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SECRETARY OF STATE

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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 1360 – Independent audit of election results before certification

This bill amends 18 sections of the North Dakota Century Code (NDCC), adds three sections to the NDCC that will cost millions 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 10** on page 7 would require the Secretary of State to implement a system by which a voter can search for the ballot he or she cast in an election. This would be done by numbering each ballot consecutively so the voter could search for it later. It is impossible to number ballots consecutively because voters across the state are receiving, marking, and casting ballots all at the same time. However, even if the ballots only needed to be numbered, creating this search tool would require the Secretary of State to attach the number of the ballot cast by the voter in the electronic pollbook, which would then allow the state to know how each voter voted. Under federal and state laws, secrecy of the ballot is sacred.

**Section 10** also requires this same ballot searching system to provide a notice to a voter when the voter's ballot was rejected in the election. The only time a ballot is rejected is with absentee or mail ballot elections when the signature on the application does not match with the signature on the return envelope containing the voter's marked ballot. In Section 37 as well as other sections of HB 1253, the law is being updated to ensure that an absent or mail ballot voter is contacted if the signatures do not match.

**Section 11** on pages 7 and 8 requires the Secretary of State to purchase and implement what would essentially be a separate voting system that would be used to audit the results determined by the first voting system. The voting system purchased in 2019 had a \$9 million price tag, but since no voting system in existence was built to accomplish what is required in Section 11, the one purchased would need to be customized to make it work according to the requirements. We estimate that this system with enhancements would cost not less than \$15 million.

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