



2025 South Dakota Legislature

Senate Bill 167**SENATE LOCAL GOVERNMENT ENGROSSED**

Introduced by: **Senator Reed**

1 **An Act to revise certain provisions pertaining to municipal government.**

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

3 **Section 1. That § 9-6-1 be AMENDED:**

4 **9-6-1.** ~~Whenever a municipality shall have less than two hundred fifty population,~~
5 ~~the owners of a majority of the real property therein, both in area and assessed valuation,~~
6 ~~may petition the circuit court of the county in which such municipality or any part thereof~~
7 ~~is situated for the dissolution of the municipality.~~ If a municipality has a population of less
8 than two hundred fifty, the owners of a majority of the real property in the municipality,
9 both in area and assessed valuation, may file a petition for the dissolution of the
10 municipality. The petition for dissolution must be filed in the circuit court of the county in
11 which the municipality is situated. If the municipality is located in more than one county,
12 the petition for dissolution may be filed in either county.

13 **Section 2. That § 9-6-2 be AMENDED:**

14 **9-6-2.** ~~Such~~ A petition for dissolution must show the show:
15 (1) ~~The name of the municipality, the;~~
16 (2) ~~The date of its incorporation, the;~~
17 (3) ~~The fact that it contains a population of less than two hundred fifty persons, and~~
18 ~~that the;~~
19 (4) ~~That the~~ petitioners are the owners of more than one-half of the real property
20 contained within its limits, in area, as shown by a recorded deed or other
21 instrument evidencing title to the property; and
22 (5) ~~That the petitioners are the owners of more than one-half of such the real property~~
23 contained within the limits of the municipality, in assessed valuation, as shown by
24 the last assessment thereof prior to the filing of such petition. Such petition shall
25 be verified by the affidavit of two or more of the petitioners to the effect that the

1 ~~statements contained in it are true and be filed in the office of the clerk of the~~
2 ~~circuit court~~ most recent assessed values available from the county or counties in
3 which the municipality is situated at the time of filing the petition for dissolution.

4 Two or more of the petitioners shall verify by affidavit that the statements
5 contained in the petition for dissolution are true.

6 **Section 3. That § 9-6-3 be AMENDED:**

7 **9-6-3.** Upon the filing of a petition for dissolution, as provided in §§ 9-6-1 and 9-
8 6-2, the circuit court shall issue an order to the municipality, ~~returnable in not less than~~
9 ~~ten nor more than thirty days~~, to show cause why the petition should not be granted. ~~Such~~
10 The order shall must be served in the same manner as ~~summonses~~ a summons in a civil
11 action against municipalities ~~not less than ten nor more than thirty days before the return~~
12 ~~date thereof~~ a municipality.

13 **Section 4. That § 9-6-4 be AMENDED:**

14 **9-6-4.** Upon the return day of such order, or any day to which the hearing thereon
15 ~~may be adjourned~~, Any objections to the petition ~~may for dissolution must~~ be filed ~~on~~
16 ~~behalf~~ with the circuit court within thirty days from the date of service on the municipality.
17 Objections may be made by any public officer or employee of the municipality or any
18 property owner or taxpayer thereof, which objections shall of the municipality. An
19 objection must be in writing and ~~be verified in the same manner as the petition.~~

20 ~~The court may upon such hearing take such evidence as it may deem proper to a~~
21 ~~determination of the petition and objections thereto~~ verified by an affidavit affirming the
22 statements contained in the objection are true.

23 **Section 5. That § 9-6-5 be AMENDED:**

24 **9-6-5.** ~~If upon such hearing it appears to the satisfaction of,~~ after a hearing on the
25 petition for dissolution and any objections, the court ~~that the~~ determines there are
26 sufficient interests of ~~such the~~ municipality and of its property owners and taxpayers
27 ~~require that the municipality be dissolved to support the dissolution of the municipality,~~
28 the court ~~shall~~ must appoint a referee to make an enumeration of its population and to
29 examine the records of ~~such the~~ municipality and of the county in which the ~~same~~
30 municipality is situated, to ascertain whether ~~such the~~ petition has been executed by

persons owning more than one-half of the real property within ~~such corporation~~ the municipality, both in area and assessed valuation.

The court may also refer to ~~such~~ the referee any other question ~~in controversy which that~~ may arise upon regarding the petition and objections ~~thereto~~.

~~Such~~ The referee shall ~~with all convenient speed make his~~ report to the court ~~of on~~ all matters referred to ~~him, and upon~~ the referee within the time designated by the court. Upon the filing of ~~such~~ the report and upon not less than six days' notice to the municipality, the court shall consider the report of the referee and may take evidence as it deems relevant.

Section 6. That § 9-6-6 be AMENDED:

~~9-6-6. If it appears from such report that the population of such municipality is less than two hundred fifty, and that such petition has been executed by property owners owning more than one-half of the real property within such municipality, both in area and in assessed valuation; and if it further appears to the satisfaction of the court that it is to the best interests of such municipality and of the property owners thereof that it be dissolved, the court shall render a judgment adjudging and decreeing the dissolution of such municipality~~ The court must render a judgment decreeing the dissolution of a municipality if:

(1) The referee reports that:

(a) At the time the petition for dissolution is filed, the population of the municipality is less than two hundred fifty; and

(b) The petition has been executed by property owners owning more than one-half of the real property within the municipality, both in area and in assessed valuation; and

(2) The court determines it is in the best interests of the municipality and the property owners that the municipality be dissolved.

Section 7. That § 9-6-7 be AMENDED:

~~9-6-7. The clerk of courts shall enter the petition and all objections thereto for dissolution, any objections, the report of the referee, and the judgment of dissolution shall be entered by the clerk of courts upon his into the judgment record, the same as judgments are entered in civil cases.~~

Section 8. That § 9-6-8 be AMENDED:

1 **9-6-8.** A copy of the judgment of dissolution, certified by the clerk of courts, ~~shall~~
2 must be filed in the office of the register of deeds in the county or counties in which ~~such~~
3 the municipality is situated and in the Office of the Secretary of State, ~~and upon.~~ Upon
4 the filing of ~~such copies such municipality shall be deemed to be dissolved, and it shall~~
5 ~~cease to be a municipality excepting~~ the copies, the municipality is dissolved and ceases
6 to be a municipality, except as set forth in § 9-6-9.

7 **Section 9. That § 9-6-9 be AMENDED:**

8 **9-6-9.** After the entry of the judgment of dissolution, ~~the territory comprised in~~
9 ~~such~~ formerly comprising the dissolved municipality ~~shall~~ must revert to the jurisdiction
10 ~~and control and shall become a part~~ of the local subdivision or organization of which it
11 would have been a part had it never existed.

12 ~~Its~~ The municipal governing body and other officers ~~shall cease to possess any~~
13 ~~powers except that they~~ shall remain in office and ~~shall~~ possess, under the direction of
14 the circuit court, all powers necessary ~~to for~~ the winding up of the corporate affairs of ~~such~~
15 the municipality, including the power to levy and collect taxes to pay ~~its~~ any indebtedness,
16 and to make all orders necessary for the disposal of ~~its~~ municipal property and for the
17 proper distribution of the proceeds ~~thereof.~~ Such. The governing body and other officers
18 shall remain in office for ~~such purposes of winding up the corporate affairs of the~~
19 municipality only for the period of six months after the entry of the judgment of
20 dissolution, unless the court entering ~~such the~~ judgment ~~shall order~~ orders an extension
21 ~~of such period of six months~~ for the purpose of permitting the affairs of ~~such the~~
22 municipality to be fully closed.

23 **Section 10. That § 9-6-10 be AMENDED:**

24 **9-6-10.** ~~If an application~~ If the governing body of a municipality with a population
25 of less than one thousand at the time of filing is presented with a petition for dissolution
26 signed by fifteen percent of the registered voters of ~~any the~~ the municipality, based upon the
27 total number of registered voters at the last preceding general election, ~~having less than~~
28 ~~one thousand inhabitants is presented to the governing body asking for the dissolution of~~
29 ~~the municipality,~~ the governing body shall call a special election by giving fifty days'
30 published notice ~~thereof~~ to determine whether the municipality ~~shall~~ must be dissolved.
31 ~~No~~ A signature on the ~~application~~ petition is not valid if signed more than six months prior
32 to the filing of the ~~application~~ petition. If any ~~such application~~ petition is presented on or
33 after January first prior to the annual municipal election and within sufficient time to

1 comply with the provisions of ~~§ 9-13-14~~ chapter 9-13, the question ~~shall~~ of dissolution
2 must be submitted at that annual municipal election.

3 The vote upon the question of dissolution ~~shall~~ must be by ballot and cast in the
4 manner provided ~~by~~ in chapter 9-13.

5 **Section 11. That § 9-6-11 be AMENDED:**

6 **9-6-11.** Where an election is ~~had under~~ held pursuant to § 9-6-10 and a majority
7 of the votes cast ~~at such election shall be~~ are against dissolution, ~~there shall be no other~~
8 another election may not be held for the purpose of dissolving the municipality until five
9 years after the date of ~~such~~ the first election.

10 **Section 12. That § 9-6-12 be AMENDED:**

11 **9-6-12.** If a majority of all the votes cast at an election ~~under~~ pursuant to § 9-6-
12 10 ~~shall be~~ are for dissolution and ~~such vote shall have been given by the~~ turnout for the
13 election was at least two-fifths of all the legal voters ~~in such of the~~ municipality, as shown
14 by the vote cast at the last preceding annual election therein, based upon the total number
15 of registered voters at the last preceding general election, then a statement of the vote
16 signed by the mayor or president of the ~~Board of Trustees~~ board of trustees and attested
17 by the ~~auditor or clerk shall~~ finance officer must be filed in the office of the register of
18 deeds of the ~~proper~~ county; ~~and such or counties in which the municipality is situated.~~
19 The municipality shall, at the expiration of six months from the time of holding ~~such the~~
20 election, cease to be a municipality, and the property belonging to ~~it the~~ municipality after
21 the payment of its debts and liabilities ~~shall~~ must be disposed of ~~in such manner as the~~
22 governing body may direct by transferring the property on an equitable basis to the county
23 or counties in which the municipality is situated.

24 ~~Such dissolution shall~~ Dissolution does not affect the rights of any person under any
25 contract with ~~such the~~ municipality.

26 **Section 13. That § 9-7-1 be AMENDED:**

27 **9-7-1.** The ~~Board of Trustees~~ board of trustees of a ~~third class~~ municipality ~~shall~~
28 consist of not less than three nor more than consists of either three or five members
29 elected at large. Each ~~shall~~ member must be a legal voter of the municipality in accordance
30 with § 9-14-2. The number of trustees of a municipality may be increased to five or
31 reduced to three in the manner prescribed by chapter 9-11.

1 **Section 14. That § 9-7-3 be AMENDED:**

2 **9-7-3.** The members of the ~~Board of Trustees~~ board of trustees shall hold office
3 for three years and until their successors are elected and qualified. A vacancy on the board
4 ~~shall must~~ be filled as provided in § 9-13-14.1 or 9-13-14.2.

5 ~~When a municipality is organized~~ For purposes of staggering terms, when a
6 municipality is organized, the trustees ~~shall must~~ be elected for terms of one, two, and
7 three years respectively at the first annual election. At subsequent elections each trustee
8 ~~shall must~~ be elected for a term of three years.

9 **Section 15. That § 9-7-5 be AMENDED:**

10 **9-7-5.** At the first regular meeting after their election, ~~the members of the Board~~
11 ~~of Trustees~~ board of trustees shall elect one of their number as president to serve for one
12 year and until ~~his~~ a successor is elected and qualified.

13 **Section 16. That § 9-7-6 be AMENDED:**

14 **9-7-6.** The board of trustees shall hold regular meetings at ~~such the~~ times as may
15 be provided by ordinance.

16 Special meetings of the board may be held at any time upon call of the president
17 or ~~clerk~~ finance officer by oral or written notice to the members ~~present within the~~
18 municipality.

19 **Section 17. That § 9-7-7 be AMENDED:**

20 **9-7-7.** A majority of the members of the board ~~shall constitute~~ of trustees
21 constitutes a quorum, but ~~no an~~ an act of the board ~~shall be~~ is not effective unless assented
22 to by a majority of the members. Unless a vacancy exists due to removal, resignation,
23 death, or by operation of law, the quorum consists of the majority of all the trustees
24 qualified to serve as trustees by election or appointment pursuant to chapter 9-13.

25 **Section 18. That § 9-8-1.1 be AMENDED:**

26 **9-8-1.1.** ~~A person~~ An individual may be nominated, elected, or appointed as a
27 mayor or as an alderman, if the person is a citizen of the United States, a voter of the
28 municipality, and a resident of the municipality, ~~and, if an~~ in accordance with § 9-14-2.
29 An alderman, representing a ward must be a voter of and resident of the ward for which

the person is to hold office. If the mayor or an alderman at large moves to a permanent residence outside the corporate limits of the municipality, the office is immediately vacated. If an alderman representing a ward moves to a permanent residence outside the boundaries of his or her ward, the office is immediately vacated.

Section 19. That § 9-8-2 be AMENDED:

9-8-2. If there is a vacancy from any cause in the office of the mayor, the vacancy ~~shall~~ must be filled by appointment by a majority vote of all the aldermen, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual municipal election or by special election as provided in § 9-13-14.2. Until the vacancy is filled ~~or during the time of temporary absence or disability of the mayor,~~ the powers and duties of mayor are executed by the ~~president or vice president of the council~~ mayor pro tempore, as provided in ~~§ 9-8-7~~ section 27 of this Act.

A resignation by the mayor must be in writing and must specify the effective date of the resignation. A temporary absence or temporary incapacitation of the mayor is not a vacancy in the office of the mayor.

Section 20. That § 9-8-3 be AMENDED:

9-8-3. The mayor presides at all meetings of the council ~~but.~~ The mayor votes only votes in the case of a tie, except pursuant to § 9-8-10. The mayor performs other duties as may be prescribed by the laws and ordinances, and takes care that the laws and ordinances are faithfully executed. The mayor shall annually, or as may be necessary, give the council information relative to the affairs of the municipality, and recommend for the council's consideration the measures the mayor deems ~~expedient~~ prudent. The mayor may sign or veto any ordinance or resolution passed by the common council, ~~and.~~ The mayor may veto any part or item of an ordinance or resolution appropriating money.

Section 21. That § 9-8-4 be AMENDED:

9-8-4. The common council consists of the mayor elected at large and two aldermen elected from and by the voters of each ward of the municipality. The term of office is two years, unless a municipality adopts an ordinance establishing the term of office to be three, four, or five years. ~~The~~ Except as otherwise provided in § 9-8-2, the mayor and aldermen hold office until their successors are elected and qualified. At the

first election of aldermen, the council shall stagger the initial terms of the alderman in each ward to provide that ~~the two aldermen from the same ward~~ are not up for reelection in the same year. A person may hold office for more than one term. The vacancy of an alderman is filled as provided in § 9-13-14.1 or 9-13-14.2.

A resignation by an alderman must be in writing and must specify the effective date of the resignation.

Section 22. That § 9-8-5 be AMENDED:

9-8-5. The council is the judge of the election and qualification of its members. The council ~~determines~~ may, by ordinance, determine its rules of procedure and code of conduct, and may punish its members for disorderly conduct while performing the duties of office, and, with the concurrence of two-thirds of the aldermen, ~~may~~ expel a member.

Any alderman who is convicted of bribery shall vacate the position. The office of a mayor or any alderman convicted of a crime that involves bribery is deemed vacated upon entry of a judgment of conviction.

The council may, by ordinance, establish requirements for attendance at regular meetings and provide for the expulsion of a member in violation of the attendance requirements.

Section 23. That § 9-8-7 be AMENDED:

9-8-7. At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the council shall elect from among its members a president and vice president, who shall hold their respective offices ~~for the municipal year.~~

~~The president of the council in the absence of the mayor acts as the presiding officer of the council. During the absence of the mayor from the municipality or the mayor's temporary disability, the president of the council is acting mayor and has all the powers of the mayor.~~

~~In the absence or disability of the mayor and president of the council, the vice president of the council shall perform the duties of the mayor and president of the council.~~

~~However, the president of the council or vice president of the council acting as the mayor shall only vote as an alderman. No alderman acting as mayor may vote as the mayor to break a tie vote.~~ until a president and vice president are elected the following year. In a year when there is no annual election, the council shall elect from among its members a president and vice president at the first regular meeting that occurs no more

1 than one year after the president and vice president were last elected from among the
2 council's members.

3 If an emergency prevents the first regular meeting from occurring, the election
4 must take place at either the next regular meeting or a special meeting. If there is a
5 vacancy in the office of the president, the council must elect a president from among its
6 members at the first regular or special meeting that occurs after the vacancy occurred.

7 If there is a vacancy in the office of the vice president, the council must elect a
8 vice president from among its members at the first regular or special meeting that occurs
9 after the vacancy occurred. If the vacancy in the office of the vice president occurs during
10 a meeting, the council may choose to elect a vice president from among its members
11 during the same meeting.

12 **Section 24. That § 9-8-8 be AMENDED:**

13 **9-8-8.** The council holds its regular meetings on the first Monday of each month
14 but may, by ordinance, change the day of its regular monthly meetings. The council may
15 prescribe by ordinance the manner in which special meetings may be called.

16 A majority of all the aldermen constitutes a quorum to do business. When a seat
17 on a council is vacant due to removal, resignation, death, or by operation of law, the
18 quorum consists of the majority of ~~the remaining~~ all the aldermen who are qualified to
19 serve as aldermen by election or appointment pursuant to chapter 9-13. The council may
20 compel the attendance of absentees under ~~such~~ the penalties as may be prescribed by
21 ordinance.

22 The meetings of the council are open to the public ~~and it shall keep a journal of its~~
23 proceedings. The council shall keep minutes of its meetings.

24 **Section 25. That § 9-8-10 be AMENDED:**

25 **9-8-10.** ~~A roll call vote shall be taken upon the passage of all ordinances and upon~~
26 ~~any proposal to expend or appropriate money, and in all other cases at the request of any~~
27 ~~member. All votes shall be entered in the minutes of its proceedings.~~ All votes must be
28 taken orally or by roll call. A vote may not be taken by secret ballot. If any member of the
29 council requests a roll call vote, a roll call vote must be taken. All votes must be entered
30 in the minutes of the council's proceedings.

31 The majority vote of all the aldermen ~~shall be~~ is necessary to pass an ordinance or
32 proposal ~~which~~ that expends or appropriates money, ~~and the.~~ The mayor may not break

- 1 a tie on an ordinance or proposal to expend or appropriate money. The mayor may break
2 a tie on all other ordinances or proposals.
3 A two-thirds vote of the aldermen is required to sell any city property.

4 **Section 26. That a NEW SECTION be added to chapter 9-8:**

5 In the temporary absence or temporary incapacitation of the mayor, the president
6 of the council shall serve as the mayor pro tempore, as provided in section 27 of this Act,
7 until the temporary absence or temporary incapacitation ends.

8 In the temporary absence or disability of the mayor and president of the council,
9 the vice president of the council shall serve as the mayor pro tempore until the temporary
10 absence or temporary incapacitation ends.

11 **Section 27. That a NEW SECTION be added to chapter 9-8:**

12 The mayor pro tempore shall perform the mayor's duties, except that the mayor
13 pro tempore may not appoint, employ, or remove appointive officers without approval of
14 the council.

15 The mayor pro tempore acts as the presiding officer of the council, but the mayor
16 pro tempore may only vote as an alderman. No alderman acting as mayor may vote as
17 the mayor to break a tie vote.

18 For purposes of this section "appointive officers" are municipal employees or
19 members of a board, commission, committee, or similar body that the mayor has the
20 authority to appoint, with or without the approval of the council.

21 **Section 28. That § 9-9-2 be AMENDED:**

22 **9-9-2.** A~~In~~ accordance with § 9-14-2, a person may be nominated, elected, or
23 appointed as a mayor or as a commissioner if the person is a citizen of the United States
24 and voter and resident of the municipality.

25 **Section 29. That § 9-9-3 be AMENDED:**

26 **9-9-3.** The term of office of the mayor and commissioners ~~shall be~~ is not less than
27 two or more than five years as determined by ordinance, except that at the first election
28 after the adoption of the commission form of government the mayor's term ~~shall~~ must be
29 for five years and the commissioners ~~shall~~ must be elected for staggered terms. If the
30 number of commissioners is four, one ~~shall~~ must be elected for one year, one for two

years, one for three years, and one for four years. If the number of commissioners is two, one ~~shall~~ must be elected for two years and one for four years. At the annual election preceding the expiration of the term of office of the mayor or any commissioner, a successor ~~shall~~ must be elected for a term ~~not to exceed~~ of not less than two or more than five years, as determined by ordinance.

Section 30. That § 9-9-6 be AMENDED:

9-9-6. If the mayor or a commissioner resigns, the resignation ~~shall~~ must be submitted in writing to the board of commissioners and must specify the effective date of the resignation.

If the mayor or a commissioner moves ~~his or her~~ to a permanent residence outside the corporate limits of the municipality, the office is immediately vacated.

If there is a vacancy in the office of mayor, the vacancy ~~shall~~ must be filled by appointment pursuant to § 9-9-8 until the position is filled by election at the next annual municipal election or by special election as provided in § 9-13-14.2. A vacancy on the board ~~shall~~ must be filled as provided in § 9-13-14.1 or 9-13-14.2.

A temporary absence or temporary incapacitation of the mayor is not considered a vacancy in the office of the mayor.

Section 31. That § 9-9-8 be AMENDED:

9-9-8. If the mayor is unable to perform the duties of office by reason of temporary absence or sickness temporary incapacitation, the board ~~shall~~ must, by a majority vote of all the commissioners, appoint ~~by a majority vote~~ one of its members to act as mayor until the temporary absence or temporary incapacitation ends. The appointed commissioner's official designation ~~shall be acting president of the board of commissioners~~ is mayor pro tempore. The ~~acting president~~ mayor pro tempore is invested with all the powers and shall perform all the duties of the mayor during the mayor's temporary absence or sickness or temporary incapacitation. The ~~acting president~~ mayor pro tempore has only one vote as a commissioner and is not entitled to vote as ~~acting president~~ mayor pro tempore. The temporary absence or temporary incapacitation of the mayor is not a vacancy in the office of the mayor.

If the office of mayor is vacated, the board of commissioners ~~shall~~ must, by a majority vote of all commissioners, appoint ~~by a majority vote~~ one of its commissioners as acting mayor. The acting mayor is invested with all the powers and shall perform all the duties of the mayor, until the ~~election of a mayor~~ vacancy is filled by election for the

1 unexpired term at the next annual election or by special election as provided in § 9-13-
2 14.2.

3 The acting mayor has only one vote as a commissioner and is not entitled to vote
4 as acting mayor.

5 **Section 32. That § 9-9-14 be AMENDED:**

6 **9-9-14.** A majority of all the commissioners on the board of commissioners
7 constitutes a quorum to do business. If a seat on the board is vacant due to removal,
8 resignation, death, or by operation of law, the quorum consists of the majority of all the
9 remaining commissioners who are qualified to serve by election or appointment pursuant
10 to chapter 9-13. The board may compel the attendance of any absentee under penalties
11 as prescribed by ordinance.

12 No action of the board is effective unless upon a vote of a majority of all the
13 members of the board.

14 **Section 33. That § 9-9-14.1 be AMENDED:**

15 **9-9-14.1.** ~~The board shall determine the board's rules of procedure, and may~~
16 ~~punish the board's members for disorderly conduct. The board may, by resolution,~~
17 ~~establish requirements for attendance at regular meetings and provide for the expulsion~~
18 ~~of a member in violation of the attendance requirements~~The board of commissioners is
19 the judge of the election and qualification of its members. The board may, by ordinance,
20 determine its rules of procedure and code of conduct, punish its members for disorderly
21 conduct while performing the duties of office, and, with the concurrence of two-thirds of
22 the members, expel a member.

23 The board may, by ordinance, establish requirements for attendance at regular
24 meetings and provide for the expulsion of a member in violation of the attendance
25 requirements.

26 **Section 34. That § 9-9-16 be AMENDED:**

27 **9-9-16.** ~~The yeas and nays shall be taken upon the passage of each ordinance and~~
28 ~~for any proposal to expend or appropriate money and in any other case at the request of~~
29 ~~any commissioner. Each vote shall be entered on the journal of the board's proceedings.~~
30 ~~A two-thirds vote of the board is required to sell any municipal real property~~Each meeting
31 of the board of commissioners is open to the public. All votes must be taken orally or by

1 roll call. No votes may be taken by secret ballot. If any member of the board requests a
2 roll call vote, a roll call vote must be taken. All votes must be entered in the minutes of
3 the council's proceedings.

4 A two-thirds vote of the board is required to sell any municipal real property.

5 **Section 35. That § 9-9-19 be AMENDED:**

6 **9-9-19.** In any municipality governed by a board consisting of five commissioners,
7 the mayor and the commissioners have the powers and duties described in §§ 9-9-20 to
8 9-9-24, inclusive. In addition, each commissioner shall supervise any other department
9 assigned or apportioned by resolution of the governing board, adopted by a majority vote
10 of all the commissioners at the first meeting of the board in the month following the
11 election year. Each commissioner is in charge of the apparatus, personnel, and personal
12 property used by departments under that commissioner's supervision.

13 **Section 36. That § 9-9-20 be AMENDED:**

14 **9-9-20.** If any municipality is governed by a board consisting of five
15 commissioners, the mayor may exercise all the powers and perform all the duties provided
16 by the laws of this state or the ordinances of the municipality not in conflict with the laws
17 of the state. The mayor is the chief executive officer of the municipality, presides at all
18 meetings of the board, and has general supervision over all departments and officers. In
19 ~~the absence or inability~~ temporary absence or temporary incapacitation of a commissioner,
20 the mayor shall temporarily take charge of the department of that commissioner. The
21 mayor shall enforce all the laws of the municipality and require that the conditions of the
22 grant of any franchise or privilege are faithfully complied with and performed. The mayor
23 shall grant all licenses or permits, except as are required by ordinance to be granted by
24 the board or by some other department or officer. The mayor shall supervise each public
25 building of the municipality and each city park except in any municipality that has a park
26 board, and the lighting of the streets, alleys, and public buildings of the municipality. The
27 mayor shall annually and from time to time give the board information relative to the
28 affairs of the municipality and shall recommend for the board's consideration any measure
29 the mayor deems ~~expedient~~ prudent.

30 **Section 37. That § 9-9-26 be AMENDED:**

1 **9-9-26.** If a municipality is governed by a board consisting of three commissioners,
2 the mayor ~~shall~~ must exercise all the powers and perform all the duties provided by the
3 laws of this state or the ordinances of the municipality not in conflict with state law. The
4 mayor ~~shall be~~ is the chief executive officer of the municipality, shall preside at all
5 meetings of the board, and has general supervision over all departments and officers. In
6 the ~~temporary absence or inability~~ temporary incapacitation of a commissioner, the mayor
7 shall temporarily take charge of the department of the commissioner. The mayor shall see
8 that all the laws of the municipality are enforced and that the conditions of the grant of
9 any franchise or privilege are faithfully complied with and performed. The mayor shall
10 grant all licenses or permits, except as required by ordinance to be granted by the board
11 or by some other department or officer.

12 **Section 38. That § 9-9-27 be AMENDED:**

13 **9-9-27.** If a municipality is governed by a board consisting of three commissioners,
14 all matters not designated to the mayor ~~shall~~ must be assigned or apportioned as equally
15 as may be between the commissioners by resolution of the board adopted by a majority
16 vote of all the commissioners at the first meeting of the board in the month following the
17 election each year.

18 **Section 39. That § 9-10-1 be AMENDED:**

19 **9-10-1.** If a petition signed by fifteen percent of the registered voters of any ~~first~~
20 ~~or second class~~ municipality, as determined by the total number of registered voters at
21 the last preceding general election, is presented requesting that an election be called to
22 ~~vote upon the proposition on the question~~ of employing a city manager, the governing
23 body ~~shall~~ must call an election ~~for that purpose. Upon receipt of a valid petition, the~~
24 ~~question shall be presented at the next annual municipal election or the next general~~
25 ~~election, whichever is earlier. However, the governing body may expedite the date of the~~
26 ~~election by ordering, within ten days of receiving the petition, a special election to be held~~
27 ~~on a Tuesday not less than thirty days from the date of the order of the governing body~~
28 to be held within fifty days from the date of the filing of the petition with the municipal
29 finance officer. At that election, the question must be submitted to the voters. No petition
30 is valid if filed more than six months after the circulation start date declared on the petition
31 forms. If the petition is filed on or after January first prior to the annual municipal election
32 and within sufficient time to comply with the provisions of chapter 9-13, the question may
33 be submitted at that annual municipal election.

1 The election ~~shall~~ must be held upon the same notice and conducted in the same
2 manner as other municipal elections. The vote ~~upon the question of employing a city~~
3 ~~manager shall~~ must be by ballot ~~which conforms to a ballot for statewide question except~~
4 ~~that the statement required to be printed on the ballot shall be prepared by the municipal~~
5 ~~attorney, in the form and cast in the manner provided by chapter 9-13.~~

6 **Section 40. That § 9-10-3 be AMENDED:**

7 **9-10-3.** When authorized by a majority vote of all voters voting at a special
8 election ~~to be called for that purpose, pursuant to § 9-10-1,~~ the governing body of any
9 ~~first or second class municipality shall~~ must employ a city manager and fix ~~his the~~
10 ~~manager's~~ manager's compensation.

11 **Section 41. That § 9-10-4 be AMENDED:**

12 **9-10-4.** In ~~first or second class~~ municipalities under the aldermanic form
13 employing a city manager, ~~a the~~ mayor, and aldermen ~~shall~~ must be elected ~~as for such~~
14 in the same manner as municipalities not employing a city manager.

15 **Section 42. That § 9-10-5 be AMENDED:**

16 **9-10-5.** In all commission-governed municipalities employing a city manager, ~~the~~
17 number of at-large commissioners ~~shall be is~~ nine, ~~whose terms each with a three-year~~
18 ~~term of office shall be three years.~~ At the first election ~~thereof there shall be elected,~~ nine
19 commissioners must be elected, three to serve until the next annual election, three to
20 serve until the second annual election thereafter, and three to serve until the third annual
21 election thereafter, ~~and thereafter at.~~ At each annual municipal election ~~there shall be~~
22 ~~elected thereafter,~~ three at-large commissioners must be elected for a term of three years
23 each.

24 **Section 43. That § 9-10-6 be AMENDED:**

25 **9-10-6.** Within sixty days after an election directing the employment of a city
26 manager in any commission-governed municipality, a special election ~~shall~~ must be called
27 and held to elect the nine at-large commissioners. A plurality vote in the election of
28 commissioners is sufficient to elect the commissioners.

29 The commissioners shall qualify as provided by law and organize by electing a
30 commissioner to act as mayor until the first regular meeting of the board of commissioners

1 in the month following the first annual election of commissioners. At the first regular
2 meeting in the month following the annual election, the commissioners shall elect a
3 commissioner to act as mayor for a term of one year.

4 ~~The board has the same powers conferred upon the board of commissioners in a~~
5 ~~commission governed municipality pursuant to chapter 9-9. Except as otherwise provided~~
6 ~~in this chapter, the board shall be governed by the provisions of the law relating to a~~
7 ~~commission governed municipality.~~

8 **Section 44. That § 9-10-7 be AMENDED:**

9 **9-10-7.** ~~The duties and power of the mayor of any first or second class municipality~~
10 ~~employing a city manager shall be as follows:~~

- 11 (1) ~~He shall be~~Is the presiding officer of the council or commission, and in
12 municipalities having the aldermanic form of government ~~he shall have,~~has the
13 powers and duties of an alderman at large;
- 14 (2) ~~He shall be~~Is the recognized head of the municipality for service of civil process
15 and for military and ceremonial purposes;
- 16 (3) ~~He may~~May take command of the police of the municipality, appoint special police,
17 and govern the municipality by proclamation during times of public danger or
18 emergency, ~~and during such~~during which times ~~he shall have such~~the mayor has
19 the powers and authority to call for assistance, ~~as are given to the mayor by as~~
20 provided in § 9-29-17; and
- 21 (4) ~~He shall~~Shall have ~~such further~~other authority and perform ~~such further~~other
22 duties as may be prescribed by ordinance or resolution not inconsistent with the
23 provisions of this chapter, but in no case ~~shall he~~may the mayor have the right of
24 veto.

25 **Section 45. That § 9-10-8 be AMENDED:**

26 **9-10-8.** ~~The governing body of any first or second class municipality employing a~~
27 ~~manager shall hold its regular meetings on the first Monday of each month at such hour~~
28 ~~as may be fixed by it. It may prescribe by ordinance the manner in which special meetings~~
29 ~~may be called and may also so change the date of its regular monthly meetings and so~~
30 ~~provide for regular meetings oftener than once a month~~day and time adopted by
31 ordinance, with at least one regular meeting per calendar month. The governing body
32 may, by ordinance, determine the manner in which special meetings may be called.

1 Unless a seat on the governing body is vacant due to removal, resignation, death,
2 or by operation of law, a quorum consists of the majority of all the members of the
3 governing body who are qualified to serve by election or appointment pursuant to chapter
4 9-13. The governing body may compel the attendance of absentees under such penalties
5 as may be prescribed by ordinance.

6 The meetings of the governing body are open to the public. The governing body
7 shall keep minutes of its meetings.

8 **Section 46. That § 9-10-9 be AMENDED:**

9 **9-10-9.** ~~The auditor~~ finance officer, attorney, and library board of trustees, ~~and~~
10 ~~the treasurer shall~~ must be appointed by the governing body and may be removed at any
11 time by ~~such~~ the governing body.

12 ~~The auditor and the treasurer~~ finance officer shall ~~each~~ appoint all deputies and
13 employees in ~~his~~ the finance office.

14 All other officers and employees, including all members of boards and commissions,
15 except as otherwise provided by law, ~~shall~~ must be appointed ~~by the manager,~~ and may
16 be removed, ~~by him~~ the city manager.

17 **Section 47. That § 9-10-10 be AMENDED:**

18 **9-10-10.** The city manager ~~shall~~ must be chosen by the governing body on the
19 basis of ~~his~~ executive and administrative qualifications, ~~with special reference to his actual~~
20 experience in, or ~~his~~ knowledge of, accepted practices in respect to the duties of ~~his~~ office.
21 ~~At the time of his appointment he need not be a resident of the city or state, but during~~
22 ~~his tenure of office he shall reside within the city.~~ The governing body may establish
23 residency requirements for the manager.

24 ~~No~~ A person elected to membership on the governing body ~~shall~~ may not be eligible
25 for appointment as manager until one year has elapsed following the expiration of the
26 term for which ~~he~~ the member was elected.

27 **Section 48. That § 9-10-11 be AMENDED:**

28 **9-10-11.** The governing body shall appoint the city manager for an indefinite term,
29 but may suspend the manager by resolution of intent to remove the manager approved
30 by a majority vote of all the members of the governing body. The resolution of intent to
31 remove the manager must set forth the reasons for the suspension and proposed removal,

1 and a copy of the resolution must be served immediately upon the manager. The manager
2 may reply in writing to the resolution and may request a public hearing within fifteen days
3 of being served the resolution. If a public hearing is requested by the manager, the
4 governing body must ~~set a time for the~~ within fifteen days, hold a public hearing upon
5 the question of the manager's removal, and the final resolution removing the manager
6 may not be adopted until the public hearing has occurred.

7 The manager's pay must continue until the manager's removal is effective as
8 provided by this section. The action of the governing body in removing the manager is
9 final.

10 **Section 49. That § 9-10-12 be AMENDED:**

11 **9-10-12.** In case of the absence or disability of the manager or in case of ~~his~~
12 suspension as provided in § 9-10-11, the governing body may designate a qualified
13 administrative officer of the ~~first or second class~~ municipality to perform the duties of the
14 manager during ~~such the~~ absence, disability, or suspension.

15 **Section 50. That § 9-10-13 be AMENDED:**

16 **9-10-13.** The city manager ~~shall be~~ is responsible to the governing body for the
17 proper administration of all affairs of the ~~first or second class~~ municipality ~~placed in his~~
18 ~~charge. To that end, except.~~ Except as otherwise provided by law, ~~he shall have the~~
19 manager has power to appoint and remove all officers and employees in the administrative
20 service of the municipality and may authorize the head of any department or office
21 ~~responsible to him~~ to the manager to appoint and remove subordinates in ~~such the~~
22 department or office. Appointments made by or under the authority of the manager ~~shall~~
23 must be made without definite term, on the basis of executive and administrative ability,
24 and on the basis of the training and experience of ~~such the~~ appointees in the ~~work which~~
25 ~~they are to perform~~ assigned work.

26 **Section 51. That § 9-10-14 be AMENDED:**

27 **9-10-14.** ~~The~~ Except as otherwise provided in this section, the city manager and
28 every officer of the ~~first or second class~~ municipality, whether appointed by the manager
29 or the governing body, shall furnish a bond to the municipality in ~~such the~~ form and ~~in~~
30 ~~such~~ amount as may be required by the governing body. ~~Such The~~ bond shall must be
31 approved by the governing body and ~~be~~ filed with the ~~auditor~~ finance officer. An individual

1 bond is not required, provided the municipality has blanket coverage pursuant to § 3-5-
 2 14.

3 **Section 52. That § 9-10-15 be AMENDED:**

4 **9-10-15.** ~~The city manager shall have the following further powers and duties:~~

5 (1) ~~He shall see~~See that the municipal laws and, ordinances, and resolutions are
 6 enforced;

7 (2) ~~He shall supervise~~Supervise the administration of the affairs of the ~~first or second~~
 8 ~~class~~ municipality;

9 (3) ~~He shall make such~~Make recommendations to the governing body concerning the
 10 affairs of the ~~first or second class~~ municipality as may seem ~~to him desirable~~
 11 prudent;

12 (4) ~~He shall keep~~Keep the governing body advised of the financial condition and future
 13 needs of the ~~first or second class~~ municipality;

14 (5) ~~He shall prepare~~Prepare and submit to the governing body an annual budget ~~not~~
 15 ~~later than August first of each year on a date determined by the governing body~~
 16 pursuant to §§ 9-21-34 and 9-21-34.1;

17 (6) ~~He shall see~~See that all terms and conditions imposed in favor of the ~~first or second~~
 18 ~~class~~ municipality or its inhabitants in any contract or franchise to which the
 19 municipality is a party are faithfully kept and performed;

20 (7) ~~Except when the governing body may be considering his removal the manager shall~~
 21 ~~be~~Be entitled to be present and take part in discussions at all meetings of ~~such the~~
 22 governing body and its committees, ~~and to take part in their discussions except~~
 23 when the governing body is considering removal of the manager;

24 (8) ~~He shall sign~~Sign all warrants for the payment of money, ~~and the same shall which~~
 25 warrants:

26 (a) Must be countersigned by the ~~auditor finance officer, but no warrant shall~~;
 27 and

28 (b) May not be issued until the claim ~~therefor~~ has been approved by the
 29 governing body, except as ~~may be~~ otherwise provided by ordinance or
 30 resolution;

31 (9) ~~He shall have~~Have the right to prepare and introduce ordinances and resolutions
 32 and take part in the discussions on all matters coming before the governing body,
 33 ~~but shall have no~~ the manager may not vote; and

1 (10) ~~The manager shall have such further~~Have other powers and duties as may be
2 prescribed by ordinance or resolution.

3 ~~No contract of the manager for the payment of money in excess of two hundred~~
4 ~~dollars, except for current necessities, shall be binding upon the first or second class~~
5 ~~municipality unless the payment shall be approved by the governing body.~~

6 **Section 53. That § 9-10-17 be AMENDED:**

7 **9-10-17.** It is a Class 2 misdemeanor for the city manager, or an officer or
8 employee appointed by ~~him~~ the manager, to solicit any person to vote for or against any
9 candidate for alderman or commissioner of the ~~first or second class~~ municipality by which
10 he the manager is employed at any municipal election.

11 **Section 54. That § 9-10-18 be AMENDED:**

12 **9-10-18.** Provisions of the statutes governing ~~first or second class~~ municipalities
13 inconsistent with this chapter ~~shall be~~ are inapplicable to municipalities employing a city
14 manager.

15 **Section 55. That a NEW SECTION be added to chapter 9-10:**

16 Except as otherwise provided in this section, a contract of the municipality is not
17 valid unless the contract has been authorized by a vote of the governing body at an official
18 meeting, is executed in the name of the municipality by the mayor, is countersigned by
19 the finance officer, and has the corporate seal attached.

20 Pursuant to § 9-1-5, the governing body of a municipality may, by ordinance or
21 resolution, delegate to the manager the authority to enter into a contract on behalf of the
22 municipality and to execute the contract and any other instrument necessary or
23 convenient for the performance of the contract, subject to the limitations established by
24 the governing body.

25 **Section 56. That § 9-11-6 be AMENDED:**

26 **9-11-6.** If a petition signed by fifteen percent of the registered voters of any
27 municipality, as determined by the total number of registered voters at the last preceding
28 general election, is presented to the governing body, requesting that an election be called
29 for the purpose of voting upon a question of change of form of government or upon a
30 question of the number of wards, commissioners, or trustees, the governing body must

1 call an election that must be held within fifty days from the date of the filing of the petition
2 with the municipal finance officer. At that election, the question of the change of form of
3 government or the number of wards, commissioners, or trustees, or both, must be
4 submitted to the voters. No petition is valid if filed more than six months after the
5 circulation start date declared on the petition forms. If the petition is filed on or after
6 January first prior to the annual municipal election and within sufficient time to comply
7 with the provisions of ~~§ 9-13-14~~ chapter 9-13, the question may be submitted at that
8 annual municipal election.

9 The election must be held upon the same notice and conducted in the same manner
10 as other municipal elections.

11 **Section 57. That § 9-11-9 be AMENDED:**

12 **9-11-9.** ~~If an election changes the question of whether to change the form of~~
13 ~~government or number of commissioners, wards, or trustees is approved in an election~~
14 ~~pursuant to § 9-11-6, at the next annual municipal election or at a special election called~~
15 ~~by the governing board and held pursuant to § 9-13-14, officers shall~~ elected officials
16 must be chosen under the changed form of government.

17 **Section 58. That § 9-11-11 be AMENDED:**

18 **9-11-11.** Each first or second class municipality must be governed by a mayor and
19 common council, a mayor and a common council with a city manager, a board of
20 commissioners, or a board of commissioners with a city manager. Each third class
21 municipality must be governed by a board of trustees, with or without a city manager.

22 The present form of government of existing municipalities must continue until
23 changed as provided by this title.

24 **Section 59. That § 9-12-1 be AMENDED:**

25 **9-12-1.** Every municipality ~~shall have~~ has the power:

- 26 (1) To sue and be sued and to contract in its corporate name;
27 (2) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold
28 in its corporate name, or use and control as provided by law, both real and personal
29 property and easements and rights of way within or without the corporate limits
30 for all purposes authorized by law or necessary to the exercise of any power
31 granted;

- 1 (3) To provide that supplies needed for the use of the municipality ~~shall be~~ are
2 furnished by contract let to the lowest responsible bidder, except as otherwise
3 provided by law;
- 4 (4) To construct, operate, and maintain an auditorium and all public buildings
5 necessary for the use of the municipality;
- 6 (5) To insure the public property of the municipality;
- 7 (6) To convey, sell, give, dispose of, or lease ~~both~~ the personal and real property of
8 the municipality as provided by ~~this title~~ the laws of this state; and
- 9 (7) To perform all administrative and financial functions for all purposes authorized by
10 law or necessary to the exercise of any power granted.

11 **Section 60. That § 9-12-3 be AMENDED:**

12 **9-12-3.** Every municipality may appropriate funds to pay the necessary expenses
13 of its officers or employees in conducting ~~such~~ business or attending ~~such~~ meetings within
14 or without the state as the governing body ~~shall determine~~ determines necessary to carry
15 out ~~its~~ authorized municipal activities.

16 **Section 61. That § 9-12-5.1 be AMENDED:**

17 **9-12-5.1.** Every municipality may lease its ~~municipally owned~~ municipally owned
18 property. ~~Any such~~ The lease ~~shall~~ must be for a term and upon the conditions provided
19 by ~~resolution~~ of the governing body.

20 **Section 62. That § 9-12-5.2 be AMENDED:**

21 **9-12-5.2.** If the governing body decides to lease any municipally owned property
22 to any private person for a term exceeding one hundred twenty days and for an amount
23 exceeding two thousand five hundred dollars annual value ~~it shall~~ the municipality must
24 adopt a resolution of intent to enter into ~~such~~ the lease, and the resolution must fix a time
25 and place for public hearing on the adoption of the lease resolution. Notice of the hearing
26 ~~shall on the adoption of the lease resolution must~~ be published in the official newspaper
27 once, at least ten days prior to the hearing. Following the hearing, the governing body
28 may proceed to authorize the lease upon the terms and conditions it determines.

29 **Section 63. That § 9-12-10 be AMENDED:**

1 **9-12-10.** Every ~~first or second class~~ municipality ~~shall have~~ has power to provide
2 for the taking of the census of the municipality ~~not oftener than once in three years.~~

3 **Section 64. That § 9-12-14.1 be AMENDED:**

4 **9-12-14.1.** A municipality may pay compensation to a regularly scheduled
5 commercial air carrier to provide basic or enhanced air service ~~as provided in the Airport~~
6 ~~and Airway Safety and Capacity Expansion Act of 1987 and may provide compensation to~~
7 ~~a regularly scheduled air carrier under contract with the South Dakota Airline Authority.~~
8 ~~Funds provided by a municipality to pay compensation for such air service shall be~~
9 ~~budgeted pursuant to chapter 9-21.~~

10 **Section 65. That § 9-9-13 be REPEALED.**

11 ~~Each meeting of the board is open to the public and the board shall keep a journal~~
12 ~~of its proceedings.~~

13 **Section 66. That § 9-10-2 be REPEALED.**

14 ~~When there has been an election as provided in § 9-10-1 and when the proposition~~
15 ~~to employ a city manager has failed to receive a majority vote, such proposition shall not~~
16 ~~be again submitted for the period of one year.~~

17 **Section 67. That § 9-12-9 be REPEALED.**

18 ~~Every municipality shall have power to appropriate funds for the proper observance~~
19 ~~of Memorial Day and Veterans' Day.~~