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SECRETARY OF STATE

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January 29, 2021

TO: Chairman Kasper and Members of the House Government and Veterans Affairs Committee
FR: Jim Silrum, Deputy Secretary of State on behalf of Secretary of State Al Jaeger
RE: HB 1239 – Displaying voted ballot images on Secretary of State’s website

This bill amends 18 sections of the North Dakota Century Code (NDCC), adds one section to the NDCC that will require a significant appropriation to accomplish, and repeals nine sections of the NDCC.

In many of the amended sections, the suggested amendments only change “voting system” to “counting system.” As you saw in HB 1253 that was heard in your committee yesterday, the proper terminology is voting system and efforts are suggested to ensure that the NDCC has the proper terminology when referring to the hardware, firmware, and software that are the components of a voting system.

Section 9 on page 7 adds a new section to the NDCC that would require all ballots used in an election to be able to be scanned so they can be read by the voting system purchased by the state in 2019. In the interests of transparency, this is a change in law that would impact all cities and school districts. It would prohibit these jurisdictions from running smaller elections in which the votes are counted by hand rather than a voting system.

Section 9 would also require that the scanned images of the ballots from any election be posted on the Secretary of State’s website. We have estimated that the space required to store the ballots on the web for each statewide election would be 4 TB and that would grow with each election. Even if the necessary appropriation were to be considered palatable, this should not be allowed for reasons of secrecy of the ballot. If a voter makes a mistake when voting and inappropriately writes their name on the ballot, the secrecy of that voter’s choices would be eliminated.

On behalf of the Secretary of State and his election team, we request the committee to vote for a Do Not Pass recommendation.