LEAGUE OF WOMEN VOTERS® OF NORTH DAKOTA

Testimony in Opposition of SCR 4007
House Government and Veterans Affairs Committee
March 14, 2025

Chair Schauer and Members of the House Government and Veterans Affairs Committee: My name is Carol Sawicki, and I am a board member and representative of the League of Women Voters of North Dakota. Thank you for the opportunity to submit testimony in opposition to the resolution.

SCR 4007 states that a constitutional amendment proposed by initiative petition or by the legislative assembly "may not embrace or be composed of more than one subject." The League of Women Voters of North Dakota opposes SCR 4007 for the following reasons:

- "Single-subject rules" have been the subject of thousands of court decisions, since there is no clear understanding of what constitutes a "single subject." One study found the single subject rule in question in 102 cases in 2016 alone.[1]

- Because there is no clear, broadly applicable interpretative framework related to what constitutes a "single subject," courts rely on an ad hoc approach to deciding cases, sometimes resulting in contradictory rulings.[2]

- North Dakota's current single-subject rule for bills passed by the legislature (Article IV, Section 13) has already resulted in confusion, expense, and extended law-making as was evident in 2023 when the ND Supreme Court ruled that legislators violated the rule by passing SB 2015 which contained "multiple distinct subjects." A special legislative session was required to pass 14 separate bills and to avoid a shutdown of government services funded in the bill.[3] Constitutional amendments subjected to a single-subject rule will no doubt also result in confusion, misinterpretation, and consequent court cases.

- SCR 4007 gives the Secretary of State outsized power to determine if an initiated constitutional amendment consists of only one subject. In contrast, SCR 4007 does not direct the Secretary of State to make this decision regarding legislatively-proposed constitutional amendments, so they would not be subject to the Secretary of State's discretion.

- Because single-subject rules have resulted in so many court cases (such as North Dakota's SB 2015 in 2023), single-subject rules give the courts enormous power to strike down passed legislation and constitutional amendments approved by voters.

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[1] Richard Briffault, *The Single-Subject Rule: A State Constitutional Dilemma*, 82 Alb. L. Rev. 1629 (2019).
[2] Kevin Frazier, *How Much Is Too Much in a Bill or Amendment?*, State Court Report (May 5, 2023).
[3] Tim Anderson, CSG Midwes"The Single-Subject Rule: A State Constitutional Dilemma" by Richard Briffaultt (January 5, 2024).

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- North Dakota voters have continually protected the Powers Reserved to the People in Article III of our state Constitution, which allows citizens to initiate amendments to our state constitution. North Dakota voters have defeated the last three legislative attempts to change Article III.

Finally, we must remark on the timeline for this proposed Constitutional amendment. If adopted, the amendment would come before voters in the June 2026 primary election. Our last primary election in a midterm year had less than 19% voter turnout. If the legislature once again decides to try to limit the Powers of the People through a constitutional amendment, it should come before voters in a general election when more voters turn out.

North Dakotans have had the power to amend the state Constitution through the initiative process for over 100 years and continue to protect the process. We hope the legislature will stop trying to limit this process through resolutions like this one. The League of Women Voters of North Dakota urges the Senate State and Local Government Committee to give SCR 4007 a Do Not Pass recommendation.

Thank you, Chair Schauer and Members of the Committee, for your consideration.

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