AN ACT

ENTITLED, An Act to require voters to provide identification before voting or obtaining an absentee ballot.

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

Section 1. That chapter 12-18 be amended by adding thereto a NEW SECTION to read as follows:

Before a person makes an application for ballots, the voter shall present a valid form of personal identification. The personal identification that may be presented shall be either:

(1) A South Dakota driver's license or nondriver identification card;

(2) A passport or an identification card, including a picture, issued by an agency of the United States government;

(3) A tribal identification card, including a picture; or

(4) An identification card, including a picture, issued by an accredited institution of higher education, including a university, college, or technical school, located within the state of South Dakota.

Section 2. That chapter 12-18 be amended by adding thereto a NEW SECTION to read as follows:

If a voter is not able to present a form of personal identification as required by section 1 of this Act, the voter may complete an affidavit in lieu of the personal identification. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form of the affidavit. The affidavit shall require the voter to provide his or her name and address. The voter shall sign the affidavit under penalty of perjury.

Section 3. That § 12-19-2 be amended to read as follows:

12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the

election for an absentee ballot. The application or request shall be made in writing and be signed by the applicant and state the applicant's voter registration address. The application or request shall contain an oath verifying the validity of the information contained in the application or request. The oath shall be administered by a notary public or other officer authorized by statute to administer an oath. If the application or request does not contain an oath, the application or request shall be accompanied by a copy of the voter's identification card as required by section 1 of this Act. The application or request may be used to obtain an absentee ballot for all elections in that calendar year conducted by the jurisdiction receiving the application or request if so indicated. The ballot shall be sent to the voter's residence, as shown in the voter registration file or any temporary residence address designated in writing by the voter, at the time of applying for the absentee ballot. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe the application or request form. The person in charge of the election shall stamp the application with the date it was received. The application may be made by letter or upon any form containing the required information or upon any form prescribed by the State Board of Elections or the postcard form referred to in § 12-4-8.1, executed by persons authorized in accordance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. § 1973ff) as of January 1, 2003. The person in charge of the election shall preserve a record of the name, post office address, and voting precinct of each applicant and, except as provided by § 12-19-45, deliver the record to the superintendent of the election board of the home precinct of the applicant.

Section 4. That § 12-19-2.1 be amended to read as follows:

12-19-2.1. At anytime prior to an election, a voter may apply in person to the person in charge of the election for an absentee ballot during regular office hours up to 3:00 p.m. of the day of the election. If the voter applies in person, the voter shall show the person in charge of the election the voter's identification card as required in section 1 of this Act or complete the affidavit as provided in

section 2 of this Act.

In the event of sickness or confinement, a qualified voter may apply pursuant to the provisions of § 12-19-2 in writing for and obtain an absentee ballot by authorized messenger so designated over the signature of the voter. The person in charge of the election may deliver to the authorized messenger a ballot to be delivered to the qualified voter. An application for a ballot by authorized messenger must be received by the person in charge of the election before 3:00 p.m. the day of the election.

Section 5. That § 12-19-9.1 be amended to read as follows:

12-19-9.1. If there is any nursing facility, assisted living center, or hospital as defined in § 34-12-1.1 within any county from which there might reasonably be expected to be five or more absentee applications, the county auditor shall notify the person in charge of that facility and the chairman of the county central committee of each party and any other person who has filed a request to be notified of the date and time at which representatives of the auditor's office will be present to assist the residents of that facility to vote, utilizing the absentee procedure. Any political party, independent candidate, and nonpolitical candidate may assign a person to accompany the auditor's representatives. At the date and time announced, the auditor's representative and the representatives of the parties, independent candidates, and nonpolitical candidates shall deliver ballots to and assist all persons at that facility who desire such assistance and who have applied for absentee ballots. This section applies only to a general election.

If a person in charge of an election conducts absentee voting at a nursing facility, assisted living center, or hospital as defined in § 34-12-1.1, the identification and affidavit requirements provided in section 4 of this Act are waived.

Section 6. That § 12-19-1 be amended to read as follows:

12-19-1. A registered voter who is not otherwise disqualified by law from voting in the election

may vote by absentee ballot.

Section 7. The person making an application for ballots shall announce his or her name and present his or her personal identification. A member of the precinct election board shall then verify that the picture on the personal identification presented under section 1 of this Act matches such person and that the name on the personal identification appears on the voter registration list pursuant to § 12-18-7.1. If the member cannot determine from the personal identification presented that the person making an application for ballots is the person listed on the voter registration list, the member may consider other forms of identification, personal knowledge and an explanation from the person making an application for ballots to match that person's name to a name on the registration list. If identity cannot be proven to the satisfaction of the member of the precinct election board or if the person making an application for ballots is challenged on the basis of identity by a member or a poll watcher, the person may vote a provisional ballot.

Section 8. This Act is effective on January 1, 2004.

An Act to require voters to provide identification before voting or obtaining an absentee ballot.

I certify that the attached Act originated in the

HOUSE as Bill No. 1176

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1176
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State