



South Dakota Secretary of State
SHANTEL KREBS

State Board of Elections
Thursday, October 13, 2016

SD Association of County Officials Office Building
215 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 1:01 pm (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), and Mitch LaFleur (Board of Elections member)

Present in person: Secretary Shantel Krebs (Chair, Board of Elections), Linda Lea Viken (Board of Elections member), Kea Warne (Deputy Secretary of State, Election Services), Kristin Gabriel (HAVA Coordinator), Rachel Schmidt (Election Coordinator), Christine Lehrkamp (State Election Coordinator), Tom Deadrick (Deputy Secretary of State, Business Services), Jason Williams (Public Information Officer), Julie Pearson (Pennington County Auditor), Annie Mehlhaff (Legislative Research Council), and Bob Mercer (press).

Quorum present

A motion was made to approve the minutes of the May 23, 2016 Board of Elections meeting by Linda Lea Viken, second by Mitch LaFleur. Roll call vote: Cindy Brugman- Aye; Margaret Gillespie- Aye; Drew Duncan- Aye; Pam Lynde Lyde- Aye; Mitch LaFleur- Aye; Linda Lea Viken- Aye; Secretary Krebs- Aye; Approved.

Kristin Gabriel provided an update on the state of South Dakota's federal grants. The Health and Human Services (HHS) grant was to be used for making polling places accessible from 2003-2011. This grant has been fully expended. The South Dakota Secretary of State's office was notified by the Administration on Intellectual and Developmental Disabilities, Administration for Community Living that no quarterly reports were submitted from 2010-2014. The final report was submitted to HHS at the end of September this year. The previous administration didn't expend enough so South Dakota missed out on \$200,000 due to the 5 year grant period.

The Federal Voting Assistance Program (FVAP) Grant was used for iOasis and is currently being used for UOCAVA. During the 2014 General Election, only 27 military members utilized the iOasis system which cost \$648,000 to design and \$50,000 a year for maintenance fees. Only certain military members could access the system because a CAC card had to be used and not all

levels of the military are given access to a CAC card. Secretary Krebs made the decision to stop utilizing iOasis because of the high cost to maintain each year compared to the low amount of military voters utilizing the system. The previous administration's Help America Vote Act (HAVA) administrator submitted a request the day before he left and it was rejected due to non-reimbursable items being submitted. The secretary of state's office is currently working on the resubmission.

Kristin Gabriel spoke on HAVA Title I and II funds. Initial funds were distributed in 2004. The audit firm, McBride, Lock and Associates, out of Kansas City, came to Pierre August 8-12 for the first round of the audit. They came back September 19-23 for the second round. The most common issues with the audit were employee salaries, property inventory, procurement and lack of supporting documentation. The secretary of state's office has taken corrective action since taking office January of 2015 and has implemented internal procedures.

The Board of Elections moved onto the proposed legislation for the 2017 Legislative Session. Secretary Krebs explained item that #1 on the agenda would place a flat fee on the request for electronic copies of petitions. Explained that flat fees would be simpler to calculate.

Linda Lea Viken asked what the \$500 amount was based on.

Secretary Krebs explained that the number seemed reasonable and would go to the general fund.

Margaret Gillespie asked about style and form. Suggested adding the word "the" before request. Asked if there should be a comma or a divider between "candidate" and "fifteen". She asked if there was any mathematical formula for determining the dollar amount for the petition copy cost.

Secretary Krebs stated that no mathematical formula was used.

Drew Duncan asked how many petition sheets are usually turned in.

Secretary Krebs stated that it depends but usually around 1000.

A *motion* was made to approve item #1 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 explained changing the wording in item #2 and that this section is based on situations the office experienced. She explained that her staff had two ballot question measures submitted electronically. In both cases, the challengers submitted the challenge electronically minutes before it was due. The proposal is requesting a change to say "in a medium permitted by the secretary of state." There was discussion about receiving an affidavit electronically.

Linda Lea Viken stated that "may" needs to be added back into the sentence.

Margaret Gillespie suggested changing the word to “shall.”

Linda Lea Viken asked if rules would be promulgated for this process.

Secretary Krebs stated that the added wording doesn't exactly clear up the statute and the intent was to have this statute to fall back on. She also indicated the staff would look into promulgating rules for this section as to a process.

Linda Lea Viken suggested adding the promulgation process.

Drew Duncan asked what were the affidavit concerns.

Secretary Krebs explained an affidavit, in this situation, has to be submitted and have the original signature. A copy or emailed version would not suffice. This needs to be cleared up in statute.

Linda Lea Viken stated that she believes the original signed affidavit is needed.

Mitch LaFleur asked if a copy of a signed affidavit is allowed.

Margaret Gillespie stated that you have to have the original on file for the challenge.

Secretary Krebs agreed that you need to have the original on the file since you can't always see the embossed notary seal or a copy.

Drew Duncan asked why this needs to be changed. Asked if they need to send an original if they send the affidavit electronically.

Linda Lea Viken stated that this needs to be promulgated in rule so it is clear.

Secretary Krebs stated that our office needs this language to make it clear in state statute.

Drew Duncan inquired on how this should read in order to add to statute for rule making authority.

Secretary Krebs explained adding the word “shall” and the board of elections shall promulgate rules.

A *motion* was made to approve item #2 by Margaret Gillespie, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Aye; Drew Duncan– Nay; Pam Lynde– Aye; Mitch LaFleur– Nay; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained item #3 and why “by certified mail” needed to be added. Explained this addition was in response to the medical marijuana petition challenge. The Secretary of State’s office wants consistent rejection procedures in place for the office.

Linda Lea Viken asked if the intent was to add certifying or denying. She feels that needs to be changed so that is clear.

Margaret Gillespie stated that she was confused on the whole paragraph. Thinks that certifying covers it whether the petitions are approved or not. Certifying in this situation is confusing.

Secretary Krebs suggested using the word validating.

Linda Lea Viken stated that in light of the previous section, it clears up what certify means.

Julie Pearson questioned if this language needs to be added at the county level so that we are consistent at all levels.

Deputy Kea Warne stated that, yes, we can add this language for county ballot measures. Kea asked the committee if everyone would be in agreeance if this was added to Title 7, which is the County Title. The committee all agreed.

Secretary Krebs stated that is good to have the same requirements for the county ballot measures.

A *motion* was made to approve item #3 by Cindy Brugman, second by Drew Duncan. 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 the new language on item #4. Explained that this is in response to challenges to initiative measures and referendums. She described that when you have 19,000 signatures and a challenger challenges each line and challenges multiple items per line, which could have 6 challenges per signature line. Stated that staff has limited time to respond to every item. Took months to respond to these challenges and ate up so much staff time. Challenges could infinitely tie the office up. Judge Barnett had suggested adding this new language on challengeable items. New section states items that are not allowed to be challenged.

Mitch LaFleur asked if there are statues that state what the requirements are for a valid signature. Stated that the deficiencies aren’t what make an eligible signer but he does realize what the intent is.

Deputy Tom Deadrick explained that one of the problems is that when you are preparing for a challenge, a person doesn’t know what the judge is going to ask for. Said that we had to be prepared to say if that specific line item challenge was valid or not. Sometimes

you don't know what the judge will say and what he will accept or not. Our office has to walk in and be prepared for every scenario during a court challenge. We have a short time to prepare for a court challenge as the secretary of state's office.

Drew Duncan stated he was still confused. Are you not wanting to be prepared for all of these scenarios.

Deputy Tom Deadrick stated that the secretary of state's office wants to be prepared for everything but need to prevent some scenarios by making statutes and rules clearer.

Secretary Krebs explained that we had three months of dealing with two challenges. This meant that four staff members were working on the petition challenges on top of their current workloads. One challenge had over 19,000 individual line item challenges that we had to respond to and prepare for when going to court. In the essence of time, we want to avoid getting tied up like that again. Our ballot printing was tied up due to court challenges and we were cutting the printing of our ballots very close.

Linda Lea Viken had some questions on item #4 in section 4 that the circulator did not witness the signers signing the petition.

Secretary Krebs asked how can we prove this.

Linda Lea Viken asked if this would be a valid challenge.

Deputy Kea Warne stated that this would not be something our office could determine and that only a court could determine that.

Linda Lea Viken asked if a challenger could still challenge these items in court.

Secretary Krebs said yes.

Linda Lea Viken asked for section 5 to be explained.

Deputy Kea Warne explained how we conduct our random sample and the attorney general recommended changing language so that the challengers could only challenge the petitions selected in the random sample.

Linda Lea Viken stated that this gives her some heartburn. Explained concerns about the sample and how it might be reflected.

Secretary Krebs suggested adding the language from SDCL 12-1-16, that they can still take it to court.

Mitch LaFleur said he was concerned with sections 4 and 5. He feels SDCL 12-1-16 would need to change and then he would be supportive that if you can't challenge to the secretary of state that you can still take a challenge to court.

Linda Lea Viken asked for an explanation of subsection 6.

Secretary Krebs explained that if a ballot measure doesn't have enough signatures, the challenge process would allow us to not conduct another random sample but instead could go to court. Section 6 clarifies that. Judge Barnett suggested this change and this makes it so that we aren't forced to do a second random sample. The attorney general's office suggested some style and form changes and Secretary Krebs went through those: Subsection 3 should read, "circulator listed a residence address in South Dakota but is not a South Dakota resident;" and Subsection five, striking out "or petition sheets."

Margaret Gillespie stated she thinks there are some problems with 7, in the prefatory language.

Deputy Kea Warne explained the medical marijuana challenge and going through the random sample process three times.

Margaret Gillespie suggested changing it so that it can't be challenged more than one time for the same reason. Suggested not allowing multiple challenges by the same person.

Secretary Krebs brought up one more correction from the attorney general's office. Last sentence in #4 needs correction.

Drew Duncan stated that this language is redundant. Suggested changing it to if the affidavit is received by the deadline.

Margaret Gillespie stated that we need to make this clear and that rules would need to be promulgated.

Drew Duncan stated that he finds this confusing and that it contradicts the previous section that was discussed.

Linda Lea Viken suggested taking this out and promulgating rules.

Deputy Tom Deadrick stated removing original signed and referred to section SDCL 1-8-14.

Drew Duncan stated his concern with this section and that he would want to see this section, complete with changes, before moving on. He suggested maybe adding a 5 day period where they can turn in the original.

Secretary Krebs stated that anyone has 30 days to challenge but the challenge in the Office is making sure everything is addressed in time for the printing of ballots. Deputy Kea Warne is going to work on putting the section together with the changes made.

The board voted to skip over items 4 and 5 and come back to it at the end of the meeting.

Drew Duncan stepped out.

Secretary Krebs explained item #6 which is a new section about when a petition becomes a public document. Explained that when someone submits a petition, we review petitions in the order they come into our office. We feel that we need to go through the validation process before people can request copies.

Linda Lea Viken asked what is the harm in allowing this.

Secretary Krebs stated we don't want to have individuals claiming petitions aren't valid before we have had a chance to go through the validation process.

Margaret Gillespie asked if there is anything else we are missing by not making these a public document right away.

Secretary Krebs gave the 18% and 36% petition challengers as an example. Don't want them going back and forth with our office before we even have had a chance to look at the petitions.

Deputy Kea Warne explained that the emails, calls and questions would hinder us from doing our actual work on petitions.

Margaret Gillespie asked with current law, are these documents public or not once they are submitted.

Secretary Krebs explained that's the issue we are having because it is not clear.

Margaret Gillespie stated that if it is a public document with this current statute, wouldn't they have to provide them under the open records laws.

Linda Lea Viken asked if they could add more signatures before the secretary of state's office verifies them.

Deputy Kea Warne stated that ballot question submission of petitions are a onetime submission but candidates may add more.

Mitch LaFleur suggested new language. He suggested that no petition submitted shall be made available to the public until the validation process has been completed in the office in which that petition was filed.

Secretary Krebs shared concerns and liked Mitch LaFleur's idea for new language.

Drew Duncan joined the conference call again.

Secretary Krebs gave a summary of what Drew Duncan missed while he was off the conference call.

Linda Lea Viken asked if the two groups (18% and 36%) received copies.

Secretary Krebs said that no they did not, but we did let them view them. We wanted to let them view but not make copies before the validation process.

Margaret Gillespie asked if they could look at them while the staff was validating.

Deputy Kea Warne and Secretary Krebs explained the process the office follows and that we do not allow anyone to look at the petitions while we are validating.

Linda Lea Viken stated that we need to clear this up and have it one way or another.

A motion was made to approve item #6 as amended by Linda Lea Viken, second by Mitch LaFleur. 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 that item #7 was adding language for consistency for auditors. Need to have corrected information back in a timely manner; otherwise the incomplete registrations sit in the auditor's queue as pending. This would help the county auditors.

Julie Pearson suggested having some deadline date so auditors can move them from the pending.

Margaret Gillespie asked if we want to use the word processed, maybe filed.

Deputy Kea Warne said no because it wouldn't be filed if it was not complete.

Linda Lea Viken asked if there were any issues with 45 days.

Deputy Kea Warne stated she was just matching what is already in statue.

Cindy Brugman added that she thought it will add confusion by making it 45 days.

Drew Duncan stated he liked the 30 days and thinks it cleans it up better.

Drew Duncan made a sub motion to add an "s" onto need and to keep the language at 30 days.

A motion was made to approve item #7 as amended 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.

Secretary Krebs explained that item #8 is clean up language and that some of this language was in rule but not in statute. In light of what is going on right now, believes that this language is needed. Also, adding that this is a felony instead of a misdemeanor.

Drew Duncan stated he is not supportive of class 6 felony and that he would be okay with a class 1 misdemeanor and a civil penalty.

Linda Lea Viken stated that some states attorneys and attorney generals will not prosecute these because they are misdemeanors.

Drew Duncan stated it would be their discretion either way whether to prosecute or not.

Secretary Krebs stated that in light of the age we are in with identity theft and data breaches, that we need something concrete in statute.

Drew Duncan asked what is contained in the file.

Secretary Krebs explained what the auditor has in their file and then what information is sent out in the voter registration file which individuals purchase.

Margaret Gillespie stated her concerns with implementing a felony and the unrestricted access on the internet. Explained that she knows what the office is trying to accomplish but wants to make sure that the language is doing what we want it to.

Secretary Krebs explained voter vaults.

Deputy Kea Warne explained instances of breaches into actual voter files and breaching all of the voter's information.

Drew Duncan asked if a hacker breaks into the voter file, or county voter file, is that a criminal offense.

Secretary Krebs stated that no one knows. She also explained how secure the system her office has in place and that the system has a double air gap.

Drew Duncan stated that on the federal level it would be illegal.

Mitch LaFleur stated the language is not as clear as it could be and sees potential problems.

Drew Duncan made a motion to over strike the last section and change it to a class 1 misdemeanor and may incur in addition to any criminal sections civil penalties \$2,000.

Linda Lea Viken asked if an individual had multiple offenses, if it could be changed to a class 6 felony.

Drew Duncan and Mitch LaFleur both said no to that suggestion.

A motion was made to approve item #8 as amended by Drew Duncan, second by Margaret Gillespie. Roll call vote: Cindy Brugman– Nay; Margaret Gillespie– Aye; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved 6-1.

Drew Duncan asked if Margaret Gillespie still had an issue with the wording of unrestricted.

Kristin Gabriel explained how the office uses the voter file and how we distribute the voter file on OneDrive to individuals that purchase the voter file.

A *motion* was made to approve item #8, as amended, by Drew Duncan, second by Margaret Gillespie. Roll call vote: Cindy Brugman– Nay; Margaret Gillespie – Aye; Drew Duncan– Aye; Pam Lynde– Aye; Mitch LaFleur– Aye; Linda Lea Viken– Nay; Secretary Krebs– Nay; Approved 4-3.

Secretary Krebs explained item #9, changing the words “secondary” to “runoff.” Intent is to clean this up in statute.

Pam Lynde pointed out that the word “secondary” was missed on the last sentence.

Julie Pearson suggested adding local time to this section.

A *motion* was made to approve item #9, as amended, 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.

Margaret Gillespie excused herself from the meeting.

Secretary Krebs explained the clean-up language in item #10. The declaration should be signed by the candidate not the circulator. Secretary Krebs asked should the language say accompanied by at least one original signed.

Julie Pearson suggested an original signed declaration and change “persons” to “person.”

Mitch LaFleur gave a clarification on “may” vs “shall.”

Deputy Kea Warne explained that it has to be a part of the petition.

Linda Lea Viken asked if we should take out facsimile.

Secretary Krebs said yes, take out and clean up current language.

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

Secretary Krebs explained the statute in item #11 needed some simple cleanup. No questions were asked.

A *motion* was made to approve item #11 by Mitch LaFleur, second by Drew Duncan. 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 in item #12, the information on running for vice president has its own statutes. The intent is to clean this statute up and make the times clear in case we are ever challenged in court.

Julie Pearson suggested taking out filing with county auditor.

Deputy Kea Warne stated that the section title is misleading but needs to be included. Explained that the entire chapter is information on independent candidates. Also stated that the section needs to be changed to local time.

Secretary Krebs explained that the rest of the section is going to clear up the process and include a date certain.

Mitch LaFleur asked if there is any reason that you need the sentence about withdrawing. Asked why that sentence is in there that they have to withdraw. If a candidate is going to withdraw, wouldn't they have to follow this. He stated that he believes this suggests that the independent candidate declares he/she withdraws and then we don't know what happens.

Secretary Krebs stated that she would prefer that it stays in there to help clarify.

Linda Lea Viken stated that she thinks this section would be better as two statutes and that it is confusing.

Drew Duncan agreed with Linda Lea Viken and stated that he was confused with the withdrawing part of the independent lieutenant governor.

Mitch LaFleur stated that he thinks the sentence is unnecessary and suggested taking out the sentence, "If the independent candidate for lieutenant governor declares that he is not running, the independent candidate for lieutenant governor shall withdraw."

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

Mitch LaFleur suggested adding pursuant to “12-6-55” after “withdraws,” add local time in this section and have the Legislative Research Council split this section in two.

A *motion* was made to approve item #12, as amended, by Drew Duncan, second by Drew Duncan. 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 item #13 is where we discuss the Independent candidates for vice president or president. The language would make it clear that the certification is signed before the start of petition circulation. Make the same changes that were suggested in #12, by adding central time and take out 8am.

Mitch LaFleur said he would approve if same changes were made.

Drew Duncan said he agreed with Mitch LaFleur.

Linda Lea Viken asked if we are treating independents differently than party people. Had questions on last sentence being added.

Secretary Krebs clarified that we want this same language to be added so the same rules apply as party candidates.

Deputy Kea Warne suggested that we say they can't take their name off if they are running as a team. Maybe we just don't propose this language so they aren't treated differently.

Secretary Krebs entertained a substitution motion to take out that sentence and keep the submission part.

A *substitution motion* was made to approve item #13, as amended, by Linda Lea Viken, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan– Aye; Pam Lynde– Aye; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained item #14 which addresses ballot selfies. Stated that she wants to use what is being used nationally about not putting a marked ballot on social media.

Julie Pearson suggested taking out the folding language since she doesn't want voters folding and refolding the ballot. Stated that it makes it hard to run through the tabulating machines.

Secretary Krebs agreed with the style and form changes.

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

Secretary Krebs explained item #15 which is in regards to the pro and con pamphlets. They currently include an explanation, recitation, and jail cost estimate if applicable. The new proposed language will require more contact information from the sponsor and opposing party. Secretary Krebs stated her concerns with the current language and that the original intent was to provide information to the voters. Statements are not always factual and we don't have authority to proof for factuality. Citizens call our office and want to know facts about the measures and we don't have that information to provide.

Linda Lea Viken stated that she understands the concerns but doesn't want to take away the pro and con statements. Suggested having the attorney general review the statements. Stated that some ballot measure groups don't have the money to put out their information and the pro and con pamphlet was a way to help them.

Secretary Krebs stated that our office really wants to make sure we have contact information for both sides.

Drew Duncan asked what does "as determined by" the secretary of state mean.

Secretary Krebs explained that our office would provide printing, social media, and have it available online. We would still print and provide the resources to get the information out. Our office will determine who the particular sponsors and opposing parties to contact will be and it is not clear in statute who the sponsor and opposing parties are.

Drew Duncan asked if the secretary of state's office is the body who will have the discretion to determine who will be the sponsor and opposing party.

Secretary Krebs explained that the sponsor is the person who submitted the ballot measure petitions. The opposing party can be hard to determine right now if you had several. The concerns and calls we have are about not having enough information to give to individuals wanting more information. We don't have email addresses or phone numbers to provide.

Drew Duncan asked how the office is going to distribute the information if you don't plan on printing and are taking printing out.

Julie Pearson and Cindy Brugman both said that voters like the printed material.

Mitch LaFleur asked if it is possible to ask for this information if it's available. Does the secretary of state want to take on the obligation of having to collect this information and is it always available.

Secretary Krebs stated that we did have to reach out to have all the issues covered and some of them were not easy to find a writer for. We want an avenue for voters to be able to contact the writers and ask them the questions.

Drew Duncan asked if sometimes the problem is that there is no opposition.

Secretary Krebs stated, yes, that could be a problem.

Drew Duncan asked to clarify new language and make it clear that it is provided only if available.

Kristin stated that we could add website as long as it's factual.

Julie Pearson stated that she doesn't like the full text and that no one reads it. Thinks that the pro and cons statements aren't as effective as they used to be. Thinks it's important to have the contact information.

Linda Lea Viken proposed new language that stated if the information was available it would need to be provided.

Secretary Krebs wanted to make sure it's clear that we are removing pro and con statements. Trying to explain challenges we have had and are trying to find a reasonable solution.

A motion was made to approve item #15, as amended, by Drew Duncan, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Excused; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur– Aye; Linda Lea Viken– Nay; Secretary Krebs– Aye; Approved.

Secretary Krebs explained in item #16, that if there is a boundary change, the local election official needs to let the auditor know, especially in an election year. The new language is clean up language and gives a timeframe of 100 days prior .

Mitch LaFleur asked who are the local election officials that make this call to notify the auditor.

Deputy Kea Warne stated that each local jurisdictions, if a boundary change occurs, would have to let the auditor know.

A motion was made to approve item #16 by Cindy Brugman, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan – Aye; Pam Lynde– Aye; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained item #17 was brought up in light of county auditors concerns. The concern was with religious colonies and also independent living facilities. We have an aging population and many of them might not have a car to be able to absentee vote or vote on election day.

Deputy Kea Warne explained that we have some elderly that live in an apartment building and do not receive medical care. So they don't meet the definition of nursing home. She spoke with Tom Martinec from the Department of Health and he would consider them a congregate.

Mitch LaFleur stated his concern with changing to congregate and thinks it would be hard to interpret.

Cindy Brugman stated that this might work for smaller counties but not for larger.

Secretary Krebs stated that it does says may and not shall which would give the county an option.

Cindy Brugman stated that they would still have the burden of voting these residents and she doesn't like the change.

Julie Pearson stated that if there is a definition of independent living, that creates a huge burden on counties. Many don't have the staff and if they do, many additional staff will need to be used. Auditors will be criticized if they don't get to everyone. She also stated that the language needed to be cleaned up so that the representatives of the party should not be assisting the delivery of the ballots.

Drew Duncan and Cindy Brugman both agreed to not include the independent living facility.

Deputy Kea Warne stated that Julie Pearson made some points to not approve new language but still need to amend the language on assisting voters when voting people.

Secretary Krebs clarified who delivers and assists them.

Cindy Brugman stated that this is currently only for the general election and not primary election.

Secretary Krebs stated that is correct and proposes cleaning up current statute by striking proposed language.

Linda Lea Viken asked how candidate representatives are notified, do they have to file a request.

Secretary Krebs stated that is correct.

Pam Lynde excused herself from the meeting at 4:21PM.

A *motion* was made to approve item #17 by Cindy Brugman, second by Pam Lynde. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan– Aye; Pam Lynde– Aye; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained #18 was in response to another court case involving Roger Chase's name being placed on the ballot. He had one original petition but that original didn't match the petition sheets signatures that were turned in. Judge Barnett ruled to place him on the ballot since he did have an original petition signature submitted.

A *motion* was made to approve item #18 by Linda Lea Viken, second by Cindy Brugman. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan– Aye; Pam Lynde– Excused; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained item #19 and that a petition must be a self-contained, one piece of paper (front and back) document. Adding this language in statute clarifies that. The challenge right now is vote centers. Vote Center counties don't provide precinct level returns because anyone can vote at any polling place. We can't determine signature requirements for these vote center counties and are proposing using flat numbers. Also there are issues with multi-legislative districts and we suggest using flat numbers.

Julie Pearson suggested using flat numbers whether counties used voter centers or not.

Linda Lea Viken wondered why these numbers couldn't be found in voter center counties.

Deputy Kea Warne explained that the secretary of state's office worked with Maxine in Brown County which uses voter centers. Brown County has three legislative districts and has different styles of ballots. Brown County could not come up with precinct level returns because a voter isn't assigned to a precinct.

Julie Pearson stated that she thinks it should be a set number or set off of something different.

Secretary Krebs stated that there aren't equal amounts of voters in each county. So setting a flat number that applies to all may not be fair.

Linda Lea Viken suggested fixing the way voter centers are set up.

Deputy Kea Warne suggested instead of tying to the gubernatorial vote, tie it to the legislative vote.

Secretary Krebs explained the issue with Susan Wismer and she had to collect the maximum number of signatures because it couldn't be determined.

Linda Lea Viken asked can't you fix the mechanics of the vote centers.

Deputy Kea Warne stated that the cost adds up with each ballot style a county produces.

Linda Lea Viken stated there are only two ways to address this issue. When they come into vote, would need to know which precinct they belong to or have them put their ballot into a certain box.

Julie Pearson suggested tying the number based on how many people from each party affiliation turned out for that election. Then it wouldn't matter how big the county is.

Mitch LaFleur asked for clarification on the first line.

Margaret Gillespie excused herself at 5:03PM.

Cindy Brugman noticed a mistake on the last line and it should be for a new party county candidate.

Secretary Krebs clarified which counties have vote centers (Brookings, Brown, Hughes, Hyde, Potter, Sully, and Yankton).

Mitch LaFleur withdrew his motion and the board moved to recalculate the numbers.

A *motion* was made to defer item #19 by Mitch LaFleur, second by Drew Duncan. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan – Aye; Pam Lynde– Excused; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained item #20 and that adding in the self-contained language so it's clear and there is no confusion on the form of the petition.

A *motion* was made to approve item #20 by Linda Lea Viken, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie – Excused; Drew Duncan– Aye; Pam Lynde– Excused; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye; Approved.

#21 - Secretary Krebs explained that we have mayors that are snow birds. Currently they have to track down a federal judge if they aren't in South Dakota to sign their declaration of candidacy. The intent is to allow out of state notaries.

Deputy Kea Warne explained that Secretary Krebs was on the wrong section. Clarified that in Title 12, #21 was specifically for accepting absentee ballot requests by out of state notaries.

Julie Pearson asked why the auditors have to maintain their identification card.

Deputy Kea Warne suggested keeping them for 22 months to be consistent with current state statute on holding election documents.

Linda Lea Viken asked if someone could steal her identification, send it in and vote for her if they wanted.

Deputy Kea Warne stated that it could technically happen. She also explained that for non-federal elections, election officials only have to maintain those documents for 60 days, federal has to be 22 months.

A motion was made to approve item #21, as amended, by Linda Lea Viken, second by Mitch LaFleur. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan– Aye; Pam Lynde– Excused; Mitch LaFleur – Aye; Linda Lea Viken – Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained item #22 and that if someone requests the voter file, any purged or unregistered voters aren't included. A voter removed for a felony, for example.

Mitch LaFleur stated that he was confused on the verbiage.

Deputy Kea Warne explained the new verbiage. When a person buys a voter file, unregistered and purged voters are not included. But registration forms are still considered public documents.

Julie Pearson explained the reasoning for keeping them but wants a shorter time to maintain the files.

Deputy Kea Warne explained that the National Voter Registration Act (NVRA) makes us keep them for 22 months.

Linda Lea Viken asked if these forms are public.

Julie Pearson stated, yes, it would be given but some information would be redacted.

Drew Duncan proposed to change the new language to say “Purged voters and unregistered voters shall not be included in the master registration file.”

A motion was made to approve item #22, as amended, by Drew Duncan, second by Linda Lea Viken. Roll call vote: Cindy Brugman– Aye; Margaret Gillespie– Excused; Drew Duncan – Aye; Pam Lynde– Excused; Mitch LaFleur– Aye; Linda Lea Viken– Aye; Secretary Krebs– Aye; Approved.

Secretary Krebs explained the new section in item #23 relating to employment and compensation of petition circulators. Explained that no person can be paid per signature and wants this to apply to all petition gathering.

Drew Duncan asked if this language is identical to the other statutes.

Deputy Kea Warne stated it was consistent.

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

#24 - Secretary Krebs explained adding to definitions for clarification. In order to maintain party status, must have a candidate for governor on the ballot. If you don't, you have to go collect signatures again. Proposal is to change it so that if you have any person on the ballot for a statewide office, that party won't lose party status.

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

#25 -Secretary Krebs explained that our office needs a deadline in statute for a new party to submit their delegates and alternates. Explained the change and wanting to have it match the second Tuesday in August date.

Julie suggested adding central time in three places.

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

The board returned to items #4 and #5.

Secretary Krebs explained that we want to add this new section. These items are not allowed to be challenged in the secretary of state's office but they still can be challenged in court.

Linda Lea Viken wants them to still be able to take this item (4) to court, is okay with it not being challengeable in the secretary of state's office.

Drew Duncan stated that he does not like 4, 5 and also wants to clean up the last sentence.

Mitch LaFleur stated that he thinks the front end needs to be cleared up but doesn't want the secretary of state's office to be in a situation for a legitimate basis for complaints. Also does not want the circumventing of the process.

Drew Duncan stated that he doesn't want to put the secretary of state's office in a difficult position.

Secretary Krebs suggested putting these items in on the front end.

Deputy Kea Warne stated that it would be hard to do and there could be about 20 statutes that would have to be changed to accomplish this. Explained that this proposal came from the attorney general's office.

Linda Lea Viken stated that she is okay with the proposal, just as long as people can still challenge to court.

Secretary Krebs suggested coming back with changes on these items and having a conference call on items 4, 5, and deferred item #19. Stated that our office will create new proposed language, get that out to the board and set out a meeting on conference call.

Secretary Krebs announced that board members Cindy Brugman and Drew Duncan's terms are up and thanked them for their service to the board.

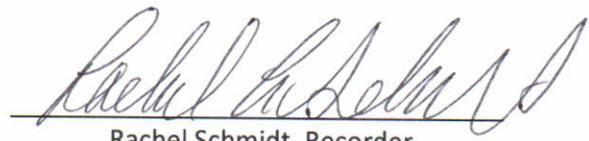
Linda Lea Viken thanked the Secretary of State's office for the input the board has been allowed the last two years.

Secretary Krebs thanked the board for their time and their patience in addressing specific issues the office has dealt with the last year. She thanked the election team for their hours of work. Secretary Krebs stated that she tried to be clear and fair when deciding the authority of the South Dakota Secretary of State's position in the state.

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

The board adjourned at 6:12 pm (CT).


Shantel Krebs, Secretary of State


Rachel Schmidt, Recorder