

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

717M0147

## SENATE BILL NO. 11

Introduced by: The Committee on Local Government at the request of the Office of the  
Secretary of State

1 FOR AN ACT ENTITLED, An Act to provide for the use of electronic ballot marking systems  
2 and for the appointment of precinct assistants and to declare an emergency.

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

4 Section 1. That chapter 12-17B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If a candidate for federal office appears on the ballot at a polling place, such polling place  
7 is required to have an electronic ballot marking system present.

8 Section 2. That § 12-17B-7 be amended to read as follows:

9 12-17B-7. Before entering the voting booth, any voter may request instruction in the proper  
10 procedure for marking the ballot to ensure that the tabulating equipment is able to read the vote  
11 cast. No instructions may be given ~~after~~ to the voter ~~has entered~~ while in the voting booth.  
12 However, any voter using an electronic ballot marking system may request instruction in the  
13 proper operation of the system at any time. No precinct official or person assisting a voter may  
14 in any manner request, suggest, or seek to persuade or induce any voter to cast a vote for any  
15 particular ticket, candidate, or measure to be voted on. All instructions shall be given in such



1 a manner that it may be observed by other persons in the polling place.

2 Section 3. That § 12-18-1 be amended to read as follows:

3 12-18-1. The superintendent of the election precinct is responsible for having the polling  
4 place ready to accommodate the voters in the precinct by the time the polls open. The booths,  
5 electronic ballot marking system, and supplies which enable the voter to complete the voter's  
6 ballot shall be provided by the person in charge of the election. If a voter chooses to use a sip  
7 and puff device or an A/B switch device with the electronic ballot marking system, the voter  
8 shall provide such device. All voting at the polling place shall be in private voting booths or  
9 compartments and, except as provided in § 12-18-25, shall be screened from observation.

10 Section 4. That chapter 12-18 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Before any poll is opened, each electronic ballot marking system shall be prepared for  
13 voting. The precinct superintendent shall test the system by using the system to mark at least  
14 two ballots. The test ballots shall be provided by the person in charge of the election and clearly  
15 marked with words, Test Ballot. If the system does not properly mark the test ballots, the  
16 precinct superintendent shall work on the system until a successful test is conducted. The  
17 precinct superintendent shall maintain custody of the key to activate the system at all times.

18 Section 5. That chapter 12-15 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 In addition to the precinct election board, the person in charge of the election may appoint  
21 a person to be designated as the precinct assistant. The precinct superintendent shall prescribe  
22 the duties and conduct of the precinct assistant. The precinct assistant may not perform any of  
23 the duties of the precinct superintendent or precinct deputies unless specified by statute. The  
24 precinct assistant may assist with setting up the polling place, directing voters to the proper

1 election board, and providing instruction on the use of the electronic ballot marking system.

2 Section 6. That § 12-15-9 be amended to read as follows:

3 12-15-9. Before performing election day duties, each precinct superintendent ~~and~~, precinct  
4 deputy, and precinct assistant of the election and counting boards shall severally take an oath  
5 in the following form:

6 I, A.B., do solemnly swear (or affirm) that I will perform the duties of precinct  
7 superintendent (or precinct deputy or precinct assistant) according to law and the best of my  
8 ability and that I will studiously endeavor to prevent fraud, deceit, and abuse and that I will act  
9 in an impartial manner in conducting the election about to be held.

10 The members of the precinct election board may administer the oath to each other. The  
11 person administering the oaths shall cause an entry thereof to be made and signed by the person  
12 and prefixed to the pollbook. A violation of this oath is a Class 1 misdemeanor.

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