

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

771C0077

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1016** - 1/20/99

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 the procedure for school district elections
2 involving tie votes or request for recount.

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

4 Section 1. That § 13-7-9.5 be repealed.

5 ~~—13-7-9.5. If there are more than two candidates for a position on the school board and two~~
6 ~~candidates are tied for a position after a recount has been held according to § 13-7-19.1, a~~
7 ~~secondary election between the tied candidates shall be held.~~

8 Section 2. That § 13-7-9.6 be repealed.

9 ~~—13-7-9.6. If a secondary election is required according to § 13-7-9.5, the secondary election~~
10 ~~shall be held two weeks from the date of the first election. The secondary election shall be held~~
11 ~~at the same polling places, be conducted, returned and canvassed, and the result declared in the~~
12 ~~same manner as the first election except that the business manager shall publish a notice of~~
13 ~~election only once during the week preceding the secondary election.~~

14 ~~—The person receiving the highest number of votes at the secondary election shall be elected.~~
15 ~~If there is a tie vote after a secondary election the tie shall be resolved according to the~~
16 ~~provisions of § 13-7-19.1.~~

1 Section 3. That § 13-7-19.2 be amended to read as follows:

2 13-7-19.2. If any candidate for the school board is defeated by a margin not exceeding two
3 percent of the total votes cast for all candidates for the office, the candidate may, within five days
4 after completion of the official canvass, file with the ~~recount referee~~ business manager of the
5 school district a written request for a recount. Upon receipt of a recount request, the ~~recount~~
6 ~~referee~~ business manager shall set the time and place for a recount. A recount board shall be
7 established consisting of one person chosen by each candidate declared elected and by each
8 candidate who is eligible to request a recount. If this board consists of an even number of
9 persons, one additional recount board member shall be appointed by the ~~recount referee~~ business
10 manager who shall be mutually agreeable to each candidate involved in the recount. The person
11 having custody of the ballot boxes containing the ballots to be recounted shall produce ~~them~~ the
12 ballot boxes before ~~such~~ the recount board. All questions arising on the recount shall be
13 determined by majority vote of ~~such~~ the recount board. The recount shall proceed as
14 expeditiously as reasonably possible until completed.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Local Government. H.J. 34

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Local Government Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 80

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

159C0281

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1018** - 1/20/99

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

1 FOR AN ACT ENTITLED, An Act to allow the precinct superintendent to assign duties to the
2 members of an election board and to consolidate the position of judge and clerk.

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

4 Section 1. That § 9-13-16.1 be amended to read as follows:

5 9-13-16.1. Each voting precinct shall be presided over by an election board consisting of a
6 minimum of two ~~clerk~~ precinct deputies and one ~~judge~~ precinct superintendent appointed by the
7 governing body. ~~Judges and clerks~~ Each precinct superintendent and precinct deputy shall
8 receive ~~such~~ compensation as which shall be fixed by the governing body.

9 Section 2. That § 12-3-11 be amended to read as follows:

10 12-3-11. Interpreters shall be provided for precincts as determined by the auditor or person
11 in charge of that election and interpreters shall be paid the same as ~~judges of election~~ precinct
12 deputies. All expenses shall be paid out of the county general fund or other appropriate political
13 subdivision fund.

14 Section 3. That § 12-15-1 be amended to read as follows:

15 12-15-1. The county auditor shall, not less than twenty days before any election, appoint a
16 ~~minimum of one judge of election, two clerks of election and judges and clerks~~ precinct

1 superintendent and two precinct deputies who shall constitute the precinct election board and
2 a precinct superintendent and two precinct deputies of the counting board if ~~such~~ the board is
3 appointed pursuant to § 12-15-14 or 12-15-14.1 for each of the voting precincts of the county.
4 Two or four additional ~~judges~~ precinct deputies may be appointed. ~~The auditor shall designate~~
5 ~~one judge of elections and one judge of the counting board as superintendent of their respective~~
6 ~~boards.~~ The county auditor shall make the appointments from lists of names submitted by the
7 county central committee of each party. If a list is submitted, it must be received by the county
8 auditor ~~no less than~~ fails to receive the list at least forty-five ~~calendar~~ days prior to an election:
9 ~~If no names are presented, the county auditor shall use his own discretion~~ make the
10 appointments.

11 Section 4. That § 12-15-2 be amended to read as follows:

12 12-15-2. Any ~~judge or clerk~~ precinct superintendent or precinct deputy appointed under the
13 provisions of § 12-15-1 shall be a registered voter and a resident of the precinct ~~or election~~
14 ~~district~~ for which ~~he~~ the person is appointed. If, by the time prescribed in § 12-15-1, a sufficient
15 number of ~~judges or clerks~~ members of the precinct election board are unable to be appointed,
16 a vacancy may be filled by appointing any registered voter of the county in which the precinct
17 is located provided the voter meets the party distribution required by § 12-15-3.

18 Section 5. That § 12-15-2.1 be amended to read as follows:

19 12-15-2.1. No person appointed as a ~~judge or clerk of any election~~ precinct superintendent
20 or precinct deputy may serve as a poll watcher at that election.

21 Section 6. That § 12-15-3 be amended to read as follows:

22 12-15-3. In the appointment of ~~judges of election~~ the members of the precinct election board
23 and of the counting board under this chapter, if three or more parties have candidates on the
24 official ballot, one ~~judge~~ precinct deputy shall be appointed from each party ~~having~~ whose
25 candidate for Governor in the last gubernatorial election had at least fifteen percent of the ~~voters~~

1 ~~votes~~ as shown by the precinct ~~or district~~ returns of the last preceding general election. If ~~but~~ two
2 parties have candidates on such ballots, the ~~judges~~ members of the precinct election board shall
3 be selected ~~therefrom~~ from each party and the party receiving a majority of the votes cast for
4 Governor in the election precinct at the last preceding gubernatorial election shall have a majority
5 of ~~judges~~ the members of the precinct election board. In all cases the ~~judge~~ selected as precinct
6 superintendent of elections shall belong to the party whose candidate received the most votes for
7 Governor in the last gubernatorial election in that precinct. ~~Clerks of election and counting~~
8 ~~boards shall be of the different political parties represented in the primary election, if possible.~~
9 If a precinct has been created since the last election, ~~one of the judges~~ and the precinct
10 superintendent of elections shall belong to the party which received the most votes for Governor
11 in the county in the last gubernatorial election.

12 Section 7. That § 12-15-7 be amended to read as follows:

13 12-15-7. Prior to each general or primary election, each county auditor, assisted by the state's
14 attorney, shall call together the superintendents from each of the precincts in the county, and
15 ~~such clerks and judges of elections~~ any precinct deputy as the county auditor may deem
16 appropriate, at some convenient time and place and instruct them ~~and the judges and clerks of~~
17 ~~all counting boards~~ on the election laws and the duties of the ~~judges and clerks of election and~~
18 ~~counting boards. The superintendents and all judges and clerks including the judges and clerks~~
19 ~~of the counting boards who are precinct superintendent and precinct deputies. Any person who~~
20 is called to the meeting and who attend attends the meeting shall be paid a fee fixed by the board
21 of county commissioners of not less than five dollars for attending the meeting.

22 Section 8. That § 12-15-9 be amended to read as follows:

23 12-15-9. ~~Previous to votes being taken, the judges and the clerks~~ Before performing election
24 day duties, each precinct superintendent and precinct deputy of the election and counting boards
25 shall severally take an oath in the following form:

1 "I, A.B., do solemnly swear (or affirm) that I will perform the duties of ~~judge (or clerk)~~
2 precinct superintendent or (precinct deputy) according to law and the best of my ability and that
3 I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the election about
4 to be held."

5 The ~~judges of election and counting boards~~ members of the precinct election board may
6 administer the oath to each other ~~and to the clerks of the election and counting boards~~. The
7 person administering the oaths shall cause an entry thereof to be made and ~~subscribed by him~~
8 signed by the person and prefixed to the pollbook.

9 Section 9. That § 12-15-10 be amended to read as follows:

10 12-15-10. If any person appointed as ~~judge or clerk of election or as a judge or clerk of the~~
11 ~~counting board~~ precinct superintendent or precinct deputy neglects or refuses to be sworn or to
12 act as such, the position of the person shall be filled by the voters of the precinct present at the
13 polling place when it opens, from the different political parties, as provided in this chapter. The
14 person so elected to fill the vacancy is vested with the same power for that election, as if
15 regularly appointed.

16 Section 10. That § 12-15-11 be amended to read as follows:

17 12-15-11. ~~The judges and clerks of each election and counting boards~~ Each precinct
18 superintendent and precinct deputy shall receive a fee to be established annually by resolution
19 of the board of county commissioners at its first regular meeting each year. The person delivering
20 the pollbooks and ballot boxes to the proper authority at the county seat shall receive the county
21 rate for mileage as established pursuant to § 7-7-24, for miles necessarily traveled in going to and
22 returning from making the delivery.

23 Section 11. That § 12-15-13 be amended to read as follows:

24 12-15-13. The county auditor shall, on the receipt of the returns of any primary, general, or
25 special election make out a certificate stating the fee ~~the judges and clerks of the election board~~

1 ~~and counting board of such election are~~ that each precinct superintendent and precinct deputy
2 ~~is entitled for their services.~~ The county auditor shall submit the certificate to the board of county
3 commissioners at its next session. The board shall order the fee to be paid out of the county
4 treasury.

5 Section 12. That § 12-15-14 be amended to read as follows:

6 12-15-14. In ~~every~~ each election precinct ~~where~~ in which the number of ballots to be voted
7 on paper ballots, including absentee ballots, has in prior general elections exceeded three hundred
8 voters, the auditor shall appoint a precinct counting board ~~or boards~~ to be composed of ~~three~~
9 ~~judges~~ five precinct deputies, one of whom shall be superintendent, ~~and two clerks~~ who shall
10 count the ballots cast in the general election under the direction of the superintendent of the
11 counting board.

12 Section 13. That § 12-16-17 be amended to read as follows:

13 12-16-17. ~~Where paper ballots are used, the~~ The county auditor shall provide official and
14 sample ballots to each precinct ~~using them~~ in the county. The quantity provided for a primary
15 election shall be at least ten percent more than the number of votes cast for the gubernatorial
16 candidate of the respective parties in the preceding gubernatorial primary election. The quantity
17 provided for a general election shall be at least ten percent more than the number of votes cast
18 for all candidates for Governor as shown by the returns of the last preceding gubernatorial
19 election. ~~In the case of newly created precincts, the quantity shall be determined by the reports~~
20 ~~of the judges of elections for the same.~~ The county auditor shall also provide and retain in that
21 office an ample supply of all official ballots, and if at any time before or during an election, an
22 additional supply for any precinct shall be requested by the ~~judges of election~~ precinct
23 superintendent, the county auditor shall immediately cause to be delivered, to the ~~judges of~~
24 ~~election of the precinct~~ precinct superintendent, a supply of extra official ballots. If the supply
25 of official ballots has been completely exhausted, the county auditor may make emergency

1 substitution by delivering or authorizing the use of sample ballots or photocopies of the official
2 ballot. The election board shall account for any sample ballots or photocopies authorized to be
3 used.

4 Section 14. That § 12-16-19 be amended to read as follows:

5 12-16-19. ~~Such~~ The ballots, together with all other election supplies may be delivered to the
6 precinct superintendent of elections or a judge for such precincts or precinct deputy for each
7 precinct at the time ~~they~~ the precinct superintendent and precinct deputies are called together to
8 receive instructions pursuant to § 12-15-7; ~~and in case.~~ If any such precinct superintendent; or
9 ~~another judge~~ precinct deputy from that precinct ~~who shall give receipt therefor be~~ is not present
10 to receive instructions, the ballots, election supplies, and the ballot boxes for ~~his~~ the precinct shall
11 be delivered to the sheriff for delivery to ~~said~~ the precinct superintendent ~~of election.~~

12 Section 15. That § 12-16-20 be amended to read as follows:

13 12-16-20. ~~The judge of election~~ precinct superintendent or precinct deputy receiving ~~such~~
14 the package of ballots shall at the opening of the polls on election day cause the same to be
15 delivered with the seal unbroken to the election board of ~~his~~ the election precinct ~~and shall take~~
16 ~~receipts therefor from the judges of election, which receipts shall be returned.~~ The precinct
17 superintendent or precinct deputy shall receive a receipt from a member of the precinct board
18 and shall return the receipt to the county auditor with the election returns.

19 Section 16. That § 12-16-21 be amended to read as follows:

20 12-16-21. In case the ballots to be furnished to any precinct ~~shall~~ are, for any reason ~~fail to~~
21 ~~be,~~ not duly delivered or received, or ~~after~~ if the delivery ~~be~~ has been exhausted, destroyed, or
22 stolen, ~~it shall be the duty of the judge of election or election board of such precinct~~ the precinct
23 superintendent shall immediately ~~to~~ procure from the county auditor replacement ballots.

24 Section 17. That § 12-16-25 be amended to read as follows:

25 12-16-25. ~~The judges of election shall~~ A member of the precinct election board may post no

1 less than one of ~~such~~ the instruction cards in each booth or compartment provided for the
2 ~~preparation~~ voting of ballots and not less than three of ~~such~~ the instruction cards elsewhere in
3 and about the polling place upon the day of election.

4 Section 18. That § 12-16-30 be amended to read as follows:

5 12-16-30. Before opening the polls the county auditor or officer charged with the conduct
6 of a local election shall deliver to a ~~judge of election~~ the precinct superintendent of each precinct
7 within the county, for use at the polling place of the precinct, a rubber ~~or other~~ stamp. The stamp
8 shall contain the words, "official ballot," the name or number of the election precinct, the name
9 of the jurisdiction holding the election, and the date of the election. The date may be omitted if
10 it is pre-printed on all ballots for the election. The stamp and other supplies for the election shall
11 be delivered and receipted for by ~~each officer~~ a member of the precinct election board in the
12 manner and at the time as provided in this chapter for the delivery and receipt of packages of
13 ballots.

14 Section 19. That § 12-16-36 be amended to read as follows:

15 12-16-36. There shall be at the right of each name or question in one or two horizontal lines
16 a sufficient number of squares for the tally marks as provided in § 12-16-34, on the tally sheets
17 for each precinct, to contain the tally marks for one-third more votes than were cast in ~~such~~ the
18 precinct at the last preceding general election, not exceeding six hundred in any case. There shall
19 be sufficient spaces at the right of the squares on ~~such~~ the tally sheet so that ~~the clerk~~ a member
20 of the precinct election board may write out the total number of votes tallied for the candidate
21 or question.

22 Section 20. That § 12-16-41 be amended to read as follows:

23 12-16-41. In any case in which the certificate of the ~~precinct judges~~ members of the precinct
24 election board as to the number of votes cast for any candidate or in favor of or against any
25 question submitted to the voters ~~shall~~ may not agree with the votes as shown by ~~such~~ the tally

1 list, the canvassing board to which ~~such~~ the returns are made shall take as correct the number
2 of ~~such~~ votes shown by ~~such~~ the tally list rather than the certificate.

3 Section 21. That § 12-17B-9 be amended to read as follows:

4 12-17B-9. Upon completion of the voting and after sealing the ballot box, two of the ~~judges~~
5 ~~of election~~ members of the precinct election board, of different major political parties, shall, by
6 the most direct route, transport the box to the central counting location designated by the person
7 in charge of the election or the ballots may be transported to the counting location by a sheriff's
8 deputy and two deputy county auditors, one of each major political party, or by two deputy
9 county auditors, one of each major political party.

10 Section 22. That § 12-18-1.1 be amended to read as follows:

11 12-18-1.1. Before the opening of the polls the ~~judges of election~~ members of the precinct
12 election board shall count and verify against the receipt given the ballots delivered to ~~them~~ the
13 precinct for the purposes of the election.

14 Section 23. That § 12-18-1.2 be amended to read as follows:

15 12-18-1.2. The precinct superintendent shall ~~be in charge of the registration list and inactive~~
16 ~~registration list and shall designate one judge to be in charge of the official ballots and the official~~
17 ~~stamp. The remaining judge shall be in charge of receiving and depositing in the ballot boxes the~~
18 ~~ballots as they are voted. The voter may place the voter's voted ballot in the ballot box to insure~~
19 ~~the privacy of the voter's vote after showing the judge responsible for the ballot box the official~~
20 ~~stamp on the ballot~~ have charge of the conduct at the polling place and supervise the precinct
21 deputies. The precinct superintendent shall issue instructions and assign the duties to each person
22 for maintaining the registration lists and the pollbook and issuing and receiving the official
23 ballots. The duties for each person may be interchanged or rotated during the course of the day.

24 Section 24. That § 12-18-1.3 be amended to read as follows:

25 12-18-1.3. If punch card ballots are used, before the opening of the polls the ~~judges of~~

1 ~~election~~ members of the precinct election board shall compare the ballots used in the marking
2 devices with the sample ballots furnished and see that the names, numbers, and letters on the
3 sample ballots agree and shall certify that fact on forms provided by the person in charge of the
4 election.

5 Section 25. That § 12-18-1.5 be amended to read as follows:

6 12-18-1.5. In those precincts where counting boards have been appointed, the ~~judges and~~
7 ~~clerk of election~~ precinct superintendent and precinct deputies shall remain at the place of
8 election at all times after the polls are opened until the polls are closed, the election supplies are
9 turned over to the counting board and the certificate and receipt required by § ~~12-20-28~~ § 12-20-
10 1 have been signed. At this time, the counting board shall assume its duties and the election
11 board ~~shall be~~ is excused. The members of the counting board shall remain at the place of vote
12 counting at all times from the time ~~they assume their~~ the counting board assumes the duties until
13 the completion of the vote count and execution of the returns on the election.

14 Section 26. That § 12-18-4 be amended to read as follows:

15 12-18-4. Before opening the polls each ballot box shall be carefully examined by the ~~judges~~
16 ~~of election~~ members of the precinct election board and everything ~~therein~~ in each ballot box shall
17 be removed. Each ballot box shall then be sealed and may not be opened during the election
18 except for vote counting as provided for in chapter 12-20.

19 Section 27. That § 12-18-5 be amended to read as follows:

20 12-18-5. ~~In paper ballot precincts, the clerk of election~~ A member of the precinct election
21 board belonging to a political party which is not the same as the political party of the
22 ~~superintendent~~ member of the precinct election board who has the registration list shall keep a
23 poll list which shall contain in numerical order the names of all persons voting at the election.

24 Section 28. That § 12-18-7.1 be amended to read as follows:

25 12-18-7.1. Any person whose name appears on the precinct registration list ~~in the possession~~

1 ~~of the precinct election judges~~ may vote at that election. However, if a person's name does not
2 appear on the registration list, but the person does present an acknowledgment notice, the person
3 shall be permitted to vote if one of the ~~judges~~ members of the precinct election board
4 communicates with the office of the county auditor and confirms that the person's name was
5 erroneously omitted from the list. If it is not possible to communicate with the office of county
6 auditor, the person may vote after executing an emergency voting card pursuant to § 12-18-7.2.

7 Section 29. That § 12-18-7.2 be amended to read as follows:

8 12-18-7.2. If any person attempting to vote in any election claims to be registered or any
9 person attempting to vote in any election claims to be on the inactive registration list but does
10 not possess an acknowledgment notice and the person's name does not appear in the registration
11 list of the precinct, the person may vote if one of the ~~election judges~~ members of the precinct
12 election board first confirms by telephone or other means with the county auditor or a deputy
13 auditor that the name was erroneously omitted from the list, and an emergency voting card, in
14 duplicate, in the form prescribed by the State Board of Elections is signed by the applicant and
15 ~~the judges~~ each member of the precinct election board. The original emergency voting card shall
16 be retained by the precinct superintendent ~~of elections~~ as part of the precinct superintendent's
17 permanent records, and the duplicate shall be given to the voter. In a primary election, the party
18 affiliation of any voter using the emergency voting procedure of this section shall be designated
19 on the emergency voting card.

20 Section 30. That § 12-18-10 be amended to read as follows:

21 12-18-10. ~~When any~~ If a person shall make makes an application for ballots, or ~~where~~ if an
22 absentee ballot has been cast, ~~his~~ the person's right to vote at that poll and election may be
23 challenged only as to ~~his~~ the person's identity as the person registered whom ~~he~~ the person claims
24 to be or on grounds that within fifteen days preceding the election ~~he~~ the person has been
25 convicted of a felony or declared by proper authority to be mentally incompetent, ~~and such.~~ The

1 proceedings shall ~~thereupon be had~~ be conducted before the ~~judges of election precinct~~
2 superintendent and precinct deputies who shall determine from the evidence presented whether
3 or not the person ~~shall be~~ is permitted to vote and ~~they~~ the members of the precinct election
4 board shall indicate beside the name on the registration list the ground stated and the result of
5 ~~their~~ the precinct election board's decision.

6 Section 31. That § 12-18-12 be amended to read as follows:

7 12-18-12. Before delivering a ballot to any voter the ~~judge having~~ member of the precinct
8 election board in charge of the ballots shall stamp on ~~its~~ the back and near the top of the ballot
9 the official stamp provided for that purpose.

10 Section 32. That § 12-18-13 be amended to read as follows:

11 12-18-13. No voter ~~shall~~ may receive or vote a ballot from any other person than the ~~judge~~
12 ~~of election having~~ precinct superintendent or precinct deputy in charge of the ballots, nor ~~shall~~
13 may any person other than ~~such judges of election~~ the precinct superintendent or precinct deputy
14 deliver a ballot to ~~such~~ the voter.

15 Section 33. That § 12-18-23 be amended to read as follows:

16 12-18-23. ~~Every~~ Each voter who does not vote a ballot delivered to ~~him by the judges of~~
17 ~~election having~~ the voter by a member of the precinct election board in charge of the ballots shall,
18 before leaving the polling place, return ~~such~~ the ballot to ~~such judges~~ the member of the precinct
19 election board in charge of the ballot box.

20 Section 34. That § 12-18-24 be amended to read as follows:

21 12-18-24. If any voter spoils a ballot ~~he,~~ the voter may obtain another ballot, and so on,
22 successively, not to exceed three ballots in all, upon returning to ~~the ballot clerk~~ a member of the
23 precinct election board the spoiled ballot. In obtaining a ballot to replace a spoiled one, the name
24 of the voter shall be given and the number of the spoiled ballot ~~so spoiled, which.~~ The number
25 shall be noted opposite ~~his~~ of the voter's name as "spoiled." The ballots ~~thus~~ that are returned

1 shall be ~~forthwith~~ canceled by writing the words, "spoiled and replaced", across the face of the
2 ballot and ~~all such ballots~~ each spoiled ballot shall be placed in a separate envelope identifying
3 ~~them the spoiled ballots~~ as such and stating the number ~~thereof~~ of spoiled ballots for accounting
4 purposes.

5 Section 35. That § 12-18-27 be amended to read as follows:

6 12-18-27. No person ~~shall~~ may show ~~his~~ a ballot after it is marked to any person in such a
7 way as to reveal the contents ~~thereof~~ of the ballot, or the name of ~~the~~ any candidate ~~or candidates~~
8 for whom ~~he~~ the person has marked ~~his~~ a vote, ~~nor shall~~. Nor may any person solicit the voter
9 to show the ~~same~~ voter's ballot. Immediately after marking ~~his~~ the ballot the voter shall fold and
10 refold the ballot, if necessary, ~~for deposit in the ballot box in such a way that~~ leaving the official
11 stamp ~~shows when it is handed to the judge~~ exposed.

12 Section 36. That § 12-18-28 be amended to read as follows:

13 12-18-28. When a ballot is ~~received pursuant to § 12-18-27 with the official stamp showing,~~
14 ~~the judge~~ ready for deposit in the ballot box, the member of the precinct election board in charge
15 of the ballot box, without opening the ~~same~~ ballot or permitting it to be opened or examined
16 except to ascertain ~~whether it be~~ that the ballot is a single ballot, shall deposit it the ballot in the
17 ballot box, ~~making such additional folds as necessary to deposit it. The voter may place the~~
18 voter's voted ballot in the ballot box in insure the privacy of the voter's vote after showing the
19 official stamp on the ballot to the member of the precinct election board in charge of the ballot
20 box.

21 Section 37. That § 12-19-12 be amended to read as follows:

22 12-19-12. If ~~any~~ an absentee ballot is delivered to ~~any~~ a polling place after the polls are
23 closed ~~such, the absentee ballot shall neither~~ may not be counted ~~nor~~ or opened, but a ~~clerk or~~
24 ~~judge of the election at such polling place~~ member of the precinct election board shall
25 immediately endorse on the envelope the following: "Received after closing of polls", and

1 ~~subscribe his~~ sign the person's signature thereto and return ~~same~~ the absentee ballot with the
2 other ballots to the officer in charge of the conduct of the election.

3 Section 38. That § 12-19-48 be amended to read as follows:

4 12-19-48. If ~~any~~ an absentee ballot ~~shall be~~ is delivered to ~~any~~ an absentee ballot counting
5 board after the polls are closed ~~such~~ the absentee ballot ~~shall neither~~ may not be counted ~~nor~~ or
6 opened, but a ~~clerk or judge~~ member of the absentee ballot counting board shall immediately
7 endorse on the envelope the following: "Received after closing of polls," and sign ~~his~~ the person's
8 name ~~thereon~~ on the envelope and return ~~it~~ the absentee ballot with the other ballots to the
9 officer in charge of the election.

10 Section 39. That § 12-20-1 be amended to read as follows:

11 12-20-1. As soon as the polls are closed, the ~~judges of election~~ precinct superintendent and
12 precinct deputies shall immediately deliver the ballot boxes, registration book, pollbook, and
13 other election supplies, including voided and unused ballots, to the counting board, if appointed,
14 and sign ~~the~~ a certificate ~~required by § 12-20-28~~ . ~~The judges and clerks of election~~ of transmittal
15 and receipt as prescribed by the State Board of Elections. The members of the precinct election
16 board or the counting board, if appointed, shall then immediately proceed to count publicly, in
17 the presence of all persons desiring to attend the count, the votes received at the polls, and
18 continue without adjournment until the count is completed. In counting the votes, ~~they~~ the
19 members of the precinct election board or counting board shall use the tally sheets provided.

20 Section 40. That § 12-20-2 be amended to read as follows:

21 12-20-2. The box shall be opened and the ballots taken out, sorted so that all ballots on
22 certain candidacies and issues are separately identified, and counted by the ~~judges~~ members of
23 the precinct election board unopened, except ~~so far as~~ to ascertain if each ballot is single. If two
24 or more ballots are found folded together and present the appearance of a single ballot, ~~they~~ the
25 ballots shall be laid aside until the count of ballots is completed. Upon the comparison of the

1 count with the pollbook and registration list, or in machine precincts, with the number of return
2 envelopes from absentee voters, and the appearance of the ballots, if a majority of ~~such judges~~
3 the members of the precinct election board are of the opinion that the ballots folded together
4 were voted by one voter, ~~they~~ the ballot shall be endorsed as, "duplicate ballot of one voter not
5 counted." If the ballot count does not agree with the number of votes in the pollbook, a
6 comparison of the voters in the pollbook and the registration list shall be made and the correction
7 of any mistakes ~~therein~~ shall be made.

8 Section 41. That § 12-20-3 be amended to read as follows:

9 12-20-3. Following the comparison of the pollbook and registration list in § 12-20-2, if the
10 ballots in the box exceed the number of names in the pollbook, ~~they~~ the ballots shall be replaced
11 in the box, after any ~~such~~ of the ballots folded together are canceled, and one of the ~~judges~~
12 precinct deputies shall publicly draw therefrom as many ballots, unopened, as equal to the excess.

13 Section 42. That § 12-20-5 be amended to read as follows:

14 12-20-5. The votes for the several candidates shall be counted in the order in which ~~they~~ the
15 candidates occur upon the ballots. ~~If there is no counting board, all three judges, after separation~~
16 ~~of ballots, shall personally scrutinize each ballot as the vote on that ballot is announced. At least~~
17 ~~two judges precinct deputies, of opposite political parties, shall scrutinize each ballot in like~~
18 ~~manner if counting boards are used with the precinct superintendent acting to break any tie vote~~
19 ~~of the two judges precinct deputies ruling on a ballot. As the vote is announced each of the two~~
20 ~~clerks assisting the judges~~ two precinct deputies shall make the mark required on the tally ~~sheet~~
21 sheets.

22 Section 43. That § 12-20-8 be amended to read as follows:

23 12-20-8. The ~~judges~~ precinct superintendent and precinct deputies, in counting the votes,
24 shall endeavor to record the intention of the voter. The ~~judges~~ precinct superintendent and
25 precinct deputies shall then hold the intention of the voter to be to vote for the candidate or

1 candidates before whose name the voter has placed a mark.

2 Section 44. That § 12-20-11 be amended to read as follows:

3 12-20-11. When the vote count is complete, the ~~judges of the election~~ members of the
4 precinct election board shall enter upon ~~such the~~ blank list the true number of votes cast in the
5 precinct for each person, measure, law, or amendment which appears upon the official ballot, and
6 shall enclose the ~~same~~ completed list in the envelope described in § 12-20-10. The ~~judge of~~
7 ~~election deputed~~ precinct superintendent or precinct deputy chosen to deliver the election returns
8 to the officer in charge of the election shall return ~~it~~ the completed list separate from any other
9 envelopes or wrappers returned at the time ~~he delivers~~ the election returns are delivered.

10 Section 45. That § 12-20-18 be amended to read as follows:

11 12-20-18. After the votes have been counted, the ~~clerks~~ members of the precinct election
12 board shall set down in ~~their the~~ pollbook and duplicate tally sheet on forms therein prescribed
13 by the State Board of Elections the name of ~~every each~~ person voted for, the office for which
14 ~~such the~~ person received votes, and the number of votes ~~such each~~ person received, the number
15 ~~being of votes each person received shall be~~ expressed at length.

16 Section 46. That § 12-20-20 be amended to read as follows:

17 12-20-20. The counted ballots shall be sorted in the manner provided in § 12-20-2 and
18 wrapped, sealed, and deposited in the ballot box ~~or boxes~~. ~~Judges of election~~. The precinct
19 superintendent and precinct deputies, after the counting of ballots and deposit of the ballots
20 counted in the ballot box ~~or boxes~~, shall properly seal, with seals furnished pursuant to
21 § 12-16-26, any ballot box opening and the place where the clasp and box connect, and ~~all places~~
22 each place where a ballot box may be opened before turning ~~such the~~ ballot box over to the
23 person deputed to deliver ~~the same~~ it. A violation of this section is a Class 1 misdemeanor.

24 Section 47. That § 12-20-21 be amended to read as follows:

25 12-20-21. The sealed ballot box ~~so sealed~~, together with the pollbook and duplicate tally

1 sheet, registration lists, and the envelope containing the unofficial returns and all supplies and
2 returns required, shall be returned by the precinct superintendent or a judge precinct deputy
3 designated by ~~him~~ the precinct superintendent, to the officer in charge of the election immediately
4 after completion of the vote count. ~~The No~~ person ~~delivering such envelope~~ may not deface,
5 destroy, or ~~remove any seals, or the~~ tamper with the ballot box, envelope, pollbook, duplicate
6 tally sheet and, or registration lists, or otherwise tamper with any of them or remove any seals.
7 A violation of this section is a Class 6 felony.

8 Section 48. That § 12-20-28 be repealed.

9 ~~—12-20-28. The election judges and the judges of counting boards and clerks shall then~~
10 ~~complete and sign a certificate as prescribed by the state board of elections.~~

11 Section 49. That § 12-26-21 be amended to read as follows:

12 12-26-21. A person who intentionally disobeys a lawful command of a ~~judge or board of~~
13 ~~judges~~ precinct superintendent or precinct deputy of any election, given in the execution of ~~their~~
14 the person's duty as such at an election, is guilty of a Class 2 misdemeanor.

15 Section 50. That § 12-26-22 be amended to read as follows:

16 12-26-22. No person may cause any disturbance or breach of the peace, or engage in
17 disorderly conduct in violation of § 22-13-1, or use threats of violence, whereby an election is
18 impeded or hindered, or whereby the lawful proceedings of the ~~judges~~ precinct superintendent
19 or precinct deputies, ballot counters, or canvassers of an election, in the discharge of ~~their~~ the
20 person's duty, are interfered with. A violation of this section is a Class 2 misdemeanor.

21 Section 51. That § 12-26-24 be amended to read as follows:

22 12-26-24. A ~~judge of an election~~ precinct superintendent or precinct deputy who intentionally
23 excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled
24 to vote at ~~such~~ the election, is guilty of a Class 2 misdemeanor.

25 Section 52. That § 12-26-25 be amended to read as follows:

1 12-26-25. No ~~judge of any election~~ precinct superintendent, precinct deputy, member of any
2 counting board, member of any board of canvassers, messenger, or other officer authorized to
3 take part in or perform any duty in relation to any count, canvass, or official statement of the
4 votes cast at any election, may intentionally make any false count or canvass of ~~such~~ the votes,
5 or make, sign, publish, or deliver any false return of ~~such~~ the election, knowing it to be false. No
6 such person may intentionally deface, destroy, or conceal any statement or certificate entrusted
7 to ~~his~~ the person's care. A violation of this section is a Class 2 misdemeanor.

8 Section 53. That § 12-26-27 be amended to read as follows:

9 12-26-27. A person who gives or offers a bribe to any ~~judge, clerk~~ precinct superintendent,
10 precinct deputy, canvasser, or other officer of an election as a consideration for doing or omitting
11 to do any act in violation of ~~his~~ the person's official duty in relation to such election, is guilty of
12 a Class 2 misdemeanor.

13 Section 54. That § 13-7-12 be amended to read as follows:

14 13-7-12. Each voting precinct shall be presided over by an election board consisting of a
15 minimum of two ~~clerk~~ precinct deputies and one ~~judge~~ precinct superintendent appointed by the
16 school board. Members of school boards may serve on election boards.

17 ~~Judges and clerks~~ Each precinct superintendent and precinct deputy other than members of
18 school boards shall receive ~~such~~ compensation as shall be fixed by the school board and paid
19 from the district treasury.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Local Government. H.J. 35

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Local Government Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 80

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

109C0026

SENATE EDUCATION COMMITTEE

ENGROSSED NO. **SB3** - 1/26/99

Introduced by: Senators Rounds, Dunn (Rebecca), Everist, and Hutmacher and Representatives Brown (Richard), Jaspers, Kooistra, Napoli, Solum, and Volesky at the request of the Interim Education Committee

1 FOR AN ACT ENTITLED, An Act to mandate driver's education, to increase certain fees, and
2 to make a continuous appropriation to provide funding.

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

4 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any school district operating a secondary school shall offer a course in driver's education.

7 The school district may offer driver's education for academic credit, but is not required to do so.

8 A school district may offer driver's education through a contract with another school district or
9 a third-party provider so that driver's education is available to the school district's secondary

10 students. The school district shall allow any person who is a resident of South Dakota and is at
11 least fourteen years of age and less than twenty years of age to enroll in the driver's education

12 course, whether or not the person is a student in the school district. No person enrolled in
13 driver's education courses may be included in a school district's average daily membership for the

14 purpose of state aid to education, unless that person normally attends school in the school
15 district. The course content of the driver's education course shall comply with rules promulgated

1 by the Department of Education and Cultural Affairs.

2 Section 2. That § 32-3-18 be amended to read as follows:

3 32-3-18. Application for a certificate of title shall be made to the secretary, upon a form
4 prescribed by the secretary, containing a full description of the vehicle with vehicle identification
5 numbers, if any, a statement of applicant's title and all liens and encumbrances thereon, the
6 county in which the vehicle is to be kept, the names and addresses of the holders of all liens, title
7 reservations and encumbrances thereon, and any other information as the secretary shall require.
8 The application shall be accompanied by a fee of ~~five~~ eight dollars. If a certificate of title has
9 previously been issued for the motor vehicle, trailer, or semitrailer in this state, it shall be
10 accompanied by the certificate of title duly assigned, unless provided for in this chapter.

11 Section 3. That § 32-12-16 be amended to read as follows:

12 32-12-16. The fee for an original driver's license or a renewal of a license is ~~eight~~ eighteen
13 dollars. The fee for a commercial license is twenty-five dollars if knowledge and skill testing is
14 required and fifteen dollars if no skill testing is required, and five dollars for each endorsement.
15 The fee for a duplicate license, a name change, or an address change is six dollars. The fee shall
16 be credited to the state motor vehicle fund.

17 Section 4. Notwithstanding § 13-42-4, the Department of Education and Cultural Affairs
18 shall issue a stand-alone teacher's certificate to teach driver's education to any person who has
19 completed eight semester hours of driver's education course work at an accredited postsecondary
20 institution.

21 Section 5. The Department of Education and Cultural Affairs and the Department of
22 Commerce and Regulation shall form a task force for the purpose of developing the course
23 guidelines for driver's education in secondary schools. The task force shall make a report of its
24 findings and recommendations to the Executive Board of the Legislative Research Council prior
25 to December 1, 1999.

1 Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The Department of Commerce and Regulation may not issue an operator's license to any
4 person under eighteen years of age who has not successfully completed an approved course in
5 driver's education. This section does not apply to instructional or restricted permits.

6 Section 7. The increase in revenue resulting from the fee increases in sections 2 and 3 of this
7 Act shall be deposited into the driver's education reimbursement fund which is hereby created
8 as a separate fund in the state treasury.

9 Section 8. Each school district shall be reimbursed in the amount of one hundred fifty dollars
10 for each student who successfully completes the driver's education course offered by the school
11 district.

12 Section 9. There is hereby continuously appropriated from the driver's education
13 reimbursement fund any money in the fund to the Department of Education and Cultural Affairs
14 for the purpose of reimbursing school districts as provided in section 8 of this Act.

15 Section 10. If the amount of money in the driver's education reimbursement fund is not
16 sufficient to fund the entitlement provided for in section 8 of this Act, then there is hereby
17 appropriated to the driver's education reimbursement fund out of any money in the general fund
18 an amount necessary to fully fund the entitlement provided for in section 8 of this Act.

19 Section 11. The secretary of the Department of Education and Cultural Affairs shall approve
20 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

21 Section 12. The Department of Education and Cultural Affairs may promulgate rules to
22 provide for the reimbursement to school districts as provided in this Act.

23 Section 13. The Department of Commerce and Regulation may promulgate rules to establish
24 criteria for approved driver's education courses.

25 Section 14. Section 1 of this Act is effective August 15, 2000.

1 Section 15. Section 6 of this Act is effective September 1, 2001.

2 Section 16. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Any person with a physical disability between the ages of fourteen to nineteen years old,
5 inclusive, who is capable of learning to operate a motor vehicle, including a vehicle modified to
6 be operated by a person with a physical disability, may enroll in any driver's education course
7 offered pursuant to section 1 of this Act. The course, if necessary, shall train the student in the
8 use of a vehicle modified for operation by a person with a physical disability and shall have
9 available adequate equipment and personnel to accomplish such training. Any school district that
10 provides training required pursuant to this section that results in costs in excess of the amount
11 provided pursuant to section 8 of this Act shall be reimbursed for the excess costs from the
12 amount set aside pursuant to § 13-37-40 for extraordinary expenses incurred in the provision of
13 special education programs or services.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Education. S.J. 15

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/21/99 Education Deferred to another day.

5 1/26/99 Scheduled for Committee hearing on this date.

6 1/26/99 Education Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 191

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0228

SENATE EDUCATION COMMITTEE

ENGROSSED NO. **SB23** - 1/26/99

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

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

1 FOR AN ACT ENTITLED, An Act to require children receiving alternative instruction to take
2 an achievement test to assess writing skills.

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

4 Section 1. That § 13-27-3 be amended to read as follows:

5 13-27-3. A child shall be excused from school attendance, pursuant to § 13-27-2, because
6 the child is otherwise provided with alternative instruction for an equivalent period of time, as
7 in the public schools, in the basic skills of language arts and mathematics. The parent or guardian
8 of the child shall identify in the application the place where the child will be instructed and any
9 individual who will instruct the child. The individuals are not required to be certified. The
10 secretary of the Department of Education and Cultural Affairs may investigate and determine
11 whether the instruction is being provided. Failure to provide instruction is grounds for the school
12 board, upon thirty days notice, to revoke the excuse from school attendance. The secretary of
13 the Department of Education and Cultural Affairs may inspect the records of an alternative
14 education program with fourteen days written notice if the secretary has probable cause to
15 believe the program is not in compliance with this section. The records to be inspected are

1 limited to attendance and evidence showing academic progress.

2 No individual may instruct more than twenty-two children. All instructions shall be given so
3 as to lead to a mastery of the English language. Children receiving alternative instruction who
4 are in grades tested under the state testing program shall take a nationally standardized
5 achievement test of the basic skills and an achievement test to assess writing skills. The ~~test~~ tests
6 may be the ~~test~~ tests provided by the state and used in the public school district where the child
7 is instructed or another nationally standardized achievement test of the basic skills and another
8 achievement test to assess writing skills may be chosen by and provided at the expense of the
9 child's parent, guardian, or school giving alternative instruction. The ~~test~~ tests may be monitored
10 by the local school district where the child is instructed.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Education. S.J. 19

3 1/14/99 Scheduled for Committee hearing on this date.

4 1/14/99 Education Deferred to another day, AYES 0, NAYS 0.

5 1/21/99 Scheduled for Committee hearing on this date.

6 1/21/99 Education Deferred to another day.

7 1/26/99 Scheduled for Committee hearing on this date.

8 1/26/99 Education Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 190

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0289

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB25** - 1/26/99

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

1 FOR AN ACT ENTITLED, An Act to authorize the sale, exchange, or demolition of a
2 farmhouse, garage, and corncrib/granary located on the Southeast Agricultural Experiment
3 Station, to replace the dwelling, and to make an appropriation therefor.

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

5 Section 1. The Board of Regents may sell, exchange, or demolish building CCFH, a multi-
6 story wood frame farmhouse, building CCG, a wood frame garage, and building 5006, a
7 corncrib/granary, all of which are located on the Southeast Agricultural Experiment Station, near
8 Beresford, in Clay County.

9 Section 2. The Board of Regents may contract to replace the dwelling with an appropriate
10 residential structure on the Southeast Agricultural Experiment Station, near Beresford, in Clay
11 County.

12 Section 3. The estimated cost for the actions authorized by this Act is one hundred five
13 thousand dollars (\$105,000). This amount is appropriated from other funds or Board of Regents
14 endowed institution interest and income fund earnings allocated to South Dakota State
15 University to the Board of Regents for the purposes of this Act.

16 Section 4. The Board of Regents may accept, transfer, and expend any funds obtained for

1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the purposes of this Act.

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

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Appropriations. S.J. 19

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Appropriations Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 188