Reengrossed SCR 4013
House Government and Veterans Affairs Committee
March 9th, 2023

Chair Schauer and members of the House Government and Veterans Affairs Committee:

My name is Carol Sawicki, and I am submitting testimony on behalf of the League of Women Voters of North Dakota**. The League of Women Voters of North Dakota opposes Reengrossed SCR 4013 for the following reasons:**

1. The single-subject rule of SCR 4013 is vague, unnecessary, and will be costly for citizens and the state.
There is no standard or proposed definition of what "single subject" means and, as a result, this bill will cause confusion for petitioners, legislators, and courts. This aspect of SCR 4013 might require petitioners to submit multiple petitions for just one section of a law—an expensive and unnecessary effort – and might also result in costly lawsuits in which the courts attempt to make a determination of what "single subject" actually means. States with single-subject rules have experienced lawsuits related to such rules.[1]

2. SCR 4013 requires an unconstitutional 120-day residency qualification for individuals circulating an initiative petition related to a constitutional amendment.
The bill states that initiative petitions "may be circulated only by electors who have resided in the state for at least one hundred twenty days before the first signature is collected." The North Dakota Century Code (16.1-01-04.) identifies a qualified elector as: "a. A citizen of the United States; b. Eighteen years or older; and c. A resident of this state who has resided in the precinct at least thirty days immediately preceding any election."[2] Article III, section 3 of the ND Constitution[3] places no additional length-of-residency requirement on an elector who circulates a petition, and doing so violates the First and Fourteenth Amendments to the US Constitution which guarantees the right to engage in political speech.

Residency requirements for petitioners have been struck down in Colorado, Mississippi, and Maine,[4] and a law in South Dakota,[5] which placed a 30-day residency requirement for ballot initiative petition circulators, was struck down in federal court on January 10, 2023 on the basis of constitutional violations.

3. The bill unfairly singles out constitutional amendment petitioners as individuals unable to receive compensation for their time, and the bill violates their constitutional rights.

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[1] Single subject rule in the states
[2] ND Century Code, 16.1
[3] ND Constitution, Article III
[4] Residency requirements for petition circulators
[5] Federal court strikes down SD residency requirement

Political parties pay people to work on their various campaigns, members of the legislature receive compensation for their time, and lobbyists often receive reimbursement for their time. There is no logical or equitable reason to make unlawful the compensation of petition circulators who, as with the other individuals and groups mentioned above, are forwarding the work of civic participation to ensure an inclusive democracy.

More importantly, this section of the bill is in violation of the First and Fourteenth Amendments to the US Constitution. In Meyer v. Grant, the US Supreme Court held that a state's "statutory prohibition against the use of paid circulators abridges appellees' right to engage in political speech in violation of the First and Fourteenth Amendments."[6]

4. The bill unjustifiably increases the percentage of North Dakota electors (from 4% to 5% of the state's resident population) whose signatures are needed before the constitutional amendment petition may be submitted to the Secretary of State.
Of the 16 states - including North Dakota - that allow direct initiated constitutional amendments, North Dakota is the only state to tie signature requirements to the total population of the state, as opposed to the percent of individuals who voted in a prior election.[7]

The bill's proposed increase in petition signatures is an arbitrary and unnecessary increase and reveals the intent of the bill to impede the ability of the citizens to create an initiated measure.

5. SCR 4013 unnecessarily requires that an initiated measure be placed on *both* the primary and general election ballots.
No other election in North Dakota requires that an issue be voted on in both the primary and general elections. There is no need for a two-election approval process since citizens are voting on the same measure. Voters in North Dakota understand the significance of a change to the Constitution and do not need to have the same measure placed before them twice.

In addition, a two-election process is being proposed *only* for citizen-led measures, not measures proposed by the Legislature. SCR 4013 appears to be motivated by a distrust in the voters of North Dakota—the same voters who elect the members of the state legislature.

A two-election requirement will create an inordinate cost to citizens and the state, and such a requirement reveals the intent of the bill to impede the ability of citizens to implement an initiated measure.

Citizen-led initiated measures have a long history in North Dakota and play an important role in supporting citizen participation in the governance of the state. SCR 4013 intends to bring an end to that role. For this reason, **the League of Women Voters of North Dakota strongly urges committee members to give SCR 4013 a Do Not Pass recommendation.**

Submitted by Carol Sawicki, LWVND Board Member, nodaklwv@gmail.com

[6] Meyer v. Grant
[7] Signature requirements