CHAPTER 5:02:05

FORMS FOR CONDUCT OF ELECTIONS

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 he or she chooses 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

**Completely** 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.

\[ 
\begin{array}{cccc} 
\text{WRONG} & \text{WRONG} & \text{WRONG} & \text{RIGHT} \\
\end{array} 
\]

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.

The instructions to be published with the facsimile ballot for primary and general elections must be in the following form:

INSTRUCTIONS TO THE VOTERS

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 he or she chooses to help the voter 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.

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.

Any person who is convicted of a felony on or after July 1, 2012, loses the right to vote. However, any such person may register to vote following the completion of the person's felony sentence.

Any person who is convicted of a felony on or before June 30, 2012, and who receives a sentence of imprisonment to the adult penitentiary system, including a suspended execution of sentence, loses the right to vote. Any such person so sentenced may register to vote following completion of the person's sentence. Further information is available at www.sdsos.gov.

ELECTION CRIMES

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


General Authority: SDCL 12-1-9(3), 12-1-9(9).

CHAPTER 5:02:06

BALLOT FORMS AND COLOR

5:02:06:01. General election. The general election ballot must be white and must be in the following form, as applicable:
<table>
<thead>
<tr>
<th>Position</th>
<th>Candidates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presidential Electors</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>Secretary of State</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>State Senator, District</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>Attorney General</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>State Representatives, District</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>Auditor</td>
<td>Shannon McGee, John Doe, Pat Jones</td>
</tr>
<tr>
<td>Treasurer</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>United States Senator</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>United States Representative</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>Governor and Lieutenant Governor (Team)</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>Commissioner of School and Public Lands</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>County Treasurer</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>County Auditor</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
<tr>
<td>States Attorney</td>
<td>John Doe, Jane Smith, Pat Jones</td>
</tr>
</tbody>
</table>

Go to top of next column

[Turn Page]
<table>
<thead>
<tr>
<th>November __________</th>
<th>County, South Dakota</th>
<th>NonPolitical Ballot</th>
</tr>
</thead>
<tbody>
<tr>
<td>For Sheriff</td>
<td></td>
<td></td>
</tr>
<tr>
<td>You may vote for one or leave it blank.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Doe Party Label</td>
<td>Yes</td>
<td>Title:</td>
</tr>
<tr>
<td>Jane Smith Party Label</td>
<td>No</td>
<td>Attorney General Explanation:</td>
</tr>
<tr>
<td>Pat Jones Independent</td>
<td>Yes</td>
<td>Justice John Doe, representing the Supreme Court District</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>For Register of Deeds</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>You may vote for one or leave it blank.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Doe Party Label</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Jane Smith Party Label</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Pat Jones Independent</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>For Coroner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>You may vote for one or leave it blank.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Doe Party Label</td>
<td>Yes</td>
<td>Initiative Measure 1</td>
</tr>
<tr>
<td>Jane Smith Party Label</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Pat Jones Independent</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>For County Commissioner, District __________</td>
<td>Yes</td>
<td>Initiative Measure 2</td>
</tr>
<tr>
<td>You may vote for one or leave it blank.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Doe Party Label</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Jane Smith Party Label</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Pat Jones Independent</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>For County Commissioner At Large</td>
<td>Yes</td>
<td>Initiative Measure 3</td>
</tr>
<tr>
<td>You may vote for up to one or leave it blank.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Doe Party Label</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Jane Smith Party Label</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Pat Jones Party Label</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Jill Doe Party Label</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Shannon McGee Independent</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Kim Olson Independent</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Go to top of next column  Go to top of next column  Turn Page
Printing note: The top right corner of the front side of each ballot must be cut off approximately as indicated by the dashed line on the ballot form. The person in charge of the election must select where to have the ballot stamp watermark printed on the ballot.

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 12 SDR 43, effective September 23, 1985; 19 SDR 12, effective August 5, 1992; 22 SDR 95, effective January 18, 1996; 23 SDR 115, effective January 22, 1997; 23 SDR 236, effective July 17, 1997; 27 SDR 146, effective July 9, 2001; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003; 33 SDR 230, effective July 1, 2007; 35 SDR 48, effective September 8, 2008; 36 SDR 209, effective June 30, 2010.

General Authority: SDCL 12-1-9(2).

Law Implemented: SDCL 12-16-2.1, 12-16-9, 12-16-10.

CHAPTER 5:02:08

PETITIONS

5:02:08:11. Nominating petition for school board member. The nominating petition for school board member must be in the following form:

NOMINATING PETITION FOR SCHOOL BOARD MEMBER

_________________ SCHOOL DISTRICT # _____

INSTRUCTIONS TO CANDIDATE: The heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of ___________________________ school district number ________, state of South Dakota, nominate ______________________________ whose mailing address is ____________________, South Dakota, ________, and whose residence address is ____________________, South Dakota, ________, for a _____-year term (in __________________________ representation area, if applicable) on the school board at the school board election to be held on the _____ day of ________, 20____.

DECLARATION OF CANDIDATE

I, __________________________ (print name here exactly as you want it on the election ballot), under oath, declare that I reside in __________________________ school district number _____, South Dakota; that I am a registered voter of the district; and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) ______________________________________

Sworn to before me this _____ day of __________, 20____.
5:02:08:13. **Nominating petition for municipal election.** The nominating petition for a municipal election must be in the following form:

**NOMINATING PETITION FOR MUNICIPAL ELECTION**

**INSTRUCTIONS TO CANDIDATE:** The heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of the municipality of _________________ in the state of South Dakota, nominate _______________________ whose residence address is _________________, South Dakota, ____________, and whose mailing address is _________________, South Dakota, ____________, as a candidate for a _____-year term for the office of ______________ at the Municipal Election to be held on the _____ day of ___________, __________.

**DECLARATION OF CANDIDATE**

I, __________________ (print name here exactly as you want it on the election ballot) under oath, declare that I reside and am registered to vote in the municipality of _________________ and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office. If I am an alderman candidate, I declare that I reside and am registered to vote in Ward __________.

(Signed)_________________________________

Sworn to before me this _____ day of ___________, __________.

(Seal)

My commission expires ____________.

__________________________________
Signature of Officer Administering Oath
Title of Officer Administering Oath

(Here insert instructions to voters and signature blanks prescribed in § 5:02:08:00.03.)

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section (bold) must (unbold) be completed following circulation and before filing.

Print name of the circulator
Residence Address
City
State

I, under oath, state that I circulated the above nominating petition, that each signer personally signed this petition in my presence, that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration, and that I attest the legality of the signatures and that each person signing this petition is a qualified voter of the municipality of ____________________.

________________________________
Signature of Circulator

Sworn to before me this _____ day of __________, ______.

(Seal)

________________________________
Signature of Officer Administering Oath

My Commission Expires ________

________________________________
Title of Officer Administering Oath


General Authority: SDCL 12-1-9(7).


5:02:08:23. Form of petition for change in municipal government. The form of a petition for either proposing a change in the type of municipal government or for increasing or decreasing the number of commissioners, wards, or trustees, or both, shall be as follows:

PETITION FOR ELECTION TO CHANGE MUNICIPAL GOVERNMENT

WE, THE UNDERSIGNED qualified voters of the municipality of ____________________, petition that the municipal government of ____________________ be changed as follows and that the proposal be submitted to the voters for their approval or rejection pursuant to SDCL 9-11-5:
(Here: either describe the proposed new form of government or the increase or decrease in the number of commissioners, wards, or trustees, or both.)

The balance of this petition form is prescribed in § 5:02:08:00.03.

Source: 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9(7).
Law Implemented: SDCL 9-11-5.

CHAPTER 5:02:09

AUTOMATIC TABULATING EQUIPMENT

5:02:09:02.03. Criteria for approving electronic ballot marking systems. Before the State Board of Elections grants a certificate of approval, the following capabilities of the electronic ballot marking system must be demonstrated to the board or its designee. The board may grant a certificate of approval for a system, if the system fulfills the following requirements:

1. Accurately mark 250 ballots with at least 10 races on each ballot with no ballot jams;
2. If the system has the capability of marking a ballot on the back side, the races must be split between the front and back of the ballot;
3. Enables the voter to vote in absolute secrecy;
4. Presents the entire ballot to the voter in a series of sequential screens that include methods to ensure the voter sees all ballot options on all screens before completing the vote and allows the voter to review all ballot choices before casting a ballot;
5. Prevents any voter from selecting more than the allowable number of candidates for any office to prevent overvoting, alerts the voter on the screen if the voter attempts to overvote, and provides information on how to correct the overvote;
6. Alerts the voter to any undervote prior to marking the ballot;
7. Accurately marks a paper ballot for each vote for each position voted;
8. Is an electronic computer-controlled voting system that provides for marking of votes cast;
9. Has a battery back-up system that, at a minimum, allows voting to continue uninterrupted for two hours without external power;
10. Is designed to accommodate multiple ballot styles in each election precinct and have an option to handle multiple precincts;
11. Has a real-time clock capable of recording and documenting the total time polls are open in a precinct and capable of documenting the opening and closing of polls;
(12) Complies with the disability voting requirements of the Help America Vote Act of 2002 as of January 1, 2005;

(13) Has a color touch-screen that is at least fifteen inches in diagonal measure;

(14) Has an option to accommodate a voter who uses a mobility device without intervention of the poll worker other than a minor adjustment such as the angle of the display, and the voter must be able to vote in a face-first position so that privacy is maintained with the ballot surface adjusted to a vertical position;

(15) Has wheels so that the system may be easily rolled by one person on rough pavement and rolled through a standard thirty-inch door frame if the net weight of the system, or aggregate of voting device parts, is over twenty pounds;

(16) Has a method to activate the system for each individual voter and which shall prevent any voter from voting more than once;

(17) Has internal operating system software or firmware, that:

(a) Is specifically designed and engineered for the election application;
(b) Is contained within each voting device;
(c) Is stored in a nonvolatile memory within each terminal;
(d) Includes internal quality checks such as purity or error detection and correction codes; and
(e) Include comprehensive diagnostics to ensure that failures do not go undetected; and

(18) Marks ballots that can be accurately counted as provided in § 5:02:09:02.01 for each automatic tabulating system which will be counting ballots.

Source: 31 SDR 214, effective July 4, 2005.
General Authority: SDCL 12-17B-17(1) (3).
Law Implemented: SDCL 12-17B-2.

CHAPTER 5:02:10

ABSENTEE VOTING

5:02:10:01. Application for absentee ballot. The application for an absentee ballot must be in the following form:
South Dakota
Absentee Ballot Application Form
___________________________ County

Please print and return to your county auditor. A new application must be completed each calendar year.
You may apply for an absentee ballot before 5:00 p.m. the day before the election for any or all general, primary, municipal, school, or any other elections conducted in this calendar year with one request. Additional information on absentee voting is available at sdos.gov.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Name(s)/Initial</th>
<th>Suffix</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Voter registration address</th>
<th>Apt. or Lot #</th>
<th>City, State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Absentee ballot mailing address (if different from section #2)</th>
<th>City, State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Select the election(s) you are requesting an absentee ballot for:

- [ ] All
- [ ] General
- [ ] Primary
- [ ] Municipal
- [ ] School
- [ ] Any Other

If you are registered as an independent and are requesting a Primary Election ballot, you may have a choice of the following:
- [ ] Democratic
- [ ] Non-Political

Daytime telephone number

If request is for a municipal or school election:

- [ ] I have lived in that jurisdiction at least 30 days in the last year.
  - [ ] Yes
  - [ ] No

- [ ] I am a full-time student who resided in that jurisdiction prior to leaving.
  - [ ] Yes
  - [ ] No

Military and Overseas Citizens Only:

- Are you in the Military or Uniformed Services, a spouse or dependent of the same or an Overseas Citizen?  
  - [ ] Yes
  - [ ] No

  If you checked Yes, complete this section. If you checked No, proceed to section #7.

  If you want your only election ballot sent electronically instead of first class mail, provide your e-mail address below:

  ____________________________________________________________

  *Stateside military voters are required to submit a photocopy of their ID or have this application notarized.
  *The notarization of this application can be administered by any commissioned officer in the United States military.
  *Overseas military and overseas citizen voters are not required to submit a photocopy of their ID.
  *All military and overseas voters may submit your signed application for absentee ballot by fax or e-mail.

  An acceptable ID is: A South Dakota driver’s license or non-driver ID card, a passport or other picture ID issued by the United States government, a tribal photo ID, or a current student photo ID issued by a South Dakota high school or postsecondary education institution.

  - [ ] Copy of photo identification is attached OR

  - [ ] I hereby verify that I am the person named above and these statements made by me on this application are true and correct.

  Sworn to before me this _______ day of ____________, 20____.

  (Seal)

  Notary signature __________________________________________

  My commission expires Month / Day / Year

Authorized Messenger Request Due to Sickness or Disability Only: The deadline to request is 3:00 p.m. on Election Day.

As a registered voter, I authorize...

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Daytime telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Address

<table>
<thead>
<tr>
<th>Apt. or Lot #</th>
<th>City, State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

...to serve as my authorized messenger to pick up my absentee ballot. I further certify under penalty of law that I am confined because of sickness or disability and for this reason alone am unable to vote at my polling place on Election Day.

As the authorized messenger, I acknowledge receipt of the ballot for the above named voter on...

<table>
<thead>
<tr>
<th>Date:</th>
<th>Time:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Are you serving as an authorized messenger for any other voter?

- [ ] Yes
- [ ] No

Voter’s Signature

Authorized Messenger’s Signature

09/04/2013

11


CHAPTER 5:02:19
RECOUNTS

5:02:19:05. Candidate's petition for recount. Legislative and local candidates shall file the petition for recount on a race that involves any candidate whose nominating petition was submitted in a county auditor’s office to be placed on a primary or general election ballot shall be submitted with the applicable county auditor(s). A statewide candidate or candidate voted on in more than one county (not including municipal or school candidates) All other candidates shall file the petition with the secretary of state. A candidate's petition for recount shall be in the following form:

CANDIDATE'S PETITION FOR RECOUNT

I, ____________________, candidate for the office of ____________________________, believe that a recount will change the result of the election held on the _____ day of __________, 20____, and I petition for a recount of all votes cast for this office in every precinct which has not previously been recounted.

(Signed)________________________

STATE OF SOUTH DAKOTA )
COUNTY OF _____________ ) SS VERIFICATION

I, ____________________, under oath, state that I read and signed the foregoing petition and know its contents and that, to the best of my knowledge and belief, the statement is true.

(Signed)________________________

Sworn to before me this _____ day of __________, 20____.

(Seal) __________________________
Officer Administering Oath

My Commission Expires __________

_______________________________
Title of Officer Administering Oath
CHAPTER 5:02:04

FORMS OF NOTICES

Section

5:02:04:01 Repealed.
5:02:04:02 Repealed.
5:02:04:03 Repealed.
5:02:04:04 Notice of deadline for voter registration.
5:02:04:05 Notice of general election.
5:02:04:06 Notice of vacancy for municipal election.
5:02:04:07 Repealed.
5:02:04:08 Notice of municipal election.
5:02:04:09 Notice of special election.
5:02:04:10 Notice of vacancy which may occur due to filing of recall petitions.
5:02:04:11 Notice of special recall election and of filing of nominating petitions for special recall election.
5:02:04:12 Repealed.
5:02:04:13 Notice of secondary (runoff) election.
5:02:04:14 Notice of vacancy on school board.
5:02:04:15 Notice of school board election.
5:02:04:16 Notice of primary election.
5:02:04:17 Notice of deadline for filing primary nominating petitions.
5:02:04:18 Notice of statewide secondary election.
5:02:04:21. Notice of cancellation of municipal election. The notice of the cancellation of a municipal election shall be in the following form:

NOTICE OF CANCELLATION OF MUNICIPAL ELECTION
MUNICIPALITY OF __________________

Notice is hereby given that no Municipal Election will be held on the ________ day of __________, 20_____, in ___________________, South Dakota.

The election for which public notice was given has been canceled because

(a) no certificates of nomination were filed for (any of) the following position(s) and the incumbent(s) will hold over for the new term:

(HERE LIST POSITIONS AND NAME OF THE INCUMBENT(S))

(b) the following individual(s) has (have) filed certificates of nomination in the office of the Finance Officer for the position(s) to be filled:

(HERE LIST CANDIDATES FILING CERTIFICATES OF NOMINATION AND POSITIONS FOR WHICH THEY HAVE FILED)

Because (each of) the candidate(s) is unopposed, certificates of election will be issued in the same manner as to successful candidates after election.

Dated this ________ day of ______________, 20_____.

_________________________________
Finance Officer  Repealed

Source: 14 SDR 19, effective August 9, 1987; 36 SDR 209, effective June 30, 2010.

General Authority: SDCL 12 - 1 - 9.

Law Implemented: SDCL 9 - 13 - 5.