

ELECTION DAY PRECINCT MANUAL 2023

last updated February 13th 2023

Issued by

Monae Johnson

South Dakota Secretary of State

Rachel Soulek, Director of Elections, Election
Services

500 East Capitol Avenue • Pierre, SD 57501
(605) 773-3537

www.sdsos.gov • elections@state.sd.us

TABLE OF CONTENTS

DEFINITION OF TERMS	3
GENERAL INFORMATION	4
NO CAMPAIGNING AT THE POLLS	5
BEFORE OPENING THE POLLS.....	5
POLLS ARE OPEN	9
CURBSIDE VOTING	9
VOTER REGISTRATION LIST	9
PROVISIONAL BALLOT.....	10
PHOTO IDENTIFICATION AND PERSONAL IDENTIFICATION AFFIDAVIT:	10
PRESENTING THE BALLOT TO THE VOTER	11
CHALLENGING A VOTER	12
PROCESSING ABSENTEE BALLOTS.....	13
COUNTING THE VOTES IN PAPER BALLOT PRECINCTS	14
OPTICAL SCAN BALLOT SYSTEMS.....	18
After Closing the Polls	18
Ballot and Election Material Retention Schedule	18

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 to indicate a vote for that person which is not counted (SDCL 12-20-21.2).

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.

EXPRESSVOTE is a Universal Voting System designed to provide voters with special needs to mark their ballot. The machine is touch-screen technology that produces a paper-based record for tabulation.

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

GENERAL INFORMATION

Hours

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

Polls are not to be closed until all voters, who are in line at the polls, inside or outside, prior to 7:00 p.m., have had the opportunity to vote. (SDCL 12-2-3)

All precinct election board workers must stay at the polls until the polls are closed and the ballot boxes and all other election supplies are 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 and 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 12-2-8)

Emergency

When an emergency such as a shortage of ballots or mechanical failure of voting machines exists, the person in charge of the election may authorize the polls to remain open until the emergency is resolved. If an emergency arises, phone the person in charge of the election (Ex: County Auditor, City Finance Officer or School Business Manager) 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 oversees 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 and 12-18-1.2)

Election officials **cannot leave** the polling location until all duties are complete.

The person in charge of the election may also appoint a precinct assistant. (SDCL 12-15-1.3)

NO CAMPAIGNING AT THE POLLS

No electioneering, campaign posters, petition signature gathering, 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 ensure that prohibited activity is not occurring. If a situation develops which cannot be handled politely, notify the person in charge of the election or law enforcement. (SDCL 12-18-9.2)

No electronic device in the polling place may be tuned to stations carrying political ads during the time the polls are open. Election workers should check all voting booths periodically to remove any campaign material or other items a voter may have left behind.

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)

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)
- Express Vote voter assist terminal (optional for school and municipal elections)
- Express Vote 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
- Poll book which includes election board oaths
- Bound paper poll book for counties using E-Pollbooks (**NEW** requirement)
- Printed paper voter registration list for counties using E-Pollbooks (**NEW** requirement)
- 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 stamp (SDCL 12-16-30)
- Sample ballots (printed in **yellow** paper) to post in the polling place (SDCL 12-16-15)
- Emergency voter cards (5:02:05:20)
- Affirmation of Inactive Voter's Address – use voter registration form (5:02:05:21)
- Spoiled and replaced ballot envelopes (12-18-24)
- Record of spoiled ballots (5:02:05:10)
- Ballot wrappers or envelope (5:02:05:19)
- Poll book return envelope and seal (5:02:05:40 and 5:02:05:41)
- 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 the polling place (5:02:05:26) and one voter ID sign inside the polling place.
- South Dakota polling place voter key.
- Absentee ballots and applications if the jurisdiction is not using an absentee precinct.

Superintendent

It is the responsibility of the precinct superintendent to prepare voting booths and supplies for balloting. Booths should be set up to be screened from observation so that no one is walking behind the booth. All supplies should be in place before the polls are opened. (SDCL 12-18-1)

- 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

For a **Primary or General Election**, the Superintendent will:

- Set up the ExpressVote ballot marking machine and voting booth for federal elections.
- Conduct ExpressVote test as described in the ExpressVote Training Manual.

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 person in charge of the election. 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 the absentee ballots are processed, and the counting board is ready to begin the counting of the ballots. (SDCL 12-18-4)

Duties of the Board- The superintendent shall designate a precinct worker to oversee 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 and 12-18-1.2)

The superintendent shall designate a precinct worker to oversee the official ballots and the official precinct ballot stamp and shall designate another worker to oversee receiving the voted ballots. 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 and 12-18-13)

A precinct worker belonging to a different political party (*this rule only applies to Primary and General Elections*) than the precinct worker who oversees the registration list shall be in charge of the pollbook and will write the name of each person voting and the type of ballot they received in the order in which they present themselves at the polls (SDCL 12-18-5) or use an electronic pollbook to track this information. Any other precinct workers shall help the election board members and voters as directed by the superintendent.

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

FOR PRIMARY AND GENERAL ELECTIONS ONLY

ExpressVote Election Day Checklist for the Precinct Superintendent in charge of the ExpressVote.

Before Polls Open

- ☐ The Express Vote is in place on the special Express Vote table, with the INSTRUCTIONS TO THE VOTERS label below the ExpressVote. The ExpressVote is in a location that both encourages accessibility and maintains privacy.
- ☐ Plug in the ExpressVote.
- ☐ On the ExpressVote recording sheet write down the number on the seal covering the media device compartment located on the left-hand side of the ExpressVote. You will break the seal when you open it.
- ☐ Once the compartment is open, flip the power button on, pull out the cord to the handheld key pad and fit that through the cut-out circle on the top of the compartment door.
- ☐ Close the compartment door and put a new seal over it. Write down the new seal number on the ExpressVote recording sheet.
- ☐ Place the voting privacy shield around the ExpressVote, to ensure the voters have privacy when voting on this machine.
- ☐ Perform the required voting test with at least two special ballots marked TEST BALLOT by inserting, viewing, listening to, moving through, and marking the two ballots. (Use the touch screen and the keypad and headphones to communicate with the ExpressVote.) If the system does not properly mark the test ballots, the precinct superintendent shall work on the system until a successful test is conducted. Call your County Auditor if you need help.
- ☐ Still open the polling place at 7:00 am but do not allow anyone to vote using the ExpressVote if machine is not properly working. You must successfully mark two "TEST Ballots" before allowing voters to use the ExpressVote.

After Polls Close

- ☐ Return all ballots used to test the ExpressVote to the Election Day Polling Place Kit.
- ☐ On the ExpressVote recording sheet write down the number on the seal covering the media device compartment located on the left side of the ExpressVote.
- ☐ Once the compartment is open, flip the power button off, pull the cord to the handheld key pad out of the cut-out circle on the top of the compartment door and place the handheld key pad and cord back into the compartment.
- ☐ Close the compartment door and put a new seal over it. Write down the new seal number on the ExpressVote recording sheet.
- ☐ Unplug the ExpressVote.
- ☐ Follow the auditor's instructions regarding delivery of machines back to the courthouse.
- ☐ Record also the serial number of the ExpressVote.
- ☐ Sign the completed Election Day Polling Place Recording Sheet.
- ☐ Return the ExpressVote Election Day Polling Place Kit to your County Auditor separate from the ExpressVote case on election night.

ExpressVote Election Day Polling Place Recording Sheet

Before Polls Open

Number of seal Auditor placed on the ExpressVote: _____

LIFETIME PRINT COUNTER: _____

Serial Number: _____

Number of the new seal placed on ExpressVote after you turned it on: _____

After Polls Close

LIFETIME PRINT COUNTER: _____

Number of the Seal: _____

Number of new Seal placed on ExpressVote after you turned it off: _____

Name of County: _____

Name of Polling Place: _____

Signature of the Precinct Superintendent in charge of the ExpressVote

If you have time, please offer any comments below:

POLLS ARE OPEN

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

CURBSIDE VOTING

South Dakota law does **NOT ALLOW FOR CURBSIDE VOTING**.

VOTER REGISTRATION LIST

Who Votes

Only registered voters may vote (SDCL 12-18-7.1). No one may register to vote at the polls and vote the same day. A voter may complete a voter registration application and vote at the next election. 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.

In a Primary election, a voter is only given the ballot for the party in which the voter is registered in, according to the official registration list, except for voters registered as an Independent or No Party Affiliation (NPA) may request a Non-Partisan ballot, Libertarian ballot, or a Democratic ballot (determined by the Libertarian and Democratic Party bylaws).

Voters in **municipal and school elections** must meet additional residency criteria 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. Any person, including a poll watcher, may challenge the residency of a voter in the manner provided in SDCL 12-18-10. This challenge must take place prior to a voter receiving their ballot. The election board will make a ruling on whether the voter meets the residency requirement based on the evidence presented and their personal knowledge (see page 15 for additional information on challenging a voter).

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 form on which the voter must provide his or her current address (SDCL 12-18-7.4 and 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 completed forms 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 person in charge of the election to see if the voter's name was mistakenly left off the list. If the person in charge of the election confirms the voter's registration, he/she shall be permitted to vote after completing the emergency voting card and entering his/her name in the poll book.

If communication with the person in charge of the election 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 and ARSD 5:02:05:20)

After completion, the original emergency voting card shall be retained by the superintendent of the election board and returned to the person in charge of the election 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**. Have the voter fill out a voter registration form so that they can vote a regular ballot in the next election.

PROVISIONAL BALLOT

Who may vote a provisional ballot? (SDCL 12-18-39)

- 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 cannot be proven by the voter identification verification options outlined below (SDCL 12-18-6.3).

*If the voter is registered in another precinct in the county, explain to the voter the precinct they are registered in and where the polling place is located. The voter has the option to go to that polling place and cast a regular ballot which will be counted **OR** if the voter is certain they are registered to vote in this precinct the voter may cast a provisional ballot. The provisional ballot may not be counted if the person in charge of the election cannot find a voter registration card indicating the voter is registered in this precinct.

The procedure for voting a provisional ballot is:

- Voter must complete affirmation on the blue provisional ballot envelope (SDCL 12-18-40).
- 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 (ARSD 5:02:05:23).

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 valid photo identification. Valid identification is (SDCL 12-18-6.1):

- 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 valid identification, the voter must complete a **Personal Identification Affidavit** (ARSD 5:02:05:25). A voter may vote a regular ballot if they are registered and complete the personal ID affidavit.

A member of the election board must verify that the **PICTURE** on the ID matches the voter. There is no need to look at the address on the ID. 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 (Ex: Marriage license);
- 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.

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 one ballot with all races and ballot questions that are applicable to his/her voter registration. In a Primary election, a voter is given only the ballot for the party which the voter is registered in, except for voters registered as an Independent or No Party Affiliation (NPA). (SDCL 12-6-26) Any registered Democratic, Libertarian or Republican voter will only be given their party's primary ballot. In a primary, any voter registered as Independent or NPA must be offered a choice of voting a Democratic ballot or a non-political ballot if both ballot types are available. If only a Democratic or only a non-political ballot is available, the voter registered as an Independent or NPA would be provided with that ballot. Voters registered with a party that is not currently recognized in South Dakota will only be allowed to vote a non-political ballot, if available.

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 on the official ballot stamp as directed by the person in charge of the election (see bullets below) and hands the ballot to the voter. (SDCL 12-18-12)

- On a hand-counted ballot, on the back and near the top of the ballot; and
- On an optical scan ballot, the location indicated by the person in charge of the election.
- On an optical scan ballot, avoid placing the ballot stamp on the timing marks.

The precinct worker will also hand the voter a privacy sleeve if using optical scan ballots 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 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 12-18-27 and 12-18-28)

Spoiled Ballots

If a voter spoils a ballot, he/she 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 person in charge of the election 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 and ARSD 5:02:05:10)

No voter may re-enter 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 Voters

A voter who is unable to read or mark a ballot because of a disability, physical limitation or limited English proficiency 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.

CHALLENGING 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.

Any individual may make a challenge. A challenge will include a challenger, 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 election board **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.

We discourage an election board worker from being a person to challenge a voter. The election board at the polling location serves as a judge and jury to make the determination if a challenge to a voter is successful or not.

Voters in municipal and school elections may also be challenged based on residency as described on page 10 (Who Votes section).

Remember, a person who is successfully challenged **must be offered** 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 person in charge of the election. 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, and
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 (no 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 person in charge of the election enclosed in the provisional and uncounted absentee ballot return envelope (ARSD 5:02:16:44). A precinct worker shall indicate on each envelope the reason for rejection.

If an absentee voter dies before Election Day, the ballot cannot be counted. The envelope will be returned, to the person in charge of the election, 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 person in charge of the election. (SDCL 12-19-12)

Federal Absentee Write-In Ballot (FWAB)

General Election Only: Public Law 99-410 permits overseas voters and stateside active duty Uniformed Services members who are away from their voting residence because 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 5:00 pm the day before the 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 page 19.

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 and 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 and ARSD 5:02:16:03)

Vote Counting

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

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 and ARSD 5:02:16:06)

Duplicate Ballots Folded Together

If two or more ballots are found folded together, 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 and 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 and ARSD 5:02:16:10)

Unfolding the Ballots

The election or counting board next proceeds to unfolding, if the ballots are folded, and further separating the ballots. (ARSD 5:02:16:11)

Write-in Votes

Write-in votes are not counted. (SDCL 12-20-21.2 and 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 and ARSD 5:02:16:12)

At least two precinct deputies of opposite political parties (partisan elections only) 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 and 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. (SDCL 12-20-7 and ARSD 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 and 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 and 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 and ARSD 5:02:17:07) See example below:

The Tally Sheet used at the _____ Election held in _____

Joe Candidate												
Jill Candidate												

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. **DO NOT put this envelope in the ballot box** but return it to the person in charge of the election separate from any other envelope or wrapper. (SDCL 12-20-10 and 12-20-11)

Signing of Pollbook

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. **DO NOT put the pollbook in the ballot box.** (ARSD 5:02:16:31, 5:02:17:09 and 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 and ARSD 5:02:16:33)

Spoiled or Unused 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 name or number of the precinct and the number of ballot. (SDCL 12-18-32 and ARSD 5:02:16:34) **DO NOT put these ballots in the ballot box.**

Provisional Ballots

These 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. **DO NOT put these ballots in the ballot box.** 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 and ARSD 5:02:16:44 for the envelope)

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 explained on pg.15 (Duplicate Ballots). 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 and ARSD 5:02:16:34.01)

Recap Sheet

The recapitulation sheet (ARSD 5:02:16:36) shall be filled out indicating the disposition of all 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 voting. These seals shall be signed by the precinct superintendent and deputies. (SDCL 12-20-20 and ARSD 5:02:16:39)

Pollbook

The pollbook shall be placed in a pollbook return envelope and the envelope sealed with the prescribed seal (ARSD 5:02:16:41). The sealed envelope shall be returned to the person in charge of the election along with the ballot box. **DO NOT place the pollbook in the ballot box.**

Duplicate Tally Sheet

The duplicate tally sheet shall be placed in its return envelope (ARSD 5:02:16:41.01) and the envelope sealed with a seal. The sealed envelope shall be returned to the person in charge of the election along with the ballot box. **DO NOT place the duplicate tally sheet in the ballot box.**

Returning Supplies

All supplies, ballot boxes containing voted ballots, pollbook, duplicate tally sheet, unused and spoiled ballots and other material should be returned to the person in charge of the election by the superintendent or precinct deputy designated by him (SDCL 12-20-21). If the person in charge of the election determines that the roads are impassable, the superintendent shall report the unofficial returns by telephone to the person in charge of the election and return the sealed ballot box and all other supplies to the person in charge of the election by noon on the day following the election (SDCL 12-20-21.1).

OPTICAL SCAN BALLOT SYSTEMS

Election board workers in precincts using optical scan ballots should follow the procedures outlined previously as well as those outlined below.

Ensure 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 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 and 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 lines 9 and 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 ballot box 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 ballot box to the counting location.

Ballot and Election Material Retention Schedule

The ballot box must be sealed and kept secure for 60 days (for ballots with non-Federal races) or 22 months (for ballots with federal races) unless there is a recount or a court order (SDCL 12-20-31). Before destroying any election materials always check your records retention and destruction manual.

For a copy of the election statutes (SDCL) and administrative rules (ARSD) refer to the Election Code at www.sdsos.gov.