

**2023 HOUSE POLITICAL SUBDIVISIONS**

**HB 1467**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1467  
2/2/2023

Relating to random audits after the certification of an election

Chairman Longmuir opened the hearing on HB 1467 at 10:45 AM. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, and Rep. Hager

### Discussion Topics:

- Amendment
- Verification of elections
- Special investigations
- Equipment verification
- Evaluation process after elections

Rep. Henderson: Introduced the bill. Testimony #18818

Senator Keith Bahm: In support. No written testimony

Mike Blessum, District 5 Small Business owner, Minot: Testimony #18677

Michael Howe, Secretary of State: Opposition: Testimony #18828

Brian Newby, Secretary of State's office: No written testimony

Josh Gallion, State Auditor: No written testimony

### Additional written testimony:

Suzanne Bowman, Jamestown citizen: Testimony #18668

Hearing closed at 11:48 AM

Delores Shimek, Committee Clerk

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1467  
2/2/2023

Relating to random audits after the certification of an election

Chairman Longmuir opened the meeting on HB 1467 at 2:53 PM. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, and Rep. Hager

### Discussion Topics:

- Human error on elections
- Efficient and secure voting machines
- Voter integrity

Rep. Hagar moved a Do Not Pass;  
Seconded by Rep. Ostlie

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	N
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nico Rios	N
Representative Nathan Toman	N
Representative Jonathan Warrey	Y

Roll call vote: 11 Yes 3 No 0 Absent Carrier: Rep. Ostlie

Meeting closed at 3:01 PM.

Delores Shimek, Committee Clerk

**REPORT OF STANDING COMMITTEE**

**HB 1467: Political Subdivisions Committee (Rep. Longmuir, Chairman)** recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1467 was placed on the Eleventh order on the calendar.

**TESTIMONY**

**HB 1467**

Suzanne Bowman  
218 11<sup>th</sup> Ave NE  
Jamestown, ND 58401

To Chairman Longmuir and members of the Political Subdivisions Committee, this is the testimony of a constituent from central North Dakota who has been paying a great deal of attention to election security issues throughout the country and most recently even our neighbor to the south, Brazil. I write in support of this bill and urge a “do pass” recommendation from this committee.

First of all, I want to express gratitude to the bill’s sponsors for listening to constituents’ heartfelt concerns about election security. By mandating a randomized, automatic audit using paper ballots and individual vote counts for one smaller county and one larger county, the state’s auditor will be able to verify the results of a substantial sampling of the larger election.

Elections have trended away from smaller subdivision polling places to larger vote centers, and electronic tabulators have replaced human agents counting ballots. These trends have solved some inefficiencies but simultaneously introduced new cybersecurity concerns and heightened fears about election integrity. This bill will provide much needed assurance of election systems integrity by comparing *actual* vote totals not just numbers of ballots run through the machines.

Perhaps some would believe that such measures are a costly waste of time and resources, but all good business and government services benefit from effective oversight measures to bolster public confidence and to detect system malfunctions. Whatever the fiscal impact of this bill, it will be a wise investment. The old adage, “Trust but verify” is what is at stake with this bill. The only regrettable feature of this bill is that the work of a manual recount won’t commence until after certification.

**HB1467 Testimony – House Political Subdivisions Committee – 2/2/2023 9:30 AM**

Mike Blessum – District 5, Minot – [mblessum@min.midco.net](mailto:mblessum@min.midco.net) – 701-818-2000

Chairman Longmuir and House Political Subdivisions Committee members, thank you for the opportunity to testify in support of HB1467. For the record my name is Mike Blessum. I am a small business owner, husband, and father from District 5 in Minot. I would like to thank Representative Donna Henderson for introducing this bill and Senator Keith Boehm for sponsoring its counterpart in the senate.

In the 2021 session more than 40 election related bills made their way through the legislature. As of this yesterday there are 40 bills again this session. I believe the people of our state have concerns about election integrity and have asked their representatives to tighten our laws.

HB1467 adds a section to chapter 16.1-01 of ND Century Code. The bill would require the state auditor's office to perform a special investigation of 2 counties within 90 days of the certification of each primary and general election.

I served as an election judge in the 2022 primary and general elections at the State Fair Center in Minot. I'd like to paint a bit of a picture of what happened in our vote center during the last election cycle. For both elections we had approximately 12 election clerks, 6 judges, and 1 inspector that worked a 14-15 hour shift. It was a wonderful team of Republicans and Democrats united to do a great job for the voters of our county. Here are a few of the issues I personally witnessed at our voting center.

- Because all eligible electors in the county could vote at any of the polling places, we had more than 40 different ballot types in the June election and more than 20 in November. I know that I personally handed at least 2 incorrect ballots to electors in those elections because the voters brought them back to me.
- After the polls close we complete a series of steps to secure the ballots and tie out our various counts. In both elections our counts were off (1 vote in June and 5 votes in November). I believe this issue was due to internet communication errors between the electronic poll books and the central voter file.
- We had more than one issue related to the central voter file following redistricting. At least one street in Minot that was moved from district 3 to district 5 was not updated correctly, causing the incorrect ballot to be handed to voters. I also know of a couple that were allowed to vote using an old address that had not been updated.
- We had many ballots reject from the tabulation machines. Most were due to extraneous marks on the ballot or other mistakes by the voter. The sensitivity seemed to be much higher in the November election vs. June.
- Because of our setup in the entryway of the state fair center we had numerous unauthorized people passing through the voting center throughout the day. We also dealt with overcrowding that led to long lines in the cold.
- We had one voter try to vote a second time and multiple voters that walked into the vote center with absentee ballots in their hands.

Why do these small issues matter? Isn't 99%+ accuracy enough? In the case of the June election the winner of the district 3 Republican primary led on election night by 1 vote. After canvassing the final difference was 8 votes. Regardless of the outcome every elector deserves to have their vote counted accurately.

I understand the reluctance the legislature has shown over the last two sessions to make changes to our voting systems. Major investments have been made and our elected officials have a vested interest in public confidence in our processes. This bill allows you to reassure the public that the integrity of our election systems matter and that you are willing to back up the statements that everything is fine. I would ask that you show the voters of North Dakota that you care about how our elections are conducted and return a do pass recommendation on HB1467.

Thank you Chairman Longmuir and members of the committee. I am happy to stand for any questions you may have.

The bill states that after the primary and general elections, two random counties would be chosen- 1 county would be a more populated county as stated, and 1 rural county. The auditor would do an audit- I did discover that the word "audit" is a legal term with special ramifications, so we do have an amended version where the word audit is replaced with special investigation throughout the bill. I do apologize, as we submitted this in haste close to the deadline. After submission, we realized some areas that needed correction and some language added for more clarification. We made the corrections and have included the amendment and the Christmas tree version for you to review as well as the submitted bill.

This special investigative review of the election would commence after the state canvassing of the election, and the language in #3 directly correlates to the language already in century code in 54-10-22, titled-"Public officer to aid state auditor." That language would give the auditor the authority to review all documents necessary to do this investigation—just like he does in any other audit his department does. The bill also states that the auditor shall adopt the rules necessary to administer these duties. This would leave the details to his department on how best to accomplish this task.

I am happy to answer any questions from the committee and want to inform you there is someone here to testify in favor of this bill after me who has experience on the election board at a local level and will also be happy to answer your questions, and there is a representative of the Auditor's office here as well, who is neutral and could also answer any questions you have of that office regarding this bill.

With that, thank you for listening, I ask you adopt our proposed amendment, and give the amended bill a do pass to give reassurance to our ND voters that our elections in ND are accurate.

Thank you, Mr Chairman and committee. I am happy to answer any questions.

Respectfully submitted,

Representative Donna Henderson – District 9B



Introduced by

Representatives Henderson, K. Anderson, Bellew, Kasper, Koppelman, Louser, S. Olson,  
Schatz

Senators Boehm, Clemens, Weston

1 A BILL for an Act to create and enact a new section to chapter 16.1-01 of the North Dakota  
2 Century Code, relating to random audits special investigations after the certification of an  
3 election.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Audit** Special investigation conducted by state auditor after each primary and general  
8 election.

- 9 1. Following the certification of the results of each primary and general election, the office  
10 of the state auditor shall conduct ~~an audit~~ special investigation to review the accuracy  
11 of an election. The state auditor shall randomly select one county from:
- 12 a. Burleigh, Cass, Grand Forks, Morton, Stark, Ward, and Williams Counties; and  
13 b. The remaining counties within this state.
- 14 2. For the two selected counties in subsection 1, the office of the state auditor shall  
15 conduct a full, manual recount for all ballots cast within the county. The ~~audit~~  
16 shall special investigation must review all municipal, county, statewide, and national  
17 votes listed on a ballot. The ~~audit shall~~ special investigation must commence  
18 immediately after the state canvassing board issues the statement under section  
19 16.1-15-42. The results of the ~~audit shall~~ special investigation must be made public  
20 within ninety days of the commencement of the ~~audit~~ special investigation.
- 21 3. The officers and employees of all departments, institutions, boards, commissions, and  
22 political subdivisions, subject to examination by the state auditor under this section,  
23 shall afford all reasonable facilities for the investigation and shall make returns and

1 exhibits to the auditor under oath in the form and manner prescribed by the auditor.  
2 The auditor may investigate any books, papers, accounts, bills, vouchers, and other  
3 documents or property of any departments, boards, commissions, political  
4 subdivisions, and financial institutions subject to the auditor's special investigation.  
5 The auditor may investigate under oath any trustees, managers, officers, employees,  
6 or agents of any such departments, boards, commissions, or political subdivisions.  
7 4. The state auditor shall adopt rules necessary to administer the duties provided in this  
8 section.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1467

Page 1, line 2, replace "audits" with "special investigations"

Page 1, line 6, replace "**Audit**" with "**Special investigation**"

Page 1, line 8, replace "an audit" with "a special investigation"

Page 1, line 13, remove "full."

Page 1, line 13, remove "all"

Page 1, line 13, replace "audit shall" with "special investigation must"

Page 1, line 14, remove "all"

Page 1, line 14, remove "audit"

Page 1, line 15, replace "shall" with "special investigation must"

Page 1, line 16, replace "audit shall" with "special investigation must"

Page 1, line 17, replace "audit" with "special investigation"

Page 1, line 18, after "3." insert "The officers and employees of all departments, institutions, boards, commissions, and political subdivisions, subject to examination by the state auditor under this section, shall afford all reasonable facilities for the investigation and shall make returns and exhibits to the auditor under oath in the form and manner prescribed by the auditor. The auditor may investigate any books, papers, accounts, bills, vouchers, and other documents or property of any departments, boards, commissions, political subdivisions, and financial institutions subject to the auditor's special investigation. The auditor may investigate under oath any trustees, managers, officers, employees, or agents of any such departments, boards, commissions, or political subdivisions.

4."

Renumber accordingly

MICHAEL C. HOWE  
SECRETARY OF STATE

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**HOUSE POLITICAL SUBS COMMITTEE**  
**REPRESENTATIVE DON LONGMUIR, CHAIR**

**HOUSE BILL 1467**  
**FEBRUARY 2, 2023**

**TESTIMONY PRESENTED BY**

**MICHAEL HOWE, SECRETARY OF STATE**

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Chairman Longmuir and members of the committee, for the record, Michael Howe, North Dakota Secretary of State.

Our office is opposed to HB 1467. I want to be clear. Our office is not opposed to transparency. Our office is not opposed to ensuring our elections are run with accuracy and integrity.

However, our office is opposed to a very vague and open-ended piece of legislation that leaves many more questions than answers.

In line 8, the bill states "accuracy of an election." Without the auditing process spelled out in the bill, what will be deemed as "accurate"? The bill requires full, manual recounts. A hand recount of every race, on every ballot in Cass County is sure to have some human error- especially when there may be up to 20 different ballot types in a large county. Which count is deemed accurate: the machine count from election day or the hand count well after the election?

The bill also instructs the state auditor to randomly select one of the seven larger counties, and then one of the remaining counties to participate. Why is the state auditor tasked with this? The Secretary of State is the chief election officer for the state of North Dakota. Also, not laying out a process to determine "random" is troubling in this bill.

On line 13, the bill requires a full manual recount for all ballots within the county. The amount of time, money, and people required to accomplish that would be large. As I stated earlier, in Cass County there will be at least 15 to 20 different races on each ballot, and there could be 20 different ballot types.

Mr. Chairman, we do have safeguards in place for our elections to ensure accuracy. There are logic and accuracy tests conducted on every machine prior to every election. There are logic and accuracy tests conducted after every election. These are ballots with expected voting outcomes that are run through the machines. The tabulation must match up 100 percent with the expected outcome before they are allowed to be used in an election.