House Bill 1431
Senate State and Local Government Committee
March 16th, 2023

Chair Roers and members of the Senate State and Local Government Committee: my name is Barbara Headrick, and I am submitting testimony on behalf of the League of Women Voters of North Dakota in opposition to House Bill 1431. The bill is unnecessary, it's discriminatory, and it opens the state up to litigation.

Currently, any North Dakota resident who is a US citizen and over 18 years old can vote, and there have been no reported issues with noncitizens voting. This bill requiring documentary proof of citizenship in order to vote targets one group: new Americans who have become naturalized US citizens. Requiring something of them and not others is burdensome, discriminatory, and unnecessary.

#1) This bill is unnecessary. There have been no cases reported of noncitizens voting in our elections[1] and if a person were to vote illegally, there is already a process in place to prosecute that person. Anyone convicted of voting illegally faces up to five years in jail, a fine of up to $10,000, and even deportation. Why would a non-citizen vote illegally with such a high price?

North Dakota voters are already required to attest that they are qualified electors before they receive their ballot, either by signing their absentee ballot application or verbally in person at the polls. "Are you a United States citizen?" was added to the list of questions poll workers ask voters after Measure 2 was approved by voters in 2018, which added to the state constitution the requirement of US citizenship to vote in North Dakota elections.

#2) In purporting to solve a problem - that does not exist in our elections - it does so in a discriminatory way and would result in confusion for voters. This bill targets new Americans who have become naturalized citizens as the only group having to provide additional proof of citizenship. We fear this will have a chilling effect on voters in diverse communities and keep them away from the polls.

We understand there may be an amendment to the bill to require eligible voters with the "permanent resident" ID card to get a brand new ID for their vote to be counted. There are 15,843[2] valid "permanent resident" credentials on record with the NDDOT, and the NDDOT cannot verify how many of these individuals have become naturalized US citizens. We do know that 1,324 citizens became naturalized in North Dakota in 2021 alone and an average of 769 individuals were naturalized per year from 2017-2021.[3]

Right now, there's nothing in state law that would require the NDDOT or the secretary of state's office to notify these eligible voters to bring satisfactory proof of citizenship or get an updated ID card to vote.

House Bill 1318 would require the NDDOT to contact all of the 15,843 "permanent resident" ID card holders to let them know to get an updated ID if they become a naturalized US citizen. If HB 1318 passes, the law would take effect August 1st, 2023, and the NDDOT would have less than 11 months to communicate to all these individuals - in the various languages spoken by the recipients - before the June 2024 Primary Election.

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[1] The Heritage Center Voter Fraud Map. https://www.heritage.org/voterfraud/search?state=ND
[2] From the NDDOT on February 17th, 2023
[3] US Department of Homeland Security. https://www.dhs.gov/profiles-naturalized-citizens-2021-state

The timeframe to communicate to eligible voters and for them to act on it to get a new ID is nearly impossible. It will cause confusion for voters when they arrive at the polls, and this confusion will not impact all eligible voters, only those in the new American community.

#3) Finally, this bill would open the state up to litigation. Numerous state laws that would require documentary proof of citizenship have been struck down in the courts because the requirement places an unreasonable burden upon voters, especially on voters of color. Below are some of those cases:

- In *Fish v. Schwab*, the Tenth Circuit struck down a documentary proof of citizenship law in Kansas because the state could not provide evidence to justify the burden it placed on individuals' right to vote.
- In *Georgia Coalition for People's Agenda, Inc. v. Kemp*, a federal court in Georgia held that a documentary proof of citizenship requirement - imposed only on naturalized citizens based on outdated DMV data - created "a very substantial risk of disenfranchisement," and could not be justified in that case. In that case, Georgia's requirement has mired it in litigation for over four years. Recently, the court denied the State's motion for summary judgment and the case is moving toward trial.
- In *League of Women Voters v. Harrington*, the federal district court in Washington, DC ruled that the implementation of documentary proof of citizenship laws in Alabama, Georgia, and Kansas violated federal law, and prevented them from going into effect.
- In Texas and Florida, laws that used data from drivers licenses to verify voters' citizenship were struck down after thousands of naturalized citizens were incorrectly flagged for removal from the voter rolls.
- And in Arizona, a documentary proof of citizenship law is currently the subject of ongoing litigation.

In every state where laws like this have been introduced, they have faced significant legal challenges, costing millions of dollars to litigate, and threatening to disenfranchise qualified voters. This bill is a costly solution to a problem that does not exist in our elections.

The League of Women Voters of North Dakota strongly urges committee members to give HB 1431 a Do Not Pass recommendation. This bill is unnecessary, discriminatory, and would open the state up to costly litigation. Voting is the backbone of our democracy and requiring proof of citizenship to vote only serves to decrease civic participation in our state.

Thank you for your attention. I welcome any questions that you might have.

Testimony submitted by Barbara Headrick, LWVND Board President, nodaklwv@gmail.com