

South Dakota Election Day Precinct Manual 2008



Issued By

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TO MEMBERS OF PRECINCT ELECTION BOARDS:

You have been chosen to carry out one of the most essential functions of our Republic – conducting a free and fair election in your precinct. Thank you for your dedication.

Election days are very important in our country. You have an awesome responsibility in conducting this election. It is every eligible citizen's right to cast his or her vote at the polls, and it is your responsibility to assist voters in every way possible.

This manual has been prepared to assist you on Election Day. We have included the information which will be most useful to you in carrying out your duties.

Pages 2-18 contain easy to understand instructions. Pages 4 through 13 of this manual apply to all election boards. Pages 13 through 17 apply only to hand counted paper ballot precincts. Special instructions on pages 17-18 apply only to those precincts using optical scan ballots.

Your county auditor, city finance officer or school business manager has instructed you during the pre-election training school on your equipment and supplies. Please follow the directions given you by those individuals because they are in charge of primary, general, county, city or school elections.

Throughout these instructions reference is made to laws and rules so that you can look up the statute or rule that governs the activity. SDCL means South Dakota Codified Laws and ARSD refers to the Administrative Rules of South Dakota. These laws and rules are printed in the back of this manual.

Thank you for serving the citizens of South Dakota.

Sincerely,

A handwritten signature in black ink that reads "Chris Nelson".

Chris Nelson
Secretary of State

Election Day Precinct Manual

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Permission has been granted by Election Systems & Software (ES&S) to publish certain parts of their training manual.

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Guidelines for Precinct Election Boards

General Information:

Dates

The primary election is the first Tuesday after the first Monday in June (SDCL 12-2-1). The general election is the first Tuesday after the first Monday in November (SDCL 12-2-2).

Hours

Primary, General, Municipal and School Elections: Polls are open from 7:00 a.m. to 7:00 p.m. legal time (SDCL 12-2-3).

Polls are not to be closed until all voters who have presented themselves at the polls, inside or outside, prior to the closing hour, have had the opportunity to vote (SDCL 12-2-3).

All precinct election board workers must stay at the polls at all times until the polls are closed and the ballots turned over to the counting board, if one is appointed, or transported to the county auditor's office after the vote-counting is completed (SDCL 12-18-1.4, 12-18-1.5).

If any person who has been appointed as a precinct superintendent or deputy of the election board or of the counting board refuses to take the oath or is not at the polling place when the polls open, the position of the person shall be filled by the voters of the precinct present at the polling place when it opens. The person selected shall be vested with the same power for that election as if regularly appointed (SDCL 12-15-10).

Impossible to Open the Polls

If weather conditions make it impossible to open the polls on time for a local election (not primary or general), the governing body of the jurisdiction may postpone the election for one week (SDCL 12-2-4).

Emergency

When an emergency such as a shortage of ballots or mechanical failure of voting machines exists, the county auditor may authorize the polls to remain open until the emergency is resolved. If an emergency arises, phone the county auditor's office for instructions (SDCL 12-2-4).

Election Officials

Each election board shall have a precinct superintendent and two, four or six precinct deputies. The precinct superintendent is in charge of the polling place and supervises the precinct deputies. The precinct superintendent will issue instructions and assign election board duties to each member of the election board. (SDCL 12-15-1, 12-18-1.2)

The person in charge of the election may also appoint a precinct assistant (SB 11).

No Campaigning at the Polls:

No electioneering, campaign posters, exit polling, or solicitation of votes is allowed within 100 feet from the entrance to the polls, nor are any communications systems or public address systems allowed within that area (SDCL 12-18-3). This area should be checked throughout Election Day to insure that prohibited activity is not occurring. If a situation develops which cannot be handled politely, notify the county auditor or other designated official.

No radios or televisions in the polling place may be tuned to stations carrying political ads during the time the polls are open.

Judges should check all voting booths periodically to remove any campaign material or other litter a voter may have left behind (SDCL 12-18-9.2).

Food or Other Item of Value

No food or other item of value may be offered by any person, political party or other entity to any person in exchange for showing up to vote. (SDCL 12-26-15)

Poll Watchers:

South Dakota Poll Watcher and Observer Guidelines Issued by Secretary of State Chris Nelson – September 2004

South Dakota law allows poll watchers and observers to be present to observe the voting and counting activity at polling places and provides guidelines for poll watchers and observers. (SDCL 12-18-8.1, 9, 9.1)

Administrative rule 5:02:12 establishes the number of poll watchers allowed at each polling place:

- Primary – one for each candidate
- General – one for each party
 - one for each independent candidate
 - one for each slate of presidential electors
 - one for each ballot question side
- Additional poll watchers are allowed if “adequate space” permits.

Any person present at a polling place to observe who does not declare themselves to represent one of the above categories is not a poll watcher but is an observer.

Election board workers may not be poll watchers.

Poll watchers must be positioned in a location where they can plainly see and hear what is done within the polling place but may not interfere in any way.

Poll watchers and observers may converse with the election board and look at the pollbook only if it doesn't interfere with the voting process.

In the polling place or within 100 feet of the entry, poll watchers and observers MAY NOT:

- Campaign or wear buttons or clothing containing campaign information (SDCL 12-18-3)
- Solicit votes for or against any person, political party or ballot question position (SDCL 12-18-3)
- Maintain an “office or communication center” (SDCL 12-18-3)
- Interfere with a voter’s free access to the polling place (SDCL 12-18-3)
- Interfere with the official actions of the election board (SDCL 12-18-9.1 and 12-26-22)
- Disrupt the administration of the polling place (SDCL 12-18-3)
- Touch any election supplies (SDCL 12-18-9.1)

- Attempt to control the legal actions of voters or the election board (SDCL 12-18-9.1)
- Use a cell phone which distracts election workers or voters (SDCL 12-18-3)
- Look into an occupied voting booth (SDCL 12-18-9.1)
- Disobey a lawful command of an election worker (SDCL 12-26-21)
- Cause a disturbance or breach of peace (SDCL 12-26-22)
- Engage in disorderly conduct such as threatening behavior or making unreasonable noise (SDCL 12-26-22 and 22-13-1)
- Advocate for or against a voter as the voter interacts with the election board (SDCL 12-18-3, 12-18-9.1, 12-18-10, 12-26-22)
- Run a system where cards or other items are exchanged with voters or other persons (SDCL 12-18-3)

The telephone at the polling place is for the use of the election board. Poll watchers and observers MAY NOT use the polling place telephone designated for the election board.

If a poll watcher or observer has a concern or question about any action occurring in the polling place, that person should bring this concern to the attention of the precinct superintendent. It is then the superintendent's responsibility to respond to that question or concern. Poll watchers and observers MAY NOT take any unilateral steps to change any action, inaction or activity occurring at the polling place. If the precinct superintendent fails to correct the questioned activity, the poll watcher or observer should contact the county auditor.

Before Opening the Polls:

The following is a list of items that will be needed at each polling place on Election Day.

- Voting booths
- Polling place sign – minimum size 11" X 17" (SDCL 12-14-14)
- AutoMARK voter assist terminal (optional for school and municipal elections)
- AutoMARK table with a chair available for voter use
- Two sizes of instructions to the voters. Small size for each voting booth and two large size posters to display in the polling place (5:02:05:02)
- Official ballots
- Sample ballots
- Poll book which includes election board oaths
- Duplicate tally sheet (paper ballot precinct only)
- Ballot receipt signed by the election board superintendent (5:02:05:08)
- Ballot receipt signed by the election board judges (5:02:05:06)
- Ballot box seals, metal (5:02:16:37)
- Ballot box seals, paper (5:02:16:38)
- Ballot stamp (SDCL 12-16-30)
- Sample ballots to post in the polling place (SDCL 12-16-15)
- Emergency voter cards (5:02:05:20)
- Affirmation of Inactive Voter – use voter registration card (5:02:05:21)
- Spoiled and replaced ballot envelopes (12-18-24)
- Record of spoiled ballots (5:02:05:10)
- Ballot wrappers, envelopes and seals
- Poll book return envelope and seal
- Ballot box seals envelope (5:02:05:09)
- Recap sheets – optical scan (5:02:09:16); paper ballot (5:02:16:36)

- Provisional ballot envelopes (5:02:05:22)
- Notice to provisional voter (5:02:05:23)
- Personal Identification Affidavit (5:02:05:25)
- Polling place voter ID sign for each entrance into polling place (5:02:05:26)
- South Dakota polling place voter key

Superintendent

It is the responsibility of the precinct superintendent to prepare voting booths and supplies for balloting. Booths should be set up so as to be screened from observation and all supplies should be in place before the polls are opened (SDCL 12-18-1).

- ▶ Set up the Automark ballot marking machine and voting booth for federal elections as described on page 80.
- ▶ Conduct Automark test as described on page 83.
- ▶ Post regular size “Instructions to the Voters” in each voting booth. Two large “Instructions to the Voters” posters must also be posted in the polling place.
- ▶ Post sample ballots in a manner that can be plainly seen and read by the public.
- ▶ Display polling place sign outside of entrance into polling place.
- ▶ An American Flag is to be displayed either inside or outside of all polling places.
- ▶ Post Polling Place Voter ID sign on each entrance and at one location in the polling place.

AutoMARK Election Day Checklist for the Precinct Superintendent in charge of the AutoMARK

Before Polls Open

- The AutoMARK is in place on the special AutoMARK table, with the INSTRUCTIONS TO THE VOTERS label below the AutoMARK. The AutoMARK is in a location that both encourages accessibility and maintains privacy. The AutoMARK is plugged in for power.
- A print cartridge is installed.
- The touch screen is out and ready.
- The ballot feed tray is out and ready.
- The headphones are not plugged into the audio slot but are next to the AutoMARK on the table.
- The privacy shield that comes with the special table is in place over the AutoMARK.
- Insert the gold Mode Switch Key and turn to ON. Be Patient ☺ (The screen will remain black for about 1 minute and then finally show boot progress.)
- Verify that the light above the key is green to confirm that the AutoMARK is receiving AC power. (If the light is yellow, the machine is on battery power, which will only last 2 hours.)
- Perform the required voting test with at least the 2 special ballots marked TEST BALLOT by inserting, viewing, listening to, moving through, and marking the 2 ballots. (Use the touch screen and the keypad to communicate with the AutoMARK.) If the system does not properly mark the test ballots, the precinct superintendent shall work on the system until a successful test is conducted. The precinct superintendent shall maintain custody of the key to activate the system at all times. Call your County Auditor if you need help.
- Return all ballots used to test the AutoMARK to the Election Day Polling Place Kit.
- Turn the Mode Switch Key to TEST.
- From the information displayed at the bottom of the TEST MODE screen, record the number after LIFETIME PRINT COUNTER on the AutoMARK Election Day Polling Place Recording Sheet.

- Record also the serial number of the AutoMARK, which is also displayed at the bottom of the TEST MODE screen.
- Record the number of the seal that is securing the door that contains the election definition.
- Turn the Mode Switch Key back to the ON position, remove the key, and keep it secure. The AutoMARK is ready for voters.

After Polls Close

- Insert the Mode Switch Key and turn to TEST.
- Record again the number after LIFETIME PRINT COUNTER.
- Record again the number of the seal that is still securing the door that contains the election definition.
- Sign the completed Election Day Polling Place Recording Sheet.
- Turn the Mode Switch Key to OFF and remove the key. Return the key and the AutoMARK Election Day Polling Place Recording Sheet to the AutoMARK Election Day Polling Place Kit.
- Remove the print cartridge from the AutoMARK and seal it in the ziplock bag in the Kit.
- Return the AutoMARK Election Day Polling Place Kit to your County Auditor apart from the AutoMARK case on election night.

AutoMARK Election Day Polling Place Recording Sheet

Before Polls Open

LIFETIME PRINT COUNTER: _____

Serial Number: AM0105_____

Number of the Seal: _____

After Polls Close

LIFETIME PRINT COUNTER: _____

Number of the Seal: _____

Name of County: _____

Name of Polling Place: _____

Signature of the Precinct Superintendent in charge of the AutoMARK

If you have time, please offer any comments below:

Did you have any problems with the AutoMARK during Election Day? If so, please describe:

Describe any ideas or concerns on how the AutoMARK functioned or was received by voters throughout Election Day.

Oath of Office

Before opening the polls, the precinct superintendent and deputies shall take the oath of office. They may give the oaths to each other, with all signing in the appropriate place in the pollbook. The wording for the oath can be found in SDCL 12-15-9.

Counting Ballots

The superintendent was issued a receipt for the ballots if they were picked up at the school of instruction (SDCL 12-16-19, ARSD 5:02:05:08). If they are delivered to the superintendent prior to the opening of the polls, the superintendent shall execute the receipt and the person delivering the ballots shall immediately return it to the county auditor. The superintendent delivers the sealed boxes or packages of ballots to the precinct deputies and they sign a receipt for the official ballots (SDCL 12-16-20, ARSD 5:02:05:06). The superintendent retains this receipt with other records.

Before opening the polls, the election board must count the ballots and verify that count against the receipts given (SDCL 12-18-1.1).

The ballot box should be carefully examined and everything removed from box. Ballot boxes are then sealed with the seals provided and are not to be opened until the polls are closed, all of the absentee ballots processed, and the board is ready to begin the counting of the votes (SDCL 12-18-4).

Duties of the Board

The superintendent shall designate a precinct worker to be in charge of the registration list. Each voter's name must be verified on the registration list and a distinct mark placed by the name or in the appropriate space to indicate that the voter participated in the election (SDCL 12-4-10, 12-18-1.2).

The superintendent shall designate a precinct worker to be in charge of the official ballots and the official precinct ballot stamp, and shall designate another worker to be in charge of receiving the voted ballots and placing them in the ballot box. The worker may fold the ballot if necessary. The voter may place his own voted ballot in the ballot box after showing the precinct worker responsible for the ballot box the official stamp on the ballot (SDCL 12-18-1.2, 12-18-12, 12-18-13).

A precinct worker belonging to a different political party than the precinct worker who is in charge of the registration list shall be in charge of the poll book and will write the name of each person voting in the order in which they present themselves at the polls (SDCL 12-18-5). Any other precinct workers shall provide assistance to the election board members and voters as directed by the superintendent.

If the superintendent so authorizes, the duties may be rotated among precinct workers.

Polls are Open:

Note

Open the polls promptly at the correct time. One of the precinct election board members may publicly announce that the polls are now open.

Voter Registration List:

Who Votes

Only registered voters are allowed to vote. No one may register at the polls. Voter registration is cut off 15 days prior to any election and no one registering after that cutoff date is eligible to vote in that election (SDCL 12-18-7.1). In primary elections, voters are only given the ballot for the party in which they are registered according to the official registration list.

Voters in municipal and school elections must meet additional residency criteria in order to vote. The voter must have lived within the municipality or school district at least 30 days within the last year. An active duty member of the armed forces whose home of record is within the jurisdiction automatically meets the residency requirement. A full-time postsecondary education student who resided in the municipality or school district immediately prior to leaving for postsecondary education also meets the residency requirement. Only an election worker or a poll watcher may challenge the residency of a voter in the manner provided in SDCL 12-18-10. The election board will make a ruling on whether the voter meets the residency requirement based on the evidence presented and their personal knowledge.

Inactive Registration List

If a voter is on the inactive registration list he or she may only vote following completion of a new voter registration card on which the voter must provide his or her current address (SDCL 12-18-7.4, ARSD 5:02:05:21). If, however, the inactive voter's current address is outside of South Dakota, the voter may not vote. Return these cards to the county auditor.

Voter's Name not on the List - Emergency Voting Card

If a voter's name is not on the registration list, one of the precinct workers should contact the auditor to see if the voter's name was mistakenly left off the list. If the auditor confirms the voter's registration, he shall be permitted to vote and his name entered in the poll book upon completion of an emergency voting card.

If communication with the auditor is not possible and the voter has an acknowledgement notice dated prior to the official deadline for registration cutoff, the voter may be permitted to vote after completing the Emergency Voting Card (SDCL 12-18-7.1, 12-18-7.2, ARSD 5:02:05:20).

After completion, the original emergency voting card shall be retained by the superintendent of election and returned to the auditor with the other permanent records. The duplicate shall be given to the voter. In a primary election, the party affiliation of the voter completing an emergency voting card shall be designated on the emergency voting card (SDCL 12-18-7.2).

If the auditor cannot confirm the voter's registration, the voter may not vote with an emergency voting card but must be given the opportunity to vote a **provisional ballot**. Then have the voter fill out a regular voter registration card so that they can vote a regular ballot in the next election.

Provisional Ballot:

- Who may vote a provisional ballot?
- Person who:
 - Is not on the registration list; and
 - Claims to be registered in that precinct; and
 - Is not eligible to vote a regular ballot using an emergency voting card.
- Person who is successfully challenged at the polls.
- Person whose identity can't be proven by the voter identification verification listed in the "procedure for voting" section.

The procedure for voting a provisional ballot is:

- Voter must complete affirmation on the blue provisional ballot envelope.
- Write voter's name in pollbook and designate as a provisional voter using the letter P.
- Provide the voter the correct ballot and stamp with official ballot stamp.
- Voter votes the ballot and seals it in the provisional ballot envelope.
- Envelope is placed in the ballot box.

- Give the voter a “Notice to Provisional Voter” sheet.

Photo Identification and Personal Identification Affidavit:

Voter presents themselves to the precinct worker in charge of the registration list. The voter must announce their name and show a valid photo identification. Valid identification is:

- A South Dakota driver’s license or non-driver identification card;
- A passport or an identification card, including a picture, issued by an agency of the United States government;
- A tribal identification card, including a picture; or
- A current student identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota.

If the voter does not have a valid identification card, the voter must complete a **Personal Identification Affidavit** (ARSD 5:02:05:25).

A member of the election board must verify that the picture on the ID matches the voter. The name on the ID must also match the name on the voter registration list.

If the election board worker cannot make this verification, the worker may consider:

- Other forms of identification;
- Personal knowledge; and
- The voter’s explanation.

If the voter’s identity can’t be proven to the satisfaction of the election board, the voter may vote a provisional ballot.

A member of the precinct election board shall notify any person who is denied the ability to vote that the person may cast a provisional ballot.

Presenting the Ballot to the Voter:

If properly registered in that precinct, the worker marks the name in the registration list and announces the voter’s name so that another precinct worker can write the name in the poll book. **In a primary election only**, the voter’s party affiliation is also announced.

In a general election, all voters receive all ballots. In a primary election, a voter is given only the ballot for the party which the voter is registered in (SDCL 12-6-26). Voters registered as independents or with a party who is not conducting a primary may not vote in a primary election.

If a primary or general election is combined with an election for a municipality, school or other jurisdiction, it is **critical** that only voters registered in that jurisdiction be given a ballot for that jurisdiction in addition to the regular primary or general election ballot.

The precinct worker in charge of ballots puts the official stamp near the top on the back of each ballot and hands them to the voter (SDCL 12-18-12).

The precinct worker will also hand the voter a privacy sleeve and explain to the voter how to insert the ballot (as instructed by the person in charge of the election) when they are finished voting.

The precinct worker will then ask the voter “May I be of further assistance?”.

The voter enters the voting booth to vote his ballot in private. No voter should require more than ten minutes (SDCL 12-18-15) to mark his ballot. If hand-counted paper ballots are used, the ballot should be folded by the voter while still in the booth. The

voter returns the ballot to the precinct worker in charge of the ballot box who inserts the ballot into the box or the voter may place his own ballot into the box after showing the ballot stamp to the precinct worker in charge of the ballot box (SDCL 12-18-1.2, 12-18-28).

Spoiled Ballots

If a voter spoils a ballot, he may return the spoiled ballot to the precinct worker in charge of ballots and receive another ballot--not to exceed three in all. The precinct worker shall number and mark the returned ballot "spoiled and replaced" and place it in the envelope provided for that purpose. Such spoiled ballots shall be returned to the auditor at the close of the day with the other election supplies. The number of the spoiled ballot shall be placed beside the voter's name in the poll book together with the word "spoiled". The precinct workers shall keep a record of such ballots (SDCL 12-18-24, ARSD 5:02:05:10).

No voter may reenter the voting booth after he has returned his voted ballot to the precinct worker in charge of the ballot box (SDCL 12-18-15).

All ballots, whether voted or not, shall be returned to the precinct election board before the voter leaves the polling place (SDCL 12-18-23).

Assistance to a Voter who is Disabled or Illiterate

A voter who is unable to read or mark a ballot because of illiteracy or a physical disability may have the assistance of any person he or she may select. (SDCL 12-18-25).

Precinct Assistant (SDCL 12-15-1.3)

The person in charge of the election may appoint a precinct assistant. This assistant may not perform any of the duties of the election board except for the following:

- ▶ Assist with setting up the polling place.
- ▶ Direct voters to the proper election board.
- ▶ Provide instruction on the use of the electronic ballot marking system.

Challenge to a Voter:

A person's right to vote may be challenged for the following reasons only (SDCL 12-18-10):

1. As to his identity as the person registered.
2. On the grounds that within the 15 days preceding the election he has been convicted of a felony.
3. On the grounds that within the 15 days preceding the election he has been declared mentally incompetent.

A challenge will include a challenger (may only be a poll watcher or an election board worker), the voter, and the election board. A challenger must make the challenge prior to a voter being handed his/her ballot. The challenger will present evidence for the reason(s) the voter should not be allowed to vote a regular ballot and then the voter will be given the opportunity to provide his/her evidence of why he/she should be allowed to vote a regular ballot. The judges of election **must** determine from the evidence presented whether the person shall be permitted to vote, and **must** enter in the registration book their decision and the grounds stated.

Voters in municipal and school elections can also be challenged based on residency as described above in "Who Votes".

Remember, a person who is successfully challenged may vote a provisional ballot.

Processing Absentee Ballots:

At any time during the day that the election board has time, or immediately after the polls are closed, the board shall compare the signature on the statement on the ballot return envelope with the signature on the written application received from the auditor. This is done before opening or breaking the seal on the envelope.

If a voter voted absentee in the office of the person in charge of the election, the election board will not have two signatures to compare. The in-person absentee voter is only required to complete an absentee envelope which contains the application information and a single signature.

If satisfied that:

1. the ballots received were voted by the voter whose name appears on the statement,
2. the voter is registered in your precinct and has not already voted at your precinct in this election, and
3. the written application and statement were both signed by the voter or the combined absentee application/envelope was signed by the voter (not signature to compare on this combined application/envelope since it was voted in-person), the voter's name shall then be entered in the pollbook and the registration list shall be marked.

The ballots are then removed from the envelope without unfolding or examining them, **stamped with the official stamp** and deposited folded in the ballot box (SDCL 12-19-10).

Any absentee ballots that are determined by the election board to not meet the requirements of the law shall be returned unopened to the county auditor with the other election supplies. A precinct worker shall indicate on the envelope the reason for rejection.

If an absentee voter dies before Election Day, the ballot cannot be counted. The envelope will be returned unopened and a precinct worker shall indicate on the envelope the reason for not counting the ballot.

If an absentee ballot is delivered to the polls after the polls have been officially closed, it shall be marked "Delivered after closing of the polls" and returned unopened to the county auditor (SDCL 12-19-12).

Federal Absentee Write-In Ballot

General Election Only: Public Law 99-410 permits overseas voters and stateside active duty Uniformed Services members who are away from their voting residence by reason of active duty or merchant marine service to use a federally prescribed absentee write-in ballot to vote in the general election. The voter must have requested a regular absentee ballot by 3:00 pm on Election Day to qualify for the federal absentee write-in ballot. If the overseas voter's regular absentee ballot has been received prior to the closing of the polls, the regular absentee ballot shall be processed and the federal write-in ballot returned unopened to the county auditor. Do not process any federal ballots until all regular absentee ballots have been put into the ballot box. Only one ballot may be counted per voter.

Counting the Votes in Paper Ballot Precincts:

Optical Scan precincts see pages 17-18.

Counting Board

If a separate counting board has been appointed (SDCL 12-15-14), the election board delivers all the supplies to the counting board, and the counting board completes the receipt prescribed in ARSD 5:02:05:01. Before the counting board, if appointed separately from the election board, assumes its duties, the members shall execute the oaths of office printed in the pollbook (SDCL 12-20-1, ARSD 5:02:16:02).

In no way shall the election board or counting board exclude or prohibit any member of the public from witnessing the count so long as that person's conduct is not disruptive (SDCL 12-20-1, 12-26-22, ARSD 5:02:16:03).

Vote Counting

If there is no separate counting board, the election board proceeds, without adjournment, to count the votes in the presence of anyone who wishes to observe. The vote count shall continue without adjournment until completed. They shall use the tally sheet provided in the pollbook and the duplicate tally sheet (SDCL 12-20-1; ARSD 5:02:17:07).

Definition of Terms

COUNT or **COUNTING** as used in these instructions means the actual counting of the votes marked on the individual ballots.

VOTED BALLOT is any ballot placed in the ballot box.

UNUSED BALLOT is any ballot never stamped or marked by a voter.

SPOILED BALLOT is any ballot marked by a voter but not placed in the ballot box at any time. A voted ballot not counted by the board is NOT a spoiled ballot--it is a rejected ballot.

REJECTED BALLOT is any voted ballot that is not counted by the board.

COUNTED BALLOT is any voted ballot counted by the election or counting board.

DUPLICATE BALLOT occurs when two or more identical ballots stuck together are given to one voter in error.

PROVISIONAL BALLOT a voter will cast a provisional ballot when the voter believes he is registered in that precinct but is not on the voter registration list, cannot be verified by the auditor on election day or the voter was challenged at the polls. **Provisional Ballots are not counted on Election Day.**

WRITE-IN VOTE is a name written on a ballot in an attempt to indicate a vote for that person.

METAL SEAL is a device to seal ballot boxes which will preclude opening of the box without the destruction of the seal.

GUMMED SEAL is also a device to seal ballot boxes, usually signed by the precinct election workers after affixing it to the ballot box.

AutoMARK VOTER ASSIST TERMINAL is a ballot-marking system designed to provide privacy and accessibility to voters who are blind, vision-impaired, or have a disability or condition that would make it difficult or impossible to mark a ballot in the usual way.

TEST BALLOTS are the ballots the superintendent will run through the AutoMARK prior to opening the polls. These ballots are specifically marked **TEST BALLOTS** by the person in charge of the election.

Opening the Ballot Box

The ballot box is opened. The ballots are taken out, sorted (still folded) so that all ballots on candidates and issues are separately identified and counted. The ballots remain unopened, except so far as to ascertain if each ballot is single (SDCL 12-20-2, ARSD 5:02:16:06).

Duplicate Ballots Folded Together

If two or more ballots are found folded together so as to present the appearance of a single ballot, they shall be laid aside until the count of the ballots is complete. If, upon the comparison of the count of the pollbook and after considering the appearance of the ballots, a majority of the precinct workers shall be of the opinion that the ballots folded together were voted by one voter, the ballots shall be stapled together and endorsed "the duplicate ballot of one voter was not counted." (SDCL 12-20-2, ARSD 5:02:16:08)

There are two types of duplicate ballots:

1. When a voter has been given two or more identical ballots stuck together and has voted only one of them, the voted ballot shall be counted. The election or counting board would find the ballots folded together in the ballot box with the ballot stamp on the back copy and the votes marked on the top copy.
2. When a voter has been given two or more identical ballots stuck together and has voted more than one of them, and then folded them together, none of the voted ballots shall be counted. Again, the official stamp would be found only on one ballot.

Excess Ballots

If the number of ballots in the ballot box exceeds the number of voters in the poll book, as reconciled by ARSD 5:02:16:05 and 5:02:16:08, the ballots shall be replaced in the box, after any ballots folded together have been stapled and endorsed. One of the precinct workers shall publicly draw from the ballot box, unopened, as many ballots as shall be equal to the excess. Those ballots shall be endorsed "Excess ballot not counted" and placed folded in an envelope identified as containing excess ballots (SDCL 12-20-3, ARSD 5:02:16:09, 5:02:16:09.01).

Unstamped Ballots

Any unstamped ballots not covered by the duplicate ballot statutes and rules shall be void and shall not be counted. Such ballots shall be endorsed with "unstamped ballot" and placed in an envelope so identified (SDCL 12-20-6, ARSD 5:02:16:10).

Unfolding the Ballots

The election or counting board next proceeds to unfolding and further separating the ballots (SDCL 12-20-5, ARSD 5:02:16:11).

Write-in Votes

Write-in votes are not counted (ARSD 5:02:16:17.01). All other votes on the ballot shall be counted.

Order of Counting

The vote count for each candidate shall be in the same order as they appear on the ballot (SDCL 12-20-5, ARSD 5:02:16:12).

At least two precinct deputies of opposite political parties shall scrutinize each ballot as to the vote on that ballot. If there is a dispute as to how to count a vote, the precinct superintendent shall vote to break the dispute on the ballot (SDCL 12-20-5, ARSD 5:02:16:14).

A voting mark that touches the circle or square shall be counted as if it were in the circle or square. If the voting mark does not touch and is not in the circle or square, the vote is not counted (5:02:16:17.02).

If it is impossible to determine the voter's intent on any ballot or part of a ballot, only that portion of the ballot shall be void and shall not be counted as to those races for which the voter's intent cannot be determined (SDCL 12-20-7, ARSD 5:02:16:21).

As the vote is announced, two precinct deputies shall make the required mark on the tally sheet in the poll book and on the duplicate tally sheet (SDCL 12-20-5, 12-20-18, ARSD 5:02:16:15). The tally sheets contain squares of suitable size to contain five tally marks each, four of which may be upright and the fifth crossing the others at an oblique angle (SDCL 12-16-28, 12-16-34, ARSD 5:02:17:07). See example below:

The Tally Sheet used at the _____ Election held in _____

<i>Joe Candidate</i>																			
<i>Jill Candidate</i>	 																		

Immediate Unofficial Returns

The election supplies contain an *Immediate Unofficial Returns of Precinct Vote* form (ARSD 5:02:16:25). Upon completion of the vote count, the precinct workers shall enter the vote cast in that precinct for each office or question which appeared on the official ballots and enclose the unofficial returns in the envelope provided. **This envelope shall not be put in the ballot box**, but must be returned to the auditor separate from any other envelope or wrapper (SDCL 12-20-11).

Signing of Poll Book

The precinct superintendent and deputies (and the members of the counting board, if appointed) must complete and sign the appropriate certificates included following the tally sheet and official vote count in the pollbook and on the duplicate tally sheet (ARSD 5:02:16:31, 5:02:17:09, 5:02:17:10).

Disposition of Voted Ballots

Following the counting of the ballots, the precinct superintendent and deputies of the election or canvassing board, if appointed, shall deposit all voted ballots in the ballot box, keeping them separated in wrappers or envelopes and sealed (SDCL 12-20-20, ARSD 5:02:16:33).

Spoiled or Unused Ballots

All spoiled and unused ballots shall be returned to the auditor in plain wrappers or envelopes with the words "spoiled ballots" or "unused ballots" added to each wrapper or envelope. Each wrapper or envelope shall be sealed by a ballot seal containing the name or number of the precinct and the number of ballots (SDCL 12-18-32, ARSD 5:02:16:34).

Provisional Ballots

Provisional ballots are not counted on Election Day. All voted provisional ballot envelopes shall be returned to the person in charge of the election and sealed in a large provisional envelope that will hold all voted provisional ballot envelopes. The person in charge of the election will diligently investigate the voter registration status of the person after Election Day. These ballots, if determined eligible to be counted, will be counted one hour prior to the official canvass or at another time established by the person in charge of the election (SDCL 12-20-13.2, 12-20-13.3).

Duplicate Ballots Not Counted

Each type of duplicate ballot as identified by ARSD 5:02:16:08 shall be returned to the ballot box in a plain wrapper or envelope and sealed as provided above. Those ballots

shall have the wrapper or envelope marked as either "stapled duplicate ballots counted" or "stapled duplicate ballots not counted" (SDCL 12-20-2, 12-20-20, ARSD 5:02:16:34.01).

Recap Sheet

The recapitulation sheet shall be filled out indicating the disposition of all of the ballots. Total ballots received and total ballots returned should be the same number. This recap sheet, together with the spoiled and unused ballots, shall be returned to the person in charge of the election separate from the ballot box. **Do not put these ballots or the recap sheet in the ballot box.**

Sealing of Ballot Box

After depositing all voted ballots (**except provisional ballots**) in the ballot box, the judges shall seal the ballot box where the box and clasp connect (SDCL 12-20-20, ARSD 5:02:16:37). Paper seals may be used to cover the slot or any other opening on the ballot box through which ballots are deposited during the course of voting. These seals shall be signed by the precinct superintendent and deputies (SDCL 12-20-20, ARSD 5:02:16:38).

Poll Book

The poll book shall be placed in a poll book return envelope and the envelope sealed with the prescribed seal. The sealed envelope shall be returned to the auditor or person in charge of the election along with the ballot box. **The pollbook must not be placed in the ballot box.**

Duplicate Tally Sheet

The duplicate tally sheet shall be placed in its return envelope and the envelope sealed with the prescribed seal. The sealed envelope shall be returned to the auditor or person in charge of the election along with the ballot box. **The duplicate tally sheet must not be placed in the ballot box.**

Expense Form

If directed by the county auditor, election workers should complete and sign the election expense bill included in the supplies. The bill should be returned to the county auditor in the appropriate envelope with the other election supplies.

Returning Supplies

All supplies, ballot boxes containing voted ballots, poll book, duplicate tally sheet, unused and spoiled ballots and other material should be returned to the county auditor by the superintendent or precinct deputy designated by him (SDCL 12-20-21). If the county auditor determines that the roads are impassable, the superintendent shall report the unofficial returns by telephone to the auditor and return the sealed ballot box and all other supplies to the auditor by noon on the day following the election.

Optical Scan Ballot Systems:

Election board workers in precincts using optical scan ballots should follow the procedures outlined on pages 4 through 13 in the *Guidelines for Precinct Election Boards*.

Insure that each voter is aware of the importance of using the correct marking device and that these are supplied in each voting booth.

A voter may request verbal instruction on how to properly mark the ballot with the instrument provided. You may also refer the voter to the posted instructions in the voting booth. If it is still not clear to the voter on the method of marking the ballot after having read the posted instructions, a precinct worker may demonstrate to the voter the

procedure for marking a ballot. **It is important that a precinct worker not influence, recommend, or suggest any choice of a particular candidate or party, nor offer opinion on any ballot issues while instructing the voter on marking the ballot.** Election officials from the two parties shall alternate in giving instructions. (SDCL 12-17B-7, ARSD 5:02:09:04.03)

Instruct the voter to place the voted ballot in the privacy sleeve so that the ballot stamp is visible to you before the ballot is placed in the box. If there is no stamp on the ballot, it shall be placed in a separate marked envelope not to be counted and the voter is given a new ballot.

After Closing the Polls

DO NOT open the ballot box. Complete the recapitulation sheet (ARSD 5:02:09:16). If line 9 and line 12 are not the same, compare voters in the pollbook and the registration list and correct any mistakes.

Two precinct workers (one of each political party) will transport the transfer case with the voted ballots to the county auditor's office or other counting location. The auditor may direct two deputy county auditors to transport the transfer case to the counting location.

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CHAPTER 12-2.

DATES AND HOURS OF ELECTIONS

12-2-1. Date of primary election.

The primary election provided for in chapter 12-6 shall be held at the regular polling place in every voting precinct throughout the state on the first Tuesday after the first Monday in June of every even-numbered year

12-2-2. Date of general election - Officers elected.

On the first Tuesday after the first Monday in November of each even-numbered year an election shall be held in the several election precincts in the state, which shall be known as the general election and the several state, district, and county officers, members of the Legislature, senators and representatives in Congress, and judges of the Supreme and circuit Courts shall be elected at the general election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at a special election; and in a year when a President and vice-president of the United States are to be chosen, a number of electors of President and vice-president of the United States, equal to the number of senators and representatives in Congress to which the state may be entitled or such other number as the Congress of the United States may require, shall be selected at such election.

12-2-2.1. Statewide elections limited to primary, runoff and general election dates.

No statewide election or referendum may be held on a date other than a date ordinarily provided by statute for a primary, runoff or general election, with the exception of a date provided by the Legislature to hold a special election.

12-2-3. Opening and closing times for polls - Voters in line at closing time.

At each election to be held under this title, the polls shall be opened at the hour of seven a.m. and remain continuously open until seven p.m., standard time or daylight savings time, whichever is in effect. However, no polling place may be closed at any election until all the voters who have presented themselves at the polling place inside or outside for the purpose of voting prior to the time of the closing of the polls have had time to cast their ballots.

12-2-4. Emergency extension of closing times - Delayed openings.

Notwithstanding § 12-2-3, the county auditor may, upon request of the superintendent of an election precinct, if an emergency exists by reason of mechanical failure of a voting machine or an unanticipated shortage of ballots or like

unforeseen event warrants it, extend the polling hours for that precinct until the emergency situation has been resolved. The governing body holding a local election may delay the opening of any polling place for any election except a primary or general election for one week if weather conditions make it impossible to open at the correct time. The polling place shall then remain open for the same number of hours as it would normally have been open.

12-2-5. Elections of governmental subdivision held in conjunction with June primary election.

Any other provision of law notwithstanding, the members of the governing body of any governmental subdivision may choose to hold their elections in conjunction with the regular June primary election. The combined election is subject to approval by the county commissions of the counties in which the governmental subdivision is located. Expenses of a combined election shall be shared in a manner agreed upon by the governing body of the subdivision and the county commissions involved. All other governmental responsibilities associated with holding elections under the provisions for that subdivision and Title 12 shall be shared as agreed upon by the governing bodies. The governmental subdivision clerk shall publish the notice of vacancy between February fifteenth and March first. No nominating petition may be circulated for signatures until March first. Nominating petitions shall be filed under the provisions required for that subdivision by the last Tuesday in March. The clerk shall certify to the appropriate county auditor the candidate names and ballot language to be voted on by the first Thursday after the last Tuesday in March.

12-2-6. Combined elections of governmental subdivisions.

The members of the governing body of any governmental subdivision may choose to hold their election in conjunction with any other governmental subdivision's election if the statutory dates for the election coincide. The combined election is subject to approval by all of the governing bodies involved in the combined election. Expenses of a combined election shall be shared in a manner agreed upon by the governing bodies involved in the combined election. All other governmental statutory responsibilities associated with the election shall be shared as agreed upon by the governing bodies.

CHAPTER 12-14.

PRECINCTS AND POLLING PLACES

12-14-13. Display of flag at polling places at election.

The American flag shall be displayed inside or outside of all polling places within this state at each election.

12-14-14. Sign to identify polling place on Election Day.

On Election Day a sign, with a minimum size of eleven inches by seventeen inches, shall be conspicuously displayed outside of the entrance to any building in which a polling place is located to clearly identify the building as a polling place.

CHAPTER 12-15.

PRECINCT ELECTION OFFICIALS

12-15-1. Appointment by county auditor of precinct election officials - Names submitted by parties.

The county auditor shall, not less than twenty days before any election, appoint a precinct superintendent and two precinct deputies who shall constitute the precinct election board and a precinct superintendent and two precinct deputies of the counting board if the board is appointed pursuant to § 12-15-14 or 12-15-14.1 for each of the voting precincts of the county. Two or four additional precinct deputies may be appointed. The county auditor shall make the appointments from lists of names submitted by the county central committee of each party. If the county auditor fails to receive the list at least forty-five days prior to an election, the county auditor shall make the appointments.

12-15-1.3. Appointment of a precinct assistant.

In addition to the precinct election board, the person in charge of the election may appoint a person to be designated as the precinct assistant. The precinct superintendent shall prescribe the duties and conduct of the precinct assistant. The precinct assistant may not perform any of the duties of the precinct superintendent or precinct deputies unless specified by statute. The precinct assistant may assist with setting up the polling place, directing voters to the proper election board, and providing instruction on the use of the electronic ballot marking system.

12-15-2. Precinct superintendent and precinct deputy to be registered voters and residents of precinct.

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

12-15-2.1. Precinct superintendent and precinct deputy prohibited to serve as poll watchers.

No person appointed as a precinct superintendent or precinct deputy may serve as a poll watcher at that election.

12-15-3. Distribution of precinct officials among parties - Superintendent from majority party - Eligible appointees when list not provided.

In the appointment of the members of the precinct election board and of the counting board pursuant to this chapter, if three or more parties have candidates on the official ballot, one precinct deputy shall be appointed from each party whose candidate for Governor in the last gubernatorial election had at least fifteen percent of the votes as shown by the precinct returns. If two parties have candidates on such ballots, the members of the precinct election board shall be selected from each party and the party receiving a majority of the votes cast for Governor in the election precinct at the last preceding gubernatorial election shall have a majority of the members of the precinct election board. The precinct superintendent shall belong to the party whose candidate received the most votes for Governor in the last gubernatorial election in that precinct. If a precinct has been created since the last election, the precinct superintendent shall belong to the party which received the most votes for Governor in the county in the last gubernatorial election. If no list is provided by a party's county central committee pursuant to § 12-15-1, any registered voter who is not affiliated with a party as provided in this section may be chosen as a precinct election board member for the party which did not submit the list within time frame specified in § 12-15-1.

12-15-7. Meetings of precinct officials for instruction on laws and duties - Compensation for attendance.

Prior to each general or primary election, each county auditor, assisted by the state's attorney, shall call together the superintendents from each of the precincts in the county, and any precinct deputy as the county auditor may deem appropriate, at some convenient time and place and instruct them on the election laws and the duties of the precinct superintendent and precinct deputies. Any person who is called to the meeting and who attends the meeting shall be paid a fee fixed by the board of county commissioners of not less than five dollars for attending the meeting.

12-15-9. Oath of precinct officials--Entry in pollbook--Violation of oath as misdemeanor.

Before performing election day duties, each precinct superintendent, precinct deputy, and precinct assistant of the election and counting boards shall severally take an oath in the following form:

I, A.B., do solemnly swear (or affirm) that I will perform the duties of precinct superintendent (or precinct deputy or precinct assistant) according to law and the best of my ability and that I will studiously endeavor to prevent fraud, deceit, and abuse and that I will act in an impartial manner in conducting the election about to be held.

The members of the precinct election board may administer the oath to each other. The person administering the oaths shall cause an entry thereof to be made and signed by the person and prefixed to the pollbook. A violation of this oath is a Class 1 misdemeanor.

12-15-10. Replacement of precinct superintendent or precinct deputy failing to take oath or to serve.

If any person appointed as precinct superintendent or precinct deputy neglects or refuses to be sworn or to act as such, the position of the person shall be filled by the voters of the precinct present at the polling place when it opens, from the different

political parties, as provided in this chapter. The person so elected to fill the vacancy is vested with the same power for that election, as if regularly appointed.

12-15-11. Fee paid precinct superintendent and precinct deputy - Mileage for returning pollbooks and ballot boxes.

Each precinct superintendent and precinct deputy shall receive a fee to be established annually by resolution of the board of county commissioners at its first regular meeting each year. The person delivering the pollbooks and ballot boxes to the proper authority at the county seat shall receive the county rate for mileage as established pursuant to § 7-7-24, for miles necessarily traveled in going to and returning from making the delivery.

12-15-13. Certification of fee of precinct superintendent and precinct deputy - Order for payment from treasury.

The county auditor shall, on the receipt of the returns of any primary, general, or special election make out a certificate stating the fee that each precinct superintendent and precinct deputy is entitled. The county auditor shall submit the certificate to the board of county commissioners at its next session. The board shall order the fee to be paid out of the county treasury.

12-15-14. Counting boards in large paper ballot precincts - Duties.

In each election precinct in which the number of ballots to be voted on paper ballots, including absentee ballots, has in prior general elections exceeded three hundred voters, the auditor shall appoint a precinct counting board to be composed of five precinct deputies, one of whom shall be superintendent, who shall count the ballots cast in the general election under the direction of the superintendent of the counting board.

12-15-14.1. Counting boards in smaller precincts to avoid unreasonable delay.

Notwithstanding 12-15-14, the county auditor may appoint counting boards in those precincts where the number of ballots to be voted on paper ballots, including absentee ballots, has in prior elections unreasonably delayed the completion of the ballot count even though the total number of ballots cast in prior elections did not exceed three hundred voters.

12-15-14.3. Certain relatives of candidates prohibited from serving on election and counting boards.

No person may serve on an election or counting board who is a candidate or related by blood or marriage within the second degree to a candidate who is on the ballot in that precinct.

CHAPTER 12-16.

BALLOTS AND ELECTION SUPPLIES

12-16-15. Posting of sample ballots.

The county auditor shall post sample ballots in a manner that can be plainly seen and read by the public.

12-16-18. Delivery of ballots to precinct superintendents - Packaging and marking - Receipts.

The county auditor shall, not later than the opening of the polls on the day of the election, cause to be delivered to the superintendent of election of each precinct the

proper number of ballots provided for the use of the voters of such precinct at such election. The same shall be delivered in sealed packages, with marks on the outside of each package clearly stating the polling place for which it is intended, together with the number of ballots enclosed. Receipts for ballots, showing the number delivered, shall be given by the superintendent of election, which receipts shall at once be forwarded to the county auditor.

12-16-19. Delivery of ballots and supplies at instruction meeting - Sheriff to receive in absence of precinct superintendent or precinct deputy.

The ballots, together with all other election supplies may be delivered to the precinct superintendent or precinct deputy for each precinct at the time the precinct superintendent and precinct deputies are called together to receive instructions pursuant to § 12-15-7. If any precinct superintendent or precinct deputy from that precinct is not present to receive instructions, the ballots, election supplies, and the ballot boxes for the precinct shall be delivered to the sheriff for delivery to the precinct superintendent.

12-16-20. Delivery of unbroken package to election board - Receipts.

The precinct superintendent or precinct deputy receiving the package of ballots shall at the opening of the polls on Election Day cause the same to be delivered with the seal unbroken to the election board of the election precinct. The precinct superintendent or precinct deputy shall receive a receipt from a member of the precinct board and shall return the receipt to the county auditor with the election returns.

12-16-21. Replacement of ballots lost, stolen or not delivered - Additional ballots.

In case the ballots to be furnished to any precinct are, for any reason, not duly delivered or received, or if the delivery has been exhausted, destroyed, or stolen, the precinct superintendent shall immediately procure from the county auditor replacement ballots.

12-16-23. Instruction cards for voters.

The county auditor shall cause to be printed in large type on cards in the English language and such other languages as may be deemed necessary, instructions for the guidance of voters in preparing their ballots in such form as prescribed by the state board of elections and deliver them with the ballots in sufficient numbers to meet the requirements of 12-16-25.

12-16-25. Posting of instruction cards in polling place.

Posting of instruction cards and posters in polling place. A member of the precinct election board may post no less than one of the instruction cards in each booth or compartment provided for the voting of ballots and not less than two of the instruction posters elsewhere in and about the polling place upon the day of election.

12-16-26. Construction of ballot boxes - Openings.

Ballot boxes shall be so constructed to preclude the removal of any material therefrom except by means of an opening which may be secured in the closed position by means of a metal seal which will preclude opening of the box without the destruction of the seal; materials used in the construction of ballot boxes shall be such that they will prevent tampering with or mutilation of ballots within them. There shall be a second opening in each such ballot box, at the top when the box is upright, not larger than is sufficient to admit a single closed ballot to be inserted therein at one time.

12-16-28. Pollbooks provided - Form.

The person in charge of an election shall provide paper ballot precincts with a pollbook in the form prescribed by the state board of elections for each election precinct for the purposes of 12-18-5.

12-16-30. Official stamp for ballots - Delivery of stamp and supplies.

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

12-16-32. Separate tally sheets provided.

A separate tally sheet shall be provided for computing the votes for candidates of each political party, for independent candidates, and for judicial offices, and for all constitutional amendments, referred laws and initiated measures submitted to the voters at such elections as they appear on separate ballots.

12-16-34. Rules and columns on tally sheets.

The tally sheets in the area for tallying votes cast shall be ruled by horizontal and perpendicular lines so as to form squares of suitable size to contain five tally marks each, four of which may be upright and the fifth crossing the same at an oblique angle, every fifth perpendicular line in the ruling to be red, so that five squares for tally marks are contained between each two red lines. In a perpendicular column at the left margin of each tally sheet, there shall be left sufficient space so that there may be printed or written in ink in plain and legible manner the names of all candidates and all questions submitted to the voters at the election, in the same order that they are arranged upon the official ballots used in such election. At the extreme right margin of the tally sheet there shall be a perpendicular column labeled as follows: "Total Votes."

12-16-35. Listing of candidates and submitted questions on tally sheets.

The names of candidates and all questions submitted to the voters shall be listed in the perpendicular column at the left of the tally sheet as required by 12-16-34.

12-16-36. Space for tally marks and vote totals on tally sheets.

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

12-16-37. Space for tallying votes on submitted questions.

There shall be sufficient spaces at the right of the squares on each tally sheet used for questions submitted to the voters to tally in full the total number of votes tallied for each question voted upon.

12-16-38. Tallying and marking of votes - Entry of total votes.

After the tallying and marking in the tally sheet of the votes for each candidate, the number of votes so tallied for each candidate shall be counted, and the numerical result shall be placed in the column opposite the candidate's name.

12-16-39. Tally sheets for candidates and submitted questions.

The tally sheets for candidates for public office and submitted questions shall be prescribed by the state board of elections.

12-16-41. Tally lists govern over certificate.

In any case in which the certificate of the members of the precinct election board as to the number of votes cast for any candidate or in favor of or against any question submitted to the voters may not agree with the votes as shown by the tally list, the canvassing board to which the returns are made shall take as correct the number of votes shown by the tally list rather than the certificate.

CHAPTER 12-17B.

AUTOMATIC TABULATING SYSTEMS

12-17B-1. Definition of terms.

Terms used in this chapter mean:

(1) "Automatic tabulating equipment," the apparatus necessary to automatically examine and count votes as designated on ballots, punch cards, or entered directly into a computer by means of a touch screen or other data entry device and data processing machines which can be used for counting these votes and tabulating results;

(2) "Ballot," paper ballots containing the names of candidates and statements of measures to be voted on;

(3) "Counting location," any location selected by the person in charge of the election for the counting of votes cast in an election. A counting location shall be within the territorial jurisdiction of such person unless there is no suitable tabulating equipment available within the jurisdiction. However, in any event, all counting locations shall be within this state;

(4) "Direct recording electronic," a voting system which records votes by means of a ballot display provided by electro-optical devices that can be actuated by the voter, that process the data by means of a computer program, and that records voting data in internal memory devices;

(5) "Electronic ballot marking system," any electronic device which marks votes on a ballot;

(6) "Optical scan," a procedure in which votes are tabulated by means of examining marks made in voting response locations on the ballots with an optical mark reader (OMR);

(7) "Resolution board," a board at an automatic tabulating location comprised of a representative from each political party having a candidate on the ballot and whose candidate on the county-wide ballot at the last general election received at least fifteen percent of the votes. The board shall determine the disposition of those ballots which cannot be properly counted by the tabulating equipment and observe the activities at the counting location on behalf of their respective party affiliation. In strictly

nonpartisan elections, the resolution board shall be comprised of two persons who are not employees of the jurisdiction conducting the election and shall be appointed by the person in charge of the election.

12-17B-2. Capabilities required of automatic tabulating, direct recording electronic, or electronic ballot marking systems--Approval of changes or modifications.

Any automatic tabulating, direct recording electronic, or electronic ballot marking system used in an election shall enable the voter to cast a vote for all offices and on all measures on which the voter is entitled to vote. Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state. No system may be approved unless the system fulfills the requirements as established by the State Board of Elections. Any changes or modifications to an approved system shall be approved by the State Board of Elections prior to distribution and use.

12-17B-2.1. Direct recording electronic voting system - Requirements.

No direct recording electronic voting system may be certified or used unless it is capable of producing in random order a paper copy of each ballot cast on the system. No direct recording electronic voting system may be certified which transmits uncounted votes or ballots through the internet.

12-17B-3. Authority of governing body to adopt, experiment with or abandon system.

Any governing body having supervision of elections within any political subdivision may adopt, experiment with, or abandon any automatic tabulating, direct recording electronic, or electronic ballot marking system approved for use by the State Board of Elections. Any governing body may use the system in all or some of the precincts within its jurisdiction or in combination with any other type of voting system approved for use by the State Board of Elections.

12-17B-4. Contract by political subdivision with county for use of system.

The governing body of a political subdivision may contract with any county for the use of an automatic tabulating, direct recording electronic, or electronic ballot marking system for elections within the political subdivision.

12-17B-5. Testing system before election - Public notice.

Not more than ten days prior to an election, the person in charge of the election shall conduct a test of the automatic tabulating equipment to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the test shall be given at least forty-eight hours prior to the test by publication once in the official newspaper of the election jurisdiction. The test shall be open to the public. If any error is detected, the cause of the error shall be determined and corrected and an errorless count shall be made before the automatic tabulating equipment is approved.

12-17B-6. Sufficient amount of equipment and supplies required.

The person in charge of the election shall provide a sufficient number of voting equipment and supplies to accommodate the voters and avoid unreasonable waiting times for casting ballots.

12-17B-6.1. Electronic ballot marking system requirement.

If a candidate for federal office appears on the ballot at a polling place, such polling place is required to have an electronic ballot marking system present.

12-17B-7. Voting instructions - Manner of giving instructions.

Before entering the voting booth, any voter may request instruction in the proper procedure for marking the ballot to ensure that the tabulating equipment is able to read the vote cast. No instructions may be given to the voter while in the voting booth. However, any voter using an electronic ballot marking system may request instruction in the proper operation of the system at any time. No precinct official or person assisting a voter may in any manner request, suggest, or seek to persuade or induce any voter to cast a vote for any particular ticket, candidate, or measure to be voted on. All instructions shall be given in such a manner that it may be observed by other persons in the polling place.

12-17B-9. Transporting sealed ballot box.

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

12-17B-10. Direction of proceedings at counting location - Open to public.

All proceedings at the counting location shall be under the direction of the person in charge of the election and shall conform to the requirements of the voting system. The proceedings shall be open to the public. No person, who is not employed or authorized for the purpose, may touch any ballot, ballot box, or equipment used in the return of the ballots to the counting location or the tabulation process.

12-17B-11. Equal party representation amongst persons employed to receive, process or tabulate ballots - Submission of employee list - Oath required.

Except for any specially trained technicians representing the equipment vendor and required for the operation of the automatic tabulating equipment, there shall be equal representation from each political party having a candidate on the ballot and whose candidate on the county-wide ballot at the last general election received at least fifteen percent of the votes amongst those employed or authorized to receive, process, or tabulate the ballots. The proposed list of employees shall be submitted to each county party chairperson at least thirty days prior to the election. Each person shall, prior to discharging any duties, take and subscribe to an oath as prescribed by the State Board of Elections.

12-17B-12. Test of system repeated prior to counting ballots.

The test required by 12-17B-5 shall be repeated immediately before the start of the official count of the ballots.

12-17B-13. Procedure for tabulating votes - Results as unofficial returns - Certification by board.

The procedure for tabulating the votes by the automatic tabulating equipment shall be under the direction of the person in charge of the election, and shall conform to the specifications and requirements of the automatic tabulating equipment. The results printed by the automatic tabulating equipment shall constitute the immediate unofficial returns. These returns shall be open to the public. The final returns printed by the automatic tabulating equipment shall be presented to the canvassing board for review and certification as the official returns.

12-17B-13.1. Operation of automatic tabulating equipment - Return of ballots - Stacking of ballots.

If automatic tabulating equipment is located at a polling place for processing ballots while the polls are open, the equipment may not be operated in a manner which returns an over-voted or partially under-voted ballot to the voter. The equipment shall be operated in a manner which returns any ballot that appears to be blank. If a blank ballot is returned to the voter, the voter may choose to remark that ballot, obtain a new ballot, or have the ballot resubmitted as a blank ballot.

Any central count automatic tabulating equipment containing the capability to out-stack ballots shall be operated in a manner to out-stack any ballot which appears to be blank. If the ballot contains votes from which the voter's intent may be legally determined, the resolution board shall make a duplicate ballot as prescribed in § 12-17B-14 which shall be counted by the automatic tabulating equipment.

12-17B-14. Duplicate ballots substituted for rejected ballots.

The resolution board shall determine the disposition of those ballots which cannot be properly counted by the tabulating equipment. A true duplicate copy shall be made of any ballot in question and substituted for the rejected ballot. All duplicate ballots shall be clearly labeled "duplicate," shall bear a serial number which shall be registered on the rejected ballot, and shall be counted in lieu of the rejected ballot. The resolution board may observe the activities at the counting location on behalf of their respective political party.

12-17B-15. Sealing and storing tabulated ballots and program board.

After the tabulating procedure is completed, the ballots shall be placed in boxes and resealed. Any program board which may be used in the automatic tabulating equipment shall be removed and stored similarly to the ballots.

12-17B-16. Recount procedures.

Automatic tabulating equipment shall be tested prior to a recount or election contest as provided in 12-17B-5, and then the official ballots shall be recounted. The new returns printed by the automatic tabulating equipment shall be certified by the recount board as the official returns for the election. They shall be signed and sealed by the person in charge of the election and made public.

12-17B-17. Promulgation of rules.

The state board of elections may promulgate rules pursuant to chapter 1-26 concerning:

- (1) The criteria and procedure for approving voting systems pursuant to this chapter;
- (2) Notices and forms;
- (3) Test procedures; and
- (4) The arrangement and conduct of voting, absentee voting, tabulating, preparing returns, and recounts.

CHAPTER 12-18.

ARRANGEMENTS AND CONDUCT OF VOTING

12-18-1. Preparation of voting booths and supplies for paper ballot elections - Private voting required.

The superintendent of the election precinct is responsible for having the polling place ready to accommodate the voters in the precinct by the time the polls open. The booths, electronic ballot marking system, and supplies which enable the voter to complete the voter's ballot shall be provided by the person in charge of the election. If a voter chooses to use a sip and puff device or an A/B switch device with the electronic ballot marking system, the voter shall provide such device. All voting at the polling place shall be in private voting booths or compartments and, except as provided in § 12-18-25, shall be screened from observation.

12-18-1.1. Verification of blank ballots received.

Before the opening of the polls the members of the precinct election board shall count and verify against the receipt given the ballots delivered to the precinct for the purposes of the election.

12-18-1.2. Specific duties of precinct superintendent.

The precinct superintendent shall have charge of the conduct at the polling place and supervise the precinct deputies. The precinct superintendent shall issue instructions and assign the duties to each person for maintaining the registration lists and the pollbook and issuing and receiving the official ballots. The duties for each person may be interchanged or rotated during the course of the day.

12-18-1.4. Attendance by election officials during voting and counting.

At all times after the polls are opened the precinct election officials shall remain at the polling place with the ballot boxes until the polls are closed and they have completed their duties.

12-18-1.5. Attendance until polls closed by precinct superintendent and precinct deputies in precincts with counting boards - Attendance by board members during counting.

In those precincts where counting boards have been appointed, the precinct superintendent and precinct deputies shall remain at the place of election at all times after the polls are opened until the polls are closed, the election supplies are turned over to the counting board and the certificate and receipt required by § 12-20-1 have been signed. At this time, the counting board shall assume its duties and the election board is excused. The members of the counting board shall remain at the place of vote counting at all times from the time the counting board assumes the duties until the completion of the vote count and execution of the returns on the election.

12-18-3. Electioneering, offices, communications centers, and polling prohibited near polling place - Violation as misdemeanor.

Except for sample ballots and materials and supplies necessary for the conduct of the election, no person may, in any polling place or within or on any building in which a polling place is located or within one hundred feet from any entrance leading into a polling place, maintain an office or communications center or public address system or

display campaign posters, signs or other campaign materials or by any like means solicit any votes for or against any person or political party or position on a question submitted. No person may engage in any practice which interferes with the voter's free access to the polls or disrupts the administration of the polling place, or conduct, on the day of an election, any exit poll or public opinion poll with voters within one hundred feet of a polling place. A violation of this section is a Class 2 misdemeanor.

12-18-3.1. Simulated elections - Access to polling place - Impartiality required - Notice to county auditor.

Minors voting in a simulated election and persons supervising or working in a simulated election in which minors vote shall be allowed in a polling place. All activities associated with a simulated election are subject to the provisions of § 12-18-3, and all such activities shall be conducted in an objective, impartial, and nonpartisan manner that does not promote one candidate, party, or position over another. Any such activity shall afford any legally qualified candidate for any public office the opportunity to participate in the activity equal to the opportunity afforded to any other candidate for that office. A ballot used in a simulated election held pursuant to this section shall be labeled in such a manner as to easily distinguish such ballot. No results from a simulated election for minors may be released prior to the close of the polls. The superintendent of the election board shall exercise authority over all election and simulated election related activities at the polling place. Anyone conducting a simulated election for minors at a polling place shall notify the county auditor in that county at least thirty days prior to the election. If approved by the county commissioners, a county may participate in a simulated election pursuant to this section.

12-18-4. Examination and sealing of ballot box before opening of polls - Closed until counting of vote.

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

12-18-4.1. Electronic ballot marking system test.

Before any poll is opened, each electronic ballot marking system shall be prepared for voting. The precinct superintendent shall test the system by using the system to mark at least two ballots. The test ballots shall be provided by the person in charge of the election and clearly marked with words, Test Ballot. If the system does not properly mark the test ballots, the precinct superintendent shall work on the system until a successful test is conducted. The precinct superintendent shall maintain custody of the key to activate the system at all times.

12-18-5. Poll lists maintained by member of precinct election board.

A member of the precinct election board belonging to a political party which is not the same as the political party of the member of the precinct election board who has the registration list shall keep a poll list which shall contain in numerical order the names of all persons voting at the election.

12-18-6.1. Voters required to provide identification before voting.

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) A current student identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota.

12-18-6.2. Affidavit in lieu of personal identification.

If a voter is not able to present a form of personal identification as required by § 12-18-6.1, 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.

12-18-6.3. Verification of identity -- Provisional ballot if identity not verified.

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 § 12-18-6.1 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.

12-18-7.1. Registered persons entitled to vote - Voting on acknowledgment notice - Verification with auditor - Emergency voting card.

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

12-18-7.2. Voting without acknowledgment notice on verification by auditor - Emergency voting card.

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

12-18-7.4. Affirmation of voter's address.

Any person whose name appears on the inactive registration list in the possession of the precinct superintendent may vote in any election following completion of an affirmation of the person's address in this state. If the voter has moved to a new address within the state, this affirmation shall serve as a new registration. The affirmation shall be prescribed by the state board of elections.

12-18-8.1. Number of poll watchers set by state board - Rules.

The State Board of Elections shall promulgate rules pursuant to chapter 1-26 setting the number of poll watchers which are allowed in each polling place.

12-18-9. Observation of voting and counting - Poll watchers' positions and accommodations.

Any person, except a candidate who is on the ballot being voted on at that polling place, may be present at any polling place for the purpose of observing the voting process. Any person may be present to observe the counting process. A candidate who is on the ballot being voted on at a polling place may only be present to cast the candidate's vote during the voting hours. A number of poll watchers shall be permitted for each candidate at a primary election or political party and independent candidate at a general election pursuant to § 12-18-8.1. Each polling place shall be arranged in a manner that permits each poll watcher to be positioned in a location where the poll watcher can plainly see and hear what is done within the polling place.

12-18-9.1. Poll watchers and waiting voters not to see into booths - Interference with official actions - Violation as misdemeanor.

The superintendent of elections may order poll watchers and voters waiting to vote to position themselves where they cannot see into voting booths or interfere with voters in the act of voting or with the official actions of the election board. A violation of such an order is a Class 2 misdemeanor.

12-18-9.2. Removal of unauthorized material and disobedient persons - Arrest authorized.

Each election officer and all law enforcement officers shall remove materials in violation of 12-18-3 and disobedient persons in violation of 12-18-9.1 and arrest any person so interfering with the conduct of the election.

12-18-10. Grounds for challenge of applicant to vote - Determination by judges - Notation on registration list.

If a person makes an application for ballots, or if an absentee ballot has been cast, the person's right to vote at that poll and election may be challenged only as to the person's identity as the person registered whom the person claims to be or on grounds that within fifteen days preceding the election the person has been convicted of a felony or declared by proper authority to be mentally incompetent. The proceedings shall be conducted before the precinct superintendent and precinct deputies who shall determine from the evidence presented whether or not the person is permitted to vote and the members of the precinct election board shall indicate beside the name on the registration list the ground stated and the result of the precinct election board's decision.

12-18-12. Stamping of ballot before delivery to voter.

Before delivering a ballot to any voter the member of the precinct election board in charge of the ballots shall stamp on the back and near the top of the ballot the official stamp provided for that purpose.

12-18-13. Use of unauthorized ballot prohibited.

No voter may receive or vote a ballot from any other person than the precinct superintendent or precinct deputy in charge of the ballots, nor may any person other than the precinct superintendent or precinct deputy deliver a ballot to the voter.

12-18-14. Entry of voting booth or machine by voter.

On receipt of his ballot or delivery to him of his voter's consecutive number, the voter shall forthwith and without leaving the polling place retire alone to one of the booths or voting machines provided to cast his vote.

12-18-15. Voting without delay - Maximum time in booth or machine - Reentry prohibited.

The person voting shall cast his vote without delay. No voter may occupy a voting booth or voting machine already occupied by another, nor occupy a voting booth or machine for more than ten minutes. No voter, other than an election officer, may reenter the enclosed space during any election.

12-18-16. Marking of paper ballot - Form of mark.

If a paper ballot is used, the voter may use a pencil or pen to mark the voter's ballot and the voter may mark the ballot with either a cross (x) or check mark (✓).

12-18-16.1. Marking of optical scan ballot.

If an optical scan ballot is used, the voter may use a pencil or other marking instrument provided to mark the voter's choice on the ballot.

12-18-23. Return to member of precinct election board of unmarked ballot.

Each voter who does not vote a ballot delivered to the voter by a member of the precinct election board in charge of the ballots shall, before leaving the polling place, return the ballot to the member of the precinct election board in charge of the ballot box.

12-18-24. Replacement of spoiled ballots - Marking and preservation.

If any voter spoils a ballot, the voter may obtain another ballot, and so on, successively, not to exceed three ballots in all, upon returning to a member of the precinct election board the spoiled ballot. In obtaining a ballot to replace a spoiled one, the name of the voter shall be given and the number of the spoiled ballot. The number shall be noted opposite of the voter's name as spoiled. The ballots that are returned shall be canceled by writing the words, spoiled and replaced, across the face of the ballot and each spoiled ballot shall be placed in a separate envelope identifying the spoiled ballots as such and stating the number of spoiled ballots for accounting purposes.

12-18-25. Assistance of disabled or illiterate voter by person of his choice.

Any voter who by reason of physical disability or illiteracy is unable to read or mark a ballot may receive the assistance of any person whom such voter may select.

12-18-27. Marked ballot not to be shown - Folding for deposit in ballot box.

No person may show a ballot after it is marked to any person in such a way as to reveal the contents of the ballot, or the name of any candidate for whom the person has marked a vote. Nor may any person solicit the voter to show the voter's ballot. Immediately after marking the ballot the voter shall fold and refold the ballot, if necessary, leaving the official stamp exposed.

12-18-28. Deposit of folded ballot in ballot box.

When a ballot is ready for deposit in the ballot box, the member of the precinct election board in charge of the ballot box, without opening the ballot or permitting it to be opened or examined except to ascertain that the ballot is a single ballot, shall deposit the ballot in the ballot box. The voter may place the voter's voted ballot in the ballot box in insure the privacy of the voter's vote after showing the official stamp on the ballot to the member of the precinct election board in charge of the ballot box.

12-18-32. Packaging and return of unused ballots - Record accounting for ballots.

All ballots which have not been distributed to voters, excluding those marked "spoiled and replaced" separately enclosed, together with a record of ballots stating the number of ballots voted, the number of ballots spoiled and replaced, and the number of ballots not delivered to voters, shall be placed in a parcel separate from the ballot box and returned to the auditor along with the ballot boxes.

12-18-33. Comparison of ballot accounting with record of number sent to precinct - Notice and correction of discrepancies.

The county auditor, on receipt of the unused, defective, or spoiled ballots, and the statement mentioned in 12-18-32, shall carefully compare the same with the record in his office of the number of ballots sent to such election precinct. If the same are not accounted for in the statement before mentioned, he shall at once notify the person sending the same, who shall, with such county auditor, recount the unused, defective, and spoiled ballots and correct, if possible, such errors, if any there be, in such count or statement.

12-18-39. Provisional ballot -- Eligibility.

If any person is not authorized to vote pursuant to §12-18-7.2, is successfully challenged under §12-18-10, or is otherwise denied the ability to vote and the person maintains that he or she is currently registered to vote in that precinct, the person may cast a ballot which shall be called a provisional ballot. A member of the precinct election board shall notify any person who is denied the ability to vote that the person may cast a provisional ballot.

12-18-40. Use of provisional ballot.

Before giving a person a provisional ballot, the person shall complete an affirmation. The person's name shall be written in the pollbook along with a designation that the person has cast a provisional ballot. The person shall be given the ballot appropriate to the precinct in which the person is claiming to be registered, along with a provisional ballot envelope. After the person votes, the person shall seal the ballot in the provisional ballot envelope and complete the statement on the envelope. The envelope shall then be placed in the ballot box. The provisional ballot and provisional ballot envelope shall be prescribed by the State Board of Elections.

CHAPTER 12-19.

ABSENTEE VOTING

12-19-1. Absentee ballot - Persons entitled to vote.

A registered voter who is not otherwise disqualified by law from voting in the election may vote by absentee ballot.

12-19-1.1. Affirmation of address by voter in inactive registration file.

A voter in the inactive registration file meeting the criteria in § 12-19-1 may vote absentee by completing the affirmation required in § 12-18-7.4.

12-19-2. Application for absentee ballot - Contents - Form - Address to which ballot sent - Stamping date of receipt - Delivery.

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 shall 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 § 12-18-6.1. The copy of the voter's identification card shall be maintained by the person in charge of the election. However, the voter's identification card is not available for public inspection. 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. If the application or request is from a voter identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of January 1, 2006, an absentee ballot shall be provided to the voter for each federal election through the next two general elections. 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 person in charge of the election shall stamp the application with the date it was received. The person in charge of the election shall preserve a record of the name, mailing 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.

12-19-2.1. Application in person or by authorized messenger - Delivery of ballot to messenger.

Application in person or by authorized messenger--Delivery of ballot to messenger or by mail. 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. on 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 § 12-18-6.1 or complete the affidavit as provided in § 12-18-6.2.

In the event of confinement because of sickness or disability, 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.

If an application designating an authorized messenger also indicates a request for an absentee ballot for any future election, such absentee ballot shall be mailed to the address provided on the application. If no address is provided, the ballot shall be mailed to the person's voter registration address.

12-19-2.2. Authorized messenger for more than one voter.

If a person is an authorized messenger for more than one voter, he must notify the person in charge of the election of all voters for whom he is a messenger.

12-19-2.3. Uniformed and Overseas Citizens Absentee Voting Act--Application or request for ballot by facsimile or email.

Any voter identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of January 1, 2005, may submit an application or request for an absentee ballot by facsimile or emailed image to the person in charge of the election.

12-19-2.4. Multiple applications or requests for ballots and multiple ballots--Application.

If any voter who had previously filed an application or request for an absentee ballot submits another application or request for the same election with an updated address, the county auditor shall send an absentee ballot to the new address. If any voter who had previously filed an application or request for absentee ballot appears at the county auditor's office, the voter may complete another application and be allowed to vote an absentee ballot. If any voter who filed an application or request for absentee ballot notifies the county auditor that the voter never received that ballot, the voter may request that another ballot be sent to the same address. The provisions of this section only apply to a person who has not voted or returned an absentee ballot.

12-19-2.5. Form of application for absentee ballot and combined application/return envelope.

The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe the absentee application form and a combined absentee ballot application/return envelope for absentee voting in the office of the person in charge of the election. 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 any person authorized in accordance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)(42 U.S.C. § 1973ff) as of January 1, 2006.

12-19-3. Forwarding of ballot to voter - Instructions and return envelope.

Upon receiving an application for absentee ballots, the person in charge of an election shall, within forty-eight hours, or if ballots are not then on hand, then within forty-eight hours after receipt of the ballots, after confirming from the master registration file that the applicant is registered as a voter pursuant to chapter 12-4, enclose one of each of the official ballots, a set of instructions on absentee balloting, and an unsealed return envelope. All of the enclosures shall be sealed in an envelope addressed to the applicant at the place stated in the application. If a registration form is received simultaneous with an absentee ballot request and prior to the registration deadline, the absentee ballot provided shall be based on the submitted registration form.

12-19-4. Voter's statement on return envelope - Federal service voting forms.

The return envelope for the absent voter's ballot shall have printed on the reverse thereof a statement to be signed by the voter. The state board of elections shall prescribe the forms for the return envelope, ballots, instructions to the voter, and such certification to accommodate the federal service voter under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. § 1973cc-1).

12-19-5. Mailing of ballot and enclosures to voter - Free air mail for federal service voters.

The envelope containing the enclosures, if not delivered to the voter personally by the person in charge of the election or the authorized messenger filing the voter's request for an absentee ballot, shall, except for federal service voters, be mailed by first class mail to the address of the applicant stated in his application, with postage prepaid thereon. Both the return envelope and the envelope for transmitting the enclosures to federal service voters shall meet the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. § 1973) and shall be transmitted by air mail, free of United States postage, including air mail.

12-19-7. Marking and folding ballot - Officer before whom marked - Mailing or delivering ballot.

A voter voting an absentee ballot shall mark it and fold it without revealing the marks to any other person. The voter shall place the voted ballots in the return envelope provided and seal the envelope. The voter shall sign the statement on the return envelope. The voter shall either mail the ballot, deliver it in person or have it delivered to the person in charge of the election.

12-19-7.1. Candidates and election officials not to serve as authorized messenger.

No person who is a candidate for any elective office, except for political party offices described in § 12-5-2 or county auditor or such deputy, at the election for which the ballot or ballots are to be voted, may serve as an authorized messenger.

12-19-7.2. Display of campaign material by messenger as misdemeanor.

No authorized messenger may, in the presence of the voter at or before the time of voting, display campaign posters, signs or other campaign materials or by any like means solicit any votes for or against any person, political party or position on a question submitted. A violation of this section is a Class 2 misdemeanor.

12-19-9. Delivery of absentee ballot - Receipt given - Personal delivery when mailing time insufficient.

An authorized messenger shall deliver the absentee ballot to the person in charge of the election unless there is not sufficient time for the person in charge of the election to transmit the absentee ballot to the voter's home precinct. In that instance, the authorized messenger shall personally deliver the absentee ballot to the precinct superintendent of the voter's home precinct. If the authorized messenger requests a receipt when returning the absentee ballot, the person in charge of the election shall provide the authorized messenger a receipt.

12-19-9.1. Nursing facility, assisted living center, or hospital having multiple absentee ballot requests.

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 § 12-19-2.1 are waived.

12-19-9.2. Marking and return of ballot on death of voter before opening of polls.

Whenever, prior to the casting of absentee ballots, it is made to appear by due proof to the county auditor or election board that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of the election, the ballot of the voter shall be returned in the unsealed return envelope with the evidence of death attached and the envelope marked "Unopened by reason of death of voter" to the officer in charge of the conduct of the election. The casting of any such ballot shall not invalidate the election.

12-19-10. Preservation and delivery of ballot to precinct superintendent - Verification of affidavit - Opening and deposit in ballot box - Unauthorized examination as misdemeanor.

Upon receipt of the sealed return envelope containing the voted ballots, the person in charge of the election shall keep it in a safe place without opening the envelope or breaking the seal thereof and shall, except as provided by § 12-19-42, deliver it to the superintendent of election of the voter's home precinct. The person in charge of the election shall have the absentee ballots delivered with the election supplies, or if received later, then prior to the close of the polls. If the election board is not otherwise engaged in official duties, or if there are absentee ballots not processed when the polls close, immediately thereafter, the board shall carefully compare the statement on the reverse side of the official return envelope with the written application received from the officer in charge of the election without opening or breaking the seal of the return envelope. The board shall enter the voter's name on the election pollbook and mark the registration list if:

- (1) The ballots received were voted by the voter whose name appears on the statement;
- (2) The voter is registered in such precinct and has not previously voted in that precinct at the election; and
- (3) The written application and statement were both signed by the voter.

The board shall then open the envelope without opening, unfolding or examining the ballots the envelope may contain, stamp the ballots with the official stamp, and deposit the ballots with the other ballots cast at the election. No person may, prior to the counting of the votes, open, unfold or examine any ballot, or make any communication to any person concerning the markings or contents of the ballot. A violation of the preceding sentence is a Class 2 misdemeanor.

12-19-11. Preservation and return of application and return envelope.

The written application and official return envelope shall be preserved by the election officers and returned by them to the proper office together with the other election returns.

12-19-12. Delivery of absentee ballot to polling place after close of polls - Endorsement and return.

If an absentee ballot is delivered to a polling place after the polls are closed, the absentee ballot may not be counted or opened, but a member of the precinct election board shall immediately endorse on the envelope the following: Received after closing of polls, and sign the person's signature thereto and return the absentee ballot with the other ballots to the officer in charge of the conduct of the election.

12-19-14. Unlawful disposition of ballot as misdemeanor.

Any voter who, having procured an official ballot or ballots as provided in § 12-19-1 to § 12-19-12, inclusive, intentionally disposes them in any manner other than as provided in said sections is guilty of a Class 2 misdemeanor.

12-19-32. Ballot not invalidated by federal censorship.

The exercise of the right of censorship by the federal authorities upon the marked ballot while same is in transit in the mail, shall not invalidate the ballot or be cause for its rejection.

12-19-33. Failure to deliver or tampering with ballot as felony.

Any person who, having procured an official ballot or ballots for another, intentionally fails to deliver the ballots to the voter or who intentionally fails to deliver the return envelope with ballots contained therein to the proper officer, or who tampers with the envelope or ballots is guilty of a Class 6 felony.

12-19-34. Informalities do not invalidate election - Liberal construction.

No mere informality in the matter of carrying out or executing the provisions of this chapter shall invalidate the election or authorize the rejection of the returns thereof, and the provisions of this chapter shall be liberally construed for the purposes herein expressed or intended.

CHAPTER 12-20.

RETURN AND CANVASS OF VOTES

12-20-1. Delivery of supplies to counting board - Certificate of transmittal and receipt - Commencement of count - Continuation without adjournment - Comparison and correction of poll lists.

As soon as the polls are closed, the precinct superintendent and precinct deputies shall audit the ballot count as prescribed in §§ 12-20-2 and 12-20-3. The precinct superintendent and precinct deputies shall then immediately deliver the ballot boxes, registration book, pollbook, and other election supplies, including voided and unused ballots, to the counting board, if appointed, and sign a certificate of transmittal and receipt as prescribed by the State Board of Elections. The members of the precinct election board or the counting board, if appointed, shall then immediately proceed to count publicly, in the presence of all persons desiring to attend the count, the votes received at the polls, and continue without adjournment until the count is completed. In counting the votes, the members of the precinct election board or counting board shall use the tally sheets provided.

12-20-2. Opening of ballot box - Sorting and counting of unopened ballots - Ballots folded together.

The box shall be opened and the ballots taken out, sorted so that all ballots on certain candidacies and issues are separately identified, and counted by the members of the precinct election board unopened, except to ascertain if each ballot is single. If two or more ballots are found folded together and present the appearance of a single ballot, the ballots shall be laid aside until the count of ballots is completed. Upon the comparison of the count with the pollbook and registration list, or in machine precincts, with the number of return envelopes from absentee voters, and the appearance of the ballots, if a majority of the members of the precinct election board are of the opinion that the ballots folded together were voted by one voter, the ballot shall be endorsed, duplicate ballot of one voter not counted. If the ballot count does not agree with the number of votes in the pollbook, a comparison of the voters in the pollbook and the registration list shall be made and the correction of any mistakes shall be made.

12-20-2.1. Return of provisional ballot envelopes if ballot box is opened before counting.

If the ballot box for any precinct is opened prior to ballot counting, each provisional ballot envelope shall be removed and returned unopened to the person in charge of the election with the other election supplies.

12-20-3. Drawing of excess ballots.

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

12-20-5. Count of votes for candidates - Scrutiny of ballots by precinct deputies - Decisions on disputed ballots.

The votes for the several candidates shall be counted in the order in which the candidates occur upon the ballots. At least two precinct deputies, of opposite political parties, shall scrutinize each ballot with the precinct superintendent acting to break any tie vote of the two precinct deputies ruling on a ballot. As the vote is announced two precinct deputies shall make the mark required on the tally sheets.

12-20-5.1. Determination of validity of provisional ballots.

Prior to the official canvass, the person in charge of the election shall determine if the person voting by provisional ballot was legally qualified to vote in the precinct in which the provisional ballot was cast. In making this determination, the person in charge of the election shall consider the information provided on the affirmation and diligently investigate the voter registration status of the person. If there is no evidence that a voter registration form had been completed by the person showing a residence address in that precinct and returned to an official voter registration site prior to the deadline to register to vote for the election, the provisional ballot is invalid.

12-20-6. Unstamped ballots not counted.

In the counting of the votes any ballot which is not endorsed as provided in § 12-18-12 by the official stamp shall be void and may not be counted.

12-20-7. Ballot counted when voter's intention determinable - Board to promulgate rules defining standards.

Any ballot or part of a ballot from which it is impossible to determine the voter's choice shall be void and may not be counted. If the voter's marks on a ballot are

sufficiently plain to determine the voter's intention it is the duty of the precinct deputies to count such vote. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, defining standards for determining voter intent.

12-20-8. Precinct superintendent and precinct deputies to record intention of voter.

The precinct superintendent and precinct deputies, in counting the votes, shall endeavor to record the intention of the voter. The precinct superintendent and precinct deputies shall then hold the intention of the voter to be to vote for the candidate or candidates before whose name the voter has placed a mark.

12-20-10. Blank list for unofficial return of precinct vote for candidates and submitted questions - Return envelope.

There shall be furnished by the officer in charge of the election to each voting precinct, for each election, a blank list which shall have space after each candidate's name and after each measure, law, or amendment to be voted upon at such election, in which to enter the number of votes cast in the precinct for each candidate, measure, law, or amendment, together with an envelope addressed to the officer in charge of the election and labeled in plain letters, "Immediate - Unofficial Return - Do not put this in ballot box."

12-20-11. Entry of precinct vote on unofficial return list - Return with election returns.

When the vote count is complete, the members of the precinct election board shall enter upon the blank list the true number of votes cast in the precinct for each person, measure, law, or amendment which appears upon the official ballot, and shall enclose the completed list in the envelope described in § 12-20-10. The precinct superintendent or precinct deputy chosen to deliver the election returns to the officer in charge of the election shall return the completed list separate from any other envelopes or wrappers returned at the time the election returns are delivered.

12-20-13. Tabulation and public release of unofficial returns - Entry into central election reporting system.

Except as provided in § 12-20-17, the county auditor shall tabulate election returns as rapidly as received and make the result available for the information of the public, but such returns are not the official returns. The county auditor shall enter the information into the central election reporting system by using any computer located in a county office which is properly configured and linked to the central state computer immediately following the tabulation of each precinct.

12-20-13.1. Means of counting provisional ballots -- Appointment of officials.

The person in charge of the election shall decide if the provisional ballots are to be counted by hand or by automated tabulating equipment. If a decision is made to count the ballots by hand, a provisional ballot counting board shall be appointed as provided in § 12-15-1. If the provisional ballots are to be counted by automated tabulating equipment, a resolution board and tabulation machine operators shall be appointed as provided in chapter 12-17B.

12-20-13.2. Counting provisional ballots -- Certification.

The provisional ballot counting board or resolution board and tabulation machine operators shall convene one hour prior to the convening of the canvassing board. The provisional ballots, which the person in charge of the election has determined are not

invalid according to § 12-20-36.1, shall be counted. Upon completion of the count, the provisional ballot counting board or resolution board shall complete a certification of provisional ballot count and give the certification to the canvassing board. The certification form shall be prescribed by the State Board of Elections.

12-20-13.3. Counting provisional ballots -- Alternate time.

The person in charge of the election may establish an alternative time prior to the official canvass for provisional ballot counting provided that notice of the time and location is given to the county party chairperson of each political party for primary, secondary, and general elections and to each candidate for any other election.

12-20-13.4. Counting provisional ballots -- Notice.

Within ten days after the official county canvass each person voting by provisional ballot shall be sent by the person in charge of the election a notice advising whether the provisional ballot was counted. The notice shall be prescribed by the State Board of Elections.

12-20-15. State messenger to secure delinquent returns - Expenses deducted from county auditor's salary.

If any county auditor fails to perform the duties required of him by § 12-20-38.1, the secretary of state shall send a messenger to the county auditor to secure such returns. All expenses for such service shall be paid by the county of which such auditor is an officer upon the filing of a certificate from the secretary of state as to the amount of such expenses, and the amount so paid shall be deducted from the next monthly salary of the county auditor of such county.

12-20-17. Returns not disclosed until all polls in state closed.

No public disclosure of the returns of state and federal elections in any primary or general election is permitted until each precinct polling place in the state is closed. This provision applies to each precinct polling place within the state.

12-20-18. Entry of candidates' votes in precinct pollbooks.

After the votes have been counted, the members of the precinct election board shall set down in the pollbook and duplicate tally sheet on forms therein prescribed by the State Board of Elections the name of each person voted for, the office for which the person received votes, and the number of votes each person received, the number of votes each person received shall be expressed at length.

12-20-20. Sealing of ballot boxes after deposit of counted ballots - Violation as misdemeanor.

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

12-20-21. Return of ballot boxes, returns, records and supplies to officer in charge - Tampering prohibited - Violation as felony.

The sealed ballot box, together with the pollbook and duplicate tally sheet, registration lists, and the envelope containing the unofficial returns and all supplies and returns required, shall be returned by the precinct superintendent or a precinct deputy designated by the precinct superintendent, to the officer in charge of the election immediately after completion of the vote count. No person may deface, destroy, or tamper with the ballot box, envelope, pollbook, duplicate tally sheet, or registration lists or remove any seals. A violation of this section is a Class 6 felony.

12-20-21.1. Circumstances requiring report of official returns by telephone.

Notwithstanding the provisions of § 12-20-21, if the person in charge of the election determines that the roads are impassable between a polling place and the office of the person in charge of the election, the superintendent shall report unofficial election returns by telephone to the person in charge of the election immediately following completion of the vote count. The superintendent shall return the sealed ballot box together with the pollbooks, registration lists, the envelope containing the unofficial returns and all supplies to the person in charge of the election as soon as possible but no later than noon on the day following the election.

12-20-21.2. Write-in votes not to be counted - Other votes on ballot.

If a name is written on a ballot in an attempt to cast a write-in-vote, the write-in vote may not be counted. However, all other votes for which the voter's intent may be determined shall be counted.

CHAPTER 12-26.

OFFENSES AGAINST THE ELECTIVE FRANCHISE

12-26-1. Elections to which chapter applies.

The word "election" as used in this chapter includes any election held in this state for the purpose of enabling the voters to nominate or elect any United States, state, or local officer, or to vote upon any question submitted to them.

12-26-3. False representation to procure registration or acceptance of vote as misdemeanor - Failure to deny false statement as misrepresentation.

Any person who, at the time of requesting his name to be registered as a voter, or who at the time of offering his vote at any election, knowingly makes any false statement or employs any false representation to procure his name to be registered or his vote to be received, is guilty of a Class 2 misdemeanor. A false statement or representation made or used in the presence and to the knowledge of a person requesting his name to be registered, or offering his vote, is to be deemed made by himself if it appears that it was made or used in support of his claim to be registered or to vote, that he knew it to be false and that he allowed it to pass uncontradicted.

12-26-4. Voting or offer to vote by unqualified person as felony.

A person who votes more than once at any election or who offers to vote after having once voted, either in the same or in another election precinct in South Dakota or elsewhere, is guilty of a Class 6 felony.

12-26-7. Impersonation of registered voter as felony.

A person who impersonates a registered voter and, as such, offers to vote at any election, is guilty of a Class 5 felony.

12-26-8. Voting more than once at any election as felony.

A person who votes more than once at any election or who offers to vote after having once voted, either in the same or in another election precinct in South Dakota or elsewhere, is guilty of a Class 6 felony.

12-26-9. Good faith defense to prosecution for illegal voting.

Upon any prosecution for procuring, offering, or casting an illegal vote, the accused may give in evidence any facts tending to show that he honestly believed upon good reason that the vote complained of was a lawful one; and the jury may take such facts into consideration in determining whether the acts complained of were knowingly done or not.

12-26-10. Threats or intimidation to prevent public assembly of electors as misdemeanor - Hindering attendance at meeting.

A person who by threats, intimidation, or unlawful force or violence, intentionally hinders or prevents voters from assembling in a public meeting for considering of public questions, or who hinders or prevents any individual voter from attending any such meeting, is guilty of a Class 2 misdemeanor.

12-26-11. Disturbance of public meeting of voters as misdemeanor.

A person who intentionally disturbs or breaks up any public meeting of voters lawfully being held for the purpose of considering public questions is guilty of a Class 2 misdemeanor.

12-26-12. Persecution, threats or intimidation to influence vote as misdemeanor - Obstruction of voter on way to polls.

A person who directly or indirectly, intentionally, by force or violence, or by unlawful arrest, or by any abduction, duress, damage, harm, or loss, or by any forcible or fraudulent contrivance, or by threats to do or employ any of them, or by threats of bringing civil suit or criminal prosecution, withdrawal of customs or dealing in business or trade, or enforcing payment of debts, or by any kind of injury or threat of injury inflicted or to be inflicted on any voter or person to influence any voter, and attempted, done, or threatened, or caused to be attempted, done, or threatened by any person in his own behalf or in behalf of any other person or question voted upon or to be voted upon at any election, for the purpose of preventing, causing, or intimidating a voter to vote or refrain from voting for or against any person or question, or who does or causes to be done any of such things because of a voter having voted or refrained from voting on any such matter, or who intentionally and without lawful authority obstructs, hinders, or delays a voter on his way to any poll where an election is to be held, is guilty of a Class 2 misdemeanor.

12-26-13. Unlawful influence of employees' political activities or voting as misdemeanor - Forfeiture of corporate charter.

It is a Class 2 misdemeanor for any employer in paying his employees the salary or wages due them, to enclose their pay in "pay envelopes" upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees.

It is a Class 2 misdemeanor for any employer, within ninety days of a general election, to put up or otherwise exhibit in his factory, mill, workshop, or other establishment or place where his employees may be working, any handbill or placard containing any threat, notice, or information that in case any particular tickets or

candidate shall be elected, work in his place or establishment will cease in whole or in part, or that his establishment will be closed, or the wages of his workmen will be reduced, or other threats, express or implied, intended or calculated to influence the political opinion or the actions of his employees in voting.

Any corporation violating this section shall, upon proof thereof, forfeit its charter.

12-26-14. Use of public relief, loans or grants to influence political activity or vote as misdemeanor.

It is a Class 1 misdemeanor for any person, directly or indirectly, to promise or threaten to grant or withhold or to cause to be granted or withheld, any public relief, assistance loans or grants for the purpose or with the intention of controlling or influencing the political affiliations, party registration, support or vote at any election, of any person so promised or threatened.

The terms "public relief" and "assistance" include all forms of direct public relief and also all forms of indirect relief such as employment on any public works or project. The terms "loans" and "grants" include all forms of financial assistance granted by the federal government or any of its agencies and also by this state or any of its political subdivisions.

12-26-15. Bribery of voter as misdemeanor - Acts constituting bribery.

It is a Class 2 misdemeanor for any person, directly or indirectly, by himself or through any other person:

(1) To pay, lend, contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration, to or for any voter or to or for any other person, to induce such voter to vote or refrain from voting at any election or to induce any voter to vote or refrain from voting at such election for any particular person or to induce such voter to go to the polls or remain away from the polls at such election, or on account of such voter having voted, refrained from voting or having voted or refrained from voting for any particular person, or having gone to the polls or remained away from the polls at such election;

(2) To give, offer, or promise any office, place or employment, or to promise to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person in order to induce such voter to vote or refrain from voting at such election for any particular person;

(3) To make any gift, loan, or promise, offer, procurement, or agreement as aforesaid to, for, or with any person in order to induce such person to procure or endeavor to procure the election of any person, or the vote of any voter at any election;

(4) To procure or engage, promise, or endeavor to procure, in consequence of any such gift, loan, offer, promise, procurement, or agreement, the election of any person or the vote of any voter at such election;

(5) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same or any part thereof shall be used in bribery at any election, or to knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

12-26-16. Acceptance of bribe by voter as misdemeanor - Acts constituting acceptance of bribe.

It is a Class 2 misdemeanor for any person, directly or indirectly, by himself or through any other person:

(1) To receive, agree, or contract for, before or during any election, any money, gift, loan, or other valuable consideration, offer, place, or employment for himself or any other person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls at any such election;

(2) To receive any money or other valuable thing during or after an election, for himself or any other person for having voted or refrained from voting at such election, or on account of himself or any other person having voted or refrained from voting for any particular person at such election, or on account of himself or any other person having gone to the polls or remained away from the polls at such election, or on account of having induced any other person to vote or refrain from voting, for any particular person at such election.

12-26-17. Bribery or acceptance of bribe as infamous crime - Forfeiture of office.

Any person committing the offense of bribery of voters or receiving a bribe as specified in 12-26-15 and 12-26-16 is guilty of an infamous crime, and any person convicted thereof shall, in addition to the criminal punishment, forfeit any office to which he may have been elected at the election at which such offense was committed.

12-26-19. Betting with intent to procure challenge as misdemeanor.

Any person who shall directly or indirectly make a bet with a voter depending upon the result of any election, with the intent thereby to procure the challenge of such voter or to prevent his voting at an election, is guilty of a Class 2 misdemeanor.

12-26-21. Disobedience of precinct superintendent or precinct deputy as misdemeanor.

A person who intentionally disobeys a lawful command of a precinct superintendent or precinct deputy of any election, given in the execution of the person's duty as such at an election, is guilty of a Class 2 misdemeanor.

12-26-22. Disturbance of election proceedings as misdemeanor.

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

12-26-23. Tampering with ballots, ballot box or poll list as felony.

A person who intentionally breaks, destroys, steals, or conceals any ballot box or any poll list used or intended to be used at any election, or who, before the ballots have been counted or canvassed, or during the time within which a contest or recount may be instituted or is pending and undisposed of, shall intentionally deface, change, injure, destroy, steal or conceal any ballot or ballots which have been voted and deposited in any ballot box at an election, is guilty of a Class 6 felony.

12-26-23.1. Tampering with automatic ballot counting devices, direct recording electronic voting machines, and electronic ballot marking systems as felony.

No person may intentionally program or alter an automatic ballot counting device, direct recording electronic voting machine, or electronic ballot marking system to erroneously mark, record, or count voted ballots or to render an erroneous total. A violation of this section is a Class 5 felony.

12-26-24. Exclusion by precinct superintendent or precinct deputy of lawful vote as misdemeanor.

A precinct superintendent or precinct deputy who intentionally excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at the election, is guilty of a Class 2 misdemeanor.

12-26-25. False count or return by election official as misdemeanor - Defacement or concealment of statement or certificate.

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

12-26-27. Bribery of election official as misdemeanor.

A person who gives or offers a bribe to any precinct superintendent, precinct deputy, canvasser, or other officer of an election as a consideration for doing or omitting to do any act in violation of the person's official duty in relation to such election, is guilty of a Class 2 misdemeanor.

12-26-28. Offenses relating to election on submitted question.

Every act which by the provisions of this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to voters to be decided by votes cast at an election.

12-26-29. Prevention of unlawful election not prohibited.

Nothing in this chapter shall be construed to authorize the punishment of any person who, by authority of law, may interfere to prevent or regulate an election which has been unlawfully noticed or convened, or is being, or is about to be, unlawfully conducted.

12-26-30. Irregularities in proceedings not a defense.

Irregularities or defects in the mode of noticing, convening, holding, or conducting an election authorized by law, form no defense to a prosecution for a violation of the provisions of this chapter.

12-26-31. Offender as witness against another - Compelling testimony - Immunity from prosecution.

A person offending against any provision of this title is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation, in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, and he shall not thereafter be liable to prosecution or punishment for the offense with reference to which his testimony was given.

CHAPTER 5:02:05

FORMS FOR CONDUCT OF ELECTIONS

5:02:05:00. Official stamp for ballots - All elections

Official ballots for each election must be stamped with an official stamp which must contain the following information:

OFFICIAL BALLOT
(date of election)
(NAME OF COUNTY, SCHOOL DISTRICT, MUNICIPALITY,
OR OTHER POLITICAL SUBDIVISION)
(Precinct name or number or both)
SOUTH DAKOTA

The date may be omitted if it is pre-printed on each official ballot for the election.

5:02:05:01. Certificate and receipt executed by the precinct election board and counting board

The precinct superintendent and precinct deputies of the precinct election board and of the counting board shall complete and sign a certificate and receipt attesting to delivery and receipt of ballots and other election materials. The certificate and receipt shall be placed with the pollbook and returned to the county auditor. The form of the certificate and receipt is as follows:

CERTIFICATE

At the election held at _____ precinct, _____ County, South Dakota, on the _____ day of _____, 20____, we, the undersigned election board members, had _____ voters cast ballots at that precinct, completed comparison and reconciliation in accord with SDCL 12-20-2, and then delivered:

- 1. ballot boxes
- 2. seals
- 3. registration list
- 4. pollbook
- 5. other election supplies, including voided and unused ballots

to the counting board, consisting of the following persons:
_____, precinct superintendent of counting board; _____,
_____, _____ and _____, precinct deputies of
counting board.

Dated at _____, South Dakota, this _____ day of _____, 20____ .
Attest: _____ Certified by us:

Precinct Superintendent of Precinct Election Board

Precinct Deputy

Precinct Deputy

Precinct Deputy

Precinct Deputy

Receipt

The undersigned members of the counting board of the precinct acknowledge receipt of the items provided in the certificate above.

Precinct Superintendent of Counting Board

Precinct Deputy of Counting Board

5:02:05:02. Instructions to the voters using hand-counted paper ballots.

The instructions to be posted in two locations in the polling place in at least 48 point type for paper ballots must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

Use a cross (X) or a check mark (✓) for each vote.
Do not make any marks other than a cross (X) or check mark (✓).
Do not erase anything on your ballot.
Do not rip your ballot or make holes in it.
Do not write in a name.

IF YOU MAKE A MISTAKE

If you make a mistake, give the ballot back and get a new one.
If you cast more votes than allowed in a race, give the ballot back and get a new one.

TO RETURN THE BALLOT(S) AFTER VOTING

Fold each ballot so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

PROVISIONAL BALLOT

You may vote a provisional ballot if your name is not on the voter list but you registered in this precinct by the deadline. You must complete both the envelope and ballot.

VOTING RIGHTS

Any voter who can't mark a ballot because the voter has a physical disability or can't read, may ask any person they choose to help them vote.
Any voter may ask for instruction in the proper procedure for voting.
Any voter at the polling place prior to 7:00 p.m. is allowed to cast a ballot.

ELECTION CRIMES

Anyone who makes a false statement when they vote, tries to vote knowing they are not a qualified voter, or tries to vote more than once has committed an election crime.

OTHER INFORMATION

The polls are open from 7:00 a.m. to 7:00 p.m. If your voting rights have been violated, you may call the person in charge of the election at _____, the Secretary of State at 888-703-5328, or your state's attorney.

The instructions to be posted in each voting booth for paper ballots must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

Use a cross (X) or a check mark (✓) for each vote.
Do not make any marks other than a cross (X) or check mark (✓).
Do not erase anything on your ballot.
Do not rip your ballot or make holes in it.
Do not write in a name.

IF YOU MAKE A MISTAKE

If you make a mistake, give the ballot back and get a new one.
If you cast more votes than allowed in a race, give the ballot back and get a new one.

TO RETURN THE BALLOT(S) AFTER VOTING

Fold each ballot so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

5:02:05:02.01 Instructions to the voters using optical scan ballots.

The instructions to be posted in two locations in the polling place in at least 48 point type for optical scan ballots must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

Fill in the oval (●) next to the name or ballot question. Use only the pencil or marker given to you!
Do not make any marks other than filling the oval.
Do not erase anything on your ballot.
Do not rip your ballot or make holes in it.
Do not write in a name.

IF YOU MAKE A MISTAKE

If you make a mistake, give the ballot back and get a new one.
If you cast more votes than allowed in a race, give the ballot back and get a new one.

TO RETURN THE BALLOT AFTER VOTING

Put the ballot in the holder so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

PROVISIONAL BALLOT

You may vote a provisional ballot if your name is not on the voter list but you registered in this precinct by the deadline. You must complete both the envelope and ballot.

VOTING RIGHTS

Any voter who can't mark a ballot because the voter has a physical disability or can't read, may ask any person they choose to help them vote.

Any voter may ask for instruction in the proper procedure for voting.

Any voter at the polling place prior to 7:00 p.m. is allowed to cast a ballot.

ELECTION CRIMES

Anyone who makes a false statement when they vote, tries to vote knowing they are not a qualified voter, or tries to vote more than once has committed an election crime.

OTHER INFORMATION

The polls are open from 7:00 a.m. to 7:00 p.m. If your voting rights have been violated, you may call the person in charge of the election at _____, the Secretary of State at 888-703-5328, or your state's attorney.

The instructions to be posted in each voting booth for optical scan ballots must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

Fill in the oval (●) next to the name or ballot question. Use only the pencil or marker given to you!

Do not make any marks other than filling the oval.

Do not erase anything on your ballot.

Do not rip your ballot or make holes in it.

Do not write in a name.

IF YOU MAKE A MISTAKE

If you make a mistake, give the ballot back and get a new one.

If you cast more votes than allowed in a race, give the ballot back and get a new one.

TO RETURN THE BALLOT AFTER VOTING

Put the ballot in the holder so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

5:02:05:02.03. Instructions to the voters using an electronic ballot marking system.

The instructions to be posted in each voting booth containing an electronic ballot marking system must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

When the screen shows "Please insert your ballot," put the unvoted ballot into the machine.

Follow the instructions on the screen to complete voting.

IF YOU MAKE A MISTAKE

If you make a mistake before pressing "Mark Ballot," you may change your vote on the screen.

If you find a mistake after your ballot has printed, give the ballot back and get a new one.

TO RETURN THE BALLOT AFTER VOTING

Put the ballot in the holder so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

5:02:05:06. Precinct election board receipt for official ballots

The precinct election board receipt for the official ballots shall be in the following form:

STATE OF SOUTH DAKOTA
_____ COUNTY
_____ PRECINCT

We, the Precinct Election Board Members, do hereby certify that on Tuesday the _____ day of _____, 20____, at the opening of the polls for the election held on that day, we received from _____, a sealed package containing the following official ballots:

(Here list the official ballots received)

for the use of the voters at the election.

Dated this _____ day of _____, 20__ .

-----) Precinct Superintendent
-----)
-----) Precinct Deputy
-----)
-----) Precinct Deputy
-----)
-----) Precinct Deputy
-----)
-----) Precinct Deputy

5:02:05:07. Receipt for transmission of election supplies

The receipt for transmission of election supplies shall be in the following form:

RECEIPT FOR ELECTION SUPPLIES FOR TRANSMISSION

RECEIVED of the County Auditor of _____ County, South Dakota, a package said to contain _____ (Primary, General, Special) election supplies for use in election precinct _____ for transmission to _____, Superintendent of the election, whose postoffice address is _____.

Dated this _____ day of _____, 19 ____.

SHERIFF

5:02:05:08. Receipt of superintendent of election for ballots and supplies

The receipt of the superintendent of election for ballots and supplies shall be in the following form:

STATE OF SOUTH DAKOTA)
COUNTY OF _____)

I, _____, Superintendent of Election in and for the voting precinct of _____ in said County, do hereby certify that on the _____ day of _____, 19 _____, at the hands of _____ (Auditor, Sheriff), by _____, his deputy, of said County, I received a sealed package said to contain official ballots and necessary supplies for the use of the voters of said precinct at the election to be held on Tuesday the _____ day of _____, 19 _____.

Dated this _____ day of _____, 19 _____.

SUPERINTENDENT OF ELECTION

5:02:05:09. Ballot box metal seal envelope

The ballot box metal seal envelope shall be in the following form:

THIS ENVELOPE CONTAINS BALLOT BOX METAL SEALS

to be used at the _____ Election held on the _____ day of _____, 19 ____ for the _____ Precinct of _____ County, SD

These seals must be returned, in the envelope provided, to the Auditor. (All used seals must also be returned with unused seals.)

5:02:05:10. Record of spoiled ballots

The election board's record of spoiled ballots must be in the following form:

STATE OF SOUTH DAKOTA

COUNTY

PRECINCT

We do hereby certify that at the election held on Tuesday the _____ day of _____, 20__, official ballots were spoiled, returned by voters and cancelled as follows:

NAME OF VOTER	Type & Number of Ballots	NAME OF VOTER	Type & Number of Ballots

Dated this _____ day of _____, 20__.

-) Precinct Superintendent
-)
-) Precinct Deputy

5:02:05:11. Notice of appointment of election officials

The notice of appointment of election officials must be in the following form:

STATE OF SOUTH DAKOTA)
) SS NOTICE OF APPOINTMENT
 COUNTY OF _____)

To _____ Precinct Superintendent
 _____ Precinct Deputy
 _____ Precinct Deputy
 _____ Precinct Deputy
 _____ Precinct Deputy

You are appointed as precinct election board members for the _____ Election, for _____ Precinct of _____ County. This election will be held at (polling place), from _____ a.m. to _____ p.m., local time, on the _____ day of _____, 20__. _____ has been designated Superintendent of this precinct election board.

If you are unable to serve, please contact the county auditor immediately.

The Election School of Instruction will be held at _____ on the _____ day of _____, 20__, at _____ m.

Witness my hand and seal, this _____ day of _____, 20__.

 Person in charge of election

5:02:05:11.01. Notice of appointment of election officials for school or municipal election

The notice of appointment of election officials for school district or municipal elections must be in the following form:

STATE OF SOUTH DAKOTA)
) SS MUNICIPALITY OF _____ (or)
) SCHOOL DISTRICT
 COUNTY OF _____) NOTICE OF APPOINTMENT

To: _____ Precinct Superintendent
 _____ Precinct Deputy
 _____ Precinct Deputy

South Dakota

BACK SIDE

This package contains Supplies and
Official Ballots for _____
Precinct as follow:

_____ Official Ballots
_____ Nonpolitical Ballots

5:02:05:15. Auditor's ballot box seal

The auditor's ballot box seal shall be in the following form:

AUDITOR'S
BALLOT BOX SEAL

THIS BALLOT BOX CONTAINS ELECTION SUPPLIES
FOR _____ PRECINCT

AUDITOR

DEPUTY

5:02:05:19. Ballot wrapper or envelope seals

Whenever a statute requires ballot wrappers or envelopes, those wrappers or envelopes shall be plain and sealed with a seal containing the following information:

BALLOT WRAPPER OR ENVELOPE _____ PRECINCT
OF BALLOTS _____

5:02:05:20. Emergency voting card

The emergency voting card must be printed on two-part NCR paper, 3 inches by 5 inches in size, and in the following form:

EMERGENCY VOTING CARD

For _____ County
_____ Ward _____ Precinct _____ Party

Name _____

Residence _____

The undersigned members of the precinct election board hereby certify that the above-named voter was permitted to vote in this precinct at the election held _____, 20____, pursuant to instructions from the office of the county auditor.

Signature of Voter

Authorized by

Signature of precinct election board member calling office

Precinct election board member

Precinct election board member

Precinct election board member

Precinct election board member

5:02:05:21. Affirmation of inactive voter's address

The form for an inactive voter to affirm his or her current address is the voter registration card prescribed in § 5:02:03:01.

5:02:05:22. Provisional ballot envelope.

The provisional ballot envelope shall be blue and in the following form:

Voter's Affirmation for a Provisional Ballot

My voter registration was completed on or about the following date and was left with the following person or agency for delivery to the county auditor:

_____. My name is _____, I reside at _____, my mailing address is _____, my date of birth is _____, my South Dakota driver license number is _____, my daytime telephone number is _____ and my evening telephone number is _____. If I do not have a South Dakota driver license the last four digits of my social security number are _____.

I understand if the election authority determines that I am not registered in this precinct and therefore not eligible to vote in this precinct, my vote will not be counted. I further understand that my vote may not be secret if only one provisional ballot is cast in the precinct. I declare and affirm under penalty of perjury that I registered and am eligible to vote in this precinct.

Signature of Voter

Date

To be completed by a precinct election worker:

Precinct number _____ Type of ballot provided to voter _____

Signature of precinct worker

5:02:05:23. Notice to provisional voter.

The notice handed to a provisional voter shall be in the following form:

Provisional Ballot

You will be sent a notice within 13 days whether your ballot was counted or not counted. If the ballot was not counted, you will be told of the reason.

5:02:05:24. Notice of provisional ballot determination.

The notice sent to the mailing address of a person who has cast a provisional ballot shall contain:

- (1) Voter's name;
- (2) Voter's mailing address;
- (3) Election at which the ballot was cast;
- (4) Whether the ballot was counted;
- (5) If the ballot was not counted, the reason why it was not counted; and
- (6) A telephone number for further information.

5:02:05:25. Personal identification affidavit.

The personal identification affidavit to be signed by a voter at the polling place who does not have personal identification shall be in the following form:

I declare, under penalty of perjury, that my name is listed as _____ on the official voter registration list, that I am that person, and that I currently reside at _____. The maximum penalty for perjury is 5 years imprisonment and a \$5,000 fine.

Dated _____ Voter Signature _____

5:02:05:26. Polling place voter identification sign.

Voter identification signs must be posted at each polling place. A sign must be posted at each entrance to the polling place which is used by voters. In addition a voter identification sign must be posted in the voting area for each precinct voting at a polling place. The type size of the sign must be a minimum of 36 point type. The language of the sign, shall be in the following form:

Please Read

To vote, you must either:

- Present a photo ID, or if not able to do so,
- Sign an affidavit which will be given to you.

Accepted forms of photo identification include any one of the following:

- A SD driver license or nondriver ID card; or
- A US government photo ID; or
- A tribal photo ID; or
- A current student photo ID from a SD high school or SD accredited institution of higher education.

CHAPTER 5:02:09

AUTOMATIC TABULATING EQUIPMENT

5:02:09:03. Number of voting booths

In counties where automatic tabulating systems are used, the county auditor shall provide at least one voting booth for each 100 votes cast at the last comparable election.

5:02:09:04.03. Arrangements for and conduct of voting in precincts where automatic tabulating systems used

The following procedures apply to the arrangements for and conduct of voting in precincts where automatic tabulating systems are used:

(1) The precinct officials shall prepare the voting place before the opening of the polls with all the voting booths, instructions to voters, other voting equipment, and supplies as provided by the person in charge of the election. These preparations must be made according to the instructions received at the election school held for precinct officials pursuant to SDCL 12-15-7. If an electronic ballot marking system is being used, it must be operational and tested as provided in § 5:02:09:04.05;

(2) The precinct official charged with the duty of issuing the ballot to the voter shall mark the ballot with the official ballot stamp in the location designated by the person in charge of the election;

(3) The official shall issue the ballot along with any other system equipment required for marking the ballot. If requested by the voter, the official shall issue clear instructions or demonstrations for marking the ballot with only the instrument provided and according to the instructions on the ballot and those posted throughout the voting place. The official shall specifically inform the voter that marking the ballot with any instrument other than the one issued could result in the ballot not being counted. All instructions must be given prior to the voter entering the voting booth, except a voter may receive instruction on operating an electronic ballot marking system while using the system;

(4) A precinct official, in the course of instructing a voter, may not show partiality to any political party or any side of a measure being voted on;

(5) Precinct officials shall discharge the duties of instruction with each political party alternating a turn so as to ensure a nonpartisan presentation;

(6) In precincts using optical scan ballots, the official shall instruct the voter to return the voted ballot in the privacy sleeve so that the official ballot stamp is visible by the official before the ballot is placed in the box. The precinct official shall place any ballot without the official ballot stamp in a separate marked envelope not to be counted and give the voter a new ballot;

(7) Upon completion of the voting on election night, the precinct officials shall complete the recap sheet prescribed in § 5:02:09:16. If the ballot count does not agree with the number of voters in the pollbook, the precinct officials shall compare the voters in the pollbook and the registration list and correct any mistakes;

(8) The precinct officials shall securely seal the ballot box pursuant to § 5:02:16:37;

(9) The voted ballots and all spoiled and unvoted ballots are to be transported pursuant to SDCL 12-17B-9 to the person in charge of the election; and

(10) Precinct officials shall secure in the polling place the equipment and supplies that were issued for the purpose of voting or shall return the equipment and supplies to the person in charge of the election.

5:02:09:04.04. Tabulation procedures

The procedures for receiving, preparing, and tabulating the ballots are as follows:

(1) The tabulation technicians shall compare the total number of ballots shown on the return printed by the equipment and the total number of ballots shown on the recap sheet from the precinct officials. If there is a discrepancy in the total number of ballots cast in any precinct, the tabulation technicians shall note the discrepancy on the recap sheet, the sheet shall be signed by a tabulation technician and notice given to the resolution board;

(2) If the total number of ballots exceed by five or more the number of names in the pollbook as found on the recap sheet, the ballots shall be examined by the resolution board for the official ballot stamp. Any unstamped ballots shall be removed and marked as "unstamped - not counted." If the total number of ballots still exceeds the number of names in the pollbook, the ballots shall be placed in a box and one of the resolution board shall publicly draw from the box the number of ballots that is equal to the excess and place these in an envelope labeled "ballots drawn by resolution board to justify totals". The remaining ballots shall then be counted by the tabulation equipment and the count shall be included with the other tabulations to constitute the compiled unofficial returns; and

(3) If a ballot is rejected by the automatic tabulating equipment, the resolution board shall review the ballot as follows:

(a) If the resolution board determines that the ballot is damaged or defective, a duplicate shall be made of the ballot. All duplicate ballots shall clearly be marked "duplicate," shall bear a serial number which is also recorded on the original ballot. This ballot shall then be counted by the automatic tabulating equipment in lieu of the original ballot; and

(b) If the resolution board determines that the tabulating equipment is not reading any mark which is a vote according to § 5:02:09:22, the board shall duplicate that ballot according to subdivision (3)(a) of this section.

If the resolution board cannot reach an agreement on the determination of any mark, the board shall duplicate that ballot according to subdivision (3)(a) without marking any oval in dispute.

If the resolution board cannot reach an agreement on the determination of all of the marks on any ballot, the board shall reject that ballot and label it, "no votes can be determined".

5:02:09:04.05. Election Day test of electronic ballot marking system.

Prior to the opening of the polls, the precinct superintendent must test the electronic ballot marking system for proper operation using the following procedure:

(1) Use only the test ballots provided by the person in charge of the election which are labeled "TEST BALLOTS";

(2) Mark at least two "TEST BALLOTS" using the electronic ballot marking system by selecting various candidates and ballot questions using the touchscreen, keypad, and headphones;

(3) You must successfully mark two "TEST BALLOTS" before allowing voters to use the electronic ballot marking system;

(4) If the test is not successfully completed, open the polls at 7:00 a.m. No voter may use the electronic ballot marking system until the test is successfully completed.

5:02:09:05. Recount procedure.

The following procedure shall be used in recounting any election counted by an automatic tabulating system:

(1) If a discrepancy in the number of ballots for a precinct is discovered during ballot tabulation and is not resolved at that time, the county auditor shall make every

effort to resolve the discrepancy following the official county canvass and prior to the convening of the recount board;

(2) The recount board shall first examine each ballot to determine if the official stamp has been placed on the ballot and may not count any vote on an unstamped ballot;

(3) If any discrepancy remains after subdivisions (1) and (2) have been completed and the total number of ballots in a precinct exceeds the number of names in the pollbook, the ballots shall be placed in a box and the recount board shall draw from the box the number of ballots that is equal to the excess and place these in an envelope labeled "ballots drawn by recount board to justify totals";

(4) The recount board shall review ballots for proper marking procedure according to the voting instructions. Each ballot marked in a manner other than as provided in the instructions to voter and which may not be counted by the machine shall be hand counted or duplicated in the manner used by a resolution board and the duplicate counted by machine. The recount board shall determine the voter's intent based on the standards found in ARSD 5:02:09:22;

(5) The recount board shall review each ballot to determine if there are any write-in votes. Any write-in vote may not be counted but all other votes for which the voter's intent can be determined shall be counted;

(6) The recount board shall examine the ballots reviewed by the resolution board to determine the correctness of the initial rejection or duplication. The recount board shall rule on whether each mark is to be counted or rejected according to § 5:02:09:22;

(7) The recount board shall test the automatic tabulating equipment according to § 5:02:09:01.02. The board may conduct additional tests of the equipment including a comparison with hand-counted results from a precinct;

(8) The recount board shall count the ballots with the automatic tabulating equipment or by hand;

(9) The recount board shall complete the Certificate of Disputed Ballot as provided in § 5:02:19:09;

(10) Any question arising on the recount shall be determined by majority vote of the recount board; and

(11) The recount board shall certify the new returns as printed by the automatic tabulating equipment or as hand counted as the "Official Returns" for the election by completing the Certificate of Recount as provided in § 5:02:19:08. The Certificate of Recount shall be filed with the person in charge of the election and shall constitute the final returns for the election in that jurisdiction. If the recount involved an election canvassed by the State Board of Canvassers a duplicate original of the Certificate of Recount shall be forwarded to the secretary of state to be incorporated into the statewide totals as provided by SDCL 12-21-39.

5:02:09:09. Unnecessary items in the pollbook.

Electronic voting precincts do not need tally sheets, official vote count sheet, or the oath or certificate of the counting board in the pollbook.

5:02:09:11. Official and unofficial election results

The unofficial returns shall include the date and name of election, identification of the jurisdiction, precinct, names of candidates, offices sought, political party affiliation, ballot issues, and votes counted.

The unofficial returns are considered certified as the "Official Returns" upon completion of the review performed by the canvassing board designated for the election of the voting jurisdiction and signing and sealed by the person in charge of the election.

5:02:09:13. Envelope for official returns

The returns printed from the tabulating or accumulation equipment shall be sealed in a manila envelope clearly labeled "Final Unofficial Returns" and kept with the pollbook until the meeting of the county canvassing board.

5:02:09:14. Oath by tabulation center employees

The oath that the tabulation center employees take and subscribe to shall be in the following form:

OATH BY TABULATION CENTER EMPLOYEES

I, _____, do solemnly swear that I will perform the duty of tabulating the ballots according to law and the best of my ability and that I will studiously endeavor to prevent fraud, deceit, and abuse in tabulating the ballots I am about to count.

(Signed) _____

Subscribed and sworn to before me this ____ day of _____, 19____.

(Person in Charge of Election or Deputy)

5:02:09:16. Recapitulation sheet

A recapitulation sheet containing the following information shall be filled out for each type of ballot.

RECAP SHEET: PRECINCT _____ Type of ballot: _____
(date and name of election)

- 1. Official Ballots Received from Auditor _____ +
- 2. Additional Ballots Received During the Day _____ +
- 3. Absentee Ballots Received _____ +
- 4. Total Ballots Received (add lines 1, 2 and 3) = _____ (Line 4 Total)

- 5. Ballots Spoiled _____ +
- 6. Ballots Unvoted at End of the Day _____ +
- 7. Absentee Ballots not Opened _____ +
- 8. Total (add lines 5, 6 and 7) = _____ (Line 8 Total)

- 9. Ballots Voted (Line 4 minus Line 8) _____ (Line 9 Total)

- 10. Provisional Ballots Voted _____

- 11. Ballots to Be Counted (Line 9 minus Line 10) _____

- 12. Enter Number of Voters from Pollbook for this Type of Ballot _____

If Line 9 and Line 12 are not the same, compare the voters in the pollbook and the registration list and correct any mistakes.

Signed: _____

Precinct Officials

PLACE INSIDE BALLOT BOX OR TRANSFER CASE WITH VOTED BALLOTS

Discrepancies noted by resolution board: _____
(fill in only if there is a different total than above)
Signed _____

Resolution Board

Printer's note: In central count optical scan precincts, lines 10 and 11 may be completed by tabulation center employees. The printed form may be changed to reflect this option.

5:02:09:17. Examination of voting booths.

Before voting begins and periodically thereafter on election day, members of the election board shall examine all voting booths and remove campaign cards, political advertising, or other matter constituting an unauthorized attempt to influence voters.

5:02:09:22 Counting imperfectly marked optical scan ballots.

A mark that touches the oval on an optical scan ballot shall be counted as a vote; any mark that does not touch the oval and is not in the oval may not be counted as a vote.

CHAPTER 5:02:12

INTERPRETIVE RULES

5:02:12:01. Poll watchers - Primary election

At least one poll watcher for each candidate, one poll watcher for each slate of national convention delegates and alternates, and one poll watcher for each side of any ballot issue to be voted on may be present at each polling place for primary elections.

5:02:12:02. Poll watchers - General election

At least one poll watcher for each political party, one poll watcher for each independent candidate, one poll watcher for each slate of presidential electors, and one poll watcher for each side of any ballot issue to be voted on may be present at each polling place for general elections.

5:02:12:03. Additional poll watchers permitted

If there is adequate space at the polling place, this chapter does not preclude increasing the number of poll watchers.

CHAPTER 5:02:16

COUNTING AND CANVASSING OF BALLOTS

5:02:16:00. Definitions.

Terms used in this chapter mean:

- (1) "Voted ballot," a ballot placed in the ballot box at any time;
- (2) "Unvoted ballot," a ballot never placed in the ballot box;
- (3) "Unused ballot," a ballot never stamped or marked by a voter;
- (4) "Spoiled ballot," a ballot marked by a voter but never placed in the ballot box at any time. A voted ballot not counted by the board is not a spoiled ballot;
- (5) "Counted ballot," a voted ballot counted by the election or counting board in at least one race;
- (6) "Rejected ballot," or "ballot voted but not counted," a voted ballot which was not counted for any reason, including an unstamped ballot or an excess ballot;
- (7) "Duplicate ballots," two or more identical ballots stuck together given to one voter;
- (8) "Metal seal," a device to seal ballot boxes, such as a metal closure designed to be broken or a padlock.
- (9) "Write-in vote," a name written on a ballot in an attempt to indicate a vote for that person.

5:02:16:01. Delivery of supplies to counting board -- Signing of certificate.

If a counting board has been appointed, the precinct election board shall immediately upon the close of the polls deliver the ballot boxes, registration books, pollbook, and other election supplies, including voided and unused ballots, to the counting board and sign the certificate required by 5:02:05:01.

5:02:16:02. Signing of oaths.

The counting board, before assuming its duties, shall execute the oath of office printed in the pollbook.

5:02:16:03. Public vote count.

In the presence of all persons desiring to attend the vote counting, the precinct election board or counting board shall immediately proceed to publicly count the votes received at the polls and shall continue without adjournment until the count is completed. The precinct election board or counting board may not exclude or prohibit any member of the public from witnessing any portion of the vote counting, so long as that person's conduct is not disruptive.

5:02:16:04. Use of tally sheets.

The precinct election board or the counting board shall use the tally sheets prescribed by 5:02:17:07 in the vote counting.

5:02:16:05. Comparison of registration list and pollbook.

The counting board shall begin the vote count by counting the ballots as prescribed in 5:02:16:06 to 5:02:16:08, inclusive. If the ballot count does not agree with the number of voters in the pollbook, a comparison of the voters in the pollbook and the registration list shall be made and any mistakes corrected. If a mistake is made otherwise, the board by majority vote shall decide.

5:02:16:06. Opening ballot box

The ballot box shall then be opened and the ballots taken out, sorted so that all ballots on certain candidacies and issues are separately identified, and counted by the members of the counting board unopened, except to ascertain if each ballot is single.

5:02:16:07. Folded ballots separated.

If two or more ballots are found folded together presenting the appearance of a single ballot, the ballots shall be laid aside until the count of the ballots is completed. If, upon the comparison of the count of the pollbook and after considering the appearance of the ballots, a majority of the counting board is of the opinion that the folded ballots were voted by one voter, the ballots shall be stapled together and endorsed as "duplicate ballot of one voter not counted."

5:02:16:08. Duplicate ballots.

For the purpose of determining the proper number of ballots in the box, any ballots folded together determined to be duplicate ballots of one voter shall be counted as a single ballot. There are two types of duplicate ballots as follows:

(1) If a voter was given two or more identical ballots stuck together and voted only one of them, the voted ballot shall be counted. The election or counting board will find the duplicate ballots folded together in the ballot box with the ballot stamp on the back copy and the votes marked on the top copy; and

(2) If a voter was given two or more identical ballots stuck together and voted more than one of them, none of the voted ballots may be counted.

5:02:16:09. Drawing of excess ballots

If the number of ballots in the ballot box shall be found to exceed in number the number of voters in the pollbook, as reconciled by 5:02:16:05 and 5:02:16:08, the ballots shall be replaced in the box, after any ballots folded together are stapled and endorsed, and one of the counting board members shall publicly draw from the ballot box, as many ballots, unopened, as shall be equal to the excess.

5:02:16:09.01. Endorsing of excess ballots

Any excess ballots drawn from the ballot box pursuant to 5:02:16:09 shall be endorsed "Excess Ballots Not Counted."

5:02:16:10. Unstamped ballots.

In the counting of the official vote, any ballot not covered by 5:02:16:07, 5:02:16:08, or 5:02:16:09.01 which is not endorsed by the official stamp is void and may not be counted. All such ballots shall be endorsed "unstamped ballot."

5:02:16:11. Separation of ballots.

The counting board shall next proceed to further separate the ballots.

5:02:16:12. Order of vote counting.

The counting of votes for each candidate shall be in the same order as the candidates appear on the ballot.

5:02:16:14. Scrutiny of ballots by counting board.

At least two precinct deputies of the counting board of opposite political parties shall scrutinize each ballot to determine the vote on that ballot. The precinct superintendent shall break any tie on a ballot.

5:02:16:15. Tally of ballots.

As the vote is announced, one counting board member shall make the required mark on the tally sheet in the pollbook and another counting board member shall make the required mark on the duplicate tally sheet.

5:02:16:16. Voter's intent.

The counting board shall determine the voter's intent in marking the ballot. This section shall be construed liberally by the counting board to assure that each person's vote is counted.

5:02:16:17.01. Write-in votes not counted.

As each ballot is being examined to determine how the vote was cast for each office, the counting board shall determine if any write-in was placed on the ballot. The write-in may not be counted as a vote but all other valid marks shall be counted as votes.

5:02:16:17.02. Counting imperfectly marked paper ballots.

A mark that touches the circle or square on a paper ballot shall be counted as a vote; any mark that does not touch the circle or square and is not in the circle or square may not be counted as a vote.

5:02:16:21. Voter's intent to be determined.

If in accordance with this chapter it is impossible to determine the voter's intent on any ballot or part of a ballot, that portion of the ballot shall be void and shall not be counted as to those races for which the voter's intent cannot be determined.

5:02:16:22.01. Use of prior court decision.

In using a court decision for construing a counting requirement, the election board or counting board shall determine which laws were in effect when the court decision was rendered and determine if these decisions are still applicable to present laws and rules.

5:02:16:25. Unofficial returns of precinct vote.

The election supplies provided to the counting board shall include a form for reporting the immediate unofficial returns of precinct vote, together with an envelope.

The form for reporting the immediate unofficial returns of precinct vote is as follows:

IMMEDIATE UNOFFICIAL RETURNS, _____ PARTY
ELECTION HELD ON THE _____ DAY OF _____, _____
PRECINCT

TITLE OF OFFICE	NAME OF CANDIDATE	NUMBER OF VOTES
_____	_____	_____
_____	_____	_____
_____	_____	_____

NUMBER OF PROVISIONAL BALLOTS

The form of the envelope is as follows:

UNOFFICIAL RETURNS
TO: COUNTY AUDITOR

SOUTH DAKOTA

IMMEDIATE
DO NOT PUT THIS IN BALLOT BOX

5:02:16:26. Entry of precinct vote on unofficial return list

Upon the unofficial return as set forth in 5:02:16:25, the counting board shall enter the vote cast in that precinct for each office or question which appears on the official ballot and shall enclose the unofficial returns in the envelope provided pursuant to 5:02:16:25. The precinct superintendent may designate a precinct deputy to deliver the unofficial election returns to the officer in charge of the election. The precinct deputy designated shall deliver to the officer in charge of the election the unofficial returns, separate from any other envelope or wrapper.

5:02:16:31. Signing of certificates.

The precinct superintendent and precinct deputies of the precinct election board and counting board shall complete and sign the certificates following the list of voters in the pollbook, the tally sheets, and the official vote count sheets.

5:02:16:33. Procedure for placing voted ballots in the ballot box.

After the count has been completed, the election board or counting board shall place the voted ballots in the ballot box, keeping them separated in wrappers or envelopes and sealed as provided 5:02:16:34.

5:02:16:34. Return of unvoted ballots

All spoiled and unused ballots shall be returned to the person in charge of the election in plain wrappers or envelopes with the words "spoiled ballots" or "unused ballots" added to each wrapper or envelope. Each wrapper or envelope shall be sealed by a ballot seal containing the following information:

BALLOT WRAPPER OR ENVELOPE SEAL _____ PRECINCT
NUMBER OF BALLOTS _____

DO NOT PLACE THESE SPOILED AND UNUSED BALLOTS IN THE BALLOT BOX

5:02:16:34.01. Return of duplicate ballots of one voter not counted

Each type of duplicate ballots, as identified in 5:02:16:08, shall be returned to the ballot box in a plain wrapper or envelope and sealed as provided in 5:02:16:34. Those ballots which are described in subdivision (1) of 5:02:16:08 shall have the following words added to the wrapper or envelope: "stapled duplicate ballots counted." Those which are described in subdivision (2) shall have the following words added to the wrapper or envelope: "stapled duplicate ballots not counted."

5:02:16:35. Ballots voted but not counted

Except as provided by 5:02:16:34.01, all ballots voted but not counted shall be returned to the ballot box in a plain wrapper or envelope and sealed as provided in 5:02:16:34 with the words "ballots voted but not counted" added to the wrapper or envelope.

5:02:16:36. Recapitulation sheet

A recapitulation sheet in the following form shall be filled out indicating the disposition of the ballots:

Ballots received from auditor	_____	
Ballots received after polls open	_____	
Absentee ballots received	_____	
Total ballots received		_____
Regular voted ballots	_____	
Provisional ballots	_____	
Unused ballots	_____	
Spoiled ballots	_____	
Total ballots returned		_____
Total ballots received and total ballots returned should be the same number.		

This recapitulation sheet, together with the spoiled and unused ballots, shall be returned to the person in charge of the election. It shall not be placed in the ballot box.

5:02:16:37. Sealing of ballot box

Following the deposit of all voted ballots except those in 5:02:16:34, the counting board shall seal the ballot box with a metal seal where box and clasp connect.

5:02:16:38. Use of paper seals on ballot box

A paper seal may be used to cover the slot or any other opening on the ballot box through which ballots are deposited during the course of voting.

5:02:16:39. Form of the paper seal

The paper seal used pursuant to §§ 5:02:09:04.03(8) and 5:02:16:38 shall be in the following form:

BALLOT BOX SEAL

SIGNATURES OF COUNTING BOARD
OR PRECINCT BOARD

Where ballots are counted by hand, upon returning ballots to the box after counting the counting board shall sign these seals and affix the seals to the ballot box

openings and upon all places where the box may be opened except where the openings are sealed with a metal seal. Where ballots are counted by machine, the precinct board shall sign these seals.

5:02:16:40. Return and sealing of pollbook.

The pollbook shall be placed in a pollbook return envelope and the envelope sealed with the pollbook envelope seal prescribed in 5:02:16:41. The sealed envelope and its contents shall not be placed in the ballot box and shall be returned to the person in charge of the election.

The pollbook envelope must be in the following form:

POLLBOOK
_____PRECINCT
TO: COUNTY AUDITOR

SOUTH DAKOTA

DO NOT PUT THIS IN BALLOT BOX

5:02:16:41. Pollbook envelope seal

The pollbook envelope seal shall be in the following form:

POLLBOOK ENVELOPE SEAL _____PRECINCT

5:02:16:41.01. Return of duplicate tally sheet

The duplicate tally sheet and official vote count shall be placed in a duplicate tally sheet envelope. The sealed envelope and its contents shall not be placed in the ballot box and shall be returned to the person in charge of the election.

The duplicate tally sheet envelope must be in the following form:

DUPLICATE TALLY SHEET AND OFFICIAL VOTE COUNT
_____PRECINCT
TO: COUNTY AUDITOR

SOUTH DAKOTA

DO NOT PUT THIS IN BALLOT BOX

5:02:16:42. Return of election material.

The sealed ballot box together with the sealed pollbook, sealed duplicate tally sheet and official vote count, sealed provisional ballot return envelope, registration lists, and envelopes containing the unofficial returns and all supplies and returns required shall be returned by the precinct superintendent or a precinct deputy designated by the precinct superintendent to the officer in charge of the election immediately after completing the vote count. The person delivering the supplies may not deface, destroy, or remove any seals or the pollbook, duplicate tally sheet, and registration lists or otherwise tamper with them.

5:02:16:43. Purpose of this chapter.

This chapter is designed to assist in the counting of ballots and is not to be construed to encourage voters to mark their ballots in any way other than (X) or (✓) in the box.

5:02:16:44. Provisional ballot return envelope

When ballots are counted at the precinct, provisional ballot envelopes containing provisional ballots shall be cumulatively placed in a provisional ballot return envelope and sealed. Do not place the sealed envelope and its contents in the ballot box. The sealed envelope shall be returned to the person in charge of the election.

The provisional ballot return envelope must be in the following form:

PROVISIONAL BALLOT RETURN ENVELOPE

PRECINCT
TO: COUNTY AUDITOR

SOUTH DAKOTA

DO NOT PUT THIS IN BALLOT BOX

CHAPTER 5:02:17

POLLBOOKS AND TALLY SHEETS

5:02:17:02. Pollbook binding.

The cover and sheets of the pollbook must be securely bound.

5:02:17:03. Contents of cover.

The cover of the pollbook must be in the following form:

DO NOT PUT IN BALLOT BOX

ELECTION
POLLBOOK AND OFFICIAL VOTE COUNT WITH TALLY SHEETS

WARD _____ PRECINCT
CITY
TOWN _____, _____ COUNTY, SOUTH DAKOTA
TOWNSHIP
ELECTION HELD ON THE _____ DAY OF _____, ____.

5:02:17:03.01. Envelope for the pollbook

The pollbook must be placed in the envelope prescribed by § 5:02:16:40.

5:02:17:06. List of voters

The list of voters must consist of the following three columns:
(1) Column one must be NUMBER OF PERSONS VOTING;
(2) Column two must be NAME OF VOTER; and

(3) Column three must be TYPE OF BALLOTS (small column).

5:02:17:07. Tally sheets

The tally sheets must be ruled by horizontal and perpendicular lines to form squares of suitable size to contain five tally marks each, four of which may be upright and the fifth crossing the others at an oblique angle. Each fifth perpendicular line in the ruling must be red, so that five squares for tally marks are contained between each two red lines. In a perpendicular column at the left margin of each tally sheet sufficient space must be left to legibly print or write in ink the names of all candidates and all questions submitted to the electors at the election, in the same order as on the official ballots used in the election. At the extreme right margin of the tally sheet there must be a perpendicular column with sufficient space to label the column at the top of the tally sheet as follows: "Total Votes."

5:02:17:08. Official vote count.

The official vote count must consist of the following four columns:

- (1) Column one, TITLE OF OFFICE;
- (2) Column two, NAME OF CANDIDATE;
- (3) Column three, NUMBER OF VOTES RECEIVED IN FIGURES; and
- (4) Column four, NUMBER OF VOTES RECEIVED (write number of votes in words).

5:02:17:09. Certification by precinct election board.

The members of the precinct election board shall sign the following certification which is located in the pollbook following the list of voters:

We hereby certify that the above list is a true and correct list of the individuals voting at the election.

5:02:17:10. Certification by counting board.

The counting board shall sign the following certification which is located in the pollbook following the tally sheet and official vote count the pollbook and the duplicate tally sheet/official vote count:

We hereby certify that the tally sheet and official vote count contained herein are correct.

2008 South Dakota AutoMARK Training Manual

The AutoMARK ballot assistant

Every voter in South Dakota receives a paper optical scan ballot at federal elections. The voter has the option to mark the ballot by hand or by use of the AutoMARK ballot assistant.

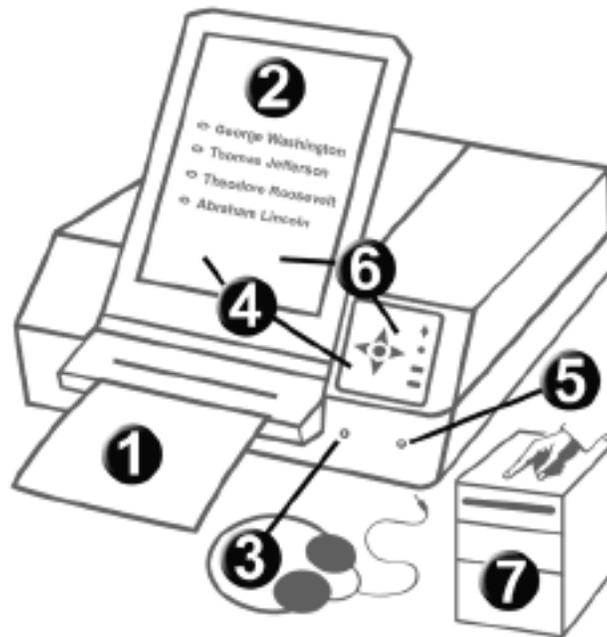
The AutoMARK assists a broad range of voters in marking their ballots independently and privately. Available in every polling place in South Dakota for any federal election, the AutoMARK may be provided for other elections.

The AutoMARK keeps no record of votes. It is a paper-based electronic ballot marker—an “electronic pen.” Most voters find it to be intuitive and user-friendly.

The AutoMARK has special features to assist voters who are blind, have poor eyesight, can't hold a pen, or have other difficulties in voting a paper ballot. All ballots—whether voted by pen or by AutoMARK—go into the same ballot box.

When a ballot is inserted into the AutoMARK, an electronic version appears on the screen. The pictures of the ballot contests can be enlarged for easier reading, shown in reverse contrast, or turned off for privacy if a voter chooses to access the ballot by attached headphones and keypad. The audio description of the ballot can be used in place of or in conjunction with the visual version on the screen. The voter makes selections through the touch screen or keypad. (A voter may also bring an A/B switch to access the AutoMARK.)

The AutoMARK warns of undervotes and will not allow overvotes. The voter may make changes before the ballot is marked. The voter is provided a summary of selections. When the voter selects Mark Ballot, the appropriate ovals on the optical scan paper ballot are marked and the ballot is ejected. If a marked ballot is inserted into the AutoMARK, the touch screen will display and the headphones will describe the selections marked on that ballot. The voter takes the official paper ballot to the precinct ballot box for casting. A ballot privacy sleeve is provided to all voters.

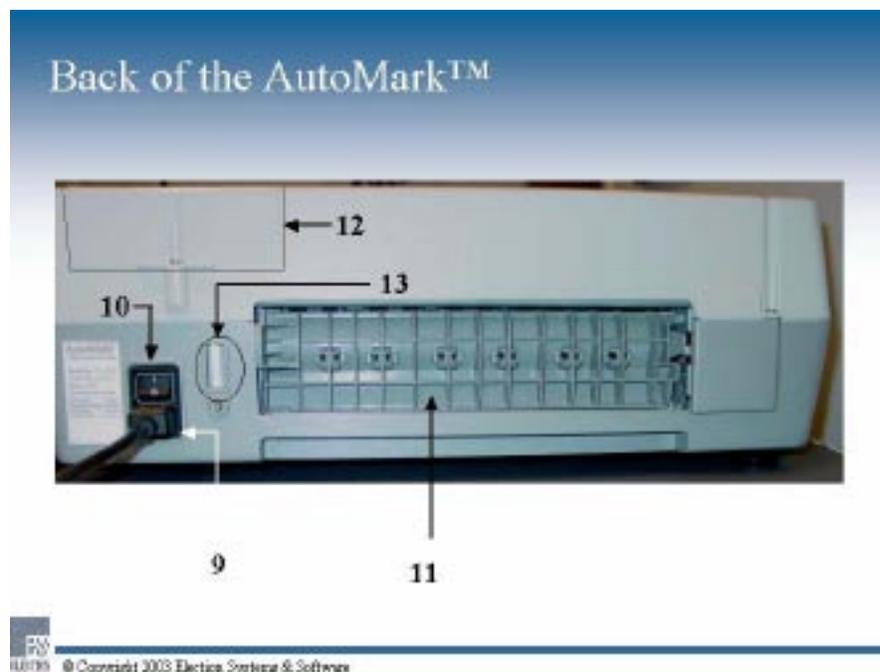
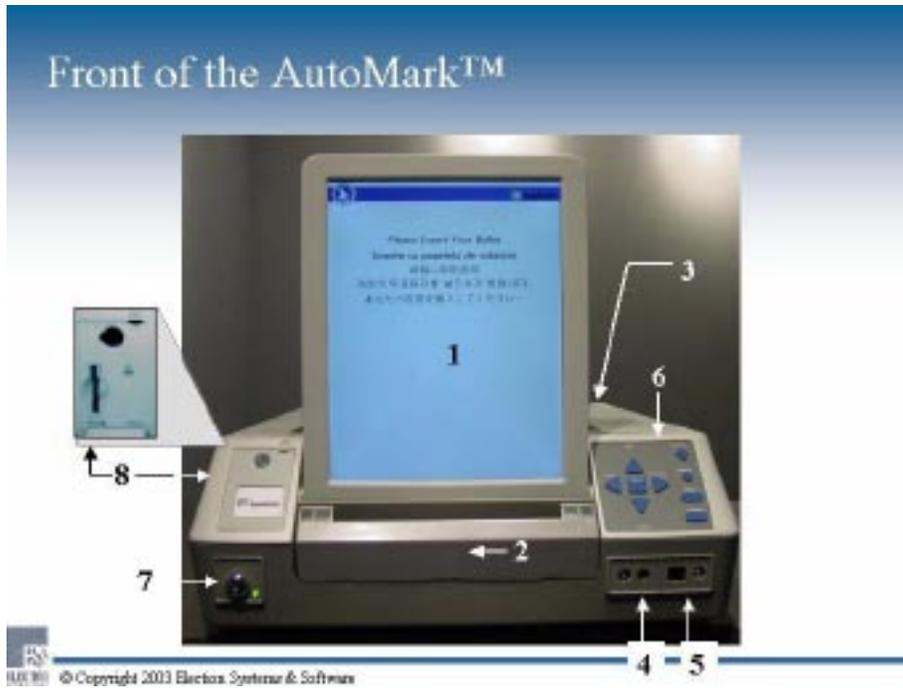


How does it work?

- 1** Insert your paper ballot into the AutoMARK.
- 2** Your ballot will appear on the touch screen.
- 3** If you would like the ballot read to you, plug in and put on the headphones.
- 4** Touch the screen or use the keypad to move through the ballot and select your choices.
- 5** You may use your own personal A/B - style switch to access the AutoMARK.
- 6** Verify your selections and press "Mark Ballot". The AutoMARK will mark and return your ballot.
- 7** Remove your ballot and place it in the ballot box.

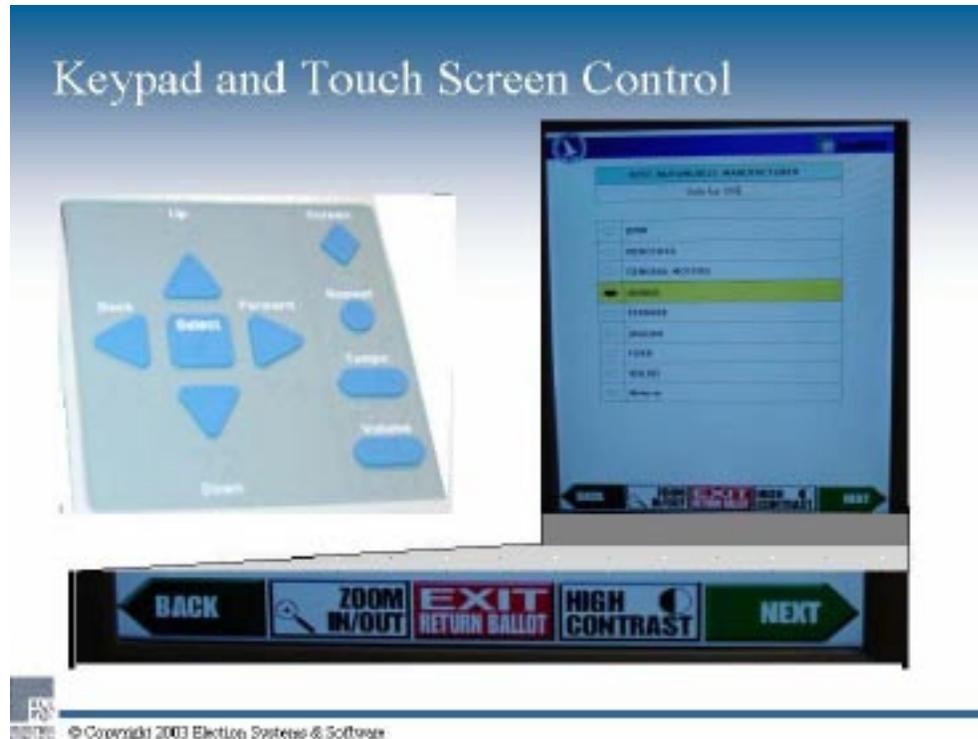
Parts of the AutoMARK

Referring to AutoMARK terminal parts by name when speaking with other poll workers and voters creates clear communication. The proper names for the AutoMARK parts will be used throughout this manual.



Number	Item	Description
1	Touch Screen Monitor	Displays the ballot and the touch screen controls. The touch screen controls allow a voter to navigate the ballot by touching commands directly on the touch screen monitor.
2	Ballot Feed Tray	Place to insert and remove the ballot.
3	Top Access Panel	A movable part that exposes the internal paper tray that holds the ballot during voting.
4	Headphone Jack	Port to plug in headphones to utilize the audio feature of the AutoMARK.
5	A/B Jack	Port to plug in A/B devices such as a sip/puff device.
6	Keypad	Nine buttons used to navigate the ballot and control the audio features. The keypad and touch screen can be used interchangeably.
7	Mode Switch	Provides key access to control what mode the AutoMARK is in. When turned to ON, the terminal is used for voting or confirming a ballot has been voted. When turned to TEST, the terminal performs administrative functions. When turned to OFF, the AutoMARK performs no functions.
8	CompactFlash Card	A card, similar to a camera memory card, used to transfer important election files to the AutoMARK. The card is kept locked behind a door that requires a different key than the mode switch key. The door is sealed for the election.
9	AC Power	Location to connect the AC power cord to the AutoMARK.
10		(Not on SD machines)
11	Rear Access Panel	Paper guide used to flip over the ballot so both the front and back can be read/marked by the AutoMARK.
12	Print Cartridge Access Lid	Location of the print cartridge.
13	Battery Level Indicator	The AutoMARK charges automatically when plugged in.

Three Ways to Communicate With the AutoMARK



The AutoMARK presents the ballot to the voter in two ways:

1. Visually by the touch screen
2. Audibly by the headphones

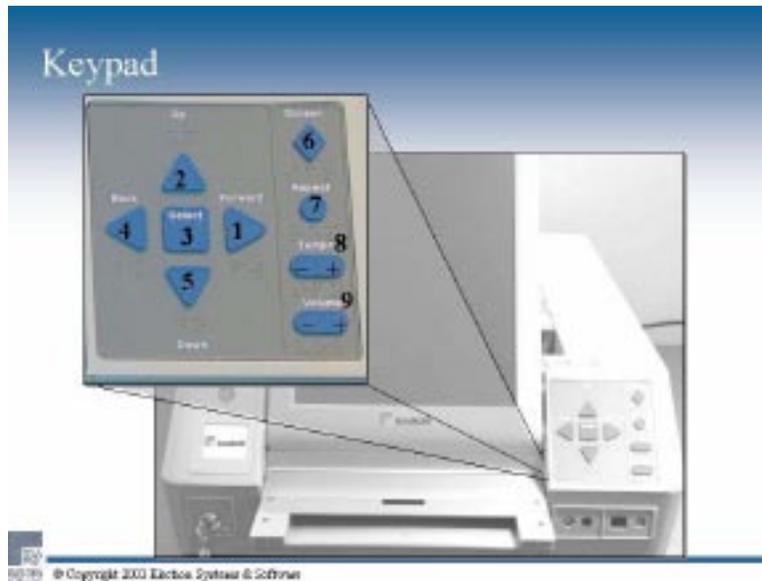
The Voter makes selections on the AutoMARK in three ways:

1. By using the keypad
2. By touching the touch screen
3. By using an A/B switch

There are advantages to each mode of communication depending on the specific abilities of the voter. The options can be used interchangeably throughout the selection process.

Keypad

The keypad may be helpful for the voter who is unable to see the ballot on the touch screen. The buttons on the keypad have Braille abbreviations. Instructions given through the headphones describe the buttons and their functions. The diamond-shaped button blackens the touch screen for increased privacy. (Touching the diamond-shaped button four times in a row ejects the ballot.) All the information on the ballot is available through the keypad.



Nine buttons give the voter control over the selection process:

Number	Item	Description
1	Forward/Next	Progresses to the next section on the ballot or the next page when applicable.
2	Scroll Up	Moves up candidate / question options.
3	Select	Chooses one option from multiple choices.
4	Back	Moves back to the previous section on the ballot or the previous page when applicable.
5	Scroll Down	Moves down candidate / question options.
6	Screen Off/On	Turns the display screen on or off. A visually impaired voter may choose to blacken the screen while listening to the ballot being read through the headphones to ensure privacy.
7	Audio Repeat	Repeats the last audio file just read over the headphones.
8	Audio Tempo	Adjusts the speed of the audio (- decrease, + increase).
9	Volume	Adjusts the loudness of the audio (- decrease, + increase).

Touch Screen

The touch screen is probably the mode of choice for the voter who has both sight and ability to touch the screen. Communication is immediate as the voter can see the oval instantly marked by the touch of a finger. Two additional options for viewing which may help some voters:

1. The zoom feature—for enlarging the ballot
2. Reverse contrast—for displaying the ballot white on black



Touch screen control options:

Item	Description
Back	Displays the previous screen.
Zoom In/Out	Increases and decreases the size of the text displayed on the screen.
Exit Return to Ballot	Displays the Exit Screen.
High Contrast	Changes to white on black.
Next	Displays the next screen.

Headphones

Headphones will be available next to the AutoMARK on the AutoMARK Table. The cord should be on the table so that it is out of the way. The plug should be easily available but not plugged in, since—if the headphones are not on the voter's head—selections could be overheard by other persons. All information on the ballot is described by audio through the headphones, including the prompts necessary to navigate the ballot.

The touch screen displays the ballot in English. The voter who does not read English may need assistance in plugging in the headphones before beginning the voting session. The poll worker should be available for technical assistance. The poll worker should remove the audio plug from the audio jack after a voter has finished using the terminal if the voter does not remove the plug.

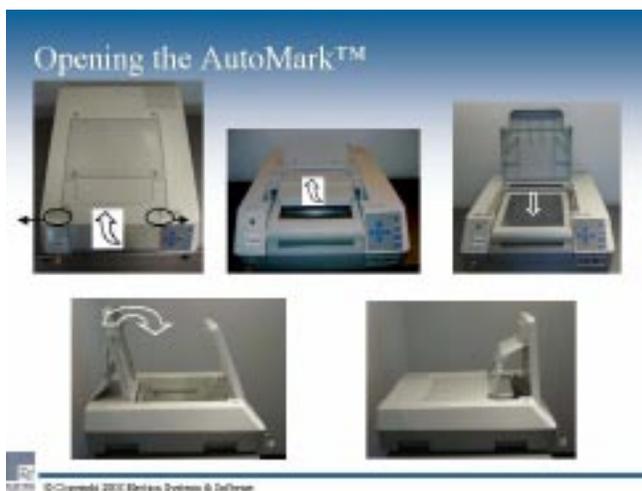
A/B Switch

The AutoMARK provides a jack to receive an A/B switch which a voter may bring to access the AutoMARK. Such a device is designed to the personal abilities of an individual person. Examples include a sip/puff device or a foot switch. The A/B device is used by the voter who is unable to use the keypad or the touch screen. All the information on the touch screen is available through a clockwise advance around the touch screen. The voter touches the advance button or the select button. The port for all A/B devices is the 3.5 mm jack farthest to the right. The voter using such a device may need assistance in plugging in the device, inserting the ballot, and removing the ballot.

Privacy Sleeve

The hard plastic or card stock privacy sleeve in general use throughout South Dakota can be used by all voters at the polling place. The privacy sleeve promotes the voter's privacy while allowing the official stamp to remain visible. The additional cardboard AutoMARK privacy sleeve, which is attachable to the AutoMARK by Velcro in preparation for receiving the voter's marked ballot, may provide increased privacy for certain voters who are unable to remove the ballot from the machine without assistance. This privacy sleeve should be available and should be offered to voters who might benefit from it.

Set Up the AutoMARK at the Polling Place

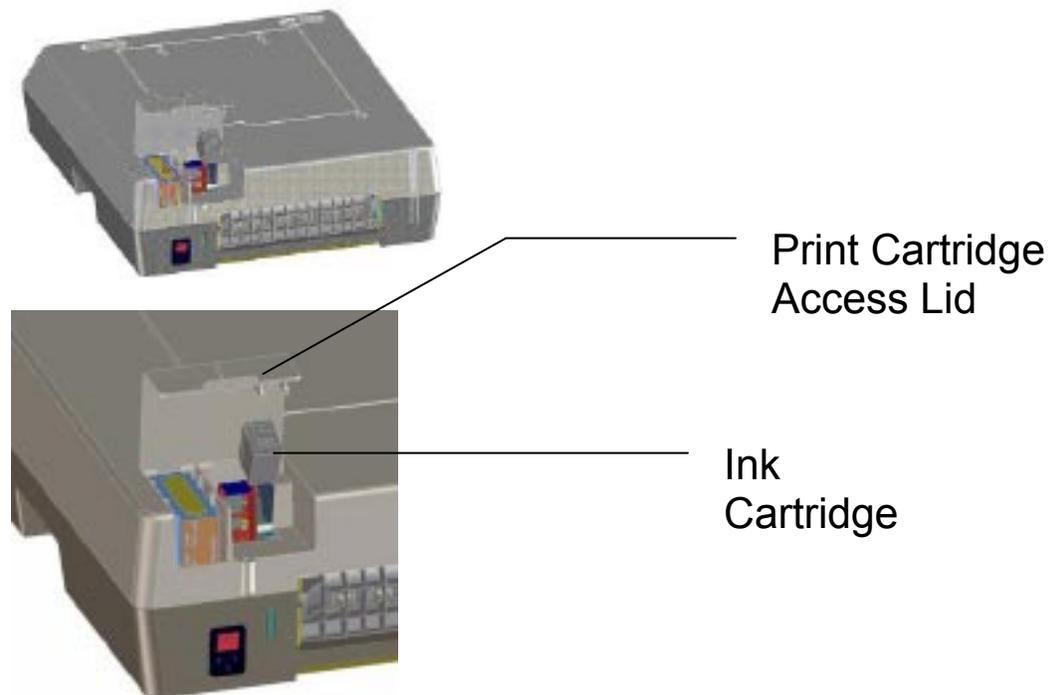


1. Assemble the AutoMARK table and place it in a location so that when the AutoMARK is placed on the table, the touch screen will not be visible to persons other than the voter. Maintain sufficient clearance for the voter to access the voting area.
2. Open the AutoMARK case by squeezing the latches on each side. Have two persons remove the AutoMARK from its case and place it on the AutoMARK table, taking note that the front of the AutoMARK is above the side of the voter table with the INSTRUCTIONS TO THE VOTER label. The AutoMARK's four rubber feet set into the four indents on the AutoMARK table. Be careful not to pinch fingers as the unit is set down.

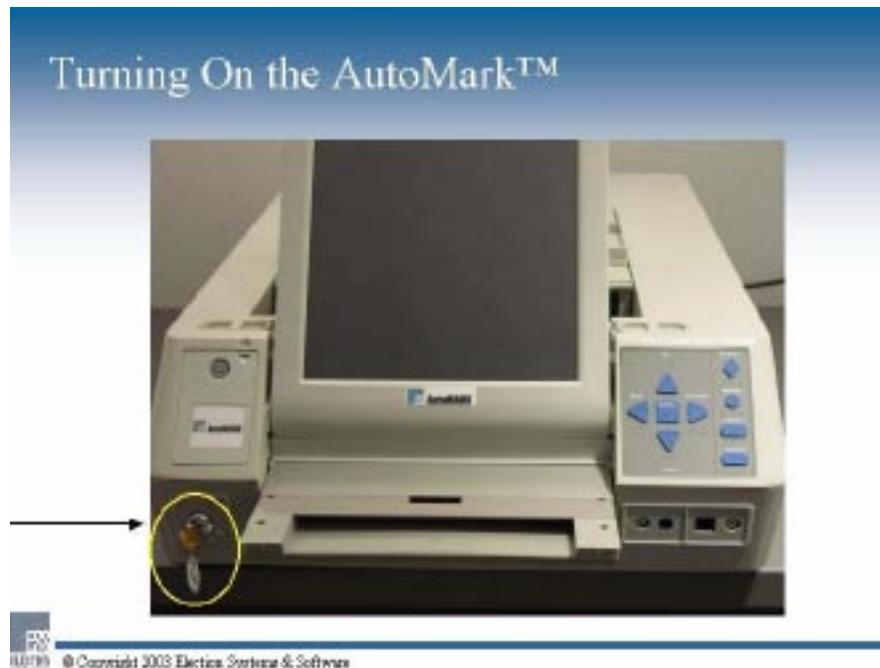
3. Move the latches securing the lid towards the edge to open the lid.
4. Lift the smaller flap of the lid.
5. Lift the entire lid away from you into a vertical position. The touch screen under the lid is now visible.
6. Lift the touch screen toward you into a vertical position.
7. Adjust the angle of the touch screen for voter viewing comfort.

Note: To adjust the screen, grip the monitor on either side with both of your hands and gently pull forward or push back until the screen is at the desired position.

8. Close the lid, leaving the touch screen monitor and the smaller flap up.
9. Lift and reposition the ballot feed tray so it is horizontal.
10. Place the privacy shield over the AutoMARK (not shown) – inserting the tabs into the tab slots in the table.
11. Check for print cartridge. Open the rear access door and verify that a print cartridge is installed. A new print cartridge is provided in your AutoMARK Election Day Polling Place Kit for whenever it may be needed.



Start the AutoMARK



1. Plug the AC power cord into the back of the AutoMARK and the other end of the cord into the wall.
2. Insert the gold mode switch key and turn to the middle or ON position. Be Patient ☺ (The screen will remain black for about one minute and then finally show boot progress.)

Prepare the AutoMARK for Voters

Position the headphones on the right side of the AutoMARK table but not kept plugged in.



Election Morning AutoMARK Test

Prior to the opening of the polls, the Precinct Superintendent must test the AutoMARK for proper operation using the following procedure:

1. Use only the test ballots provided by the person in charge of the election which are labeled “**TEST BALLOTS**”. These will be provided in your AutoMARK Election Day Polling Place Kit.
2. Mark at least two “**TEST BALLOTS**” using the AutoMARK by selecting various candidates and ballot questions using the touchscreen, keypad and headphones.
3. When two “**TEST BALLOTS**” print properly, the AutoMARK is ready for use by voters. Store the “**TEST BALLOTS**” with your AutoMARK Election Day Polling Place Kit. **DO NOT** place the “**TEST BALLOTS**” in the ballot box.
4. If the AutoMARK does not properly mark the ballots, use the troubleshooting section found on page 89 to resolve the problem. If your troubleshooting is unsuccessful, call your County Auditor.
5. You must successfully mark two “**TEST BALLOTS**” before allowing voters to use the AutoMARK.
6. Even if the AutoMARK test is not successfully completed, open the polls at 7:00 am. Do not allow voters to use the AutoMARK until the test is successfully completed.

Voting with the AutoMARK

This module describes how the voter uses the AutoMARK during an election. **The poll worker should NOT be involved in the voting process.** The pollworker may answer questions on the **operation** of the AutoMARK at any time.

The voter is handed a paper optical scan ballot, proceeds to the AutoMARK and votes. The voter can use the audio feature using the provided headphones. The voter can use the keypad, the touch screen, or an A/B device to make selections on the ballot.

1. Feed the blank ballot into the ballot feed tray when the touch screen monitor displays the message **Please insert your ballot.**
2. Read or listen to the instructions for voting on the Voting Instructions screen, then press **Next.**
3. On the contest screen, the first office listed on the ballot displays and is read for your consideration. Select either the candidate’s name or the oval next to the name to indicate your

selection. Your selection will fill in the oval next to the name of your choice. Press **Next** and repeat this process until all contests and questions have been considered for the ballot.

4. The summary screen appears when you have considered all contests and questions for your ballot. Review this screen to confirm your selections.

Note: No selections have been marked on your paper ballot at this point.

5. To change any selection:
 - i. Press the contest you wish to change on the summary screen.
 - ii. Press your original selection to de-select your choice.
 - iii. Press your new choice and press **Next** to return to the summary screen.
6. When the selections are correct, press **Next**.
7. Press **Mark Ballot** on the mark ballot selection screen to print your selections onto the ballot.
8. Remove your ballot from the ballot feed tray when the screen displays **Remove Ballot**.
9. Insert your ballot into the privacy sleeve.
10. Deposit your marked ballot into the ballot box.

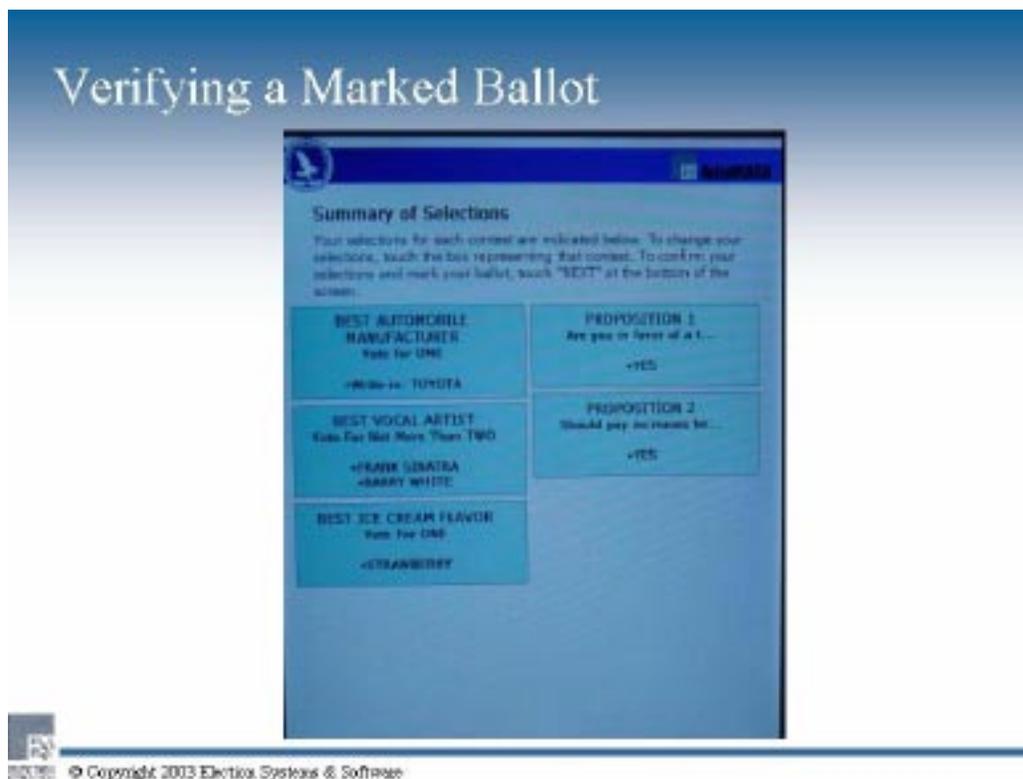
Pop-up Windows

Pop-up Window	Description	Action to Take
Force More Alert	You are required to view all candidates or choices on a ballot page. If you attempt to proceed to the next contest without viewing all choices, the Force more alert screen pops up.	Touch the OK button to return to the contest screen. Select More to view the additional candidates.
Overvote	If you attempt to select more candidates or choices than are permitted in a contest, the Overvote screen pops up.	Touch the OK button to display the previous contest screen. To change your selections, touch your previous choice to deselect the choice.

Exit	If you press the Exit button, the Exit screen pops up.	Touch the Continue button to return to the last screen displayed and continue the selection process <u>OR</u> Touch the Exit button to confirm your desire to exit the system and receive your <i>unmarked</i> ballot.
Exit Thank You	If you select Exit in the Exit pop up screen, the Exit thank you screen pops up.	Remove your unmarked ballot from the AutoMARK ballot feed tray.

Verifying the ballot is marked

For voter confidence, the AutoMARK provides the voter the opportunity to insert a marked ballot back into the AutoMARK to verify the marked selections. No changes can be made by the AutoMARK once a ballot has been marked. You may only view the summary screen and/or listen to your marked selections on the headphones. If you want to make changes, ask for a new ballot and begin the voting process over again.



To Verify a Marked Ballot:

1. Insert your marked ballot into the ballot feed tray.

Note: A screen appears with instructions on how to verify the ballot.

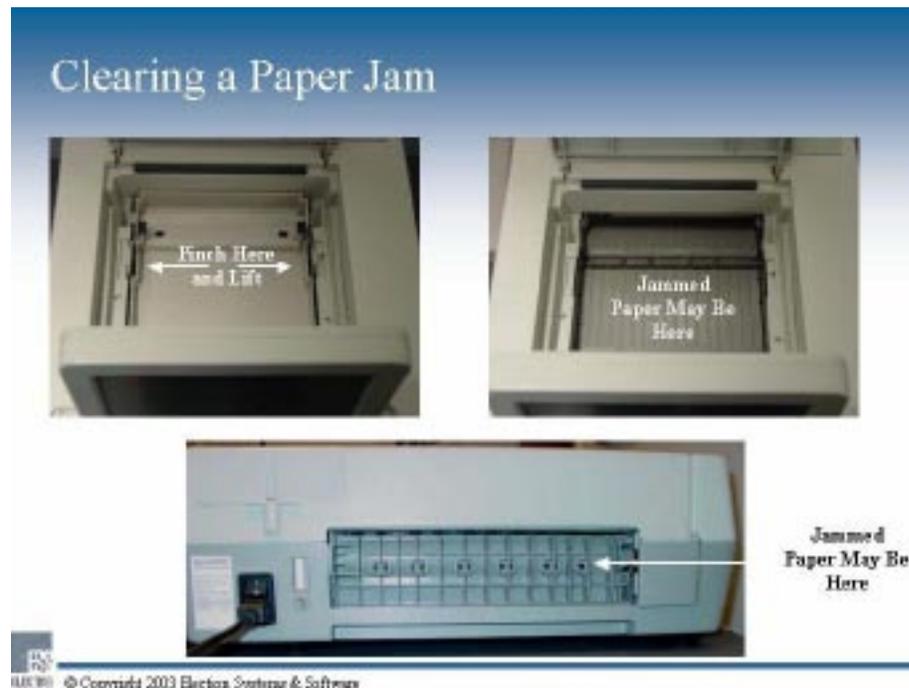
2. Press **Next** to see the verification summary screen.
3. Review the selections that are marked on your ballot.
4. Press **Exit**.
5. Remove your ballot from the ballot feed tray when the screen displays **Remove Ballot**.
6. Place your ballot in the privacy sleeve and deposit your marked ballot into the ballot box.

Error – Paper Misfeed

A paper misfeed error message is received when the ballot is inserted incorrectly and the AutoMARK paper feeder is not aligned with the ballot for scanning operations. Follow the instructions under Error-Paper Jam to correct.

Error – Paper Jam

A ballot jams in the AutoMARK when it cannot move to the next position. This can occur even when the ballot is inserted correctly. The error message “Paper Jam” appears on the screen.



To Clear a Paper Jam:

1. Use the gold mode switch key during an election:
 - a. Turn the gold mode switch key to the **TEST** mode.
 - b. Select **Eject Ballot** from the menu.
 - c. Turn the gold mode switch key to the **ON** mode. Get the voter an un-creased ballot and let the voter try again. If this is NOT successful then proceed to step 2.
2. Open the top panel
 - a. Lift the small flap and the lid to expose the inside of the AutoMARK.
 - b. Pinch the tabs on both sides of the top panel to release the hold on the AutoMARK and carefully lift to remove.

Hint: Please be careful when dealing with the tabs, pinch lightly.

 - c. Remove the ballot.
 - d. To replace the top panel slide the top panel back into place at a 30-degree angle to the front of the AutoMARK.
 - e. Carefully put the panel back into place.
3. If the ballot is not in the top panel area, open the Rear Access Door.
 - a. Remove the panel door by pushing the tab on the left side to the right and pull it out.
 - b. Remove the ballot.
 - c. Replace the panel door by inserting the two pins on the right side of the panel into the two holes on the right side and push left side firmly in and firmly to the left until the panel clicks.

If the ballot is not damaged or folded in any way, insert the ballot correctly.

Damaged Ballot

Remove the ballot from the terminal if it gets damaged or stuck. **DO NOT LOOK AT THE VOTER SELECTIONS EITHER ON THE BALLOT OR ON THE ES&S AUTOMARK TERMINAL.**

Spoiling of Ballots Specific to the AutoMARK

The voter who votes by AutoMARK has the same right to three ballots as the voter who votes by pen. In addition, any ballot damaged by the AutoMARK because of technical difficulties will not count against the voter's right to three ballots.

Abandoned Ballots Left in the AutoMARK

Whenever a voter chooses to vote by AutoMARK, a poll worker needs to watch the voter from a distance to be sure that the voter leaves the machine with the ballot. If the voter does not remove the ballot from the terminal, the poll worker should direct the voter back to the AutoMARK to complete the marking of the ballot--before another voter attempts to use the AutoMARK.

If a ballot is left in the AutoMARK, and the poll worker is unable to locate its owner, the poll worker must remove the ballot from the AutoMARK and deposit it into the ballot box. The poll worker must verify that the ballot has the official stamp. The poll worker may in no way whatsoever use a pen or the AutoMARK to mark anything on the ballot.

There are various stages to which the ballot may have progressed during the voter's session on the machine:

1. The voter selected Mark Ballot or EXIT but did not wait for the ballot to eject from the machine. The ballot may now be hanging out of the machine. The ballot may or may not have been marked.

2. The voter did not select Mark Ballot and the ballot remains in the machine. (The machine will not accept another ballot when a ballot remains in the machine.)

If the ballot remains in the AutoMARK, the machine could be in one of three states, which are time dependent:

- 1) In the midst of the selection or verification process.
- 2) In the dormant mode between 5 and 10 minutes.

The machine will display the message: "ALERT. No inputs have been received for the past five minutes. Please click OKAY below if you need more time." (If the voter were available, the voter could touch the OK button and resume the voting process.) However, since at this point the voter has abandoned the voting session, the poll worker should not touch this button.

- 3) Locked up after 10 minutes.

After 10 minutes without interaction, the AutoMARK will display the message: "Alert! A problem has occurred. Please notify an election official. Election Official: A previous voting session has expired and the ballot is being held within the Voter Assist Terminal. Use the Test Mode to eject the ballot." (At this point, any selections from the abandoned session are forgotten.)

In the case of any of the 3 states described above, the poll worker must perform the following procedure:

Insert the Mode Switch Key, turn to TEST, press Eject Ballot, and remove the ballot.

The ballot will come out blank--unless the voter had reinserted a marked ballot for verification and then abandoned the ballot. In any and all cases, the procedure is the same:

The ballot must be taken and deposited into the ballot box.

If the ballot is jammed in the machine (or becomes jammed in the machine in the process of ejecting it) and the poll worker has to manually remove the ballot through one of the access panels, this ballot also (in whatever condition it might be--even if mangled) must be taken and deposited into the ballot box, since the voter is not present to authorize the spoiling of the ballot.

Troubleshooting Chart

Check the following two possibilities first to resolve a problem then refer to the troubleshooting chart:

1. Make sure the rear access door is in place. If it out of place just a little bit, which can occur during transport, this can cause a variety of problems. Take it out and put it back in, pushing firmly to the left and jiggling it into place.

2. Printing problems: This may have to do with the print cartridge, print calibration, or the print validation scanner. If you have any kind of print problem, try marking another ballot. Printing problems will sometimes correct themselves as additional ballots are marked. If still unsuccessful, remove the print cartridge and wipe the contact surface with a damp paper towel. Try another ballot. If you still have a printing problem, replace the print cartridge with a new one. Try another ballot.

PROBLEM	POSSIBLE CAUSE	SOLUTIONS
When attempting to verify the ballot, the markings cannot be read by the AutoMARK	The ballot style might not be accepted on that compact flashcard OR the optical scanners in the AutoMARK might be malfunctioning	Ensure the voter used the correct ballot and if not, have the voter vote on the correct ballot. If the ballot style is acceptable, have the AutoMARK serviced.
AutoMARK will not turn on without the AC plug plugged in	Battery is low	Recharge or replace the battery.
Display is out of focus	Unknown	Have the AutoMARK serviced.
The AutoMARK does not respond when the screen selections are touched	Unknown	Turn the system off, wait 15 seconds and then turn the system on again. If restarting the AutoMARK does not fix the problem, have the terminal serviced.
The AutoMARK does not respond when the keypad selections are touched	Unknown	Turn the system off, wait 15 seconds and then turn the system on again. If restarting the AutoMARK does not fix the problem, have the terminal serviced.

Unable to hear the audio	Headphones are not properly inserted into the audio jack	Make sure the plug is pushed <u>all</u> the way into the audio jack (to the left) and <u>not</u> in the A/B jack (to the right). Turn the system off, wait 15 seconds and then turn the system on again. If restarting the AutoMARK does not fix the problem, have the terminal serviced.
You hear a “hissing” noise coming from inside the AutoMARK OR When the gold mode switch key is turned to the TEST position, the test mode fails to pull up OR The AutoMARK “locks up” OR The compact flashcard has been removed while the terminal is ON OR There is an error reading the compact flash card when the AutoMARK is turned on.	The AutoMARK needs to be reset.	Turn the key switch to the OFF position. Wait 15 seconds and turn the key to the ON position.

Shut Down the AutoMARK

To shut down the AutoMARK insert the gold mode switch key and turn to OFF.
Remove the key.

QUICK REFERENCE GUIDE



The AutoMARK marks a paper ballot with selections of voters who are visually impaired, have a disability that inhibits voting on a paper ballot, or who are more comfortable using a language different than the one on the ballot.



INTERACTING WITH THE AUTOMARK

There are three ways to interact with the AutoMARK.

- Directly on the Touch Screen
- The Keypad – includes Braille
- A personal A/B Device



Use the RIGHT arrow to progress to the next screen.



Use the LEFT arrow to go back a screen.



Use the DOWN arrow to move through your candidate and question selections. For the touch screen, if not all candidates are displayed, press the MORE bar to see the remaining candidates.



Use the UP arrow to move back up the candidate and question selections.



Use the SQUARE on the keypad to make your selection or press the selection on the screen.

USING THE AUTOMARK

1. When the touch screen monitor displays **Please insert your ballot**, feed the blank ballot into the ballot feed tray.
2. If applicable, select the appropriate language for your ballot to be displayed on the AutoMARK.

Note: If English is the only language programmed for your election, the Language Selection screen will not display. The Voting Instructions screen appears after inserting your ballot.

3. Read or listen to the Instructions for voting on the Voting Instructions screen, then press **Next**.
4. The Contest screen displays the first office listed on the ballot and is read for your consideration. Select either the candidate name or the oval next to the name to indicate your selection. Your selection displays a filled-in oval next to the name of your choice. Press **Next** and repeat this process until you consider all contests and questions for the ballot.
5. The Summary screen appears when you have considered all contests and questions for your ballot. Review this screen to confirm your selections.

Note: No selections have been marked on your ballot at this point.

6. To change any selection:
 - i. Press the contest you wish to change on the Summary screen.
 - ii. Touch your original selection to de-select your choice.
 - iii. Touch your new response and press **Next** to return to the Summary screen.
7. Press **Next** when the selections are correct.
8. Press **Mark Ballot** on the Mark Ballot selection screen to print your selections onto the ballot.
9. When the screen displays **Remove Ballot**, remove your ballot from the ballot feed tray.
10. Insert your ballot into the privacy sleeve.
11. Deposit your marked ballot into the ballot box.

VERIFYING YOUR BALLOT

The AutoMARK allows the voter to reinsert the marked ballot into the ballot feed tray and to verify the marked selections. Note that no changes can be made from this verification step and you will only be able to view and hear the summary screen. If you want to make changes, please ask for a new ballot and begin the voting process over.

To verify your ballot:

1. Insert your marked ballot into the ballot feed tray.

Note: A screen appears with instructions on how to verify the votes.

2. Press **Next** to make the Verification Summary screen appear.
3. Review the selections that are marked on your ballot.
4. Review your selections and when done, press **Exit**.
5. When the screen displays **Remove Ballot**, remove your ballot from the ballot feed tray.
6. Insert your ballot into the privacy sleeve.
7. Deposit your marked ballot into the ballot box.

MAKING THINGS EASIER TO SEE

AutoMARK options are available to make the text on the screen easier to see.



Zoom In/Out enlarges the text on the screen. Press ZOOM IN/OUT once to enlarge text; press again to return text to the default size.



High Contrast changes the default colors on the screen to black and white. When you select HIGH CONTRAST, the background becomes black and text becomes white. Press again to return to the default colors.

MAKING THINGS EASIER TO HEAR

The following AutoMARK options on the keypad make the audio easier to hear:



Press REPEAT on the keypad to repeat the text just read through the headphones.



Press the right side of the TEMPO button to speed up the audio or press the left side of the TEMPO button to slow down the audio.

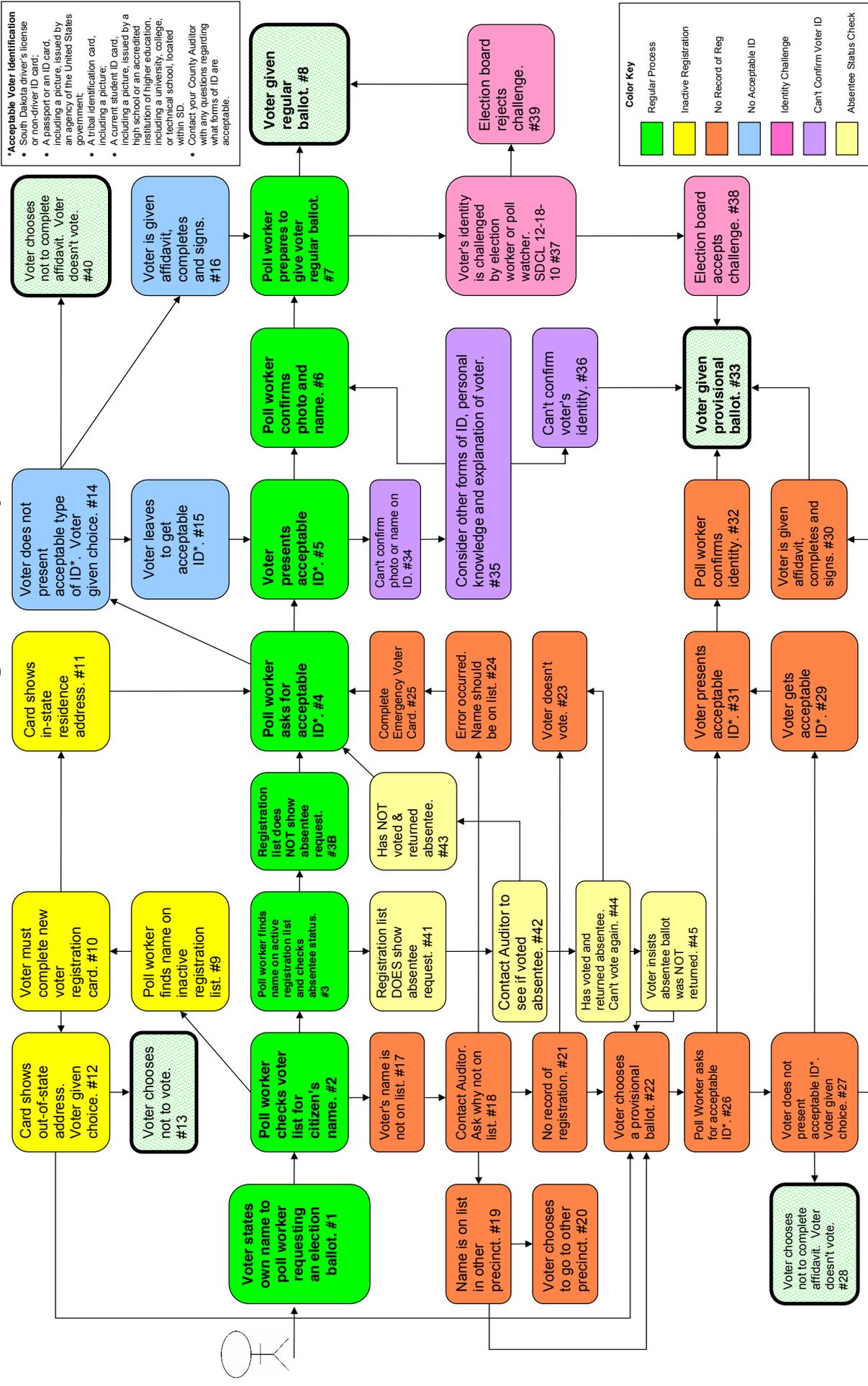


Press the right side of the VOLUME button to increase the volume of the audio or press the left side of the VOLUME button to decrease the volume of the audio.



If you are not using the screen, you may use the SCREEN button to turn off the display. You will still hear the description of the ballot through the headphones. Touch the button once to turn off the display; touch it again to turn the display back on.

South Dakota Polling Place Voter Key



***Acceptable Voter Identification**

- South Dakota driver's license or non-driver ID card;
- A passport or an ID card, including a picture, issued by an agency of the United States government;
- A tribal identification card, including a picture;
- A current student ID card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or technical school, located within SD.
- Contact your County Auditor with any questions regarding what forms of ID are acceptable.

Color Key

- Regular Process
- Inactive Registration
- No Record of Reg
- No Acceptable ID
- Identity Challenge
- Can't Confirm Voter ID
- Absentee Status Check

If you have any questions, call your County Auditor

South Dakota Polling Place Voter Key

Box Number	Code Cite	Suggested Response
1	12-18-6.3	“Your name, please.”
2, 3 and 3B	12-18-7.1	
4	12-18-6.3	“Do you have a photo ID?”
5	12-18-6.1	Check to see if the ID is on this list of acceptable IDs. (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 a high school or an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota.
6	12-18-6.3	Check to see that the photo matches the voter and that the name on the ID matches the name on the voter registration list.
7	12-18-12	Stamp ballot and hand to voter.
8	12-18-14	“Thank you for voting today!”
9	12-18-7.4	“Your name is on the inactive voter registration list.”
10	12-18-7.4	“Because you are on the inactive registration list, you must complete a new voter registration card before voting. Here is that card to complete.”
11	12-18-7.4	“Thank you for completing your voter registration card.”
12	12-18-7.4	“You have provided an out-of-state residence address. You will not be able to cast a regular ballot. You may choose to not vote or you may cast a provisional ballot. The provisional ballot will be kept separate from the regular ballots and will only be counted if the auditor can later verify that your name should not be on the inactive list. Your provisional ballot may not be secret. It is your choice whether to vote.”
13		
14		“Because you are not able to present an acceptable photo ID, you now have an option. You may leave the polling place to retrieve an acceptable ID or you may sign this personal identification affidavit.”
15		
16	12-18-6.2	Observe voter complete affidavit. Be sure that it is fully completed and legible.
17	12-18-7.1 12-18-7.2	“I’m sorry, your name does not appear on the voter registration list. I will contact the county auditor to determine if you are registered at some other location or been mistakenly left off this list. Please wait while I make that call.”
18	12-18-7.2	Auditor will tell you how to proceed with this voter.
19		“You are registered to vote in precinct ‘X’. That polling place is located at _____. You may go to that polling place and cast a regular ballot which will be counted or if you are willing to swear that you registered to vote in this precinct you may cast a provisional ballot at this precinct. The provisional ballot will be kept separate from the regular ballots and will only be counted if the auditor can find your voter registration card for this precinct. Your provisional ballot may not be secret. It is your choice which ballot to vote.”
20		
21	12-18-7.2	“The auditor has no record of your being registered to vote. You may choose to not vote or if you are willing to swear that you registered to vote in this precinct you may cast a provisional ballot at this precinct. The provisional ballot will be kept separate from the regular ballots and will only be counted if the auditor can find your voter registration card for this precinct. Your provisional ballot may not be secret. It is your choice whether to vote.”

22	12-18-39	
23		
24	12-18-7.2	“An error has been made and your name should have been on the voter registration list.”
25	12-18-7.2	“Please complete this emergency voting card and you will be able to vote.”
26	12-18-6.3	“Do you have a photo ID?”
27	12-18-6.2	“Because you are not able to present an acceptable photo ID, you now have an option. You may leave the polling place to retrieve an acceptable ID or you may sign this personal identification affidavit or you may choose to not vote.”
28	12-18-6.2	
29		
30	12-18-6.2	“Please complete this personal identification affidavit.” Observe voter complete affidavit. Be sure that it is fully completed and legible.
31	12-18-6.1	Check to see if the ID is on the list of acceptable IDs.
32	12-18-6.3	Check to see that the photo matches the voter and that the name on the ID matches the name on the voter registration list.
33	12-18-39	Have voter complete the provisional ballot envelope and provide the voter with the “Notice to Provisional Voter.”
34	12-18-6.3	“The ID you have presented does not appear to be you and/or the name on the ID does not match the name on the voter registration list.”
35	12-18-6.3	“You may explain why the photo and/or name does not match and you may present other forms of identification to assist us in confirming your identity.”
36	12-18-6.3	“Based on the identification you have presented and your explanation of why this identification does not appear to be you, you will not be allowed to cast a regular ballot. You may, however, cast a provisional ballot. The provisional ballot will be kept separate from the regular ballots and will only be counted if the auditor can later verify your identity. Your provisional ballot may not be secret. It is your choice whether to vote.”
37	12-18-10	Election worker or poll watcher challenges the voter as to the voter’s identity not being who they claim or that the voter has been convicted of a felony or declared mentally incompetent in the last 15 days. The challenger would present whatever evidence they have to the election board to support their claim that the person is ineligible to vote. “Your identity (or other cause) has been challenged. What explanation or evidence can you provide to rebut this challenge and prove your identity.”
38	12-18-10	“By majority vote, this election board has determined that the challenge is accepted and that you are not who you claim to be. You may, however, cast a provisional ballot. The provisional ballot will be kept separate from the regular ballots and will only be counted if the auditor can later verify your identity. Your provisional ballot may not be secret. It is your choice whether to vote.”
39	12-18-10	“By majority vote, this election board has rejected the challenge. You may vote.”
40		
41		“The registration list shows you have voted absentee.”
42		“I will contact the county auditor to determine if your absentee ballot has been voted and returned.”
43		“Your absentee ballot has not been returned. You may vote in person today.”
44	12-26-8	“Your absentee ballot has been voted and returned. You may not vote a second time.”
45	12-18-39	“If you insist that you have not voted and returned your absentee ballot, you may choose to vote a provisional ballot. It is a crime to vote an absentee ballot and then vote a provisional ballot. The provisional ballot will be kept separate from the regular ballots and will only be counted if the auditor can later verify that you have not voted an absentee ballot. Your provisional ballot may not be secret.”

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