

HB 1245 — *Repeal the Ban on Productivity Pay*

Mr Chairman and Members of the House Government and Veterans Affairs Committee:

My name is Jared Hendrix, and I represent District 10 in the State House. I have also served as Chairperson of two different successful initiated statewide ballot measures. One, which applied term limits to North Dakota's governor and state legislature. Another, which applied age limits to our congressional delegation. Based upon my experiences on these measures, along with some research, I decided to introduce HB 1245.

We have a wide range of opinion within the legislature on many of the recent ballot measures. Whether the aforementioned measures – or Marsy's Law, or the Ethics Commission, medical marijuana, recreational marijuana, property tax reform, or any other recent measure – it must be noted that the merits of each of these policies is not relevant to the content and purpose of HB 1245. **This bill is simply a process bill – plain and simple.** The current process for collecting signatures in North Dakota is neither totally bad, nor totally perfect, but it can certainly be improved with this common sense change.

HB 1245 removes a ban on productivity pay, or more precisely, the ban on paying petitioners on a per-signature basis. Repealing this ban would be good policy, mainly for the following reasons – it rewards exceptional work, it results in less sloppy work, and it is legally sound.

REWARDING EXCEPTIONAL WORK

Wisely, we do not ban commission sales for numerous jobs in our economy. The best real estate agents and care salesman make the most commission. If we hire someone to pick apples, it seems sensible to pay for bushels gathered, not time spent in the orchard. Likewise, paying petition circulators should incentivize them to ask as many voters as possible to sign, in order to accomplish the objective of the campaign that hired them.

INSURING LESS SLOPPY PETITIONS

The current ban makes it impossible to enforce common sense rules for paid petition circulators. When circulators are paid on the basis of the signatures they gather, any mistakes they make come out of their pay. Signatures can be reviewed by an internal process, line by line, and these petitioners will only be paid for the number of valid signatures they turn in. If they bring signatures that appear fraudulent, it is easier to flag these more rapidly. With the current model, petitioners are paid hourly no matter the quality of their work. Not only do errors cost ballot measure campaigns unnecessary funds, but it can increase the possibility of fraud.

PROTECTING THE FIRST AMENDMENT AND ARTICLE III

Article III of the North Dakota state constitution is titled "The Powers Reserved to the People" and covers the initiative process. In Section 1, it reads, "Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers. Courts generally have ruled that the state must have a compelling interest in regulations of the ballot measure process. Similar bans have been challenged in federal courts and were struck down in Colorado, Maine, Ohio, and Washington, because of their obvious First Amendment implications. These legal challenges can result in substantial amounts of taxpayer dollars spent to defend laws that have no tangible benefit.

In recent years, many states have moved away from similar bans. Without a single dissenting

vote, Nebraska's Legislature repealed the state's ban on pay on a per signature basis in 2015. Wyoming's legislature also repealed their state's productivity pay ban in 2015 — with an overwhelming vote in the House and a unanimous vote in the Senate.

It is also worth noting that current state law does NOT apply this same standard to candidates running for office. Any legislative candidate, for instance, can pay petitioners per signature.

By supporting HB 1245, we can repeal this unneeded process in North Dakota. Doing so will help increase the number of North Dakotans who understand the ballot measure and petitioning process. This will happen because their extra incentive to be paid on merit will encourage more in-state individuals to perform this work on a semi-regular or part time basis. They can earn a reputation of integrity, reliability, and expertise.

Thank you very much for your time and consideration.

Jared Hendrix