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**HOUSE POLITICAL SUBS COMMITTEE**  
**REPRESENTATIVE DONALD LONGMUIR, CHAIRMAN**

**HOUSE BILL 1405**  
**JANUARY 26, 2023**

**TESTIMONY PRESENTED BY**

**BRIAN NEWBY, SECRETARY OF STATE**

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Chairman Longmuir and members of the committee. I am Brian Nybakken with the Office of the Secretary of State. I am here today to oppose House Bill 1405. This bill simply does not work administratively, and ultimately, works against past legislative investments in our state's election processes.

Below are just a few areas of the bill that do not work with current practice or process:

- Seeks to limit the use of electronic pollbooks and their access to the internet on the day of the election. (Page 1, Line 22; Page 2, Line 2)
  - Electronic pollbooks are the actual devices used by election workers. There are no other computers or machines used by election workers in this regard. The electronic pollbooks do have a secure internet connection over the state's virtual private network, allowing syncing between devices to ensure voter security – meaning a “checked-in” voter is instantly checked-in across all devices within two minutes so they cannot attempt to vote at any other polling location. This is done during early voting, which can begin two weeks before election day, and on election day.
  - The 2019 Legislature provided funding to invest in this technology for security in North Dakota elections. In fact, Senate Bill 2002 passed 47-0 in the Senate, 84-6 in the House.
  - If the electronic pollbook is not connected through the state's network to the Central Voter File during the weeks leading to the election and on election day, the security benefits of electronic pollbooks would be lost. According to this bill, the electronic pollbook could only be reconnected to the state's network when all votes are counted, 13 days after the election, at which time, then and only then, will counties begin to discover potential voters may have cast a ballot by mail and at the polls, or voters who may have voted in two locations.
  - The electronic pollbooks are designed and were purchased to prevent that occurrence.
- Creates issues with election results by limiting access to votes that come via mail prior to the election. (Page 3, Line 30; Page 4, Line 5).
  - Currently, returned mail ballots can begin being canvassed three business days before the election. The language in these passages would mean anybody postmarking a ballot nearly a week before the election wouldn't have their ballot counted until 13 days after the election. This would create voter distrust when a large number of ballots are added into the count 13 days after the election when the

canvassing board meets. Our office estimates, based on previous results, that at least 10 percent of mail ballots come in those final days.

- Election night winners would then become conceptual only due to mail in votes being counted after the canvass. Voter confidence would erode as some races that don't appear close on election night then potentially flip 13 days after the election.
- The language also implies that all ballots set aside during this period would be counted, regardless of eligibility. Likely, this is not the intent, and that only eligible ballots would be counted.
- Recount races would not be identified until after the canvassing board meets, where now some are able to be identified on election night because there are few set-aside ballots.

These are just of a few of the issues we see with the language in this bill. We urge you to not support HB 1405 as it simply does not work with current election administration practices or support past state investments in this area.