House
Daily Reader

Wednesday, February 17, 2010

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State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0370

HOUSE APPROPRIATIONS

ENGROSSED NO. HB 1025 - 2/12/2010

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

FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a motor pool building at South Dakota State University and to make an appropriation therefor.

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

Section 1. The Board of Regents may contract for the construction, completion, furnishing, equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and such other services or actions as may be required to construct, a motor pool building, not to exceed two thousand gross square feet, at an estimated cost of two hundred thirty-four thousand three hundred dollars on the campus of South Dakota State University in Brookings, South Dakota.

Section 2. There is hereby appropriated from other fund expenditure authority the sum of two hundred thirty-four thousand three hundred dollars ($234,300), or so much thereof as may be necessary, to the Board of Regents for the total project cost authorized by this Act, payable from sponsored program indirect cost receipts, from service center cost recovery, and from prepaid rental in the amount of fifty thousand dollars from the Bureau of Administration.

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

Section 4. The design and construction of the facility authorized in this Act shall be under the general supervision of the Bureau of Administration as provided in chapter 5-14. The commissioner of the Bureau of Administration and the executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all areas on all floors of a building included within the outside faces of the building's exterior walls, including floor penetration areas, however insignificant, for circulation and shaft areas that connect one floor to another as computed by physically measuring or scaling measurements from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which extend beyond the wall faces. The term includes excavated basement area; mezzanines and attics; garages; multiple floor parking structures; enclosed porches, inner or outer balconies whether walled or not, if the balconies are utilized for operational functions; and corridors whether walled or not, if the corridors are within the outside face lines of the building, to the extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on each floor through which the corridors pass. The term does not include open areas such as unenclosed parking lots, playing fields, courts, and light wells, clear span areas not exceeding three feet in

height, or portions of upper floors eliminated by rooms or lobbies that rise above single-floor height.

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0372

HOUSE APPROPRIATIONS

ENGROSSED NO. HB 1026 - 2/12/2010

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

FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct phase II of the Electrical Engineering and Computer Science Building on the campus of South Dakota State University, to accept donations for such purpose, to acquire land incidental thereto, and to make appropriations therefor.

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

Section 1. The Board of Regents may contract for the construction, completion, furnishing, equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and such other services or actions as may be required to construct, phase II of the Electrical Engineering and Computer Science Building, not to exceed twenty-nine thousand gross square feet, on the campus of South Dakota State University in Brookings, South Dakota.

Section 2. There is hereby appropriated from other fund expenditure authority the sum of five million one hundred twenty-five thousand dollars ($5,125,000), for the total project cost authorized by this Act.

Of that sum:

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(1) Four million four hundred thousand dollars ($4,400,000) shall be payable from funds donated for the purposes of this Act, and are appropriated for project costs other than those authorized in subdivision (2) of this section or section 6 of this Act;

(2) Four hundred fifty thousand dollars ($450,000) in other funds arising from sponsored program indirect receipts are appropriated to construct and to equip a photovoltaic laboratory within the facility; and

(3) Two hundred seventy-five thousand dollars ($275,000) from the grant and contract indirect recovery, plant, and royalty funds, are appropriated for the purpose of purchase of the property described in section 6 of this Act.

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

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

required to construct the facility.

Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all areas on all floors of a building included within the outside faces of the building's exterior walls, including floor penetration areas, however insignificant, for circulation and shaft areas that connect one floor to another as computed by physically measuring or scaling measurements from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which extend beyond the wall faces. The term includes excavated basement area; mezzanines and attics; garages; multiple floor parking structures; enclosed porches, inner or outer balconies whether walled or not, if the balconies are utilized for operational functions; and corridors whether walled or not, if the corridors are within the outside face lines of the building, to the extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on each floor through which the corridors pass. The term does not include open areas such as unenclosed parking lots, playing fields, courts, and light wells, clear span areas not exceeding three feet in height, or portions of upper floors eliminated by rooms or lobbies that rise above single-floor height.

Section 6. In order to secure regular dimensions for the site of the construction authorized in this Act, the Board of Regents may purchase improved real property adjacent to the campus of South Dakota State University at a cost not to exceed two hundred seventy-five thousand dollars. The parcel of real property is described as follows:

W 85' of Lots 1, 2 and 3, Block 1, Wheaton's addition, City of Brookings, Brookings County, South Dakota.

Section 7. The Board of Regents may sell, dismantle, or otherwise dispose of any improvements on the property described in section 6 of this Act.

Section 8. The board shall require the establishment of an endowment or the provision for

other nonstate fund revenue sources in the amount of five hundred twelve thousand five hundred dollars to cover projected operating, maintenance, or repair costs related to the project authorized in this Act.

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0411

HOUSE STATE AFFAIRS

ENGROSSED NO. HB 1055 - 2/12/2010

Introduced by: The Committee on State Affairs at the request of the Department of Game, Fish and Parks

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the appointment of members to the Game, Fish and Parks Commission.

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

Section 1. That § 41-2-2 be amended to read as follows:

41-2-2. ~~Not~~ Of the eight members of the Game, Fish and Parks Commission, no more than four ~~of the game, fish and parks commissioners~~ may be members of the same political party, ~~and, at~~ no fewer than three may be members of the republican party, and no fewer than three may be members of the democratic party. At the time of their appointment, at least four shall be farmers actually residing on a farm, engaged in agriculture, deriving at least two-thirds of their gross annual incomes from crop or livestock production or both, and interested in wildlife conservation. At the time of their appointment three commissioners shall reside west of the Missouri River and five shall reside east of the Missouri River.

Section 2. That § 41-2-3 be amended to read as follows:

41-2-3. The term of office of the game, fish and parks commissioners is four years. The

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Governor shall preserve~~:~~

~~(1) An~~ an arrangement of length of terms whereby two members have terms expiring each year~~;~~

~~(2) A rotation of terms between the republican and democratic parties~~.

The expiration of terms occurs on the tenth day of January of each year, and all required appointments shall be made by the first day of March. The appointments shall fill all vacancies on the commission arising either by expiration of term or from any other cause. No person may serve on the commission for more than eight years. However, if the person's first appointment is for two years the person may be reappointed thereafter for no more than two additional four-year terms.

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

736R0408

HOUSE JUDICIARY ENGROSSED NO. HB 1119 -
2/10/2010

Introduced by: Representatives Hoffman, Bolin, Brunner, Elliott, Engels, Kirkeby, Kopp, Krebs, Noem, Novstrup (David), Russell, Turbiville, and Vanderlinde and Senators Gray, Abdallah, Ahlers, Bartling, Brown, Dempster, Fryslie, Gant, Kloucek, Merchant, and Tieszen

FOR AN ACT ENTITLED, An Act to prohibit certain acts of sexual penetration and contact between certain school employees and students and to provide penalties therefor.

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

Section 1. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as follows:

No person who is employed at any high school or secondary school may knowingly engage in an act of sexual penetration with any sixteen or seventeen year old person who is currently a student at the same school district or any private school system. Any violation of this section is a Class 5 felony.

Section 2. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as follows:

No person who is employed at any high school or secondary school may knowingly engage in an act of sexual contact with any sixteen or seventeen year old person who is currently a

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student at the same school district or any private school system. Any violation of this section is a Class 6 felony.

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

947R0630

HOUSE EDUCATION ENGROSSED NO. HB 1188 -
2/12/2010

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Rave, Brunner, Fargen, Hamiel, Lederman, Moser, Sly, Sorenson, and Van Gerpen and Senators Olson (Russell) and Rhoden

FOR AN ACT ENTITLED, An Act to restrict the use of minor adjustments to school district boundaries and to revise the application process for minor boundary changes.

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

Section 1. That § 13-6-85 be amended to read as follows:

13-6-85. A boundary change, affecting not more than two percent of the assessed valuation and not more than two percent of the tax-exempt acreage or other tax-exempt property to be determined at the discretion of the school district from which the area is to be taken, may be made upon an application for a boundary change to the school board of the school district from which the area is to be taken and to the school board of the school district to which the area is to be annexed~~;~~. The area to be annexed shall include at least five single family or multifamily residential units or consist solely of land containing no residential units. If the area includes residential units, the application shall be in the form of a petition signed by at least sixty percent of the owners of land, excluding land owned by the state or any other political subdivision in the area to be transferred by the boundary change. If the area consists solely of land containing

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no residential units, the application shall be in the form of a petition signed by all of the owners of land, excluding land owned by the state or any other political subdivision in the area to be transferred by the boundary change. Copies of the petitions shall also be delivered by the petitioners to the board of county commissioners having jurisdiction over the school districts affected. Any petitioner who is aggrieved by a decision of the school board under this section may appeal that decision.

An appeal from the decision of the school board may be made to the circuit court in the time and manner specified by § 13-46-1 or to the secretary of the Department of Education or the secretary's representative within thirty days from the date of the decision of the school board by filing a notice with the secretary of the school board and mailing a copy of the notice to the secretary of the Department of Education. An appeal to the secretary of the Department of Education may be heard by the secretary or the secretary's representative. The secretary of the Department of Education shall thereafter set a time and place for the hearing and give at least ten days' written notice of the hearing to the parties involved in the appeal, including all affected school districts. An appeal to the secretary is not a contested case subject to chapter 1-26. An appeal from the decision of the secretary may be made pursuant to § 13-6-89. On appeal from a decision of the secretary, the appeal shall be heard and determined in the same manner as a direct appeal from the school board decision pursuant to § 13-6-89 and chapter 13-46 without any presumption of the correctness of the decision of the secretary nor may the provisions of § 1-26-36 be applied to the decision of the secretary. Nothing in this section affects the right of an aggrieved party to appeal from the decision of the school board to the circuit court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The ballots received were voted by the voter whose name appears on the statement;

(2) The voter is registered in such precinct and has not previously voted in that precinct at the election; and

(3) The written application and statement were both signed by the voter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

registered voters who reside in the road district.

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

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

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0244

HOUSE EDUCATION ENGROSSED NO. SB 24 -
2/3/2010

Introduced by: The Committee on Education at the request of the Department of Education

FOR AN ACT ENTITLED, An Act to establish standards for teaching, to require teacher evaluations, and to provide for the development of a model evaluation instrument.

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

Section 1. The Board of Education shall, no later than July 1, 2011, promulgate rules pursuant to chapter 1-26 to establish minimum professional performance standards for certified teachers in South Dakota public schools, and to establish best practices for the evaluation of the performance of certified teachers that may be used by individual school districts.

Section 2. Any public school district seeking state accreditation shall evaluate the performance of each certified teacher in years one through three not less than annually, and each certified teacher in the fourth contract year or beyond, not less than every other year.

Each school district shall adopt procedures for evaluating the performance of certified teachers employed by the school district that:

(1) Are based on the minimum professional performance standards established by the Board of Education pursuant to section 1 of this Act;

(2) Require multiple measures;

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(3) Serve as the basis for programs to increase professional growth and development of certified teachers; and

(4) Include a plan of assistance for any certified teacher, who is in the fourth or subsequent year of teaching, and whose performance does not meet the school district's performance standards.

Section 3. A work group appointed by the secretary of education shall provide input in developing the standards and shall develop a model evaluation instrument that may be used by school districts. The work group shall consist of the following:

(1) Three teachers: one from an elementary school, one from a middle school, and one from a high school;

(2) Three principals: one from an elementary school, one from a middle school, and one from a high school;

(3) Two superintendents;

(4) Two school board members;

(5) Four parents who have students in various levels of the K-12 system:

(6) One representative of the South Dakota Education Association;

(7) One representative of the School Administrators of South Dakota; and

(8) One representative of the Associated School Boards of South Dakota.

Section 4. Nothing in this Act may diminish a school district's right to not renew a teacher's contract pursuant to § 13-43-6.3.

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

156R0357

SENATE ENGROSSED NO. SB 68 - 2/3/2010

Introduced by: Senators Gant and Miles and Representatives Kirkeby and Feickert

FOR AN ACT ENTITLED, An Act to revise certain provisions relating to standards for new construction.

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

Section 1. That § 11-10-5 be amended to read as follows:

11-10-5. If the governing body of any local unit of government adopts any ordinance prescribing standards for new construction, ~~such~~ the ordinance shall comply with the ~~2006~~ 2009 edition of the International Building Code as published by the International Code Council, Incorporated. The governing body may amend, modify, or delete any portion of the International Building Code before enacting such an ordinance. Additional deletions, modifications, and amendments to the municipal ordinance may~~, from time to time,~~ be made by the governing body and are effective upon their adoption and filing with the municipal finance officer. Additional deletions, modifications, and amendments to the county ordinance may~~, from time to time,~~ be made by the governing body, and are effective upon their adoption and filing with the county auditor. ~~The~~ No ordinance may ~~not~~ apply to mobile or manufactured homes as defined in chapter 32-7A which are constructed in compliance with the applicable prevailing standards of

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the United States Department of Housing and Urban Development at the time of construction. No ordinance may require that any fire sprinkler be installed in a single family dwelling. No ordinance may apply to any specialty resort or vacation home establishment as defined in chapter 34-18 that is constructed in compliance with the requirements of Group R-3 of the 2009 edition of the International Building Code.

Section 2. That § 11-10-6 be amended to read as follows:

11-10-6. The design standard for any new construction commenced after July 1, 2009, within the boundaries of any local unit of government that has not adopted an ordinance prescribing standards for new construction pursuant to § 11-10-5 shall be based on the ~~2006~~ 2009 edition of the International Building Code as published by the International Code Council, Incorporated. Each local unit of government may adopt an ordinance allowing local administration and enforcement of the design standard. The provisions of this section do not apply to new construction for any one or two family dwelling, mobile or manufactured home, townhouse, or farmstead and any accessory structure or building thereto. For purposes of this section the term, farmstead, means a farm or ranch, including any structure or building located on the land. The provisions of this section do not apply to any mobile or manufactured home as defined in chapter 32-7A which is used for purposes other than residential that is constructed in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of construction if the structure complies with applicable accessibility standards for the occupancy intended. The provisions of this section do not apply to any specialty resort or vacation home establishment as defined in chapter 34-18 that is constructed in compliance with the requirements of Group R-3 of the 2009 edition of the International Building Code.