

Written Testimony for the  
**Senate Government and Veterans Affairs**  
January 22, 2021  
Erika White, Burleigh County Election Manager



**RE: SUPPORT for SB 2160**

Good morning, Chairman Vedaa, and members of the Committee. My name is Erika White and I am the Election Manager in the Burleigh County Auditor/Treasurer's Office. I would like to voice my support of SB 2160 this morning.

As you know, we had a vote by mail election in the June 2020 Primary Election. I'd like to take a few moments here to help you understand the process for mail and absentee ballot requests, which are similar to one another.

In Vote By Mail Counties, the county auditor is required to mail applications to all active voters within a certain number of days prior to the election. The responsibility is then on the voter to tell us, the county auditors/election officials, which election or elections they wish to receive a ballot as well as to provide us with the required personal information needed to process and verify the application. For absentee ballot requests, the same form is used and the same process is followed – voters need to indicate the election and provide the information to verify their identity.

Due to the unique nature of the June 2020 Election, the ND Secretary of State's Office sent out absentee applications to ALL voters within the Central Voter File on behalf of the counties. This list included inactive voters, as well as active voters. Inactive voters are defined as those who have not voted in the past 4 years. A significant portion of the voters who filled out the application for the June Primary checked the "All Statewide" box on the absentee application, not understanding what that box meant for local election officials. By checking this box, the voter was requesting not only a ballot for the June Election, but also for the November Election automatically without having to send in an additional application in the fall.

Our office, along with other Auditors across the state, heard complaints at the end of September when the General Election absentee ballots were mailed to voters. Many of the complaints stemmed from the “All Statewide” box on the application which lead to confusion and distrust amongst the voters. Auditors across the state **DO NOT** send ballots to voters unless they are requested and an absentee/mail ballot application is completed and on file.

This bill does something we normally don't see as county election officials. This bill as presented would DECREASE the amount of work for us and would assist the Auditors across the state with the absentee application process. We see various address changes and marriages between the Primary and General Elections which requires us to remove the voter from the absentee queue. We also clean-up the queue between the elections to remove deceased voters who have applied for an absentee ballot in the Primary Election and sadly pass away prior to the General Election. This bill puts additional responsibility on the VOTER to apply for a ballot for EACH election in a calendar year.

While I support this bill, I have one concern – the last sentence on page 2. “All other electors must request an application for an absent voter's ballot.” I believe the change to Section 2 directly contradicts the vote by mail process outlined in NDCC 16.1-11.1. This section of code allows counties to conduct vote by mail elections while having at least one physical in-person polling location open in the county. This process requires vote by mail counties to mail applications to all active voters prior to an election. The direct mailing of the application is a vital step in the vote by mail process in those counties. Prior to the 2020 election cycle, 33 counties in North Dakota conducted vote by mail elections.

Thank you for your time today and urge a DO PASS recommendation for SB 2160 with modifications for the vote by mail process.

## **CHAPTER 16.1-11.1 MAIL BALLOT ELECTIONS**

### **16.1-11.1-01. Counties may conduct mail ballot elections - Polling places - Records.**

1. The board of county commissioners of a county may conduct an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.
2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred votes were cast for the office of governor at the last general election at which that office was on the ballot.

### **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.

### **16.1-11.1-03. Mail ballot distribution.**

The county auditor shall mail an official mail ballot with a return identification envelope, voter's affidavit, and instructions according to section 16.1-07-08.

### **16.1-11.1-04. Voting by electors.**

Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, before five p.m. on the day before the election, to any other place of deposit designated by the auditor. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be postmarked no later than the day before the election.

### **16.1-11.1-05. Replacement ballots.**

An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector. The elector seeking a replacement ballot shall make the elector's request of the county auditor or appropriate election officer no later than four p.m. on the day before the election. After submission to the appropriate election officer, a voter's marked mail ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope.

### **16.1-11.1-06. Canvass of votes - Mail ballot precinct.**

The county auditor shall appoint a mail ballot precinct election board for the purpose of counting mail ballots in the same manner as prescribed in section 16.1-07-12.1. The board may begin scanning the ballots at any time beginning on the day before election day and the closing of the polls on election day. Results from the mail ballot precinct may be counted, canvassed, or

released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12 as applicable. A county conducting a mail ballot election constitutes one voting area, and ballots need not be sorted according to precinct or ward unless necessary for the administration of the election.

**16.1-11.1-07. Counting of mail ballots.**

A mail ballot may be counted only if:

1. The ballot is returned in the return identification envelope with a postmark or official date stamp of at least the day before the election and received prior to the meeting of the canvassing board;
2. The envelope is signed by the elector to whom the ballot is issued; and
3. The signature has been verified by the election board with the signature on the elector's mail ballot application form.

**16.1-11.1-08. Election laws applicable.**

When applicable, all election procedures provided in this title must be followed.

