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March 18, 2021

TO: Chairman Burckhard and Members of the Political Subdivisions Committee
FR: Brian D. Newby, State Elections Director on behalf of Secretary of State Al Jaeger
RE: HB 1165 – Qualified Electors in City Elections

Currently, NDCC § 40-21-01 does not address voting for residents of extraterritorial zoning jurisdictions.

With HB 1165, allowing such persons to vote in city elections is a policy decision in front of this legislative committee. The Secretary of State's testimony seeks only to raise operational items for awareness, while this policy is being considered, in order to ensure all eligible voters are included and receive their appropriate ballot in such elections.

As background, North Dakota's Central Voter File ties each person to a county and other jurisdictions based upon a voter's residential street address. The importance of a voter receiving the correct ballot is the foundation of our government, ensuring that the proper people vote for their representatives and issues. Thus, voters are placed in precincts for the purpose of assigning ballots and reporting results.

Jurisdictions layer upon each other. For instance, a school district may cross two cities and several precincts. This sometimes causes split-precincts, where voters are further assigned to specific ballot styles because of the contests that are and are not included. Each time a jurisdiction layer is added, the complexity of an election increases, resulting in more ballot styles. This creates additional set-up, programming, and proof-reading requirements upon the county auditors who locally run elections.

Likely, these layers can be determined today because extraterritorial zoning jurisdictions have been defined. However, because the mileage requirements for the size of the extraterritorial zoning jurisdictions are tied to population, and with the 2020 census results forthcoming later this year, these new census numbers may impact these jurisdictions. It could be prudent to delay implementation of this potential policy change until after the census results are known. That way, this process can be refined over several years, before the next census.

Another potential consideration, in association with election deadlines, would be the timing of ordinances that create or expand these zoning jurisdictions. Inclusion of a new zoning jurisdiction, as mentioned, would have downstream impacts on creation of ballots, and should be prohibited from occurring within a certain timeframe—perhaps 120 days—before an election,

Managing jurisdictional boundaries for the purposes of developing ballots is relatively routine, but on behalf of the Secretary of State and his election team, I encourage the committee to consider the practicality of the operational impacts when evaluating this policy. While the considerations here are by no means exhaustive of all potential implementation issues, addressing these mentioned up-front in the legislation likely will minimize potential operational impacts should these policy changes be adopted.