



South Dakota Secretary of State
SHANTEL KREBS

State Board of Elections

Monday, May 23, 2016

SD Association of County Officials Office Building
211 East Prospect
Pierre, South Dakota

Conference Call Dial-in Information:
Dial-in Number is 866.410.8397
Conference Code is 2178377981

Secretary Krebs called the meeting to order at 10:36 am (Central Time).

Present via conference call: Cindy Brugman (Board of Elections member), Margaret Gillespie (first hour) (Board of Elections member), Drew Duncan (Board of Elections member), Pam Lynde (Board of Elections member), Mitch LaFleur (Board of Elections member), Julie Pearson (Pennington County Auditor), C.J. Moit (SD Advocacy Services) and Heather Irwin (Minnehaha County Auditor's office)

Present in person: Secretary Shantel Krebs (Chair, Board of Elections), Linda Lea Viken (Board of Elections member), Margaret Gillespie (remainder of meeting) (Board of Elections member), Kea Warne (Deputy Secretary of State, Election Services), Kristin Kellar (HAVA Coordinator), Rachel Schmidt (Election Coordinator), Christine Lehrkamp (State Election Coordinator), Tom Deadrick (Deputy Secretary of State, Business Services), Tom Greco (Sioux Falls City Clerk), and Bob Mercer (press).

Quorum present

A motion was made to approve the minutes of October 28, 2015 Board of Elections meeting by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman- Aye; Margaret Gillespie - Aye; Drew Duncan - Aye; Pam Lynde- Aye; Mitch LaFleur - Aye; Linda Lea Viken - Aye; Secretary Krebs- Aye; Approved.

Kristin Kellar provided an explanation on the Election Systems and Software (ES&S) ExpressVote Universal Device. The board approved the certification of the ExpressVote from ES&S during a rules hearing last year. After certification, the Secretary of State's (SOS) office ran into a few items that would prohibit this device to be utilized during the upcoming elections. The ballot paper is too glossy and as a result the ballot stamp would smear. The SOS office worked with ES&S to mitigate the problem but ES&S has not been able to resolve the issue. Also, the official words Republican, Democrat and Independent could not be printed on top of the ballot causing the ballot to not be in the correct form, according to administrative rule. At this

time, the SOS is working with ES&S to comply with administrative rule and state laws. We had heard from a few counties that would like to use the ExpressVote in the future and are hoping we can resolve all of the issues after ES&S had made the equipment improvements.

Secretary Krebs asked for a motion to decertify ES&S's ExpressVote and would look to potentially recertify them later on.

The board moved to comments and or discussion.

Julie Pearson stated that other states are using the ExpressVote and asked if the SOS looked at changing administrative rule to allow for the use of the ExpressVote in the future.

Secretary Krebs stated that the concern is with the ballot stamp. ES&S is working with different companies to find paper and ink that will allow for the ballot stamp to not smear.

Julie Pearson asked Secretary Krebs to explain how the ExpressVote works.

Secretary Krebs stated that when the election worker hands the voter a ballot, it is a 4"x17" blank ballot in which the votes are printed on.

Julie Pearson asked if the SOS would look at administrative rule to resolve these issues.

Kea Warne stated that when the SOS talked to ES&S, their intent was to have a blank form that would print everything. They are looking at programming options to fit each state. They will probably have a newer version in 2017 that the SOS would have to certify.

Julie Pearson asked about the timeframe.

Kea Warne stated that ES&S did not give a date but they are working with other companies on stamps and paper issues.

Julie Pearson asked if there are any other options.

Kea Warne stated that the concern was finding devices that work with all county tabulators.

Linda Lea asked if the SOS is just decertifying the device and not ES&S.

Secretary Krebs stated that is correct.

Julie Pearson stated that she agrees that the SOS has to decertify the ExpressVote.

Cindy Brugman said the ExpressVote won't work with the 650 or the M100s, only the DS200 or DS850.

Drew Duncan asked for a clarification on the ballot stamp.

Secretary Krebs explained that election workers place the ballot stamp in a certain location on the ballot. The ballot stamp is placed on each ballot for certifying the correct ballot and for verification. Secretary Krebs read SDCL 12-16-30 for the description of the ballot stamp.

Drew Duncan asked what the current placement is with the ballot stamp.

Secretary Krebs stated that the paper smears (very glossy) and does not stick to the ballot. This is a concern, especially if there was a recount.

Motion to approve the decertification of ES&S's ExpressVote by Linda Lea Viken, second by Pam Lynde. Roll call vote: Cindy Brugman- Aye; Margaret Gillespie - Aye; Drew Duncan - Aye; Pam Lynde- Aye; Mitch LaFleur - Aye; Linda Lea Viken - Aye; Secretary Krebs- Aye. Approved.

Secretary Krebs gave an update on the Statewide Ballot Measures. She stated that the SOS office has certified 10 ballot measures for the 2016 General election ballot. She gave a short summary of all of the ballot measures. The SOS office has had three challenges submitted into the office. One challenge has been completed, which was not successful. The SOS office will have an answer on the other two challenges by the end of the week.

Linda Lea Viken asked if the measures that were unsuccessful have another process they can go through for challenging the decision.

Secretary Krebs stated yes, any individual may challenge through circuit court.

Linda Lea Viken asked what the time frame is for a court challenge.

Secretary Krebs stated there was a time frame included in SB 69 but that legislation was referred.

Linda Lea Viken clarified that now as it stands, there is no timeframe.

Secretary Krebs agreed with the statement.

Linda Lea Viken asked if there has been any word on referrals from the legislative session.

Secretary Krebs stated that she has not heard of any referrals and the deadline is June 28, 2016.

Linda Lea Viken asked if there are pros and cons listed on the SOS website.

Secretary Krebs explained that our office is receiving them from the attorney general. They are placed on the SOS website as soon as they are received.

Linda Lea Viken asked if the measures are named the way they are on the sheet that was handed out.

Secretary Krebs said yes.

Secretary Krebs provided an update on the 2016 Satellite Absentee Voting Sites. The Help America Vote Act (HAVA) Grant Board approved new parameters for in-person, absentee voting locations. New language expanded where these locations can be located. Six counties (Buffalo, Dewey, Jackson, Lawrence, Ogalala Lakota and Todd). There are two in Pennington County but they don't meet the criteria for using HAVA funds for satellite absentee voting sites. Noted that not all are using HAVA Grant Funds.

Linda Lea Viken asked if any counties were denied grant funding.

Secretary Krebs said the Board of Elections did not turn down any counties that are eligible for these funds. We encourage our county auditors to apply for this grant money if they are eligible.

Secretary Krebs opened the rules hearing.

Secretary Krebs stated the chapters that are included in this rules hearing. Administrative rule 5:02:03:01 language would be changed to allow county auditors to print a larger version of the form.

Julie Pearson stated that Pennington County was under an Americans with Disabilities Act and Department of Justice review. The request for a larger print voter registration form came out of the review.

Secretary Krebs clarified the section on the voter registration form that pertains to cancelling your previous voter registration. The office was getting a lot of questions and we wanted to clarify the language to make it more clear for individuals registering to vote. Date of birth was added to this section to make it clear who is cancelling their voter registration.

Linda Lea Viken stated that she did not think this amendment was worded correctly. Suggested changing the wording to make sure it covers both formats of the voter registration form and not just the large print. Recommended changing it so that a county can produce a large print version of this form that contains all the information required.

Secretary Krebs asked if there were any questions or comments on this change. None were made.

A *motion* was made to approve amending 5:02:03:01 by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs proceeded to rule 5:02:05:25 which asked for the repeal of requesting more information from adult children overseas citizens. This statute was repealed in 2016 in HB 1035.

Linda Lea Viken asked if an adult child of a person overseas also has to live overseas.

Secretary Krebs stated that if the child is overseas, this is the registrant form they would have to use.

A *motion* was made to approve repealing 5:02:03:25 by Drew Duncan, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs proceeded to chapter 5:02:04 that requests changes to the Forms of Notices. Rules reviewed included 5:02:04:04; 5:02:04:05; 5:02:04:06; 5:02:04:08; 5:02:04:09; 5:02:04:11; 5:02:04:14; 5:02:04:15; 5:02:04:16; 5:02:04:17; 5:02:04:22; 5:02:04:23. Under the Notice of Deadline for Voter Registration, a request to have 5:00 pm added, the county auditor phone number listed and the Americans with Disability language.

A *motion* was made to approve 5:02:04:04 by Cindy Brugman, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs requested adding updated disability language on items 6 (5:02:04:05), item 8 (5:02:04:08), item 9 (5:02:04:09), item 10 (5:02:04:11), item 12 (5:02:04:14) and item 15 (5:02:04:22).

A *motion* was made to approve adding updated disability language on (5:02:04:05, 5:02:04:08, 5:02:04:09, 5:02:04:11, 5:02:04:14, 5:02:04:15, 5:02:04:16, 5:02:04:22) by Cindy Brugman, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

The Board of Elections discussed 5:02:04:06, notice of vacancies for municipal elections. Secretary Krebs stated that the office has dealt with a lot of vacancies and resignations questions. The additional language will help the person in charge of the election and will also match the ballot language. Adding the language, “or due to the resignation of” in the notice along with the specific ward listed in parentheses was a suggested change by Lori Martinec with the SDML.

Secretary Krebs stated that this is for the notice and how to list the vacancies.

Linda Lea Viken asked how are vacancies or resignations filled by a municipality.

Christine Lehrkamp stated that cities have two options. They can either fill by appointment or by special election. Municipalities must have an ordinance in place though to hold a special election to fill a vacancy. Appointments for a vacancy only hold office until the following year. The additional language will be helpful for the person in charge of the election.

Julie Pearson wondered if since the board is adding to the notice of vacancy, could we include this same language for all notices.

Secretary Krebs stated that it is current language and it is specific to the notice.

No further comments were made.

A *motion* was made to approve 5:02:04:06 by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

The board proceeded onto 5:02:04:14, notice of vacancy of school board. Secretary Krebs explained that the same language would be added to the notice that was added to the previous administrative rule.

Linda Lea Viken clarified what Julie Pearson had asked for before that there will be a vacancy due to do the resignation or expiration so it mirrors language in 5:02:04:06.

A *motion* was made to approve 5:02:04:14 by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs proceeded on to 5:02:04:17. She stated that the change to 5:02:04:17 would be to the notice of deadline for filing nominating petitions for the primary election and for filing independent candidate petitions. Currently there is nothing in rule for a notice for independent candidates to file their nominating petitions. This would add clarification for both primary and independent candidates.

Linda Lea Viken asked if the deadline for independent candidates is later.

Secretary Krebs stated that they are later.

A *motion* was made to approve 5:02:04:17 by Cindy Brugman, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye;

Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye.
Approved.

The board recessed for a short break.

The board reconvened and discussed 5:02:04:09 that added notice of special election. Current language states list the ballot question and the proposed language would add list candidates. The change would add language in the section: items being voted upon, offices to be filled with, term lengths and candidate names.

Tom Deadrick stated that it mirrored the same language on 5:02:04:08 and that this is for a special election.

Linda Lea Viken asked if there are any other entities that can have a special election.

Kea Warne stated that others would be by appointment.

A *motion* was made to approve 5:02:04:09 by Cindy Brugman, second by Linda Lea Viken. Roll call vote: Cindy Brugman – Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs proceeded to 5:02:04:23 and stated that this was being added in light of the two recently incorporated municipalities. This would help clarify the notice of vacancy for newly incorporated municipalities.

Julie Pearson asked if this is the notice to elect the mayor and board. The notice states to turn in petitions to a finance officer. She pointed out that they would not be able to turn in the forms to a finance officer that hasn't been hired yet.

Linda Lea Viken suggested turning the petitions into the county auditor.

Julie Pearson agreed that it would make sense to turn the petitions into the county auditor since they are running the election.

Secretary Krebs reviewed the suggested changes to the form. Amended the proposed rule so that petitions shall be filed in the office of the county auditor of the county which is incorporating, changing the finance officer line to county auditor and correcting the Law Implemented line: 9–3–17.

A *motion* was made to amend 5:02:04:23 by Cindy Brugman, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

The board proceeded to 5:02:04:24 which addressed vacancies for conservation districts. Secretary Krebs stated that this was another situation that has happened this year.

Julie Pearson asked if the time needed to be added so it is more specific like some other statutes. And also adding language about the resignation.

Secretary Krebs said we will add that it has to be filed with the SOS and the time.

Linda Lea Viken asked if there is any other place we need to add this language.

Kea Warne stated that she will review with the Legislative Research Council (LRC) and they make suggestions on style and form.

Linda Lea Viken stated that she would like to see those changes when they are sent out.

A *motion* was made to amend 5:02:04:24 by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs explained that 5:02:06:01 adds the language “as long as the location is within the vendor’s printing limitations.”

Linda Lea Viken asked for clarification.

Secretary Krebs stated that they want to make sure it fits on the ballot. The ballot has certain margins and tabulating marks. The vendor has some limitations on where they can place the ballot stamp so that it does not interfere with the ballot markings.

Drew Duncan asked why this is needed.

Secretary Krebs explained that an auditor may choose the location of the ballot stamp but it cannot interfere with the tabulating marks.

Drew Duncan asked why the auditor wouldn’t know where to place the ballot stamp. Secretary Krebs stated that they won’t know until after the ballot is created by the vendor.

Drew Duncan asked if they can select the location of the ballot stamp without knowing where the marks are.

Secretary Krebs explained that the SOS works with the vendors and lets the auditors know the best placement.

Drew Duncan asked since the auditor knows, why we need this change.

Secretary Krebs stated there are a lot of new auditors and want to add clarification to the administrative rules.

A motion was made to approve 5:02:06:01 by Linda Lea Viken, second by Margaret Gillespie. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Nay; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs discussed 5:02:06:01:02 which outlined the optical scan instructions and removes instruction language regarding the marking device that is already listed in another section of this rule.

Linda Lea Viken asked a question on removing language regarding using a pen or pencil.

Kea Warne explained that what we are taking out better clarifies the writing instrument that may be used.

A motion was made to approve 5:02:01:10 by Margaret Gillespie, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs proceeded to 5:02:06:10 which affects the primary ballot. The reason we are addressing this is because our office needs to be clear that if there is a federal race, hand counted ballots cannot be used. If there is no federal race, our office is indicating how this ballot will look.

Linda Lea Viken asked where is the indicator about on the ballot does the color show.

Secretary Krebs explained that it is on the indicator and it helps the election board. Noted that the color is on the side of the ballot.

A motion was made to approve 5:02:06:10 by Cindy Brugman, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs noted there is further language under that rule. On the primary ballot, if a party does not have delegates listed, this is the format they will use.

A motion was made to amend the motion previously adopted, 5:02:06:10 by Cindy Brugman, second by Margaret Gillespie. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

The Board of Elections proceeded to 5:02:06:12 which Secretary Krebs explained that language needed to be added for city councils at large so it is stated correctly.

Linda Lea Viken asked if the additional language should be placed with the other positions above instead of separately.

Christine Lehrkamp explained that if the county was running the city election, the auditor was having difficulties finding the proper race to select.

Drew Duncan stated that he thinks this isn't ready for approval and it should be brought back at the next meeting.

Linda Lea Viken suggested taking the same language that is on page 8 of the rules packet.

Secretary Krebs agreed to take that same language since it is listed correctly there.

Linda Lea Viken asked if you would still list city council and just correct the language.

Drew Duncan stated that he feels this should be put off and these questions should have been addressed beforehand. He did not think this was the appropriate time to discuss this issue.

Secretary Krebs stated that this is the appropriate time to get feedback and address any issues.

Linda Lea Viken suggested that the SOS add in city council so this rule change is in effect for the 2017 city elections.

A motion was made to approve 5:02:06:12 by Cindy Brugman, second by Linda Lea Viken. Roll call vote: Cindy Brugman– Nay; Margaret Gillespie – Aye; Drew Duncan – Nay; Pam Lynde– Nay; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Shantel Krebs directed the board to 5:02:06:24 which includes vote centers for the alternate optical scan ballot. This would allow for the person in charge of the election to designate the ballot style on the ballot and clarifies the format to be used if delegates and alternates are not listed on the ballot.

A motion was made to approve 5:02:06:24 by Linda Lea Viken, second by Margaret Gillespie. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs outlined the color for a county question ballot and clarified that if it is a county ballot question, it has to be white and in the form provided in statute.

A *motion* was made to approve 5:02:06:25 by Drew Duncan, second by Linda Lea Viken. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs explained that because of the new random sampling law on statewide candidate petitions that was passed, our office has to be able to check voter registration, thus adding the new subsection.

Linda Lea Viken asked for clarification on sampling and what the process is for determining that.

Secretary Krebs stated that our office samples 5% of the signatures submitted.

Linda Lea Viken listed off a legislative candidate as an example. She stated that they need 50 signatures, but they turned in 100 signatures and you would only check until you reached 50 valid signatures.

Secretary Krebs stated we would sample up to the valid signatures number needed.

Linda Lea Viken stated then you are not disregarding any signatures.

Margaret Gillespie explained what she understood from listening to the conversation and still was confused on the process.

Secretary Krebs suggested moving the section and that it could be a part of the next paragraph.

Cindy Brugman asked for clarification on what section the board was discussing.

Secretary Krebs stated that they were discussing item 26.

Kea suggested keeping the language in the same paragraph and then bolding the language. The proposal would be to add statewide candidate language and then keep that language where the overstrike is and bold it.

Margaret Gillespie asked if there is a protocol/precedent for bolding.

Kea Warne explained that it has been done before on some rules.

A *motion* was made to approve 5:02:08:00 by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Nay; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs explained the methodology for conducting random samples and that now it is done for statewide candidates. Secretary Krebs clarified on pages 38, 39, 40 that the SOS office has rewritten these pages and updated the excel format since there are new versions and functions that Excel provides. SOS could not follow the current methodology because of advances in Excel. Duplicates for example, now have a function in Excel, which will find the number for you. Old version was from 2006 and these new rule changes would update the Excel methodology.

Linda Lea Viken stated that this is a change but a good change.

Secretary Krebs explained that the SOS office has had petitions turned in with no signatures in any of the lines on the front but signatures were on the back. Current administrative rule didn't account for blank lines on the front side and they were being pulled into the random sample. Stated this was not a fair sampling and this issue was never considered before.

Margaret Gillespie stated that under old subsection 2, now subsection 3 that is overstricken, that last line articulates the scenario above.

Linda Lea Viken explained that the section before explains that it would be counted.

Drew Duncan had a question on subsection 5 line b about what is an abstract mark.

Secretary Krebs stated that it will still have to be included in the 5% random sample but the abstract mark would not be considered valid.

Drew Duncan stated that it would be an eligible signature for the purpose of methodology but it would not be valid when doing the actual review of the signature line.

Secretary Krebs agreed with that statement.

Margaret Gillespie asked for an explanation on the methodology and sampling. She asked if the reason for the sampling is to qualify signatures and didn't understand why we would have a different standard.

Secretary Krebs went into explanation of a husband and wife using ditto marks.

Linda Lea Viken asked that if you include it in your methodology, wouldn't you include it in your sample.

Secretary Krebs stated that if the petition includes abstract markings, you would count it in the methodology to get your random sample and then determine if it is valid during the sample review process.

Kea Warne explained that we go to the last line on the petition sheet. If there is an abstract mark at the end, then there would be a gap and we wouldn't want to inflate the sample.

Margaret Gillespie questioned that if you are counting signatures that won't be counted, then you are going to have a bad sample.

Secretary Krebs walked through a scenario with the board to explain abstract markings and the methodology.

A motion was made to approve 5:02:08:05 by Linda Lea Viken, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs described a new rule which outlined the affidavit for initiative, referendum and initiated constitutional amendment petitions. She explained that there had been some confusion on what the affidavit needed to look like and explained what needs to be contained in the affidavit. The affidavit will also need to show who the sponsors of the measure are and where they are from.

Linda Lea Viken asked if the sponsor needs to be a registered voter.

Secretary Krebs stated that they do not need to be a registered voter and this has become an issue in response to all of the ballot measures.

Linda Lea Viken questioned that the statute asks for only one sponsor.

Kea Warne explained that they only need one sponsor but can have as many as they want. Further clarified that two thirds of the sponsors would need to sign the affidavit to submit the petitions to the SOS office.

A motion was made to approve 5:02:08:07:02 by Margaret Gillespie, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs proceeded to 5:02:08:09 that addressed some old dates and cleans up language.

A motion was made to approve 5:02:08:09 by Drew Duncan, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

The board moved to new rule 5:02:08:46 and Secretary Krebs explained that there is nothing currently in rule about the referendum petition form for the school sentinel program. These have

been two schools looking into this program and a form is needed. School boards may pass and approve a school sentinel program and it could be referred to a vote.

Margaret Gillespie noticed that there was a 9 in the date under source. Should be 2013 and not 20139.

A motion was made to amend 5:02:08:46 by Margaret Gillespie, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Secretary Krebs directed the board to rule 5:02:10:06 which addressed the absentee log. She clarified that all counties have electronic logs but all cities and schools don't have the ability to have electronic logs. This change will give cities and schools the option of keeping a paper or electronic log.

Linda Lea Viken asked if the log is open to the public.

Secretary Krebs stated that it is open to the public. Also noted that subsection 10 clarifies UOCAVA.

Kea Warne added that cities do not have access to the UOCAVA system and have to mail the ballot. They cannot electronically send the ballot.

A motion was made to approve 5:02:10:06 by Drew Duncan, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

The board proceeded to chapter 5:02:22 (Vote Centers) and Secretary Krebs explained that they are requesting to repeal two sections, 5:02:22:01 and 5:02:22:03. She explained that any jurisdiction using a voter center does not have to submit a voter center plan to the SOS office.

Linda Lea Viken asked why it was repealed.

Secretary Krebs explained that each election is run at a local level and the SOS does not need to approve or deny each one.

Linda Lea Viken asked if they still have rules to follow.

Secretary Krebs stated that they would still have to follow what is prescribed in law.

A motion was made to repeal 5:02:22:01 and 5:02:22:03 by Cindy Brugman, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye. Approved.

Rules hearing portion ended.

The Board of Elections proceeded to public comment.

Linda Lea Viken asked for an update on Personal Mail Box (PMB) voter registration numbers.

Secretary Krebs discussed RV voters and PMB business locations across the state. She discussed Senate Bill 164 from the 2016 legislative session which was sponsored by Senator Craig Tieszen and Representative Herman Otten. Any person wishing to register to vote would not be able to use a business address, campground or post office box as the registration address. Senator Tieszen withdrew the bill before it could be heard in committee. Secretary Krebs shared the PMB location voter registration numbers from across the state.

Linda Lea Viken asked if the SOS knew how many voted.

Secretary Krebs stated that she did not know.

Julie Pearson stated that of those voting in the January wheel tax election, 80% opposed the wheel tax. She believes that they could vote as a block against a measure and thinks that they should have to comply with a 30 day residency requirement. She stated that Senator Tieszen's concern was that they would have enough votes to sway an election. Doesn't know what the answer is but believes the problem will only inflate since they do not have a wheel tax. Thinks that people will potentially move to Pennington County because there is no wheel tax.

Linda Lea Viken asked what Pennington County does now with these people wanting to register to vote.

Julie Pearson stated that they have to approve their registrations. Stated they are signing under the penalty of perjury that they live at that address they list.

Linda Lea Viken asked if Senator Tieszen had talked to the Attorney General on the matter.

Secretary Krebs stated, yes, both Senator Tieszen and the Attorney General had been to the SOS office to discuss reasonable solutions that would not deny anyone the right to vote. Senator Tieszen is also waiting to see what other states are doing about this issue. He has stated that he does not plan on putting the issue to rest.

Linda Lea Viken asked where Julie Pearson came up with the 8,000 registration number when the SOS had listed about 3,600.

Julie Pearson said that she had spoken with the owners of America's Way in Box Elder, SD, and that is the number she was given. The owners had stated before that these PMB voters would only vote in federal races but turnout has proved that is not accurate.

Linda Lea Viken stated America's Way had sent out to all their customers information about the wheel tax.

Secretary Krebs stated that no matter what happens, the SOS would like to be a part of the conversation about possible solutions.

Julie Pearson stated that it is a very tricky subject and the only thing she could think of was putting in place residency requirements for county elections.


Secretary Krebs asked if there were any other public comments and there were none.

The Board of Elections proceeded to general remarks and Secretary Krebs stated that the next rules hearing would be around this time next year. Also, noted that the Secretary of States rules review would be coming up on June 1, 2016.


New board member, Margaret Gillespie was warmly welcomed by the board.

Linda Lea Viken thanked the Secretary of State's office for the easy to follow packet and the page numbers on each page.

The Board of Elections reached the end of the agenda and adjourned at 1:52 pm.



Shantel Krebs, Secretary of State



Rachel Schmidt, Recorder