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SECRETARY OF STATE

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January 22, 2021

TO: Chairman Vedaa and Members of the Senate Government and Veterans Affairs Committee  
FR: Jim Silrum, Deputy Secretary of State on behalf of Secretary of State Al Jaeger  
RE: SB 2160 – Absentee ballot application

Since 1997, state law has permitted any qualified voter of the state to apply for an absentee ballot without an excuse. A Senator during that 1997 Legislative Assembly is remembered as saying during a floor speech on SB 2151, that 'we need to stop asking our voters to lie on the application form if they desire to vote absentee but will not be absent from their precinct on election day.' Put another way, a farmer should not have to climb down from his or her tractor on election day just to go and vote.

In SB 2506 during the 1991 Legislative Assembly, language was added to this section to allow military and overseas voters to apply for an absentee ballot for all statewide elections in a year with one application. In SB 2336 during the 2005 Legislative Assembly, that same option was extended to all voters.

**Section 1** of this bill removes the option for voters like those of us gathered for the hearing to use one absentee ballot application for all statewide election each year. However, the change in the wording is problematic because if the bill were passed the law would say, "The application form must be only for the election immediately after the date of the application." This would mean if a voter submitted an application in early June with the intent of voting absentee in November for the general election, they would receive a June election ballot and not a general election ballot as they desired.

In HB 1253 this session, our recommendation will be that a voter select on the form which election or elections during the year in which they want to vote absentee. Gone would be the checkbox for "All Statewide Elections," but they would make a conscious choice for each election. That would be our preference. If the Committee chooses otherwise the language in this bill should be changed by amendment to this Section to say, "The application form must be for one election as indicated by the voter." If the Committee wishes to have this bill survive, I would be happy to write up the necessary amendment.

In **Section 2** of this bill on page 2, lines 1 and 2, a new sentence is being added to NDCC § 16.1-07-07 that states, "All other electors must request an application for an absent voter's ballot." This is problematic because it is in direct contradiction with NDCC 16.1-11.1-02, which is in the Chapter dealing with Mail Ballot Elections. For counties administering elections by mail, that section says: (underline for emphasis only)

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each individual listed in the central voter file for the county on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06.

On behalf of the Secretary of State and his election team, I request the committee to give this bill a do not pass recommendation.