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TESTIMONY IN SUPPORT OF SCR 4013

House Finance & Taxation Committee

March 17, 2025

SCR 4013 invites other states to join North Dakota in forming an interstate compact to oppose the National Popular Vote Interstate Compact (NPVIC). The NPVIC is an attempt to nullify the Electoral College via an indirect method instead of using the required amendment procedures laid out in the Constitution.

As stated in the resolution North Dakota proposes an interstate compact wherein the member states agree to challenge the NPVIC should it ever become active. The NPVIC would become active when the NPVIC member states encompass 270 Electoral College votes. The NPVIC currently has 209 Electoral College votes among the member states.

This resolution specifies that the proposed opposition compact would become active when four other states join North Dakota and agree to pursue a legal claim challenging the constitutionality of the NPVIC.¹ If the NPVIC never goes active there would be no legal challenge, and no action would be required by the member states of this opposition compact.

The purpose of this opposition compact would, in part, be to deter any additional states from joining the NPVIC knowing that multiple states have taken action to oppose them in a legal action that the NPVIC compact is likely to lose. It might also cause current member states to withdraw from the NPVIC, which is an option available to them under the terms of their compact.

The Electoral College is an important institution that ensures successful presidential candidates gain support from numerous geographic regions of the United States rather than focusing solely on the most heavily populated cities and coastal areas. As a result, the Electoral College tends to encourage more moderate candidates with broader voter appeal while simultaneously amplifying popular vote totals to produce a clear winner.

As Alexander Hamilton wrote of the Electoral College in Federalist 68, "If the manner of it be not perfect, it is at least excellent."

¹ For a detailed analysis and arguments as to why the NPVIC is unconstitutional, please see *Why the National Popular Vote Compact is Unconstitutional* by Norman R. Williams, *BYU Law Review*, Volume 2012, Issue 5 (<https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=2686&context=lawreview>)