

**2019 HOUSE POLITICAL SUBDIVISIONS COMMITTEE**

**HB 1270**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

1/25/2019

HB 1270

Job # 31525

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle

### Explanation or reason for introduction of bill/resolution:

Relating to district party chairman approval of polling places. Relating to requirements to establish or alter precinct boundaries and polling places

Minutes:

1 – 7

**Chairman J. Dockter:** Opens the hearing on HB 1270.

**Rep. Klemin:** (Handout 1) Introduced HB 1270. Read his testimony.

**Rep. Johnson:** If a precinct polling place were to be changed within one district would consent of just the chairs of the parties in that district be required?

**Rep. Klemin:** That is correct.

**Rep. Johnson:** If the polling places are going to be changed within several districts in a county do the chair people of the Legislative districts agree to all those changes or just the change in their district?

**Rep. Klemin:** They would have to agree to the change in their district, not in other districts.

**Rep. Johnson:** To require the consent to change the polling place, do you not see a possibility of one person saying yes and one person saying no?

**Rep. Klemin:** This is an issue that involves districts located in cities, not rural areas. Under the existing law there is only two parties that have to agree on polling places within a city. It's the county and the city. We have added another element to have some method to encourage collaboration for the location of polling places. To encourage the collaboration of the cities and

counties with the political parties in those precincts on the location of the polling places. A majority of the chairman would need to consent to it under this bill. So we have the collaboration effectively made with all the parties that are involved, not just republicans or democrats. Nothing in the law now requires any kind of collaboration. I'm trying to find a solution to have some kind of collaboration that works. We offered to work with the county on this to find a solution. We weren't even informed what they were going to do on this until the night they did it. That was after the resolution was read during the county commission hearing. We have to have some way to involve all the parties and voluntary cooperation does not work.

**Rep. Johnson:** I understand the theory but not the mechanics. You are requiring the consent of the majority of the chairman within the legislative district typically democrat and republican. If they cannot agree does the polling place default to the existing polling place within that precinct?

**Rep. Klemin:** Yes.

**Rep K. Koppelman:** In subsection 2 of section 1 of the bill it talks of consultation and cooperation and apparently was given to the permission of the county auditor is that the opinion?

**Rep. Klemin:** The county has jurisdiction over the precinct within the county other than those located with the city. The city has jurisdiction over the precincts within the city. The current statute if either of them want to do something with the precincts then they are to seek input regarding the boundaries of the precincts from representatives of the political parties organized with the county. That stays in the law.

**Rep K. Koppelman:** This sounds like encouragement of a collaborative process, which did not occur, but I'm not seeing in the proposed changes that would say a city has to give permission. It talks about the chairperson of a political party giving consent but not a city having to give consent. Is that something that is missing if that is your intent?

**Rep. Klemin:** In the case of Burleigh County and Bismarck the city and county did not have a joint power agreement that authorized the county to make changes to the precincts located within the city. Therefore, the city had to give consent and the city did not.

**Rep K. Koppelman:** What about precincts where they are in county and the city who has the authority?

**Rep. Klemin:** It would require collaboration between the county and the city. Unless one or the other through a joint power agreement had relinquished their jurisdiction to the other side.

**(24:14) Bill Wocken:** ND League of Cities; (Handout 2). Read his testimony.

**Rep K. Koppelman:** Is it your reading of current law and if this bill passed that a city has to give permission to a county commission to alter the precincts within the city boundaries?

**Mr. Wocken:** Based on Rep. Klemin, that does appear to be the case.

**Rep K. Koppelman:** The county attorneys seem to track that?

**Mr. Wocken:** Yes.

**Doug Schonert:** (Handout 3). Read his testimony.

**Rep. Guggisberg:** How does decreasing the number of polling sites would lead to more turn out? Did you increase the early voting opportunities?

**Mr. Schonert:** Because the universal polling sites, we would have them spread out in Bismarck. They would not have to go all the way home, wherever it is convenient. They could vote in any of the 16 polling sites. Therefore, we think it would increase the voting turnout.

**Rep. Guggisberg:** What was the cost savings going to less polling locations?

**Mr. Schonert:** It isn't the polling locations but the equipment being used. The county would not have to purchase as much equipment.

**Rep. Longmuir:** Can you explain the universal polling sites?

**Mr. Schonert:** Several precincts would come to the one site to vote, that would be their established precincts. But if they wanted to vote at any other site in Bismarck they could and they would have your ballot at that site. It's a major convenience that we figure would increase voter turnout.

**Rep. Simons:** We did what you are talking about and people were handed the wrong ballot. How would you get around that because it is a real problem?

**Mr. Schonert:** That would be in training. We have early voting now at the auditor's office and you can come from any district and vote there and they have to give you the right ballot.

**Rep K. Koppelman:** The current law talks about collaboration and cooperation and that did not happen. When you go from 27 to 16 voting places in the county and 12 universal centers, have you considered the long lines that might result from people taking advantage of that convenience? Is it really a convenience?

**Mr. Schonert:** I don't believe the lines would be any difference then they are now.

**Rep K. Koppelman:** I suspect why the district chairperson wants consultation and collaboration to be part of that process.

**Mr. Schonert:** I want to stress that we want collaboration with the district representatives but they should not have the authority over the elected officials. Rep. Klemin did not consult with us on this bill.

**Chairman J. Dockter:** That is why we have public hearings to go over bills that people draft.

**Rep. Johnson:** I am not familiar with universal voting centers, how were you made aware of universal voting centers? Can you tell me the origins of that?

**Mr. Schonert:** I don't know the origins of that other than our county auditor brought it before us. He explained that this would help increase voter turnout and be more effective and more efficient.

**Donnell Preskey:** ND Association of Counties: (Handout 4). Read her testimony.

**Rep K. Koppelman:** You talk about eroding local control, are several district chairpersons in a county more local control than one auditor?

**Ms. Preskey:** The auditors are the local election officials. They are the experts of what are the needs of our voters and how they can best serve their best interests.

**Rep K. Koppelman:** There are States Attorneys that serve in counties they do not live in, as far as where one lives I don't think is relevant. Auditors seem to drive this process, the law says to do this in collaboration and consultation with these different entities. What we are hearing is this is not happening, how does this happen to go from the auditor to the commission? And how often do commissioners deny the idea of the auditor to make some of these changes?

**Ms. Preskey:** We believe this is a one county situation, I didn't hear from another county that they didn't have consultation.

**Rep K. Koppelman:** I have not been a part of collaboration and never been contacted by my county auditor. Is there a nationwide trend?

**Ms. Preskey:** The auditors are the local election officials. Yes, there has been national decision about voter accessibility and vote centers.

**Rep. Guggisberg:** There was a proposed change in precincts in my county and the auditor did get a hold of us and asked for permission of the political chairman so they didn't change the precincts. Do you have proof of increased turnout? And if you do can we get that?

**Ms. Preskey:** I do not but can do some research?

**Erica Johnsrud:** McKenzie County Auditor/Treasurer: (Handout 5). Read her testimony.

**Rep K. Koppelman:** Where do these new ideas come from?

**Ms. Johnsrud:** I don't think this is a new idea, we have 35 counties in North Dakota that are vote by mail either exclusively or in part. National there are three states that are vote by mail entirely. Vote by mail and vote centers was the opportunity to expand voting to allow it to happen differently for different people.

**Rep K. Koppelman:** Where does this come from? In the past if you were going to absentee vote you had to give a reason. Vote by mail was never an

idea that the legislature said let's go to this. The county auditors said let's have all these people vote by mail.

**Ms. Johnsrud:** I have limited experience as far as that goes. Expansion of voting centers and moving towards this and the age of our voting equipment has been a large factor in that decision. For McKenzie County it was expanding the availability of where you could vote on election day.

**(1:07:20) Michael Montplaisir:** Cass County Auditor: (Handout #6,7) Read his testimony.

**Rep K. Koppelman:** Is there a national association of county auditors or election officials that drives some of these trends? Where does that come from?

**Mr. Montplaisir:** There are various organizations. I think vote center idea started in Colorado.

**Jim Silrum:** Deputy Secretary of State: North Dakota was the first state to hold vote by mail election. Vote Centers came in 2007 in Colorado. We crafted it as an option for counties to use. These are not new things.

**Chairman J. Dockter:** Closed the hearing on HB 1270.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

HB 1270  
2/14/2019  
32792

- Subcommittee  
 Conference Committee

Committee Clerk Signature	Carmen Hickle	By: Elaine Stromme
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### Explanation or reason for introduction of bill/resolution:

Relating to district party chairman approval of polling places. Relating to requirements to establish or alter precinct boundaries and polling places.

### Minutes:

Attachments: 1 - 2
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**Chairman J. Dockter:** Opened HB 1270 for committee work.

**Rep. Klemin:** (Attachments #1,2) Proposed Amendments and explained them. We don't have any objection to polling centers but we need to know about them. If they want to change the precinct boundaries they need to consult with us. I don't think that is unreasonable to do that. Also with respect to polling places it does not give us veto authority.12:19

**Rep K. Koppelman:** You are changing the original bill which required the consent of some folks to a consultation or seeking input from a smaller group of people. Is that sufficient? Can you define consult or input? Is that an email from the county auditor saying I have notified you now that the polling place or precinct lines are changing, if you have any comment let me know. Is it going to hold any weight?

**Rep. Klemin:** It is intended to be flexible. If it says they need to get input from legislators.

**Rep K. Koppelman:** Moved to adopt amendment 19.0630.02003

**Rep. Longmuir:** Seconded.

**Rep. Ertelt:** There is no clear language what "consultation" means. It should be," written consultation".

**Chairman J. Dockter:** There has been motion and a second.

**Voice Vote** carried to amend HB 1270.

**Rep. Longmuir:** Motion for a Do Pass as amended for HB 1270.



House Political Subdivisions Committee  
HB1270  
2/14/2019  
Page 2

**Rep K. Koppelman:** Seconded.

**A Roll Call Vote was taken:** Yes 12 No 2 Absent 0

Do Pass carries

**Rep. Johnson:** Will carry HB 1270

**Hearing closed.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1270

- Page 1, line 2, replace "district party chairman approval of" with "required consultations with political parties and legislators before establishing or altering"
- Page 1, line 3, remove ", subdivision c of subsection 2 of section 16.1-07-15,"
- Page 1, line 4, remove "and subsection 1 of section 16.1-11.1-01"
- Page 1, line 5, remove "and polling places"
- Page 1, line 9, after "establishing" insert "or altering the boundaries of"
- Page 1, line 12, after "county" insert "and from members of the legislative assembly from the districts that would be affected. The boundaries of established precincts may not be altered later than the May fifteenth immediately preceding an election in legislative districts that have organized by precinct under chapter 16.1-03"
- Page 1, line 12, remove the overstrike over "~~Upon the request of~~"
- Page 1, remove the overstrike over lines 13 and 14
- Page 1, line 15, remove the overstrike over "~~proposals to change precinct boundaries~~"
- Page 1, line 15, remove "A board of county commissioners may not"
- Page 1, remove lines 16 through 18
- Page 1, line 19, remove "a majority of the chairmen of the legislative district parties of the districts affected"
- Page 1, line 22, remove "the consent of a majority of"
- Page 1, line 23, replace "the chairmen of" with "consulting with and seeking input from representatives of political parties organized within the county and from members of the legislative assembly from"
- Page 1, line 23, remove "legislative district parties of the"
- Page 1, line 23, after "districts" insert "that would be"
- Page 2, remove lines 1 through 25
- Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB1270**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.0630.02003

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Koppelman Seconded By Rep. Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:					
Vice Chairman Pyle:					
Rep. Ertelt:					
Rep. Fegley:					
Rep. Hatlestad:					
Rep. Johnson					
Rep K. Koppelman:					
Rep. Longmuir					
Rep. Magrum:					
Rep. Simons:					
Rep. Toman:					
Rep. Strinden:					
Rep. Adams:					
Rep. Guggisberg					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

VOICE VOTE CARRIES

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1270**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.0630.02003

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Longmuir Seconded By Rep. Koppleman

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	X				
Vice Chairman Pyle:	X				
Rep. Ertelt:	X				
Rep. Fegley:	X				
Rep. Hatlestad:	X				
Rep. Johnson	X				
Rep K. Koppelman:	X				
Rep. Longmuir	X				
Rep. Magrum:		X			
Rep. Simons:		X			
Rep. Toman:	X				
Rep. Strinden:	X				
Rep. Adams:	X				
Rep. Guggisberg	X				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Johnson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1270: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1270 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "district party chairman approval of" with "required consultations with political parties and legislators before establishing or altering"

Page 1, line 3, remove ", subdivision c of subsection 2 of section 16.1-07-15,"

Page 1, line 4, remove "and subsection 1 of section 16.1-11.1-01"

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Page 1, line 23, remove "legislative district parties of the"

Page 1, line 23, after "districts" insert "that would be"

Page 2, remove lines 1 through 25

Renumber accordingly

**2019 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 1270**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB1270  
3/14/2019  
# 33706

- Subcommittee  
 Conference Committee

Committee Clerk: Pam Dever

### Explanation or reason for introduction of bill/resolution:

Relating to required consultations with political parties & legislators before establishing or altering polling places.

### Minutes:

Att # 1 – Rep. Klemin; Att # 2 – Bill Wocken

**Chairman Davison:** Let's open the hearing on HB1270.

**Rep. Klemin, Dist. 47, Bismarck:** (see att # 1) (.55-9.19) I am in support of this bill.

**Chairman Davison:** There is no authority that is being taken away in regards to redistricting.

**Rep. Klemin:** There is no authority taken away or alter then except moving up the date to get it done. Current law say they have until December 31. This moves it up to May 15. That May 15 is the deadline for parties to reorganize. (10.09)

**Chairman Davison:** What is the biggest challenge for them to move up the deadline that you have heard?

**Rep. Klemin:** I don't think there is a challenge to do that. Most boundaries don't change much at all. For those districts that reorganize by precinct, it becomes very important. Once the precinct committeemen are elected, they get two-year term, there should be no challenge. If you eliminate a precinct, then who are the committeemen?

**Chairman Davison:** You say it could affect a vacancy. Please explain.

**Rep. Klemin:** The district committee is made up of precinct chair people. They choose a new legislator in the event of a vacancy. If you change the precinct boundaries, that changes who the precinct committeemen are. They may not be in that precinct any more if boundary was changed. How do you take away a two-year term? This bill will harmonize so there is no conflict. (12.37)

**Bill Wocken, N.D. League of Cities:** (see att # 2) I am here in support. (13.15-15.00)

**Chairman Davison:** Do you think this solves the problem that occurred in Bismarck previous to the last election? (15.00)

**Bill:** Yes. It will resolve a number of issues. The consultation is the prime thing. It does not change authority. (15.17)

**Chairman Davison:** Any more in support? Agency?

**John Arnold, Secretary of State Office:** Here in a neutral capacity but want to point out a few things. (15.46) The reference of May 15 as deadline for reorganization, that is odd number of years in Code. This is following the last general election. On line 15 of the bill, I read that as May 15 of the even number of year which could be less than a month before the primary election. This would be way too soon to be changing boundaries. Pre voting will have begun already. I urge the committee to look at that. Also, subsection 3 of 16.1.04.01 still has that December 31 deadline. That would be in conflict. They should say the same. 16.1.04.02 subsections 4, was just added last session. It gives counties to change a polling place for emergency reasons. Flooding school, etc. Any questions? (18.11)

**Chairman Davison:** Any opposition?

**Kevin Glatt, Burleigh County Auditor/Treasurer:** (18.23) I started in 1986 and am deeply involved with elections. I have successfully administered 39 elections since 1986. I am here opposed to this bill. I believe this is a one county bill because I was trying to make things better for the voter in increased participation by establishing voting centers in Bismarck Burleigh County. I was not considering the political parties and their organization. I was considering the voters. Studies have shown that vote center have increased voters and especially those least likely to vote. There are very few districts that organize by precincts. Most organize at large. I am concerned with May 15 date. Right now, if passed, this bill would take effect during redistricting in 2020. Any questions?

**Sen. Erin Oban:** What is detailed in this bill is exactly what your office did when you were having this discussion. You did include members of the legislature. It does not change a whole lot at how you decided to go about this. This bill just says this is how you do have to go about this. Do you agree?

**Kevin:** I agree, but we also invited Rep. Laning and school board members, parties chair, Bismarck legislators. We tried to include as many stakeholders as possible. Our first meeting was over 20 people. Thank you. (21.50)

**Donnell Preskey, Association of Counties:** We are opposed. We worked with the auditors when this was in the House. When selecting the polling locations and precincts, those are calculated carefully by the county auditors. They have the best interest of the voters in mind. They are not based on politics. The final decision must stay with the board of county commissioners and auditors. Keep that in mind. (25.02)

**Chairman Davison:** Any more testimony? We will close this hearing. (25.18)



# 2019 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB1270  
3/22/2019  
#34159

- Subcommittee  
 Conference Committee

Committee Clerk: Pam Dever

### Explanation or reason for introduction of bill/resolution:

Relating to required consultations with political parties & legislators before establishing or altering polling.

### Minutes:

Att # 1 – Sen. Oban

**Chairman Davison:** Look at HB1270.

**Sen. Erin Oban:** This bill is about trying to included more people to be in the conversation including legislators. This was an issue in Burleigh County before the last election. (.51) When the county auditor got up and opposed it, this bill codifies what he did. He invited a couple of legislators. The auditor was proposing significantly reducing the number of polling locations before the November election. There were two legislators there, myself and one of my counter parts in the House. When I saw what the proposal was, I was opposed to how many polling locations were to be closed. Wing and Wilton no longer would have one. My district would go from 6 to 1 location. I did not think that that one location could take all the extra people. (1.42) I told all the legislators and we fought against this. I am not opposed to combining locations. It was just too many. The auditor did not consult with the little towns. We are not trying to take authority from the auditor. We are saying you should include people who are impacted by these decisions. I support whatever makes voting easier for the people. (2.24) This amendment I have (**see att #1**) fixes a concern of SOS office on page 1, line 15, immediately preceding an election. It should say, immediately following the last preceding general election. On page 2, line 3, it talks about how an auditor's office can alter polling locations. If we are adding languages, it does not give any flexibility in an emergency situation. Say a school flooded, you have to make arrangements. It adds a line in there. You do not have to confer with all those people. (3.49) Just make the decision to make the change.

**Sen. Erin Oban:** I move amendment 19.0630.03001. **Sen. Richard Marcellais:** I second.

**Chairman Davison:** Discussion. Call roll: **YES - 7 NO -- 0 -0-absent. PASSED.**

**Chairman Davison:** I will be frank about this bill. It does not change any authority on where the polling places are. It just codifies that he has to talk to legislators. We have to codify in Code collaboration in Code with communication. (5.25)

**Sen. Kristin Roers:** It may not just be legislators effected by this. Why isn't it the candidates rather than the sitting legislators? Give an incumbent an advantage. (5.55) What about the sheriffs' race that is affected. They already have to talk to political parties.

**Sen. Erin Oban:** If it is sheriff's race that is at large position, that is the difference for me.

Chairman Davison: Any more discussion?

**Vice Chair Meyer:** We did have oppositions by auditors and counties.

**Chairman Davison:** I don't disagree with the intent of the bill. (7.17) Why do we have to codify and not just use common sense.

**Sen. Erin Oban:** I move a DO PASS as Amended.      **Sen. Richard Marcellais:** I second.

**Chairman Davison:** Roll: **YES -- 3    NO -- 4 . Amendment FAILED.**

**Vice Chair Meyer:** I move a DO NOT PASS as amended.      **Sen. Jay Elkin:** I second.

Chairman Davison: Discussion? Call roll: **YES -- 4    NO -- 3 -0- absent**  
**HB1270 DO NOT PASS – PASSED.      Chairman Davison will carry the bill.**

March 21, 2019

8/2  
1061  
31

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1270

Page 1, line 14, remove "later"

Page 1, line 15, replace "than the" with "after"

Page 1, line 15, replace "immediately preceding an" with "following the last preceding general"

Page 2, line 3, after the underscored period insert "However, an emergency alteration of a polling place made less than one week before the election is exempt from this subsection."

Renumber accordingly

3-22-19

Date:  
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES HB 1270  
BILL/RESOLUTION NO.

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.0630 - 0300

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen Oban Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chair Davison	/		Sen. Oban	/	
Vice Chair Meyer	/		Sen. Marcellais	/	
Sen. Elkin	/				
Sen. K. Roers	/				
Sen. Vedaa	/				

Total (Yes) 7 No 0

Absent -0-

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

3-22-19

Date:  
Roll Call Vote #:

2

**2019 SENATE STANDING COMMITTEE**  
**ROLL CALL VOTES** 107270  
**BILL/RESOLUTION NO.**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.0630.03001

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider

Motion Made By Sen. Dban Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chair Davison		/	Sen. Oban	/	
Vice Chair Meyer		/	Sen. Marcellais	/	
Sen. Elkin		/			
Sen. K. Roers		/			
Sen. Vedaa	/				

Total (Yes) 3 No 4

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
failed

3-22-19

Date:  
Roll Call Vote #:

3

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1270

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.0630.0300

- Recommendation:
- Adopt Amendment
  - Do Pass  Do Not Pass
  - As Amended
  - Place on Consent Calendar
  - Without Committee Recommendation
  - Rerefer to Appropriations
- Other Actions:
- Reconsider
  - \_\_\_\_\_

Motion Made By Sen Meyer Seconded By Sen. Elkin

Senators	Yes	No	Senators	Yes	No
Chair Davison	/		Sen. Oban		/
Vice Chair Meyer	/		Sen. Marcellais		/
Sen. Elkin	/				
Sen. K. Roers	/				
Sen. Vedaa		/			

Total (Yes) 4 No 3

Absent -0-

Floor Assignment Sen. Davison

If the vote is on an amendment, briefly indicate intent:  
passed

**REPORT OF STANDING COMMITTEE**

**HB 1270, as engrossed: Government and Veterans Affairs Committee (Sen. Davison, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1270 was placed on the Sixth order on the calendar.

Page 1, line 14, remove "later"

Page 1, line 15, replace "than the" with "after"

Page 1, line 15, replace "immediately preceding an" with "following the last preceding general"

Page 2, line 3, after the underscored period insert "However, an emergency alteration of a polling place made less than one week before the election is exempt from this subsection."

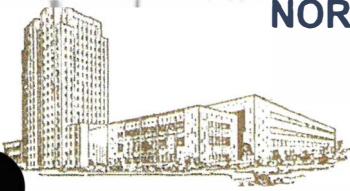
Renumber accordingly

**2019 TESTIMONY**

**HB 1270**



# NORTH DAKOTA HOUSE OF REPRESENTATIVES



STATE CAPITOL  
600 EAST BOULEVARD  
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Speaker of the House

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## TESTIMONY OF REP. LAWRENCE R. KLEMIN HOUSE POLITICAL SUBDIVISIONS COMMITTEE HOUSE BILL NO. 1270 JANUARY 25, 2019

Mr. Chairman and members of the House Political Subdivisions Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here today to testify in support of House Bill 1270.

House Bill 1270 amends the North Dakota election law on the subject of designation of precinct boundaries and on the number and location of polling places. Statutes referred to or affected by House Bill 1270 are attached to my testimony for your reference.

This bill has two main parts: Section 1 relating to precincts, and Sections 2, 3 and 4, relating to polling places. The law currently provides in Section 16.1-04-01 of the North Dakota Century Code that a county commission can divide the county into precincts and can establish and alter precinct size and boundaries. The governing body of a city has that authority within a city. A county can relinquish its jurisdiction to a city over all or any portion of townships in a city if the city agrees to accept such jurisdiction. A city can also return such jurisdiction back to a county. Pursuant to Article VII, Section 10, of the North Dakota Constitution, counties and cities can also enter into joint power agreements to decide which governmental entity has jurisdiction over precincts and polling places.

The boundaries, size, and locations of precincts are particularly important to the political parties in the legislative districts for purposes of organization. As you know, political committees are required by law to organize by May 15 of each odd numbered year. Section 16.1-03-01(2) provides that a legislative district party may organize **by precinct or on an at-large basis** for the entire district. Section 16.1-03-03 states that If a political party chooses to organize **by precinct**, then it can elect committeemen from each **precinct**. The number of **precinct** committeemen is determined according to a formula set out in the law. The **precinct** committeemen are elected to serve a two-year term. The **precinct** committeemen elect the officers of the district political committee and then the **precinct** committeemen and the officers comprise the district committee. If there is a legislator from that legislative party and a vacancy in that position occurs due to death, disability, or resignation, then the district committee selects the replacement legislator to fill the vacancy to serve until the next election as provided in Section 16.1-13-10.

This all begins with a **precinct**, which is the way District 47 has organized since 1959. If a county commission or city government body can alter the size and location of precincts at their sole discretion, then it does a disservice to our political parties that have organized by precinct in reliance on existing boundaries. It also shortens the terms of elected precinct committeemen

who may not have reached the end of their two-year term as provided in the law. It can even affect the appointment of a legislator if a vacancy occurs.

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Section 16.1-04-01(2) requires a county commission or a city governing body, as the case may be, to consult with and seek input from representatives of the political parties within the county when "establishing" precincts. No such consultation is explicitly required if precinct boundaries, once "established", are later proposed to be altered. The chairman of a political party can propose changes in precinct boundaries, but there is no requirement that the county commission or the governing body of a city do anything with such a proposal.

In Section 1 of House Bill 1270, Section 16.1-04-01(2) is amended to recognize that county commissions, city governing bodies, political parties, and legislators all have a mutual interest in the size, location, and boundaries of precincts. We are all in this together. We represent the same constituency. We need to work together and collaborate on this matter to better serve the voters and the residents of our state. Consequently, in House Bill 1270, counties and cities are required to consult with the chairmen of the political parties and the legislators in the legislative districts affected before precinct boundaries can be established or altered. So that "consultation" means something in this collaborative effort, consent must be obtained from a majority of the chairmen of the political parties in the districts affected. Consent is not required from legislators. The Legislature cannot delegate authority to a subset of the Legislature.

This collaborative process could apply to multiple legislative districts or to a single district depending on the situation. For example, in Bismarck there are 5 legislative districts that could be affected if precinct boundaries or the number and location of polling places are proposed to be changed. There are 15 legislators in the 5 districts and 10 party chairmen. The consent of 6 party chairmen would be needed, thus making this a nonpartisan bill. The numbers of legislators and chairmen of political parties will vary across the state, but the concept is the same. Collaboration is necessary and appropriate. The decisions on these matters should not be left to the sole discretion of a few people who comprise a majority of a county commission or a city governing board.

This principle of collaboration is also required for the number and location of polling places in a county or city. Section 2 of the bill amends Section 16.1-04-02 to add a new subsection 5 requiring consent from a majority of the chairmen of the political parties before polling places can be designated. It may be appropriate to have voting centers in some areas, as currently allowed by Section 16.1-04-02(3). There is no change in the law in that respect other than the collaboration requirement. We are all reasonable people and can see the need for economies if necessary, but we do not want to discourage voters from going to the polls to vote by making access to voting more difficult or more restricted. The right to vote should not be governed by the cost of polling places.

Section 3 of House Bill 1270 amends Section 16.1-07-15, relating to early voting precincts, and inserts a similar collaborative requirement into the law as I have discussed above. Section 4 of the bill does the same for the one or more polling places required in counties that conduct mail ballot elections.

House Bill 1270 has been introduced to require collaboration where none is required now. We have an interest in the size, location and boundaries of precincts and the number and location of polling places. Collaboration should not be a requirement, but the fact of the matter is that we just don't have it now.

Why was this bill introduced?

In October of 2017, the legislators in Bismarck were informed that the Burleigh County Auditor was planning to propose a change in the number and location of the polling places in the city.

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We immediately requested a meeting with the County Auditor and the County Commission. At that meeting, the County Auditor presented some general information about the nature of the reduction in the polling places, but did not provide specific details concerning the plan. The legislators expressed concern and unanimously opposed the changes,

On December 4, 2017, the Burleigh County Commission held a hearing on a resolution prepared by the County Auditor to redraw the precinct boundaries throughout the city effective December 31, 2017. The resolution included a consolidation of the polling places in the city that reduced the number of polling places in the city from 24 to 12. The resolution described the polling places where the voters in the newly redrawn precincts were to go to vote in 2018.

However, until the night of the hearing on December 4, 2017, none of the legislators or district chairmen had any knowledge that the precincts were to be redrawn or any of the details about the number and location of the polling places to be considered and decided by the County Commission that night. We did not even have a copy of the resolution until the County Commission voted to approve it. It was obtained later from the County Auditor.

District 47 has 4 precincts. The resolution divided District 47 into 2 precincts with new boundaries and reduced polling places. Similar precinct boundary and polling location changes were made throughout the city. The resolution designated the polling places where voters from the newly redrawn precincts were to go to vote. Despite the objection of all 15 legislators in Bismarck, the County Commission approved the resolution of the County Auditor to redraw the precinct boundaries and to reduce the number and location of the polling places by a vote of 3 to 2, effective at the end of the month.

On December 14, 2017, on behalf of the Bismarck legislators and chairmen of the political parties, I then requested an opinion from the Burleigh County State's Attorney concerning the legality of the action taken by the Burleigh County Commission. In a letter opinion dated December 15, 2017, the Burleigh County State's Attorney stated:

*"Accordingly, because the County has redrawn the precinct lines within the City of Bismarck and the City has not given the County that authority, the action by the County Commission to approve the Auditor's suggestion is contrary to law."*

On December 18, 2017, the Burleigh County Commission met and rescinded the resolution adopted on December 4, 2017, as proposed by the County Auditor, thus leaving the precincts and polling places in effect for the 2018 election year as they were in the 2016 election year.

House Bill 1270 has been publicly described by quotations in the press as a "power grab" by the Legislature. I submit that the "power grab" occurred when the County acted illegally to redraw the city precincts without the consent of the City of Bismarck.

The County Commission had no regard for the effect that redrawing the precincts had on the required organization of the legislative districts, including District 47, just 7 months earlier. As I mentioned, District 47 organizes by precinct as provided by law. Precinct committeemen had been elected in May of 2017 to two-year terms ending May of 2019. The illegal resolution of the County Commission not only reduced the number of the precinct committeemen, but also shortened the terms of some of them who would have been displaced into different precincts than the ones they had been elected in.

House Bill 1270 is a solution to the problems created in Burleigh County or which likely have been or could be created in counties and cities throughout the State. Legislators want to work with the county commissions and cities. If meaningful collaboration can't occur voluntarily, then the Legislature must act to correct this overreaching. I urge your support for House Bill 1270. Thank you.



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STATUTES CITED IN REP. KLEMIN TESTIMONY ON HB 1270

Constitution of North Dakota, Article VII, Section 10

**Section 10. [Service agreements]**

Agreements, including those for cooperative or joint administration of any powers or functions, may be made by any political subdivision with any other political subdivision, with the state, or with the United States, unless otherwise provided by law or home rule charter. A political subdivision may by mutual agreement transfer to the county in which it is located any of its powers or functions as provided by law or home rule charter, and may in like manner revoke the transfer.

**16.1-03-01. Party caucus Time and manner of holding Caucus call -- Notice.**

1. Each legislative district party shall organize in conformance with the state legislative district boundaries as established by the legislative assembly and as set forth under chapter 54-03.

2. On or before May fifteenth following the last preceding general election, a party caucus must be held by every legislative district party. The legislative district party may organize the caucus by precinct or on an at-large basis for the entire district.

3. The legislative district chairman of each party shall set the date and time for the party caucus. If there is not a duly elected district chairman in a legislative district, the state party executive committee may issue the call for the caucus. The call must contain the following:

- a. Name of party.
- b. Legislative district number.
- c. Date of caucus.
- d. Place of caucus.
- e. Hours of caucus.
- f. A statement of the business to be conducted.
- g. The name of the district chairman or, if there is not a duly elected district chairman, the member of the state party executive committee issuing the call.

4. The district chairman or, if there is not a duly elected district chairman, the state party executive committee shall provide ten days published notice in the official newspaper in circulation in the district. The notices must contain that information set forth in subsection 3.

**16.1-03-03. Political parties may elect committeemen.**

If a political party chooses to organize by precinct, the party in each voting precinct of this state is entitled to elect one precinct committeeman for each two hundred fifty votes, or majority of a fraction thereof, cast for the party's presidential electors, governor, attorney general, or secretary of state in the precinct in the last general election. Each precinct committeeman must be an elector of the precinct in which the committeeman resides and must be elected for a two-year term.

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**16.1-04-01. Precincts -- Duties and responsibilities of the board of county commissioners or the governing body of the city.**

1. The board of county commissioners of each county:

a. Shall divide the county into precincts and establish the precinct boundaries, except that within the boundaries of any incorporated city, the governing body of the city shall divide the city into precincts and establish their boundaries pursuant to title 40. Any number of townships or parts of townships may be joined into a single precinct provided that no precinct may encompass more than one legislative district.

b. May alter the number and size of precincts within the county by combining or dividing precincts. However, the governing body of any incorporated city has the authority to alter the number and size of precincts located within its boundaries. The board of county commissioners may relinquish the jurisdiction provided under subdivision a over all or any portion of a township or townships under its jurisdiction to a city for the purpose of establishing a voting precinct if a majority of the governing body of the city agrees to assume such jurisdiction. The governing body of a city, by majority vote, may return jurisdiction granted herein to the county and the county shall accept that jurisdiction.

2. When establishing precincts under subsection 1, a board of county commissioners, in cooperation with the county auditor, or a city governing body shall consult with and seek input regarding the size, number, and proposed boundaries of the precincts from representatives of the political parties organized within the county. Upon the request of the district chairman of a political party, a board of county commissioners, in consultation with the county auditor, or the governing body of a city shall consider proposals to change precinct boundaries.

3. The precincts may not be established later than December thirty-first of the year immediately preceding an election cycle and not later than seventy days before a special election.

**16.1-04-02. Polling places-- Duties and responsibilities of the board of county commissioners or the governing body of the city.**

The board of county commissioners of each county:

1. Shall designate one or more polling places for each precinct. However, the polling places for precincts located within the boundaries of any incorporated city must be designated, and altered if required, by the governing body of the city. Polling places may not be designated later than the sixty-fourth day before an election.

2. Shall provide that all polling places are accessible to the elderly and the physically disabled.

3. May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling place. Qualified electors may vote early at early voting precincts, by absentee ballot, at a polling place of their residential precinct, or at a county vote center. Vote center polling places must serve as a designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot.

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4. May change the location of a polling place previously established by the sixty-fourth day immediately preceding an election when there is good and sufficient reason. When a polling place is changed under this provision, the name and location of the new polling place must be prominently posted on or near the main entrance of the prior polling place on the date of the first election held following the change.

**16.1-07-15. Early voting precinct -- Election board appointment -- Closing and canvassing.**

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the sixty-fourth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to chapters 16.1-13 and 16.1-15. At the determination of the county auditor, more than one polling place may be utilized for the purposes of operating the early voting precinct. The election board of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:

a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the early voting center locations, dates, and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election.

b. The county auditor shall appoint the early voting precinct election board for each early voting polling place that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set out in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.

c. The county auditor, with the consent of the board of county commissioners, shall designate each early voting polling place in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02. With respect to polling places at early voting precincts, election day as used in sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct polling place is open.

d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election-related materials, including:

- (1) The pollbooks and access to any electronically maintained pollbooks.
- (2) The ballot boxes containing voted ballots.
- (3) Any void, spoiled, and unvoted ballots.

e. Ballot boxes containing ballots cast at an early voting polling place may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.

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f. Each early voting polling place may be closed, as provided in chapter 16.1-15, at the end of the last day designated for early voting in the county. Results from the early voting precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.

g. The early voting precinct election board shall comply with the requirements of chapters 16.1-05, 16.1-13, and 16.1-15, as applicable.

**16.1-11.1-01. Counties may conduct mail ballot elections -- Polling places -- Records.**

1. The board of county commissioners of a county may conduct an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.

2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred votes were cast for the office of governor at the last general election at which that office was on the ballot.

**16.1-13-10. Vacancy existing in office of member of legislative assembly.**

1. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the chairman of the legislative management of the vacancy. The county auditor need not notify the chairman of the legislative management of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. Upon receiving notification of a vacancy, the chairman of the legislative management shall notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy. Except as provided in subsection 2, if eight hundred twenty-eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election or special election called by the governor according to subsection 2 to serve for the remainder of the term of office for that office.



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2. The qualified electors of a legislative district in which a vacancy in the legislative assembly occurs may petition for a special election to be called by the governor to fill the vacancy. The petition must include the signatures of qualified electors equal in number to four percent of the resident population of the legislative district as determined by the last federal decennial census and must be presented to the secretary of state within thirty days following an appointment being made according to subsection 1. If the secretary of state determines the petition contains the required number of signatures of qualified electors of the affected legislative district, the secretary of state shall notify the governor that a special election is required to be called to fill the vacancy. Upon receiving such notice, the governor shall issue a writ of election directed to the county auditor of each affected county commanding the county auditor to hold a special election to fill the vacancy at a time designated by the governor. A special election under this section must conform to the applicable election deadlines found in this title and may be called to coincide with a regularly scheduled primary or general election provided the special election is called by the fifteenth day before the deadline for candidates to file for office before a regularly scheduled primary or general election. A special election under this section may not be scheduled to occur during the time from a general election through eighty days following the adjournment of the next ensuing regular session of the legislative assembly.

3. The secretary of state must be notified of an appointment made by a district committee or the chairman of the legislative management according to this section. Upon notification, the secretary of state shall issue the appointee a certificate of appointment and an oath of office for the appointee to complete and file with the secretary of state.



Testimony in Support of House Bill 1270  
January 25, 2019  
House Political Subdivisions Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. My name is Bill Wocken, appearing on behalf of the North Dakota League of Cities.

Elections in North Dakota are administered and carried out with a minimum of issues and controversy. Hanging chads and unaccounted ballots are seldom an issue in this state, unlike several others. County Auditors are responsible for the election process and they are to be commended for the care they exercise in election matters.

Cities, counties, schools, parks, state offices, legislators and special districts all utilize the same ballot with efficiency and economy. All have the ability to appeal to the public for their guidance and direction on matters of importance in one offering.

To continue this fine tradition and to serve the voters with the integrity we all appreciate and have come to expect in our election process, it is important that a meaningful consultation be conducted as ballots are constructed and precincts and voting places are selected. Everyone needs to have a voice in the process. No party or group should have "a corner on the market" in this exchange of ideas and information.

The North Dakota League of Cities wishes to see the integrity of the election process continued and strengthened as meaningful consultation on ballot issues is exercised.

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Chairman Dockter and Committee Members:

My name is Doug Schonert. I am a former Burleigh County Commissioner.

HB 1270 proposes on lines 15 thru 23 the addition of the following:

. . . .A board of county commissioners may not establish or alter precinct boundaries without consulting the chairmen of the legislative district parties and members of the legislative assembly of the districts that would be affected. Precinct boundaries may not be established or altered without the consent of a majority of the chairmen of the legislative district parties of the districts affected.

.....

5. Polling places may not be designated or altered without the consent of a majority of the chairmen of the legislative district parties of the district affected.

This change is not asking that the chairman of the legislative districts just be consulted about changes; this is stating that the chairman of the legislative districts (WHO ARE NOT ELECTED OFFICIALS) would have control of the district boundaries and polling sites.

I am speculating that HB 1270 was brought about as a result of the Burleigh County Commission's 2017 decision to eliminate some polling centers.

I was one of the three County Commissioners who voted in December of 2017 to eliminate some polling centers from Burleigh

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County districts from 27 to 16 and to create 12 Universal Voting Centers.

This only made sense because the citizens within the City of Bismarck would have had the convenience of voting at any one of the 12 Universal Centers. We, as Commissioners, felt this would increase voter turnout as many working people would not have to rush home or across town to vote. Also, Universal Voting Centers are known to increase the turnout of marginal/infrequent voters such as younger, mobile citizens. They had the convenience to stop by one of the Universal Centers that were more convenient. In addition, it would decrease some of the necessary associated polling costs due to aging election equipment.

It was very surprising to me that during and after this whole process a vast majority of citizens I visited with about this issue were in favor of these changes. They liked not being limited to one voting location on Election Day. The legislatures seemed to disfavor this action and some very strongly disfavored it. They stated that they would have liked to have been consulted on such a change and they would work with the County Commission in the future. I agree that we should have made sure that all the Legislatures in the affected districts were consulted.

At that time, we were advised that by making this change the precinct boundaries were changed and that we did not have the authority to make that change without consent of the City of Bismarck. So, we reversed our decision.

It is very clear that the County Commissioners in cooperation with the City Commissioners have a much better understanding as to the considerations for establishing district boundaries and voting sites. This involves considering the boundary lines and polling places in respect not only to finding polling sites but also to the convenience to these sites and accessibility to good parking areas. In the past, we have made use of schools, churches, public buildings and in some cases private or commercial sites. However, we recently learned that many schools would rather not put up with the interruptions and parking. Also a big consideration in funding is the huge cost of updating and implementing new voting machines.

I ask that you vote No, since the chairmen of legislative districts are not elected officials. I also ask that, along with further discussion with your constituents, you consider following proposal.

The chairman of the legislative district shall be consulted regarding changes to the polling places by the City and County Commissions with the County Commission making the final decision of the district boundaries and polling sites.

I will close by saying I oppose HB 1270 as set out and the unnecessary changes it will establish.

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Testimony Prepared for the  
**House Political Subdivisions**

January 24, 2019

By: Donnell Preskey, NDACo

**RE: OPPOSITION to House Bill 1270 – Requirements for changing precinct boundaries & polling locations**

Good morning Chairman Dockter and committee members. I'm Donnell Preskey with the North Dakota Association of Counties where I serve as executive director for the County Auditors Association. The Auditors strongly OPPOSE HB 1270.

For your background, I have included with my testimony a spreadsheet which breaks down precinct information for North Dakota's 53 counties. To summarize:

- 424 total precincts in the state
- 267 polling places on Election Day
- 8 Counties offer early voting
- 13 Counties have vote centers
- 35 Counties offer vote by mail

The role of the auditor in determining the number and locations of precincts and polling locations is very calculated. The feedback I have received from auditors is that they do seek input from district party chairs and legislators when considering changing precinct boundaries and polling locations, just as the information is provided to citizens for comment.

These decisions are based on availability of poll workers, polling location sites, accessibility, high traffic areas, parking availability, and other criteria necessary to hold an election and accommodate voters. Currently one of the greatest factors is the poor condition of our election equipment.

And to that point, following the 2018 election, I surveyed Auditors to collect information primarily on election equipment failures. Without getting into great detail of the survey and results – I do want to let you know there were failures on Election Day. The survey also asked counties what actions were taken in 2018 due to concerns with the aging equipment. The top three ways counties compensated were:

- #1 – Increased vote by mail options
- #2 – Reduced the number of precincts
- #3 – Increased the use of vote centers

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When asked what options would they would be looking at in 2020 due to the aging equipment the results were the exact same.

Frankly auditors say this is a bad bill... It is targeted at a situation in one county. I have received heavy feedback from auditors on this issue. To summarize their concerns:

- Auditors are concerned with the frequency of change in district party chairs
- District chairs in legislative districts serve multiple counties, they are not familiar with the individual needs of the county or city for election purposes. A few auditors indicated that the chairs don't even live in their county.
- Auditors need flexibility to change polling places, sometimes on short notice because a scheduled polling place is not available. This bill would jeopardize that flexibility.
- Auditors are concerned with situations where there they receive no response from the district party chairs or legislators. Every county that responded to my request for input replied with this concern. They cite that currently district party chairs are unresponsive when it comes to appointing Judges to work the election and at canvassing. Two counties indicated there is no district party chair designated. If this committee decides to move this bill forward, please address the situations where there is a lack of response, input, participation or ability to identify by the district party chairs or legislators. Clarification for the board to have the authority to make the needed changes without the majority consent is necessary.

Auditors and Commissioners have the best interest of the **voters** in mind when establishing precinct boundaries and polling locations, their decisions are not for political purposes.

This proposal erodes the county's decision making ability, it will usurp local authority and control and provides legislators with veto power that ultimately would have them dictating this county responsibility. Input on precinct boundaries and polling locations are welcomed and valued but the final decision must stay with the Board of County Commissioners. We ask for a **DO NOT PASS** on HB 1270.

Written Testimony for the  
**House Political Subdivisions**

January 25, 2019

Erica Johnsrud, McKenzie County Auditor/Treasurer

**RE: OPPOSITION to House Bill 1270 – Requirements for changing precinct boundaries and polling locations**

Good morning Chairman Dockter and members of the Committee. My name is Erica Johnsrud and I am the Auditor/Treasurer for McKenzie County. I would like to add a few additional points to the testimony of Donnell Preskey, whom you have already heard today.

McKenzie County is one of several counties within District 39. The tribal lands within McKenzie County are part of District 4. In April 2018 I reached out to whom was known to me to be the party chairs within these two districts. One chair stopped by my office to chat about upcoming election needs. Two district chairs were nonresponsive. The other responded that she was not the district chair and wanted to know where I got that information. My response was that she was the chair in 2016 and when I inquired as to whom the new chair was she responded that she had no idea. My correspondence with them for the general election was met with the same results. Given this data, it would have been impossible for me make any needed changes in precincts or polling locations under HB 1270.

McKenzie County has not made changes to precincts in several election cycles and we have no plans to do so in the near future. My bigger concern with HB 1270 is the location of the polling places. To me, as the County Auditor and County Election Administrator, the designation of polling places needs to consider the following items – accessibility for voters, ease of finding qualified and experienced election workers, population, geographic location, cost, and equipment available. McKenzie County in 2018 moved to a Vote By Mail County and **all** of these items were a part of the consideration to do so. In my opinion, I would find it very difficult for the political party chairs to understand and agree that all of these items are important considerations when selecting polling locations.

In closing I would just like to add the following statements. Our citizens elect their local government, including the Board of Commissioners and in many cases the Auditor, to make decisions that are in the best interest of all citizens of that county. The County and the voters, as a whole, have less or no say in the selection of the party chairs. It is concerning to me that, as written, HB 1270 would give the party chairs as much, or more, power in the precinct designation and polling place locations as the local elected government authorities. I urge you for a **DO NOT PASS** recommendation on HB 1270.



Written Testimony To  
THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
January 24, 2019 by  
Michael Montplaisir, Cass County Auditor  
Cass County Government

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REGARDING HOUSE BILL 1270

Mr. Chairman and members of the House Political Subdivisions Committee, I am Michael Montplaisir, Cass County Auditor, and have been involved in the election process for the past thirty years. I think we have a good record of cooperation with both our district party chairs and our legislators, particularly when it comes to drawing precinct lines and finding polling sites. We do not always agree on precinct boundaries or polling sites, but we do consider the recommendations of the districts, and we work together to find solutions.

We tend to have fewer precincts than the past for two very good reasons. We do not have an overabundance of sites available to use on Election Day, and we continue to have difficulty in recruiting election workers. Our precincts are small geographically but large in population due to the density of the population in our metro area. We need polling sites that have a large room available for voting, a large parking lot, and good traffic flow around the property and within the building, and they have to meet ADA requirements. We work with our city auditors, both in drawing precinct lines and in finding suitable polling sites. We also consult with our district party chairs. They know their district layout better than we do and can make suggestions in cases where we may be creating a problem.

When changing precinct lines, usually after the census, both the city commission and the county commission review and approve precinct boundaries. In looking at precinct boundaries, we also have to look for suitable polling sites within those boundaries and may have to adjust lines to get a suitable site within the precinct.

HB 1270 adds a requirement that the "consent of a majority of the chairmen of the legislative district parties of the districts affected" must be obtained before any changes in precinct boundaries or polling sites can be made. In our legislative districts we normally only have district chairmen of the two major parties. I assume, under this bill, no changes could be made unless both those chairmen agreed to the changes; otherwise you would not have a majority. Effectively, the county commission would only be able to make any changes after the political parties agreed on the changes.

I would ask that HB 1270 be changed from requiring consent of the district party chairmen to make any changes to precinct lines or polling sites to more cooperative language such as the county must consult with and consider the input of district party chairs when making changes. The current bill seems to take all the authority away from the county commission and put it in the hands of the unelected district party chairmen.



HB 1270 #7

1-25-19

**Primary Elections in Cass County**

	2018	2016	2014	2012	2010	2008	2006	2004
Early Voting	3,932	4,971	3,105	6,145	2,133	1,927		
Absentee	839	1,410	696	1,566	473	1,275	1,441	694
Election Day	13,686	21,197	14,034	25,852	12,404	22,079	22,509	13,114
<b>Total</b>	<b>18,457</b>	<b>27,578</b>	<b>17,835</b>	<b>33,563</b>	<b>15,010</b>	<b>25,281</b>	<b>23,950</b>	<b>13,808</b>
ED Percentage	74.15%	76.86%	78.69%	77.03%	82.64%	87.33%	93.98%	94.97%
EV Percentage	21.30%	18.03%	17.41%	18.31%	14.21%	7.62%	0.00%	0.00%
ABS Percentage	4.55%	5.11%	3.90%	4.67%	3.15%	5.04%	6.02%	5.03%

**General Elections in Cass County**

	Presidential		Presidential		Presidential			
	2018	2016	2014	2012	2010	2008	2006	2004
Early Voting	24,419	23,158	13,048	18,280	10,925	20,744		4,693
Absentee	10,025	7,378	5,436	10,546	6,187	8,767	4,863	6,601
Election Day	43,781	51,255	35,906	45,384	31,662	42,558	35,720	55,859
<b>Total</b>	<b>78,225</b>	<b>81,791</b>	<b>54,390</b>	<b>74,210</b>	<b>48,774</b>	<b>72,069</b>	<b>40,583</b>	<b>67,153</b>
ED Percentage	55.97%	62.67%	66.02%	61.16%	64.92%	59.05%	88.02%	83.18%
EV Percentage	31.22%	28.31%	23.99%	24.63%	22.40%	28.78%	0.00%	6.99%
ABS Percentage	12.82%	9.02%	9.99%	14.21%	12.69%	12.16%	11.98%	9.83%
Early and Absentee Percentage	44.03%	37.33%	33.98%	38.84%	35.08%	40.95%	11.98%	16.82%

#1  
2-14-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1270

Page 1, line 2, replace "district party chairman approval of" with "required consultations with political parties and legislators before establishing or altering"

Page 1, line 3, remove ", subdivision c of subsection 2 of section 16.1-07-15,"

Page 1, line 4, remove "and subsection 1 of section 16.1-11.1-01"

Page 1, line 5, remove "and polling places"

Page 1, line 9, after "establishing" insert "or altering the boundaries of"

Page 1, line 12, after "county" insert "and from members of the legislative assembly from the districts that would be affected. The boundaries of established precincts may not be altered later than the May fifteenth immediately preceding an election in legislative districts that have organized by precinct under chapter 16.1-03"

Page 1, line 12, remove the overstrike over "~~Upon the request of~~"

Page 1, remove the overstrike over lines 13 and 14

Page 1, line 15, remove the overstrike over "~~proposals to change precinct boundaries~~"

Page 1, line 15, remove "A board of county commissioners may not"

Page 1, remove lines 16 through 18

Page 1, line 19, remove "a majority of the chairmen of the legislative district parties of the districts affected"

Page 1, line 22, remove "the consent of a majority of"

Page 1, line 23, replace "the chairmen of" with "consulting with and seeking input from representatives of political parties organized within the county and from members of the legislative assembly from"

Page 1, line 23, remove "legislative district parties of the"

Page 1, line 23, after "districts" insert "that would be"

Page 2, remove lines 1 through 25

Renumber accordingly

#2  
2-14-19

Rep. Klemin

Amendments to HB 1270

A BILL for an Act to create and enact subsection 5 of section 16.1-04-02 of the North Dakota Century Code, relating to required consultations with political parties and legislators before establishing or altering polling places; and to amend and reenact subsection 2 of section 16.1-04-01 of the North Dakota Century Code, relating to requirements to establish or alter precinct boundaries.

Section 1

16.1-04-01

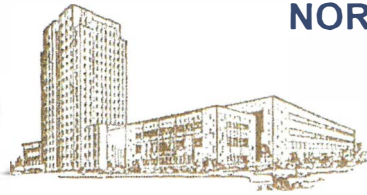
2. When establishing or altering the boundaries of precincts under subsection 1, a board of county commissioners, in cooperation with the county auditor, or a city governing body shall consult with and seek input regarding the size, number, and proposed boundaries of the precincts from representatives of the political parties organized within the county and from members of the legislative assembly from the districts that would be affected. The boundaries of established precincts may not be altered later than May fifteenth immediately preceding an election cycle in legislative districts that have organized by precinct pursuant to chapter 16.1-03. Upon the request of the district chairman of a political party, a board of county commissioners, in consultation with the county auditor, or the governing body of a city shall consider proposals to change precinct boundaries.

Section 2

16.1-04-02

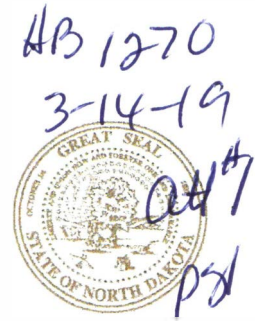
5. Polling places may not be designated or altered without consulting with and seeking input from representatives of the political parties organized within the county and from members of the legislative assembly from the districts that would be affected.

Remove Sections 3 and 4



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Lawrence R. Klemin

District 47  
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## Speaker of the House

### TESTIMONY OF REP. LAWRENCE R. KLEMIN SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE HOUSE BILL NO. 1270 MARCH 14, 2019

Mr. Chairman and members of the Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here today to testify in support of House Bill 1270.

House Bill 1270 amends the North Dakota election law on designation of precinct boundaries and on the number and location of polling places. Statutes referred to or affected by House Bill 1270 are attached to my testimony for your reference.

This bill has two parts: Section 1 relating to precincts, and Section 2, relating to polling places. The law currently provides in Section 16.1-04-01 of the North Dakota Century Code that a county commission can divide the county into precincts and can establish and alter precinct size and boundaries. The governing body of a city has that authority within a city. A county can relinquish its jurisdiction to a city over all or any portion of townships in a city if the city agrees to accept such jurisdiction. A city can also return such jurisdiction back to a county. Pursuant to Article VII, Section 10, of the North Dakota Constitution, counties and cities can also enter into joint power agreements to decide which governmental entity has jurisdiction over precincts and polling places.

The boundaries, size, and locations of **precincts** are particularly important to the political parties in the legislative districts for purposes of organization. As you know, district political parties are required by law to organize by May 15 of each odd numbered year. Section 16.1-03-01(2) provides that a legislative district party may organize **by precinct or on an at-large basis** for the entire district. Section 16.1-03-03 states that if a political party chooses to organize **by precinct**, then it can elect committeemen from each **precinct**. The number of **precinct** committeemen is determined according to a formula set out in the law. The **precinct** committeemen are elected to serve a two-year term. The **precinct** committeemen elect the officers of the district political committee and then the **precinct** committeemen and the officers comprise the district committee. If there is a legislator from that legislative party and a vacancy in that position occurs due to death, disability, or resignation, then the district committee selects the replacement legislator to fill the vacancy to serve until the next election as provided in Section 16.1-13-10.

This all begins with a **precinct**, which is the way District 47 has organized since 1959. If a county commission or city government body can alter the size and location of precincts **after the date** that the district political parties have reorganized **as required by law**, then it has a direct and negative impact on political parties that have organized **by precinct** in reliance on existing boundaries. It also affects the election of precinct committeemen, who have been elected for two-year terms for the designated precincts. It can even affect the appointment of a

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legislator if a vacancy occurs. Therefore, the precinct boundaries become very important to district political parties. Should a political subdivision have the authority to "un-elect" precinct committeemen without notice by altering precinct boundaries or even eliminating precincts **after the reorganization date required by law**? The answer is obviously "no". There needs to be coordination so that there is no conflict between the sections of law on precinct boundaries and the sections of law on reorganization of district political parties by precinct.

Section 16.1-04-01(2) requires a county commission or a city governing body, as the case may be, to consult with and seek input from representatives of the political parties within the county when "establishing" precincts. No such consultation is explicitly required if precinct boundaries, once "established", are later altered.

In Section 1 of House Bill 1270, Section 16.1-04-01(2) is amended to recognize that county commissions, city governing bodies, political parties, **and legislators** all have a mutual interest in the size, location, and boundaries of precincts. We are all in this together. We represent the same constituency. We need to work together and collaborate on this matter to better serve the voters and the residents of our state. Consequently, in House Bill 1270, counties and cities are required to consult with representatives of the political parties, **and the legislators** in the legislative districts affected, before precinct boundaries are altered. Legislators will know who else to contact for input from their local district parties if a county or city doesn't know. This collaborative process could apply to multiple legislative districts or to a single district, depending on the situation.

It should not be a problem to have the precinct boundaries fixed in place by May 15 in a year prior to an election. The district political parties must reorganize by this date **as required by law**. It will take a minimum amount of collaboration and coordination so that the existing law on party reorganization can be properly and effectively followed. We just ask that the counties and cities not put the district political parties in a bind by changing the boundaries after the reorganization has occurred.

This principle of collaboration is also required for the number and location of polling places in a county or city. Section 2 of the bill amends Section 16.1-04-02 to add a new subsection 5 requiring consultation before polling places can be designated. It may be appropriate to have voting centers in some areas, as currently allowed by Section 16.1-04-02(3). There is no change in the law in that respect, other than the collaboration requirement. We are all reasonable people and can see the need for economies of scale. More than one precinct can go to a designated polling place or voting center, as is currently the case. We legislators just want prior notice when decisions are made that affect us, so we can provide input to the decisionmakers. We are not asking for authority to make the decisions. That decision is left to the counties and cities.

House Bill 1270 has been introduced to require collaboration with legislators where none is specifically required now. We have an interest in the size, location and boundaries of precincts and in the number and location of polling places. It is easy for counties and cities to contact legislators before such decisions are made and before precinct committeemen are duly elected as required by law. We can be found at [www.legis.nd.gov](http://www.legis.nd.gov)

Precinct boundaries become less important for voting purposes since multiple precincts can be designated to vote or allowed to vote at the same polling place. But the boundaries remain very important for reorganization purposes for the district political parties.

I urge your support for HB 1270. Thank you.

Rep. Lawrence R. Klemin  
Speaker of the House

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STATUTES CITED IN REP. KLEMIN TESTIMONY ON HB 1270

Constitution of North Dakota, Article VII, Section 10

**Section 10. [Service agreements]**

Agreements, including those for cooperative or joint administration of any powers or functions, may be made by any political subdivision with any other political subdivision, with the state, or with the United States, unless otherwise provided by law or home rule charter. A political subdivision may by mutual agreement transfer to the county in which it is located any of its powers or functions as provided by law or home rule charter, and may in like manner revoke the transfer.

**16.1-03-01. Party caucus Time and manner of holding Caucus call -- Notice.**

1. Each legislative district party shall organize in conformance with the state legislative district boundaries as established by the legislative assembly and as set forth under chapter 54-03.

2. On or before May fifteenth following the last preceding general election, a party caucus must be held by every legislative district party. The legislative district party may organize the caucus by precinct or on an at-large basis for the entire district.

3. The legislative district chairman of each party shall set the date and time for the party caucus. If there is not a duly elected district chairman in a legislative district, the state party executive committee may issue the call for the caucus. The call must contain the following:

- a. Name of party.
- b. Legislative district number.
- c. Date of caucus.
- d. Place of caucus.
- e. Hours of caucus.
- f. A statement of the business to be conducted.

g. The name of the district chairman or, if there is not a duly elected district chairman, the member of the state party executive committee issuing the call.

4. The district chairman or, if there is not a duly elected district chairman, the state party executive committee shall provide ten days published notice in the official newspaper in circulation in the district. The notices must contain that information set forth in subsection 3.

**16.1-03-03. Political parties may elect committeemen.**

If a political party chooses to organize by precinct, the party in each voting precinct of this state is entitled to elect one precinct committeeman for each two hundred fifty votes, or majority of a fraction thereof, cast for the party's presidential electors, governor, attorney general, or secretary of state in the precinct in the last general election. Each precinct committeeman must be an elector of the precinct in which the committeeman resides and must be elected for a two-year term.

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**16.1-04-01. Precincts -- Duties and responsibilities of the board of county commissioners or the governing body of the city.**

1. The board of county commissioners of each county:

a. Shall divide the county into precincts and establish the precinct boundaries, except that within the boundaries of any incorporated city, the governing body of the city shall divide the city into precincts and establish their boundaries pursuant to title 40. Any number of townships or parts of townships may be joined into a single precinct provided that no precinct may encompass more than one legislative district.

b. May alter the number and size of precincts within the county by combining or dividing precincts. However, the governing body of any incorporated city has the authority to alter the number and size of precincts located within its boundaries. The board of county commissioners may relinquish the jurisdiction provided under subdivision a over all or any portion of a township or townships under its jurisdiction to a city for the purpose of establishing a voting precinct if a majority of the governing body of the city agrees to assume such jurisdiction. The governing body of a city, by majority vote, may return jurisdiction granted herein to the county and the county shall accept that jurisdiction.

2. When establishing precincts under subsection 1, a board of county commissioners, in cooperation with the county auditor, or a city governing body shall consult with and seek input regarding the size, number, and proposed boundaries of the precincts from representatives of the political parties organized within the county. Upon the request of the district chairman of a political party, a board of county commissioners, in consultation with the county auditor, or the governing body of a city shall consider proposals to change precinct boundaries.

3. The precincts may not be established later than December thirty-first of the year immediately preceding an election cycle and not later than seventy days before a special election.

**16.1-04-02. Polling places-- Duties and responsibilities of the board of county commissioners or the governing body of the city.**

The board of county commissioners of each county:

1. Shall designate one or more polling places for each precinct. However, the polling places for precincts located within the boundaries of any incorporated city must be designated, and altered if required, by the governing body of the city. Polling places may not be designated later than the sixty-fourth day before an election.

2. Shall provide that all polling places are accessible to the elderly and the physically disabled.

3. May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling place. Qualified electors may vote early at early voting precincts, by absentee ballot, at a polling place of their residential precinct, or at a county vote center. Vote center polling places must serve as a designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot.

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4. May change the location of a polling place previously established by the sixty-fourth day immediately preceding an election when there is good and sufficient reason. When a polling place is changed under this provision, the name and location of the new polling place must be prominently posted on or near the main entrance of the prior polling place on the date of the first election held following the change.

**16.1-13-10. Vacancy existing in office of member of legislative assembly.**

1. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the chairman of the legislative management of the vacancy. The county auditor need not notify the chairman of the legislative management of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. Upon receiving notification of a vacancy, the chairman of the legislative management shall notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy. Except as provided in subsection 2, if eight hundred twenty-eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election or special election called by the governor according to subsection 2 to serve for the remainder of the term of office for that office.

2. The qualified electors of a legislative district in which a vacancy in the legislative assembly occurs may petition for a special election to be called by the governor to fill the vacancy. The petition must include the signatures of qualified electors equal in number to four percent of the resident population of the legislative district as determined by the last federal decennial census and must be presented to the secretary of state within thirty days following an appointment being made according to subsection 1. If the secretary of state determines the petition contains the required number of signatures of qualified electors of the affected legislative district, the secretary of state shall notify the governor that a special election is required to be called to fill the vacancy. Upon receiving such notice, the governor shall issue a writ of election directed to the county auditor of each affected county commanding the county auditor to hold a special election to fill the vacancy at a time designated by the governor. A special election under this section must conform to the applicable election deadlines found in this title and may be called to coincide with a regularly scheduled primary or general election provided the special election is called by the fifteenth day before the deadline for candidates to file for office before a regularly scheduled primary or general election. A special election under this section may not be scheduled to occur during the time from a general election through eighty days following the adjournment of the next ensuing regular session of the legislative assembly.

3. The secretary of state must be notified of an appointment made by a district committee or the chairman of the legislative management according to this section. Upon notification, the secretary of state shall issue the appointee a certificate of appointment and an oath of office for the appointee to complete and file with the secretary of state.



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Testimony in Support of House Bill 1270  
March 14, 2019  
Senate Government and Veterans Affairs Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the Senate Government and Veterans Affairs Committee. My name is Bill Wocken, appearing on behalf of the North Dakota League of Cities.

Elections in North Dakota are administered and carried out with a minimum of issues and controversy. Hanging chads and unaccounted ballots are seldom an issue in this state, unlike several others. County Auditors are responsible for the election process and they are to be commended for the care they exercise in election matters.

Cities, counties, schools, parks, state offices, legislators and special districts all utilize the same ballot with efficiency and economy. All have the ability to appeal to the public for their guidance and direction on matters of importance in one offering.

To continue this fine tradition and to serve the voters with the integrity we all appreciate and have come to expect in our election process, it is important that a meaningful consultation be conducted as ballots are constructed and precincts and voting places are selected. Everyone needs to have a voice in the process. No party or group should have "a corner on the market" in this exchange of ideas and information.

The North Dakota League of Cities wishes to see the integrity of the election process continued and strengthened as meaningful consultation on ballot issues is exercised. We believe House Bill 1270 is another step in the right direction.

19.0630.03001  
Title.

Prepared by the Legislative Council staff for  
Senator Oban

March 21, 2019

HB 1270  
3-22-19  
AH #1  
PS/

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1270

Page 1, line 14, remove "later"

Page 1, line 15, replace "than the" with "after"

Page 1, line 15, replace "immediately preceding an" with "following the last preceding general"

Page 2, line 3, after the underscored period insert "However, an emergency alteration of a polling place made less than one week before the election is exempt from this subsection."

Renumber accordingly