

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

495R0080

HOUSE COMMERCE ENGROSSED NO. **HB 1002** 1/27/2010

Introduced by: Representatives Turbiville and Lederman and Senators Nelson, Maher, Olson (Russell), and Tieszen at the request of the Interim Committee on Alcoholic Beverage Control and Licensing Laws

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the days and hours
2 that alcoholic beverages may be sold on a licensed premise and who may sell, serve, or
3 dispense alcoholic beverages on a licensed premise and to revise certain provisions
4 concerning the power of municipalities and counties to regulate the sale and use of alcoholic
5 beverages.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

7 Section 1. That § 35-4-81 be amended to read as follows:

8 35-4-81. No on-sale or off-sale licensee, licensed under subdivisions 35-4-2(3), (4), (5), (6),
9 (9), (11), ~~and (12)~~, (13), (16), (17), (17A), (18), and (19), may sell, serve, or allow to be
10 consumed on the premises covered by the license, alcoholic beverages between the hours of two
11 a.m. and seven a.m. ~~or on Sunday after two a.m., on Memorial Day after two a.m., or at any time~~
12 ~~on Christmas Day~~. A violation of this section is a Class 2 misdemeanor.

13 Section 2. That § 35-4-81.1 be repealed.

14 ~~35-4-81.1. No off-sale licensee, licensed under subdivisions 35-4-2(3), (5), and (19), may~~



1 ~~sell, or allow to be sold, alcoholic beverages between the hours of twelve midnight and seven~~
2 ~~a.m. of the following day, or sell, or allow to be sold, distilled spirits or wine on Memorial Day~~
3 ~~or Christmas Day. In addition, no off-sale licensee may sell, or allow to be sold, alcoholic~~
4 ~~beverages on Sunday unless the municipality or the county by ordinance allows such sales on~~
5 ~~Sunday.~~

6 Section 3. That § 35-4-81.2 be repealed.

7 ~~— 35-4-81.2. No licensee licensed under subdivisions 35-4-2(16) and (17) may sell, serve, or~~
8 ~~allow to be consumed on the premises covered by the license, any malt beverage between the~~
9 ~~hours of two a.m. and seven a.m. No licensee licensed under subdivision 35-4-2(12) may sell,~~
10 ~~serve, or allow to be consumed on the premises covered by the license, any wine between the~~
11 ~~hours of two a.m. and seven a.m. A violation of this section is a Class 2 misdemeanor.~~

12 Section 4. That § 35-4-79 be amended to read as follows:

13 35-4-79. No on-sale licensee may permit any person less than twenty-one years old to loiter
14 on the licensed premises or to sell, serve, dispense, or consume alcoholic beverages on such
15 premises. However, an on-sale licensee licensed pursuant to subdivision 35-4-2(4), (6), (11),
16 (12), (13), or (16) may permit persons eighteen years old or older to sell and serve or dispense
17 alcoholic beverages if ~~not~~ less than fifty percent of the gross business transacted by that
18 establishment is from the sale of ~~food~~ alcoholic beverages and the licensee or an employee that
19 is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or
20 dispensed. For the purposes of this section, the term, "to sell and serve alcoholic beverages,"
21 means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers
22 as a normal adjunct of waiting tables. The term does not include tending bar or drawing or
23 mixing alcoholic beverages.

24 A violation of this section is a Class 2 misdemeanor.

1 Section 5. That § 35-4-79.1 be amended to read as follows:

2 35-4-79.1. No off-sale licensee licensed under subdivision 35-4-2(3), (5), (17), or (17A) may
3 permit any person less than twenty-one years old to sell, serve, or dispense alcoholic beverages
4 on the licensed premises unless such sales of alcoholic beverages constitutes less than fifty
5 percent of the gross business transacted by that establishment. If alcoholic beverage sales
6 constitute less than fifty percent of the gross business transacted by the establishment, the
7 licensee may permit persons less than twenty-one years old to sell, serve, or dispense alcoholic
8 beverages if the licensee or an employee that is at least twenty-one years of age is on the
9 premises when the alcoholic beverage is sold or dispensed.

10 Section 6. That § 35-4-79.3 be repealed.

11 ~~35-4-79.3. No off-sale licensee licensed under subdivision 35-4-2(3) or (5) may permit any~~
12 ~~person less than twenty-one years old to sell, serve, or dispense alcoholic beverages on the~~
13 ~~licensed premises.~~

14 Section 7. That § 35-4-2.8 be amended to read as follows:

15 35-4-2.8. An on-sale licensee, licensed under subdivision 35-4-2(4) or (6), may also be
16 licensed under subdivision 35-4-2(12) or (16), or both. A licensee holding two or more licenses
17 pursuant to this section may exercise the privileges granted under the license issued pursuant
18 to subdivision 35-4-2(12) or subdivision 35-4-2(16) ~~during the time specified in § 35-4-81.2.~~

19 Section 8. That § 9-29-7 be amended to read as follows:

20 9-29-7. ~~Every~~ Each municipality ~~shall have power to~~ may prohibit or regulate the transaction
21 of business in alcoholic beverages; ~~and~~ and the use and consumption ~~thereof, and to~~ of alcoholic
22 beverages, establish the number of on- and off-sale licenses which may be issued; and the fees
23 to be charged ~~therefor, for the licenses, and~~ and provide for reasonable classifications of on-sale and
24 off-sale licenses ~~and for the issuance of high-point beer on- and off-sale licenses to licensees~~

1 ~~holding high-point beer licenses on December 31, 1979, for which the fees to be charged for the~~
2 ~~various classifications shall be uniform within each class, consistent with the provisions of Title~~
3 35. ~~The secretary of revenue shall be promptly furnished certified copies of all ordinances and~~
4 ~~resolutions or amendments thereto adopted relating to the exercise of these powers.~~

5 ~~— No high-point beer license provided for in this section may be transferred as to site.~~

6 Section 9. That subdivision (8) of § 7-8-20 be amended to read as follows:

7 (8) To regulate the transaction of business in alcoholic beverages; and the use and
8 consumption ~~thereof~~ of alcoholic beverages, to establish the number of on-sale
9 licenses which may be issued, to provide for reasonable classification of on-sale
10 licenses and ~~to fix the fees to be charged for the various classifications which shall~~
11 ~~be uniform within each class, all~~ licenses consistent with the provisions of Title 35:
12 ~~The secretary of revenue shall be promptly furnished certified copies of all~~
13 ~~ordinances and resolutions or amendments thereto adopted relating to the exercise~~
14 ~~of these powers;~~

15

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400R0373

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1027** - 1/28/2010

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a visitor
2 center on the grounds of McCrory Gardens on the campus of South Dakota State University,
3 to accept donations for such purpose, to make an appropriation therefor, and to declare an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
8 electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and
9 such other services or actions as may be required to construct a visitor center, not to exceed ten
10 thousand gross square feet, on the grounds of McCrory Gardens on the campus of South Dakota
11 State University, in Brookings, South Dakota.

12 Section 2. There is hereby appropriated from other fund expenditure authority the sum of
13 four million dollars (\$4,000,000), or so much thereof as may be necessary, to the Board of
14 Regents, payable from funds donated for the purposes of this Act, for the total project cost
15 authorized by this Act.



1 Section 3. Expenditure authority may be increased based on the receipt of grants or
2 donations received pursuant to this Act. However, no adjustment to any cost estimate may
3 exceed one hundred twenty-five percent of the authorized expenditure authority stated in section
4 2 of this Act. No increase in gross square footage authorized by section 1 of this Act may exceed
5 ten percent. Any increase in gross square footage may only be made to accommodate design
6 changes needed to comply with building code requirements and to address unforeseeable
7 structural, subsoil, or environmental conditions.

8 Section 4. The design and construction of the facility authorized in this Act shall be under
9 the general supervision of the Bureau of Administration as provided in chapter 5-14. The
10 commissioner of the Bureau of Administration and the executive director of the Board of
11 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
12 authorized by this Act. No contract for construction may be issued until the donated funds
13 referred to in section 2 of this Act have been accumulated sufficient to pay for the construction,
14 completion, furnishing, equipping, including heating, air conditioning, plumbing, water, sewer,
15 electric facilities, sidewalks, parking, landscaping, and architectural and engineering services,
16 required to construct the facility.

17 Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all
18 areas on all floors of a building included within the outside faces of the building's exterior walls,
19 including floor penetration areas, however insignificant, for circulation and shaft areas that
20 connect one floor to another as computed by physically measuring or scaling measurements
21 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which
22 extend beyond the wall faces. The term includes excavated basement area; mezzanines,
23 penthouses, and attics; garages; multiple floor parking structures; enclosed porches, inner or
24 outer balconies whether walled or not, if the balconies are utilized for operational functions; and

1 corridors whether walled or not, if the corridors are within the outside face lines of the building,
2 to the extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on
3 each floor through which the corridors pass. The term does not include open areas such as
4 unenclosed parking lots, playing fields, courts, and light wells, clear span areas not exceeding
5 three feet in height, or portions of upper floors eliminated by rooms or lobbies that rise above
6 single-floor height.

7 Section 6. Whereas, this Act is necessary for the support of the state government and its
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
9 full force and effect from and after its passage and approval.

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EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0264

HOUSE JUDICIARY ENGROSSED NO. **HB 1047** - 1/27/2010

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

- 1 FOR AN ACT ENTITLED, An Act to revise certain powers of a conservator.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. That § 29A-5-507 be amended to read as follows:
- 4 29A-5-507. A guardianship or conservatorship of a protected person shall terminate ~~upon~~
- 5 ~~the death of the protected person~~, if jurisdiction is transferred to another state, or if ordered by
- 6 the court following a hearing. A guardianship or conservatorship of a protected person shall also
- 7 terminate upon the death of the protected person unless the assets of the conservatorship are less
- 8 than two thousand dollars and the conservator elects to provide notice pursuant to § 29A-5-410
- 9 and obtains court approval to pay the debts and distribute the assets of the protected person to
- 10 the heirs of the protected person pursuant to chapter 29A-2.



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400R0278

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1048** - 1/28/2010

Introduced by: The Committee on Appropriations at the request of the Department of
Military and Veterans Affairs

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to a previous
2 appropriation for National Guard armory construction.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That section 7 of chapter 177 of the 2006 Session Laws be amended to read as
5 follows:

6 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated by
7 June 30, 2014, shall revert in accordance with ~~§ 4-8-21~~ the procedures prescribed in chapter 4-8.



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400R0384

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1052** - 1/28/2010

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to revise the definition of full-time equivalent to exclude
2 students employed by public postsecondary institutions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (12) of § 2-14-2 be amended to read as follows:

5 (12) "Full-time equivalent" or "FTE," a number which designates staffing level where one
6 full-time equivalent position is equal to the number of days, Monday through Friday,
7 in a fiscal year, multiplied by eight hours per day. It excludes: paid overtime hours;
8 hours paid to an employee assigned to a light duty position as approved by the
9 commissioner of the Bureau of Personnel due to a temporary partial disability as
10 defined in subdivision 62-1-1(8); hours paid for accumulated annual leave and sick
11 leave upon employee termination; hours paid to patient employees of the institutions
12 under the control of the Department of Human Services and the Department of
13 Military and Veterans Affairs; hours paid to work-study students enrolled in
14 postsecondary educational institutions or postsecondary students employed pursuant



1 to chapter 3-6B; hours paid to students enrolled in and employed by postsecondary
2 educational institutions; and hours paid to members of boards and commissions
3 pursuant to § 4-7-10.4. For purposes of salary computation a nine month or more per
4 year full-time teaching or research faculty person, or the equivalent thereof, at the
5 institutions under the jurisdiction of the Board of Regents shall be considered one
6 full-time equivalent;

7

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400R0257

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1056** - 1/28/2010

Introduced by: The Committee on Appropriations at the request of the Department of
Agriculture

1 FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated natural
2 resources conservation fund to the State Conservation Commission and to declare an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. There is hereby appropriated from the coordinated natural resources conservation
6 fund the sum of one million dollars (\$1,000,000), or so much thereof as may be necessary, in
7 accordance with subdivision 10-47B-149(4), to the State Conservation Commission.

8 Section 2. The State Conservation Commission shall approve vouchers and the state auditor
9 shall draw warrants to pay expenditures authorized by this Act.

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall
11 revert in accordance with the procedures prescribed in chapter 4-8.

12 Section 4. Whereas, this Act is necessary for the support of the state government and its
13 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
14 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

906R0216

HOUSE COMMERCE ENGROSSED NO. **HB 1086** - 1/27/2010

Introduced by: Representatives Verchio, Brunner, Jensen, Kirkeby, Olson (Betty), and Sly
and Senator Maher

1 FOR AN ACT ENTITLED, An Act to permit certain municipalities to issue an additional off-
2 sale alcoholic beverage license.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 35-4-10, a municipality may issue an additional off-sale
7 license only if one of the existing off-sale licenses issued by the municipality is open and
8 remains open to the public for less than one hundred eighty days in a calendar year.



State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

537R0453

HOUSE TAXATION ENGROSSED NO. **HB 1099** - 1/28/2010

Introduced by: Representatives Deadrick, Brunner, Cronin, Cutler, Dennert, Hamiel, Jensen, Juhnke, Kopp, Noem, Novstrup (David), Olson (Ryan), Pitts, Rave, Tidemann, Verchio, and Wismer and Senators Brown, Ahlers, Bartling, Haverly, and Vehle

1 FOR AN ACT ENTITLED, An Act to permit taxing districts to revise the base amount of
2 revenue payable from property taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For taxes payable in 2015 or 2016, the governing body of each taxing district may, by
7 resolution, decide to exempt the taxing district from the provisions of § 10-13-35 which limits
8 the total amount of revenue payable from taxes on real property within a taxing district, if the
9 taxing district reestablishes the base amount of revenue payable from taxes on real property
10 pursuant to section 2 of this Act. Each year thereafter such taxing district may increase the
11 amount of revenue payable from property taxes by applying the growth and the index factor
12 pursuant to § 10-13-35. Any excess levy imposed on property pursuant to § 10-13-36 terminates
13 when a general fund levy is imposed by such taxing district pursuant to section 2 of this Act.



1 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The governing body of a taxing district may, by resolution, impose a property tax levy
4 provided by section 1 of this Act to reestablish the base amount of revenue payable from
5 property taxes with an affirmative two-thirds vote of the governing body on or before July
6 fifteenth. The decision of the governing body to impose the levy shall be published within ten
7 days of the decision as follows:

8 (1) Publication shall be made at least twice in the legal newspaper designated by the
9 governing body pursuant to law, with no fewer than five days between publication
10 dates, before the tax imposition takes effect;

11 (2) The announcement shall be at least three newspaper columns in width and four
12 inches in length or at least one-sixth of a page in size, whichever size is greater;

13 (3) The announcement shall be headed with the following statement in a typeface no less
14 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY
15 TAX IMPOSED OF \$(fill in amount)." The remainder of the announcement shall
16 consist of a reproduction of the resolution including the amount that property taxes
17 will be imposed. The secretary of revenue and regulation, in rules promulgated
18 pursuant to chapter 1-26, shall prescribe a uniform form to be used by the taxing
19 district for notification of taxpayers as required by this section.

20 However, the requirements of subdivisions (2) and (3) are waived if:

21 (a) The property tax imposed is less than fifteen thousand dollars; or

22 (b) A copy of the resolution is mailed to every property taxpayer in the taxing
23 district, by first class mail or bulk mail, within twenty days of the decision;

24 and

1 (c) A copy of the resolution is printed in each legal newspaper in the taxing
2 district's boundaries.

3 For the purposes of subsections (a), (b), and (c), the first publication is not deemed to have
4 occurred until three days after the mailing is sent or the resolution is delivered to the legal
5 newspaper.

6 The governing body's decision shall be referred to a vote of the people by the governing
7 body of the taxing district. The referendum election shall be held on or before October first
8 preceding the year the taxes are payable.

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

537R0319

SENATE ENGROSSED NO. **SB 13** - 1/21/2010

Introduced by: The Committee on Local Government at the request of the State Board of Elections

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning petitions and
2 elections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 2-1-10 be amended to read as follows:

5 2-1-10. Each person, who circulates and secures signatures to a petition to initiate a
6 constitutional amendment or other measure or to refer legislation to the electors, shall sign a
7 verification before filing the petition with the officer in whose office it is by law required to be
8 filed. The verification shall prescribe that the circulator made reasonable inquiry and, to the best
9 of the circulator's knowledge, each person signing the petition is a qualified voter of the state
10 in the county indicated on the signature line and that no state statute regarding the circulation
11 of petitions was knowingly violated. The State Board of Elections shall prescribe the form for
12 the verification. The verification shall be complete and the affixing of the circulator's signature
13 shall be witnessed and notarized by a notary public commissioned in South Dakota or other
14 officer authorized to administer oaths pursuant to § 18-3-1. Any person who falsely swears to
15 the verification provided for in this section is guilty of a Class 1 misdemeanor.



1 Section 2. That § 6-16-5 be amended to read as follows:

2 6-16-5. If the proposed district contains less than one thousand eligible voters as defined in
3 § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within
4 the district to conduct an election on the question of formation of the special district. The date
5 may not be more than sixty days after the appropriate board declares that the application for
6 incorporation is valid. The auditor shall appoint three judges of election, one of whom shall
7 serve as the superintendent, to conduct the election. The vote upon the question of incorporation
8 shall be by ballot which conforms to a ballot for a statewide question except that the statement
9 required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast
10 and counted, the judges shall prepare a certification showing the whole number of ballots cast,
11 together with the number voting for and the number voting against incorporation, and shall
12 return the certification to the county auditor. If a majority, or if it is a water project district at
13 least sixty percent, of the votes cast on the question of formation is in favor, an election shall
14 be conducted by those present at the same meeting to elect the initial board of directors or
15 trustees.

16 Section 3. That § 6-16-5.2 be amended to read as follows:

17 6-16-5.2. If a majority, or if it is a water project district at least sixty percent, of the votes
18 cast in an election conducted pursuant to § 6-16-5.1 is in favor on the question of formation of
19 the special district, an election shall be conducted by the county auditor within sixty days after
20 the official canvass to elect the initial board of directors or trustees. The election shall be
21 conducted pursuant to Title 12. The county auditor shall publish a notice of vacancy no later
22 than fifty days prior to the election. Circulation of nominating petitions may begin upon
23 completion of the official canvass of the election to form the district. Nominating petitions shall
24 be filed with the county auditor by 5:00 p.m. at least thirty days before the election. The

1 nominating petitions shall contain signatures of at least twenty-five registered voters in the
2 district. Absentee ballots shall be made available to the voters no later than twenty days before
3 the date of election. The election shall be canvassed by the county commission.

4 Section 4. That § 7-18A-11 be amended to read as follows:

5 7-18A-11. The right to propose an ordinance or resolution shall be exercised by filing with
6 the auditor a petition in proper form containing the proposed ordinance or resolution, signed by
7 the required number of qualified voters of the county. The signer or circulator of the petition
8 shall add the signer's place of residence and the ~~date~~ month and day of signing. The signer's post
9 office box number may be given in lieu of a street address if the signer lives within a
10 municipality of the second or third class. ~~A date may be written in full or may be written using~~
11 ~~standard abbreviations, including numerals.~~

12 Section 5. That § 9-13-14.1 be amended to read as follows:

13 9-13-14.1. If a vacancy exists on a municipal governing body, the remaining members shall
14 appoint a replacement to serve until the next annual municipal election, or the vacancy may be
15 filled by special election for the remainder of the unexpired term as provided in § 9-13-14.2. In
16 the aldermanic form of municipal government, the appointment ~~must~~ shall be a person from the
17 same ward of the ~~first or second~~ class municipality. If electing a person to fill the remainder of
18 the unexpired term at an annual municipal election, the vacancy shall have occurred prior to the
19 publication required by § 9-13-6.

20 Section 6. That § 9-13-14.2 be amended to read as follows:

21 9-13-14.2. The governing body of any municipality may, by ordinance enacted prior to the
22 vacancy, require that any vacancy on the governing body or in the office of the mayor is to be
23 filled by a special election called for that purpose to be conducted as provided in § 9-13-14 and
24 this section. No such special election may be held less than ninety days before the annual

1 municipal election. The finance officer of the municipality shall publish a notice in the official
2 newspaper of the municipality stating that a vacancy exists, that the vacancy will be filled by
3 special election, the date of the election, and the time and place where nominating petitions may
4 be filed for the office. The notice shall be published once each week for two consecutive weeks
5 beginning at least sixty days before the date of the special election. Nominating petitions for the
6 vacancy shall be prepared and filed as provided in § 9-13-7, may not be circulated more than
7 sixty days before the date of the special election, and shall be filed at least thirty days before the
8 date of the special election. A notice of the special election shall be published as provided in
9 §§ 9-13-13 and 9-13-14.

10 Section 7. That § 9-13-25 be amended to read as follows:

11 9-13-25. In any municipality, the person having the highest number of votes for any office
12 shall be declared elected. However, the governing board of any municipality may, on or before
13 the first of October in the year preceding, approve an ordinance ~~prescribing the~~ requiring a
14 secondary election procedures as found in to be conducted pursuant to § 9-13-27.1 and section
15 8 of this Act.

16 Section 8. That chapter 9-13 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 If a municipality has passed an ordinance requiring a secondary election and no candidate
19 in a race involving three or more candidates receives a majority of the votes cast in the race, a
20 secondary election shall be held three weeks from the date of the first election. At the secondary
21 election, the only persons voted for shall be the two candidates receiving the highest number of
22 votes at the first election. However, if there is a tie for second place in the first election and
23 there is no tie for first place, all tying second place candidates shall be placed along with the first
24 place candidate on the ballot for the secondary election. The secondary election shall be held

1 at the same polling places and shall be conducted, returned, and canvassed in the same manner
2 as the first election. The result shall be declared and entered in the minutes of the municipality
3 in the same manner as the first election. The person receiving the highest number of votes at the
4 secondary election is elected.

5 Section 9. That § 12-4-34 be amended to read as follows:

6 12-4-34. If a statute refers to registered voters, it does not include those in the inactive
7 registration file unless specifically included. However, any voter in the inactive registration file
8 may sign a petition.

9 Section 10. That § 12-4-37 be amended to read as follows:

10 12-4-37. The secretary of state shall establish a computerized system for maintaining and
11 utilizing the voter registration file and transmitting voter registration information from each
12 county auditor to the Office of the Secretary of State. ~~Each county auditor shall furnish the~~
13 ~~current master registration file of voters as provided in § 12-4-9 in computer format to the~~
14 ~~secretary of state by January 1, 2002.~~ Each county auditor shall transmit any changes thereafter
15 to the master registration file or the absentee voter log to the secretary of state on a daily basis.

16 Section 11. That § 12-6-51.1 be amended to read as follows:

17 12-6-51.1. If no candidate for United States Senate, United States House of Representatives,
18 or Governor in a race involving three or more candidates receives thirty-five percent of the votes
19 of the candidate's party, a secondary election shall be held three weeks from the date of the first
20 primary election. At the secondary election the only persons voted for shall be the two
21 candidates receiving the highest number of votes at the first election. However, if there is a tie
22 for second place in the first primary election and there is no tie for first place, all tying second
23 place candidates shall be placed along with the first place candidate on the ballot for the
24 secondary election. The secondary election shall be held at the same polling places, be

1 conducted, returned, and canvassed and the results declared in the same manner as the first
2 election. However, if the secondary election does not have a federal race, the electronic ballot
3 marking system is not required and hand-counted ballots may be used. The person receiving the
4 highest number of votes at the secondary election is nominated as the candidate for the party.

5 Section 12. That § 12-14-1.1 be amended to read as follows:

6 12-14-1.1. ~~It shall be the duty of officials~~ The official in charge of ~~a local elections to~~
7 election shall notify the county auditor at least ~~thirty~~ forty-five days preceding ~~their a local~~
8 ~~elections election~~, of the precinct, ward, representation area, or external boundary changes if any
9 have been made.

10 Section 13. That § 12-16-1 be amended to read as follows:

11 12-16-1. The county auditor shall provide printed ballots for ~~every~~ each election in which
12 the voters of the entire county participate. Except as provided in § 12-6-9, printed ballots for a
13 primary election shall contain the name of ~~every~~ each candidate who has filed for nomination
14 and is approved. The printed ballots for the election of officers shall contain the name of ~~every~~
15 each candidate whose nomination has been certified or filed with the county auditor in the
16 manner provided by law unless ~~they are~~ the candidate is deemed elected by having no
17 opposition. The names of the candidates shall appear on the ballot exactly as listed in the
18 declaration of candidacy of the candidates' nominating petitions. Sample ballots shall be printed
19 on paper of a different color from the official ballot but in the same form. The sample ballots
20 and official ballots shall be printed and in the possession of the county auditor not later than ~~six~~
21 ~~weeks~~ forty-five days prior to a primary or general election. The county auditor shall also
22 prepare the necessary ballots if any question is required to be submitted to the voters of the
23 county. Ballots for general elections shall be of the style and form prescribed in §§ 12-16-2 to
24 12-16-11, inclusive.

1 Section 14. That § 12-19-2 be amended to read as follows:

2 12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the
3 election for an absentee ballot. The application or request shall be made in writing and be signed
4 by the applicant and shall state the applicant's voter registration address. The application or
5 request shall contain an oath verifying the validity of the information contained in the
6 application or request. The oath shall be administered by a notary public or other officer
7 authorized by statute to administer an oath. If the application or request does not contain an
8 oath, the application or request shall be accompanied by a copy of the voter's identification card
9 as required by § 12-18-6.1. The copy of the voter's identification card shall be maintained by the
10 person in charge of the election. However, the voter's identification card is not available for
11 public inspection. The application or request may be used to obtain an absentee ballot for all
12 elections in that calendar year conducted by the jurisdiction receiving the application or request
13 if so indicated. ~~If the application or request is from a voter identified as being covered by the~~
14 ~~Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of January 1,~~
15 ~~2006, an absentee ballot shall be provided to the voter for each federal election through the next~~
16 ~~two general elections.~~ The ballot shall be sent to the voter's residence, as shown in the voter
17 registration file or any temporary residence address designated in writing by the voter, at the
18 time of applying for the absentee ballot. If the application or request is for a primary, general,
19 or other statewide election from a voter identified as being covered by the Uniformed and
20 Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of January 1, 2010, the voter
21 may designate on the application for the ballot to be sent electronically. The person in charge
22 of the election shall stamp the application with the date it was received. The person in charge
23 of the election shall preserve a record of the name, mailing address, and voting precinct of each
24 applicant and, except as provided by § 12-19-45, deliver a copy of the record to the

1 superintendent of the election board of the home precinct of the applicant.

2 Section 15. That § 12-19-10 be amended to read as follows:

3 12-19-10. Upon receipt of the sealed return envelope containing the voted ballots, the person
4 in charge of the election shall keep it in a safe place without opening the envelope or breaking
5 the seal thereof and shall, except as provided by § 12-19-42, deliver it to the precinct
6 superintendent of election of the voter's home precinct. The person in charge of the election
7 shall have the absentee ballots delivered with the election supplies, or if received later, then
8 prior to the close of the polls. If the election board is not otherwise engaged in official duties,
9 or if there are absentee ballots not processed when the polls close, immediately thereafter, the
10 board shall carefully compare the statement on the reverse side of the official return envelope
11 with the written application received from the officer in charge of the election without opening
12 or breaking the seal of the return envelope. If the ballot is contained in a combined absentee
13 ballot application/return envelope, the comparison of the statement and the application shall be
14 omitted. The board shall enter the voter's name on the election pollbook and mark the
15 registration list if:

- 16 (1) The ballots received were voted by the voter whose name appears on the statement;
17 (2) The voter is registered in such precinct and has not previously voted in that precinct
18 at the election; and
19 (3) The written application and statement were both signed by the voter.

20 The board shall then open the envelope without opening, unfolding or examining the ballots
21 the envelope may contain, stamp the ballots with the official stamp, and deposit the ballots with
22 the other ballots cast at the election. If the board determines that an absentee ballot envelope
23 cannot be opened because the envelope does not meet the requirements for opening, the reason
24 shall be written on the envelope, signed by a member of the board, and the envelope placed in

1 a larger envelope for unopened absentee ballots. No person may, prior to the counting of the
2 votes, open, unfold or examine any ballot, or make any communication to any person
3 concerning the markings or contents of the ballot. A violation of the preceding sentence is a
4 Class 2 misdemeanor.

5 Section 16. That § 12-19-12 be amended to read as follows:

6 12-19-12. If an absentee ballot is delivered to a polling place after the polls are closed, the
7 absentee ballot may not be counted or opened, ~~but a member of the precinct election board shall~~
8 ~~immediately endorse on the envelope the following: Received after closing of polls, and sign~~
9 ~~the person's signature thereto and return the absentee ballot with the other ballots to the officer~~
10 ~~in charge of the conduct of the election.~~

11 Section 17. That § 12-19-14 be amended to read as follows:

12 12-19-14. Any voter who, having procured an official ballot or ballots or Uniformed and
13 Overseas Citizens Absentee Voting Act (UOCAVA) ballot link as provided in §§ 12-19-1 to
14 12-19-12, inclusive, intentionally disposes ~~them~~ of a ballot in any manner other than as provided
15 in ~~said~~ such sections or provides the UOCAVA ballot link to any other person is guilty of a
16 Class 2 misdemeanor. The UOCAVA ballot link is the internet URL for accessing an
17 electronically provided absentee ballot.

18 Section 18. That § 12-19-47 be amended to read as follows:

19 12-19-47. The Absentee Ballot Counting Board, during the time prescribed in § 12-19-46,
20 shall ~~carefully compare the statement on the reverse side of the official return envelope with the~~
21 ~~written application received from the officer in charge of the election without opening or~~
22 ~~breaking the seal of the return envelope. If the ballot is contained in a combined absentee ballot~~
23 ~~application/return envelope, the comparison of the statement and the application shall be~~
24 ~~omitted. If the board is satisfied that the ballots received were voted by the voter whose name~~

1 ~~appears on the statement and that the voter is registered in such precinct and has not previously~~
2 ~~voted in that precinct at the election, the board shall enter the voter's name on the election~~
3 ~~pollbook. After opening the envelope without opening, unfolding, or examining the ballots~~
4 ~~contained in the envelope, the board shall affix to the ballots the official stamp and deposit the~~
5 ~~ballots in the proper ballot box and count the ballots in the manner prescribed by the State Board~~
6 ~~of Elections. No person, prior to the counting of the votes, may open, unfold, or examine any~~
7 ~~ballot, or make any communication to any person concerning the markings or contents of the~~
8 ~~ballot. A violation of the preceding sentence is a Class 2 misdemeanor process each absentee~~
9 ~~ballot as required by § 12-19-10.~~

10 Section 19. That § 12-19-48 be amended to read as follows:

11 12-19-48. If an absentee ballot is delivered to an absentee ballot counting board after the
12 polls are closed the absentee ballot may not be counted or opened, ~~but a member of the absentee~~
13 ~~ballot counting board shall immediately endorse on the envelope the following: Received after~~
14 ~~closing of polls, and sign the person's name on the envelope and return the absentee ballot with~~
15 ~~the other ballots to the officer in charge of the election.~~

16 Section 20. That § 12-20-2.1 be amended to read as follows:

17 12-20-2.1. If the ballot box ~~for any precinct~~ is opened ~~prior to~~ for ballot counting at the
18 precinct, each provisional ballot envelope and each unopened absentee ballot shall be removed,
19 placed, and sealed in the provisional or unopened absentee ballot return envelope and returned
20 ~~unopened~~ to the person in charge of the election with the other election supplies.

21 Section 21. That § 12-20-7 be amended to read as follows:

22 12-20-7. Any ballot or part of a ballot from which it is impossible to determine the voter's
23 choice by using standards defined by the State Board of Elections shall be void and may not be
24 counted. ~~If the voter's marks on a ballot are sufficiently plain to determine the voter's intention~~

1 ~~it is the duty of the precinct deputies to count such vote.~~ The State Board of Elections shall
2 promulgate rules, pursuant to chapter 1-26, defining standards for determining voter intent.

3 Section 22. That § 12-21-24 be amended to read as follows:

4 12-21-24. ~~It shall be the duty of any person or official having custody of ballot boxes~~
5 ~~containing the ballots to be recounted to produce the same before such board for the purposes~~
6 ~~of such recount upon notice so to do from the county auditor~~ The county auditor shall provide
7 the pollbooks, automatic tabulating system election night print outs, sealed ballot boxes, any
8 provisional ballots which were determined countable pursuant to § 12-20-13.2, any uncounted
9 provisional ballots, and any unopened absentee ballot envelopes to the recount board. The
10 recount board is authorized to make a determination whether any provisional ballots or absentee
11 ballots which were determined not to be countable, shall be counted, and those votes shall be
12 added to the recount tally.

13 Section 23. That § 12-22-2 be amended to read as follows:

14 12-22-2. ~~Such~~ A contest may be instituted by any candidate for a public office, other than
15 a candidate for ~~United States Senator, Representative in Congress, member of the Legislature;~~
16 ~~or delegate to, or representative in any other body, convention, committee, or tribunal, which~~
17 ~~has the final right to determine the qualifications of its members. Legislative contests.~~ A
18 legislative contest shall be instituted as provided in § 12-22-26.

19 Section 24. That § 13-7-6 be amended to read as follows:

20 13-7-6. No candidate for elective school board membership may be nominated unless such
21 person is a resident voter of the school district and unless a nominating petition has been filed
22 on such person's behalf with the business manager of the school district. The nominating
23 petition shall be filed no later than five p.m. on the Friday thirty-nine days before the date of the
24 election. ~~However, if the nominating petition is from a candidate for a vacancy on a new school~~

1 ~~board within a newly created school district entity pursuant to § 13-6-62, the nominating petition~~
2 ~~shall be filed no later than thirty days prior to the date of the election.~~ The petition is considered
3 filed if it is mailed by registered mail by five p.m. on the Friday thirty-nine days before the
4 election. A formal declaration of a candidate shall be signed by the candidate before the
5 circulation of the petition. The petition shall be signed by not less than twenty voters of the
6 school district or if the school district is divided into school board representation areas, the
7 petition shall be signed by not less than twenty voters who reside within the school board
8 representation area. No petition may be circulated until ten weeks prior to the election. There
9 shall be added by either the signer or the circulator the signer's place of residence and date of
10 signing. The petition shall be verified under oath by the person circulating it. The filing of the
11 nominating petition shall constitute nomination and will entitle the candidate to have the
12 candidate's name placed on the ballot for the term the candidate specifies on the petition only
13 upon verification signed by the business manager that the nominating petition contains the
14 minimum number of signatures and that the candidate is a resident voter.

15 Section 25. That chapter 13-7 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 If the nominating petition is from a candidate for a vacancy on a new school board within
18 a newly created school district entity pursuant to § 13-6-62, the nominating petition shall be
19 circulated no more than sixty days prior to the date of the election and filed no later than thirty
20 days prior to the date of the election.

21 Section 26. That § 31-12A-15 be amended to read as follows:

22 31-12A-15. In each road district an annual election of officers shall be held on the first
23 Tuesday in May at a place in the district as the board of trustees shall designate. ~~The~~ Unless
24 otherwise specified, the election shall be conducted according to chapter 8-3, at a meeting of the

1 registered voters who reside in the road district.

2 Section 27. That § 34-47-2 be amended to read as follows:

3 34-47-2. If the voters of both the rural fire protection district and ambulance district approve
4 a consolidation pursuant to § 34-47-1, the districts shall be consolidated into an emergency
5 services district on the following January first. After the voters of each district approve the
6 consolidation and before the consolidation takes effect, the voters of both districts shall meet
7 together and elect a five-member board of emergency services. Board members shall serve until
8 their successors are elected and qualified. Three members of the first board shall serve two-year
9 terms and two members shall serve one-year terms, to be determined by lot at the first board
10 meeting. Subsequent members of the board shall be elected by the voters at the annual meeting
11 to serve two-year terms. Unless otherwise specified, an emergency services district board
12 member election shall be conducted pursuant to chapter 8-3. At its first meeting each year the
13 board shall elect a president, vice president, and secretary-treasurer.