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January 20, 2021

TO: Chairwoman Larson and Members of the Senate Judiciary Committee

FR: Jim Silrum, Deputy Secretary of State on behalf of Secretary of State Al Jaeger

RE: SB 2193 – Prohibiting the Governor from suspending or amending election laws during a disaster

This bill would amend one section of Chapter 37-17.1, which is known as the North Dakota Disaster Act of 1985 according to the first section of the Chapter. As we understand it, the Chapter provides a guideline as to how the state may operate when an emergency is declared.

NDCC § 37-17.1-03, lists limitations in the context of the Chapter. The bill would add a new subsection 6 on page 2 stating, "Nothing in this chapter may:...Be construed to authorize the governor to suspend or amend a provision in a statute, rule, or order regarding the conduct of elections for any purpose or under any circumstance."

This added subsection could have unintended consequences preventing qualified electors in North Dakota from exercising their right to cast a ballot. During a declared disaster, it would prohibit a governor from making any adjustments to elections that would ensure voters are able to vote.

Disasters can be caused by tornados, blizzards, floods, fires, and many other unforeseen events. Any of these just before an election could require temporary measures to be put in place to administer the election and allow electors to vote. Disasters occurring in another state could also cause our skilled tradespeople, doctors, nurses, and others to be away from the state to help those impacted. Adding the language in this bill to law would take away the right of these individuals to vote.

It has been suggested that a special session of the legislature could be called to address any changes that might be necessary after a disaster. However, if the disaster brings down some of the state's critical infrastructure of internet, power, and cell signals, a virtual session would be impossible and gathering all legislators in person may not be feasible due to the timing of the disaster.

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