.)	Provides that bills passed by the Legislative Assembly become effective on August 1 after passage, or 90 days after filing with the Secretary of State if filed between August 1 and January 1 of the following year. (S.L. 1993, ch. 659; S.L. 1991, ch. 756) (HCR 3016)	146,823	127,500	53.52%
Primary	1940 (6/25)	Const. Amend. (Petit.)	Changes name of State Board of Railroad Commissioners to Public Service Commission. (S.L. 1941, p. 589)	67,294	57,239	54.04%
General	1996 (11/5)	Const. Amend. (Legis.)	Lengthens the term of North Dakota House members from two years to four years. (S.L. 1997, ch. 570; S.L. 1995, ch. 649) (HCR 3010)	132,718	112,047	54.22%
General	1974 (11/5)	Const. Amend. (Legis.)	Requires joint ballot for electing Governor and Lieutenant Governor. (S.L. 1975, ch. 605; S.L. 1973, ch. 531) (SCR 4031)	111,197	89,977	55.27%
Special	1933 (9/22)	Const. Amend. (Legis.)	Requires two readings of legislative bills instead of three and permits first reading to be by title only. (S.L. 1935, p. 494; S.L. 1933, ch. 83) (SCR 5)	77,077	61,987	55.43%
General	1948 (11/2)	Const. Amend. (Legis.)	Authorizes a property tax levy of one mill to finance state medical center at the University of North Dakota. (S.L. 1949, p. 511; S.L. 1947, ch. 119) (SCR 12)	108,133	86,262	55.63%
General	1916 (11/7)	Const. Amend. (Legis.)	Provides for a state normal school at Dickinson. (S.L. 1917, p. 407; S.L. 1915, ch. 84) (SB 11)	60,582	43,334	58.30%
Pres. Pri.	1924 (3/18)	Const. Amend. (Legis.)	Consolidates the offices of county judge and clerk of court in counties with less than 6,000 population. (S.L. 1925, p. 329; S.L. 1923, ch. 177) (SB 347)	70,447	49,762	58.60%
Primary	1956 (6/26)	Const. Amend. (Legis.)	Provides for bonding the state up to \$9 million to provide a state bonus for veterans of the Korean conflict. (S.L. 1957, ch. 396; S.L. 1955, ch. 358) (HCR D)	85,908	59,441	59.10%

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Room JW216, State Capitol

SCR 4005
2/18/2021

Relating to voting on constitutional amendments at general elections & constitutional amendments proposed by the legislature.

Chair Vedaa called to order at 2:52 p.m. with Sen Vedaa, Meyer, Elkin, K Roers, Wobbema, Weber, and Marcellais present.

Discussion Topics:

- Committee Work

Sen Weber: I move a Do Pass

Sen Elkin: I second

Roll Call Vote: 7 -- YES 0 -- NO -0- Motion Passed

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

Sen Vedaa will carry the resolution

Adjourned at 2:56 p.m.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

SCR 4005: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR
4005 was placed on the Eleventh order on the calendar.

2021 HOUSE JUDICIARY

SCR 4005

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary

Room JW327B, State Capitol

SCR 4005

3/24/2021

Relating to voting on constitutional amendments at general elections and constitutional amendments proposed by the legislative assembly

Chairman Klemin called the hearing at 11:00 AM

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter. Absent: Cory

Discussion Topics:

- Initiated measure requirements
- Percentage of peoples' vote for Constitutional Amendments

Emmery Mehlhoff: ND Farm Bureau. Support- Verbal testimony

Kevin Hermann, Beulah, ND: Support. Testimony #10603 10:35

Jeff Zarling, Co-Chair to Protect ND Constitution: Neutral - Verbal testimony 10:51

Chairman Klemin closed the hearing at 11:01.

Rep. Vetter: Do Not Pass Motion

Rep. Christensen: Seconded

Roll call vote:

Representatives	Vote
Chairman Klemin	Y
Vice Chairman Karls	Y
Rep Becker	Y
Rep. Christensen	Y
Rep. Cory	A
Rep T. Jones	N
Rep Magrum	Y
Rep Paulson	Y
Rep Paur	Y
Rep Roers Jones	N
Rep B. Satrom	N
Rep Vetter	Y
Rep Buffalo	Y
Rep K. Hanson	Y

10-3-1 Motion carried

Bill Carrier: Rep. Becker

Additional written testimony: 10613, 10538, 10424

Chairman Klemin adjourned the meeting at 11:22AM.

DeLores D. Shimek
Committee Clerk

REPORT OF STANDING COMMITTEE

SCR 4005: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SCR 4005 was placed on the Fourteenth order on the calendar.

Written testimony on Senate Concurrent Resolution 4005

Chairman Klemin and Judiciary Committee Members

My name is Kevin Herrmann from Beulah, ND. I am representing myself as a lifelong citizen of North Dakota and an hourly wage worker.

I stand in opposition of Senate Concurrent Resolution 4005. Senate Concurrent Resolution 4005 will change Article III "Powers Reserved to the People" section 9 with a sentence added "An initiated measure to amend the constitution may be placed on the ballot only at a general election". This wording was in House Concurrent Resolution 3034 in the 66th Legislative session which failed but the wording was amended to Senate Concurrent Resolution 4001 in 66th Legislative session. Engrossed Senate Concurrent Resolution 4001 passed in the 66th Legislative session to be voted in the 2020 general election which the voters of North Dakota defeated the measure by 61.61%. The voters have spoken but the legislators continue to introduce a bill like this resolution going against voter's wishes. Why?

I attended every meeting of the Initiated and Referred Measure Study Commission during 2017- 2018 65th Legislative Interim. The citizens on the study commission rejected the legislator's ideas like this resolution of the wording in section 1 and the 60% threshold because the citizens on the study commission felt the current requirements is sufficient in the North Dakota Constitution but certain legislators on the study commission would not accept the decision. In 66th legislative session, House Concurrent Resolution 3010 and Senate Concurrent Resolution 4015 had 60% threshold but failed during the legislative session. In this Legislative session, House Concurrent Resolution 3017 was introduced changing threshold to 55% but the resolution was withdrawn.

There has been legislators complaining about out of state influence and out of state money on initiated measures to the North Dakota Constitution during the

Initiated and Referred Measure Study Commission, in the 66th legislative session and this 67th legislative session but over 60 legislators in the 2020 election cycle accepted out of state PAC money. Isn't accepting out of state PAC money consider as outside influence which could influence a legislator to vote on legislative bills a certain way? Where is the ethics?

All elected Legislators need to accept the results of the 2020 general election on measure 2 "Engrossed Senate Concurrent Resolution 4001".

House Judiciary committee needs to give Senate Concurrent Resolution 4005 a DO NOT PASS recommendation.

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

Testimony SCR 4005
House Judiciary Committee

Don Morrison, North Dakota Voters First – March 24, 2021

Mr. Chairman and members of the House Judiciary Committee. My name is Don Morrison. I live in Bismarck and I am here as a volunteer for North Dakota Voters First, which is a non-partisan, grassroots North Dakota group working to strengthen our democracy, help make our elections and public policy more open, ethical, and accountable to the people of our state.

Increasing the percentage required to pass amendments to our state's constitution from 50 percent to 60 percent is a major change and should not be taken lightly.

The sponsors and supporters have said the reason they want to change the threshold need to amend the constitution is because of out of state money that supports the ballot measures.

North Dakota Voters First agrees that huge amounts of money in campaigns is a problem. SCR 4005 does not deal with the problem of out-of-state money by efforts to change our constitution. In fact, it may make the problem of out-of-state money worse, because more money will be needed to reach the 60 percent threshold.

Rather than make it more difficult for the voters of our state to be heard, we would suggest there are much better ways to tackle the problem of money in campaigns. One of those solutions would be to require reporting of independent expenditures that are currently not required to be reported. .

In the end, we should trust the voters. We recommend that the Senate Government and Veterans Affairs Committee give SB 4005 a Do Not Pass.

Thank you for the opportunity to provide our input on this issues.

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.

House Member,

Under **NO** condition can the Legislature restrict or hinder the Initiative process!

This bill SCR 4005 is Unconstitutional and will be met with a court challenge if passed!

A referendum will be done if the courts do not follow the ND Constitution!

Thank you,

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Mitchell S. Sanderson