

HOUSE GOVERNMENT AND VETERANS AFFAIRS
REPRESENTATIVE AUSTEN SCHAUER, CHAIR

TESTIMONY PRESENTED BY
ERIKA WHITE, STATE ELECTIONS DIRECTOR

Chairman Schauer and members of the committee, I'm Erika White and I serve as the State Election Director in the Office of the Secretary of State. I am here in opposition to HB 1587. I want to start my testimony by stating that the Office of the Secretary of State is supportive of security measures and our office, county auditors, and election officials across our state, take testing of our election systems very seriously. This bill is in direct conflict with those processes and jeopardizes testing undertaken by North Dakota election officials and the U.S. Election Assistance Commission (EAC).

First, I'd like to provide an explanation of how equipment certification works at the federal level. The EAC publishes Voluntary Voting System Guidelines (VVSG) that election tabulation companies are required to follow to obtain certification. The certification process is extensive, utilizing independent, federally accredited testing labs, and can take many months to years for the EAC to certify systems. All tabulation systems are currently certified to VVSG 1.0 or 1.1. In 2021, the EAC adopted VVSG 2.0 which better defines standards. But the adoption of VVSG 2.0 in no way decertifies equipment that is operating under VVSG 1.0 or 1.1. The Secretary of State then further certifies tabulation systems used in North Dakota to ensure compliance with state law.

We have many concerns with the language outlined in this bill, beginning in Section 2, subsection 13 it states all voting systems must be certified to version 2.0 for use in this state and any system certified to 1.0 must be immediately decertified. There are no tabulation systems in the United States that are currently certified to VVSG 2.0 as this process is extensive. Election tabulation companies are now building equipment and operating systems to these standards, which then goes through EAC certification, which takes many months to years to complete. Anticipated availability of equipment certified to these standards is expected by 2027, and our office has already informed appropriators that our agency will be seeking equipment replacement at such time.

Section 2, subsection 14 further states the Secretary of State shall ensure voting systems are current regarding security patches for operating systems and antivirus software. Our equipment undergoes regular maintenance to ensure operability and compliance which we assume is the intent behind the security patch language proposed.

However, antivirus software is non-existent on our ballot tabulation equipment because it's simply not necessary. Our equipment is not connected to the internet and contains no components for such a connection. We also don't allow devices that have ever touched a network to be used on this equipment to ensure our tabulation system remains isolated. Further, our tabulation systems have other security mechanisms that prevent tampering or malicious activity should an individual attempt to tamper with the equipment. Security measures include:

- Physical security which includes use of unique tamper-evident seals to prevent tampering before, during, and after an election.
- System hardening and data encryption which prevents unauthorized USBs, restricts users to only perform necessary actions, and requires multi-factor authentication.
- Independent testing of systems from federally accredited labs, the EAC, the Secretary of State, and county auditors.

Section 2, subsection 14 states that the Secretary of State shall maintain the source code and a district chair may audit that code upon request. Source code from our vendor would have to be held in escrow to protect the security and integrity of our systems. I'm sure you can imagine the issues and concerns we have with releasing the inner workings of our tabulation systems to the general public. This alone creates a greater security risk in our election systems than any risk that exists today.

Section 3, subsection 3 of the bill discusses when public testing of our systems must occur. County auditors across our state conduct extensive logic & accuracy testing before each election to ensure ballot tabulators are accurate – there is zero tolerance for discrepancies. County auditors also complete a public test which must be completed at least 7 days before election day, where the public is allowed to view and verify the results of the test. The proposed changes outlined in this section are unworkable - moving the test to 60 days before election day – before counties have programming or ballots to complete the public test.

Section 3, subsection 5 states that the county auditor must complete a full hand count of all ballots cast in the election as part of a post election audit process. Hand counting is not more accurate, but is inefficient and would create more, rather than less, distrust in our election processes. Our office firmly believes this would undermine the trust we've been working to build in the last two years in our election processes.

Section 5 states that if a system fails security testing that it must be immediately decertified and a hand count conducted to tabulate ballots. Our systems have **NEVER** failed a security or testing requirement and operate with 100% accuracy when tabulating votes. Again, our systems are tested extensively before and after the election to

ensure all machines are working with 100% accuracy. I would argue that a hand count would not yield the same results.

Mr. Chairman, members of the committee, our systems are secure, and the citizens of North Dakota can be assured of the integrity of our systems and processes. This bill is in direct conflict with our effort to keep North Dakota elections secure by undermining our certification and testing. I urge a **DO NOT PASS** on HB 1587.