# Chapter 5:02:03

# Forms for Registration

Effective May 10, 2004

Sec.				
5:02:03:00.	Repealed.			
5:02:03:01.	Voter registration form.			
	1 to 5:02:03:11. Repealed.			
		3. ·		
	Voter registration instructions.			
	Acknowledgement notice for invalid applications.	or incomplete vot	er registratio	on
5:02:03:15.	Acknowledgement notice for valid vo	ter registrations		
	Confirmation mailing notice.	· · · · · · · · · · · · · · · · · · ·		
5:02:03:17.	Retention of confirmation mailing not	tice records		
5:02:03:18.	Voter registration statistics.	100 1000100.		
5:02:03:19.	Voter registration address verification	n notice		
5:02:03:20.	Potential duplicate notice.	i i i i i i i i i i i i i i i i i i i		
5:02:03:20.		out a driver's lies	nco or cooid	<b>~1</b>
	Statement by person registering with security number.			
<u>5:02:03:22.</u>	Parameters for voter registration veri	ification with drive	er's license r	<u>records.</u>
5:02:03:01. V	oter registration form			
Prior to Janua	ary 1, 2006, the voter registration form	may follow the s	pecifications	S
	is section that were in effect on March			_
printed on 90- perforated sev	istration form shall be legibly printed.  -pound index stock 5 inches wide by 1 ven inches from the top and scored for istration form shall contain the following the state of	0.5 inches tall ar or folding 3.5 inch	nd horizonta	lly
	South Dakota Voter Re	gistration		
<b>-</b>	zen of the United States of America? B years of age on or before election da			
If you checked	d 'no' in response to either of these qu	uestions, do not d	omplete this	s form.
	VOTER REGISTRATION for	County,	SD	
Name		· · · · · · · · · · · · · · · · · · ·		· · · · · · · · · · · · · · · · · · ·
(Last Residence Ac	t) (First) (Middle) ddress		·	
Mailing Addre	ess (if different)	<u>City</u>	State	<u> </u>
		City	<u>State</u>	<u>Zip</u>
If residence a the location of	ddress is a post office box, rural box, f your residence:	or general delive	ry, you must	t give
Print previous	name, if changed:			
Driver's licens	se number <u>required:</u>	State of driver	license issi	IG.
(if you do not	have a valid driver <del>'s</del> license, you mus	t give the last fou	r numbers c	of vour
social security		~ J		y ~ ~ ·
	r's license issue:			
	er me as a member of the	_ Party.		
	Phone Number:	· ~··y·		

currently serving a sentence for a felony conviction which included imprisonment, served or suspended, in an adult penitentiary system. I authorize cancellation of my current previous registration as indicated written below. Dated \_\_\_\_\_ Voter Signature \_\_\_\_\_ For county auditor's office use only: Ward Precinct Water Dist Leg Dist Comm Dist Township School Dist Other (perforated) Previous Voter Registration Cancellation Information Required wish to be registered as shown above. I was last registered with the following name and address which will be cancelled: Name\_\_\_ Previous Address State\_ Zip\_ City Birth Date: \_ County\_ Driver's license number: Voter Signature\_\_\_\_ Dated\_\_\_ If the form is printed on index stock, on the reverse of the form above the score must be the following: County Auditor SD 57 An alternative voter registration form may be printed on an 8.5 inch wide by 11 inch tall paper in the following format: Voter Registration Application for \_\_\_\_\_\_ County Use this form to: Register to vote or report a name, address or party change. Please print. Complete entire form. Return this form to your county auditor. ☐ Yes ☐ No Are you a citizen of the United States of America? ☐ Yes ☐ No Will you be 18 years of age on or before election day? If you checked 'no' in response to either of these questions, do not complete this form. First Middle Last Circle one: Jr Sr II III IV Apt or Lot # City/Town Residence Address Zip State Mailing Address (if different) City/Town State Zip If residence address is a post office box, rural box, or general delivery, you must give the location of your residence:

I declare, under penalty of perjury (5 years imprisonment and \$5,000 fine), that: I am a

before the next election; I have not been judged mentally incompetent; and I am not

citizen of the United States; I maintain my home at the above address; I will be 18 on or

Print previous name, if changed:			<u> </u>	<u></u>	
Driver's License Number Required(if you do not have a vertile the last four numbers of your social security number)  (if you do not have a valid driver's license, you must give the last four number)	<del>mber)</del> :		State of driver's lice	nse issue	
······································	······································		Birth Date:	Phone	Number:
Please register me as a member of the		Party.			
I declare, under penalty of perjury (5 years imprisonment	and \$5,000 t		<u> </u>	<u> </u>	· ··· · · · · · · · · · · · · · · · ·
* I am a citizen of the United States;		<u>-</u>			
* I maintain my home at the above address;					
* I will be 18 on or before the next election;					
* I have not been judged mentally incompetent;					
* I am not currently serving a sentence for a felony convic	tion which in	cluded imprise	onment, served or sus	spended,	in an adult
penitentiary system.		<del>-</del>		•	
* I authorize cancellation of my <del>current</del> <u>previous</u> registrati	on as <del>indicat</del>	<del>ed</del> <u>written</u> belo	)W	· · · · · · · · · · · · · · · · · · ·	<u> </u>
Dated / /	Voter Signa	iture:			
For county auditor's office use only:	0.00.0.0.0.0.0.0		· · · · · · · · · · · · · · · · · · ·		
Ward Precinct Water	Leg	Comm	Township	School	other
Tevous Vois Estato					
I wish to be registered as shown above. I was last registe		e e e e e e e e e e e e e e e e e e e			incelled:
i mon to bo noglotorou de enterni de enterni i mae mentre gion		i ono i ing i i an			
Lact	First	· · · · · · · · · · · · · · · · · · ·	Middle	<u>,,</u>	Circle one:
Last	FIISL		Wildule		Jr Sr II
				<u> </u>	III IV
Previous Address		City/Town		State	Zip
County:		Birth Date:	Driver's lice	ense numi	ber:
······································				<u> </u>	
Dated/	Voter Signa	ıture:			

The deadline for registration is 15 days before any election. Your form must be received by the auditor by this deadline if you are to vote in the next election.

Within 15 days you will receive a notice of your registration. If you do not, contact your county auditor.

Source: 2 SDR 5, effective July 30, 1975; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 22 SDR 95, effective January 18, 1996; 23 SDR 115, effective January 22, 1997; 25 SDR 167, effective July 6, 1999; 29 SDR 177, effective July 2, 2003.

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

Law Implemented: SDCL 12-4-6, 12-4-8.

# 5:02:03:22. Parameters for voter registration verification with driver license records

The voter registration fields being compared to the South Dakota driver license system fields are:

- SSN or driver's license number to DRVR-LIC-NO-SSN
- last name to LAST-NAME DL
- first name to FIRST-NAME DL
- date-of birth to DATE-OF-BIRTH DL

Four steps will be performed to check a South Dakota driver license number:

- (1) A number check will be executed to see if the voter registrant's driver license number matches. If a match is not found no further checks are conducted on that record.
- (2) If the number check matches, a check will be performed against the last name on the driver license.
- (3) If the number check matches, a check will be performed against the first name on the driver license.
- (4) If the number check matches, a check will be performed against the date-of-birth on the driver license.

Source:

General Authority: SDCL 12-4-5.5. Law Implemented: SDCL 12-4-5.5.

# 5:02:04:04. Notice of deadline for voter registration

The notice of deadline for voter registration must be in the following form:

#### NOTICE OF DEADLINE FOR VOTER REGISTRATION

Voter registration for the	Election to be held on	, will close on
Failure to registe	r by this date will cause forfeiture of v	voting rights for this
election. If you are in doubt abo	ut whether you are registered, call th	e county auditor at
(telephone number).		-

Registration may be completed during regular business hours at the county auditor's office, municipal finance office, secretary of state's office and those locations which provide driver's licenses, food stamps, TANF, WIC, military recruitment, and assistance to the disabled as provided by the Department of Human Services. You may contact the county auditor to request a mail-in registration form or access a mail-in form at (<a href="https://www.state.sd.us/ses/ses.htm">www.sdsos.gov</a> or a county provided web site with a link to a voter registration form - insert one option or the other).

Voters with disabilities may contact the county auditor for information and special assistance in voter registration, absentee voting, or polling place accessibility.

Person in charge of election - Title)	
Political Subdivision)	

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 6 SDR 123, effective July 2, 1980; 8 SDR 24, effective September 16, 1981; 12 SDR 43, effective September 23, 1985; 21 SDR 77, effective October 24, 1994; 25 SDR 8, effective August 3, 1998; 27 SDR 146, effective July 9, 2001.

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

Law Implemented: SDCL 12-4-3, 12-4-5.2, 12-4-7.2

Cross-References: Pub L No 98-435.

# 5:02:04:17. Notice of deadline for filing primary nominating petitions

Not less than ten nor more than fifteen days before the deadline for filing primary nominating petitions, the person in charge of the local election shall publish a notice in the following form:

#### NOTICE OF DEADLINE FOR FILING NOMINATING PETITIONS

The deadline for filing nominating petitions is \_\_\_\_\_\_\_, at 5:00 p.m. If a petition is mailed by registered mail by \_\_\_\_\_\_, at 5:00 p.m., it shall be considered filed.

19\_\_\_, at 5:00 p.m., it shall be considered filed.

(Person in charge of election)

Source: 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16,

1981.

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

# Chapter 5:02:05

# Forms for Conduct of Elections

Sec.	
5:02:05:00	Official stamp for ballots - All elections.
5:02:05:01	Certificate and receipt executed by the precinct election board and counting board.
5:02:05:02	Instructions to the voters using hand-counted paper ballots.
	Instructions to the voters using optical scan ballots.
	Instructions to the voters using puncheard ballots.
	5:02:05:05. Repealed.
5:02:05:06	Precinct election board receipt for official ballots.
5:02:05:07	Receipt for transmission of election supplies.
5:02:05:08	Receipt of superintendent of election for ballots and supplies.
5:02:05:09	Ballot box metal seal envelope.
5:02:05:10	Precinct election board record of spoiled ballots.
5:02:05:11	Notice of appointment of election officials.
5:02:05:11.01	Notice of appointment of election officials for school or municipal election.
5:02:05:12	Envelope for notification of appointment of election officials.
5:02:05:13	Notice of appointment of counting board.
5:02:05:14	Election supplies tag.
5:02:05:15	Auditor's ballot box seal.
· -	5:02:05:18. Transferred.
5:02:05:19	Ballot wrapper or envelope seals.
5:02:05:20	Emergency voting card.

5:02:05:21 Affirmation of inactive voter's address.
5:02:05:22. Provisional ballot envelope.
5:02:05:23. Notice to provisional voter.
5:02:05:24. Notice of provisional ballot determination.
5:02:05:25. Personal identification affidavit.

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

Prior to January 1, 2004, the instructions to the voters using hand counted paper ballots may follow the specifications provided in this section that were in effect on November 28, 2001.

The instructions to be posted in three 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 ( $\checkmark$ ) for each vote. Do not make any marks other than a cross (X) or check mark ( $\checkmark$ ). 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 ( $\checkmark$ ) for each vote. Do not make any marks other than a cross (X) or check mark ( $\checkmark$ ). 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.

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 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.

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.

#### 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.

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 82, effective June 13, 1976; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 12 SDR 43, effective September 23, 1985; 23 SDR 236, effective July 17, 1997; 25 SDR 167, July 6, 1999; 27 SDR 146, effective July 9, 2001; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003.

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

Law Implemented: SDCL 12-16-23.

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

Prior to January 1, 2004, the instructions to the votors using optical scan ballots may follow the specifications provided in this section that were in effect on November 28, 2001.

The instructions to be posted in three 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 (●) or finish the arrow with a dark line (■■■●) 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 or finishing the arrow. 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 (●) or finish the arrow with a dark line (■■■■→) 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 or finishing the arrow.

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.

Printers note: Adapt the first paragraph to only include instructions for your type of ballot.

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 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.

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.

#### 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.

Source: 27 SDR 146, effective July 9, 2001; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003.

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

Law Implemented: SDCL 12-16-23.

#### 5:02:05:02.02 Instructions to the voters using punchcard ballots.

Prior to January 1, 2004, the instructions to the voters using punchcard ballots may follow the specifications provided in this section that were in effect on November 28, 2001.

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

#### INSTRUCTIONS TO THE VOTERS

#### TO MARK THE BALLOT

Punch the hole through the card using the punch given you. The hole will be next to the arrow for the name or ballot question.

Do not make any mark.

Do not write in a name.

Do not rip your ballot.

## IF YOU MAKE A MISTAKE

If you make a mistake, give the ballet 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

Check your ballot card to see that each hole is punched out.

Put the ballot in the folder 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 punchcard ballots must be in the fellowing form:

#### INSTRUCTIONS TO THE VOTERS

#### TO MARK THE BALLOT

Punch the hole through the card using the punch given you. The hole will be next to the arrow for the name or ballot question.

Do not make any mark.

Do not write in a name.
Do not rip your ballot.

#### 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

Check your ballot card to see that each hole is punched out.

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

# IF YOU NEED HELP, ASK. Repealed

Source: 27 SDR 146, effective July 9, 2001; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003. General Authority: SDCL 12-1-9(9). Law Implemented: SDCL 12-16-23.

# 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 business mailing address is, South Dakota, as a candidate for ayear term for the office of at the Municipal Election to be held on the day of,
DECLARATION OF CANDIDATE
I,
My Commission Expires
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

(f) The number of managers; and

(5) Water project districts insert:

following circulation and before filing.

- (a) The object and purpose of the district and the works proposed to be constructed with a description of the nature, location and method of operation;
- (b) Location of the principal place of business of the district; and
- (c) The number of board members.

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

Source: 25 SDR 8, effective August 3, 1998; 26SDR168, effective June 25, 2000.

General Authority: SDCL 6-16-8.

Law Implemented: SDCL 6-16-2, 6-16-8, 31-12A-3(1)(2)(3)(4), 34-11A-3, 34-31A-4,

46A-14-8(1)(2)(3)(4)(5)(6)(7), 46A-18-4(1)(2)(3)(4)(5).

# Chapter 5:02:09

# **Automatic Tabulating Equipment**

Sec.
5:02:09:01 Repealed.
5:02:09:01.01 Notice of testing automatic tabulating equipment.
5:02:09:01.02 Testing of tabulating equipment.
5:02:09:01.03 Test of direct recording electronic voting machines.
5:02:09:02 Approval of automatic tabulating systems required before distribution.
5:02:09:02.01 Criteria for approving automatic tabulating systems.
5:02:09:02.02 Criteria for approving direct recording electronic voting machines.
5:02:09:03 Number of voting booths.
5:02:09:04 Test of preaudited ballots.
5:02:09:04.01 and 5:02:09:04.02 Repealed.
5:02:09:04.03 Arrangements for and conduct of voting in precincts where automatic
tabulating systems used.
5:02:09:04.04 Tabulation procedures.
5:02:09:05 Recount procedure.
5:02:09:06 and 5:02:09:08 Repealed.
5:02:09:09 Unnecessary items in the pollbooks.
5:02:09:10 Repealed.
5:02:09:11 Official and unofficial election results.
5:02:09:11.01 to 5:02:09:12 Repealed.
5:02:09:13 Envelope for official returns.
5:02:09:14 Oath by tabulation center employees.
5:02:09:15 Repealed.
5:02:09:16 Recapitulation sheet.
5:02:09:17 Examination of voting booths - Retest of voting devices on election day.
5:02:09:18 to Ballot comparison cortification.
5:02:09:19 Counting imperfectly marked punchcard ballots.
5:02:09:20 Counting punchcard ballots with a hole next to an inteact chad.
<del>5:02:09:21 Overvoted punchcard ballots.</del>
5:02:09:22 Counting imperfectly marked optical scan ballots Repealed.

# 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;
- (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. 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;
- (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) In precincts using punch cards, the official shall instruct the voter to place the voted ballot in the privacy envelope. At the close of voting, precinct officials shall open the ballot box, examine each ballot for the official ballot stamp and remove the privacy envelopes. The precinct official shall place any ballot without the official ballot stamp in a separate marked envelope not to be counted;
- (8) (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;
- (9) (8) The precinct officials shall securely lock and seal the ballot box with a locking device and seal label to secure or cover any open slot in the box and to identify the box; (10) (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;
- (11) (10) Precinct officials shall secure in the polling place the equipment and supplies that were issued for the purpose of voting or shall return them to the person in charge of the election.

Source: 21 SDR 77, effective October 24, 1994; 23 SDR 236, effective July 17, 1997.

General Authority: SDCL 12-17B-17.

Law Implemented: SDCL 12-17B-6, 12-17B-7, 12-17B-9. Cross-References: Recapitulation sheet, 5:02:09:16.

#### 5:02:09:16. Recapitulation sheet

A recapitulation sheet in the following form shall be filled out for each type of ballot or ballot card used.

RECAP SHEET: PRECINCT (date and name of election)	<u></u>		
Number of Voters from Pollbook Official Unvoted Ballots Received Additional Unvoted Ballots	<u> </u>		_(A)
Absentee Ballots	· · · · · · · · · · · · · · · · · · ·		
Total			_ (B)
Ballots Spoiled			
Ballots Unvoted			
Total	T-1-1	<del></del>	_ (C) _ (D)
Ballots Voted Provisional Ballots Voted	Total	<u> </u>	(D) (subtract Total C from B)
Ballots To Be Counted		<u>E)</u>	(F) (subtract E from D)
Signed:			
Precinct Officials			
PLACE INSIDE BALLOT E	OX OR T	RANSFE	R CASE WITH VOTED BALLOTS
Discrepancies noted by resolution (fill in only if there is a different total	board: al than abo	ove)	· · · · · · · · · · · · · · · · · · ·
Signed			
Resolution Board			

Source: 8 SDR 81, effective January 10, 1982; 12 SDR 43, effective September 23, 1985; 21 SDR 77, effective October 24, 1994; 22 SDR 95, effective January 18, 1996.

General Authority: SDCL 12-17B-17(2). Law Implemented: SDCL 12-17B-9.

# 5:02:09:17. Examination of voting booths - Retest of voting devices on election day

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. At the same time, a demonstrator ballot card shall be inserted into each punch card voting device and several voting positions punched at random to verify that each device is functioning properly.

Source: 8 SDR 81, effective January 10, 1982; 21 SDR 77, effective October 24, 1994. General Authority: SDCL 12-17B-17(4). Law Implemented: SDCL 12-18-1.3.

# 5:02:09:18. Ballot comparison certification

The ballot comparison certification to be signed by each precinct election board member in punch card voting system precincts must be in the following form:

#### **BALLOT COMPARISON CERTIFICATION**

We hereby certify that before the beginning of voting we have each personally compared the ballots used in the marking devices with the sample ballots furnished and certify that the names, numbers, and letters on the ballots agree.

	Precinct Superintendent
<del>-</del>	
	Precinct Deputy
· · · · · · · · · · · · · · · · · · ·	Precinct Deputy
	Precinct Deputy
	Precinct Deputy-Repealed.
<b>-</b> -	<u> </u>

Source: 16 SDR 20, effective August 10, 1989; 21 SDR 77, October 24, 1994; 25 SDR

167, effective July 6, 1999.

General Authority: SDCL 12-17B-17(2). Law Implemented: SDCL 12-18-1.3.

# 5:02:09:19 Counting imperfectly marked punchcard ballots

As used in this section and ARSD 05:02:08:20, chad means the part of a ballot card that indicates a vote on the card when entirely punched out by the voter. A chad that has been pierced, but not entirely punched out of the card, shall be counted as a vote for the indicated candidate or for the indicated response to a ballot question. A chad that has at least one broken side and two broken corners shall be counted as a vote for the indicated candidate or for the indicated response to a ballot question. A chad that has been indented, but not in any way separated from the remainder of the card, or has less than one broken side and two broken corners may not be counted as a vote for a candidate or on a ballot question. Repealed.

Source: 28 SDR 99, effective January 17, 2002.

General Authority: SDCL 12-1-9(4). Law Implemented: SDCL 12-1-9(4).

# 5:02:09:20 Counting punchcard ballots with a hole next to an intact chad

A vote shall be counted for the candidate or on the ballot question as if the indicated chad had been punched out, if:

- (1) The ballot card contains a numbered box indicating which chad should be punched out by the voter to cast a vote for a candidate or on a ballot question;
- (2) The indicated chad has not been punched out; and (3) A hole has been made in the card that touches any part of the numbered box. Repealed.

Source: 28 SDR 99, effective January 17, 2002.

General Authority: SDCL 12-1-9(4). Law Implemented: SDCL 12-1-9(4).

5:02:09:21 Overvoted punchcard ballots

No vote may be counted as a vote for a candidate or a ballot question if under the rules provided in ARSD 05:02:09:19 and 05:02:09:20, more votes are cast than are allowed for that candidate election or ballot question. Repealed.

Source: 28 SDR 99, effective January 17, 2002.

General Authority: SDCL 12-1-9(4). Law Implemented: SDCL 12-1-9(4).

# Chapter 5:02:16

# Counting and Canvassing of Ballots

Sec.	
5:02:16:00	Definitions.
5:02:16:01	Delivery of supplies to counting board - Signing of certificate.
5:02:16:02	Signing of oaths.
5:02:16:03	Public vote count.
5:02:16:04	Use of tally sheets.
5:02:16:05	Comparison of registration list and pollbook.
5:02:16:06	Opening ballot box.
5:02:16:07	Folded ballots separated.
5:02:16:08	Duplicate ballots.
5:02:16:09	Drawing of excess ballots.
5:02:16:09.01	
	Endorsing of excess ballots.
5:02:16:10	Unstamped ballots.
5:02:16:11	Separation of ballots.
5:02:16:12	Order of vote counting.
5:02:16:13	Repealed.
5:02:16:14	Scrutiny of ballots by counting board.
5:02:16:15	Tally of ballots.
5:02:16:16	Voter's intent.
5:02:16:17	
	Write-in votes not counted.
	Counting imperfectly marked paper ballots.
	:02:16:20 Repealed.
	Voter's intent to be determined.
5:02:16:22	
	Use of prior court decision.
	:02:16:24 Repealed.
	Unofficial returns of precinct vote.
	Entry of precinct vote on unofficial return list.
	:02:16:30 Repealed.
5:02:16:31	Signing of certificates.
5:02:16:32	Repealed.
5:02:16:33	Procedure for placing voted ballots in the ballot box.
5:02:16:34	Return of unvoted ballots.
5:02:16:34.01	Return of duplicate ballots of one voter not counted.
5:02:16:35	Ballots voted but not counted.
5:02:16:36	Recapitulation sheet.
5:02:16:37	Sealing of ballot box.
5:02:16:38	Use of paper seals on ballot box.
5:02:16:39	Form of the paper seal.
5:02:16:40	Return and sealing of the pollbook.
5:02:16:41	Polibook envelope seal.
5:02:16:41.01	Return of duplicate tally sheet.

5:02:16:42 5:02:16:43 5:02:16:44	Return of ele Purpose of t Provisional k	his chapter.			
5:02:16:25. U	nofficial retu	ırns of prec	inct vote.		
The election reporting the im	supplies prov mediate uno	ided to the c ficial returns	ounting boar of precinct v	d shall includ ote, togethe	e a form for r with an envelope.
The form for rep	porting the im	mediate uno	fficial returns	s of precinct v	ote is as follows:
IMN	IEDIATE UN	OFFICIAL RE	ETURNS,		PARTY
ELECTION HE	LD ON THE	DAY OF	, 4	<del>9</del> ,	PRECINCT
TITLE OF	FOFFICE	NAME OF C	ANDIDATE	NUMBER C	FVOTES
<u> </u>		·			
				-	
NUMBER OF P					
The form of the	envelope is a				
		<del>-</del> <del>-</del>	IAL RETUR NTY AUDIT	_	
		SOUT	H DAKOTA		
IMMEDIATE DO NOT PUT I	THIS IN BALL	OT BOX			
Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993 General Authority: SDCL 12-1-9(4), 12-20-52. Law Implemented: SDCL 12-20-10.					
5:02:16:36. R	ecapitulation	n sheet			
A recapitulation sheet in the following form shall be filled out indicating the disposition of the ballots:					
Ballots received Absentee ba	ved from audived after polls llots received allots receive	open			
Provisional b Unused ballo Spoiled ballo	ots				

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.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24,

1979.

General Authority: SDCL 12-1-9(4), 12-20-52.

Law Implemented: SDCL 12-17A-42.1, 12-18-32, 12-20-21.

#### 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.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993; 25 SDR 167, effective July 6, 1999.

General Authority: SDCL 12-1-9(4), 12-20-52.

Law Implemented: SDCL 12-20-21.

# 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

Source:

General Authority: SDCL 12-1-9(4). Law Implemented: SDCL 12-18-40.

**Chapter 5:02:17** 

# **Pollbooks and Tally Sheets**

Sec.

5:02:17:01. Size of pollbook Repealed.

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

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

5:02:17:04. Oath of precinct election board.

5:02:17:05. Oath of counting board.

5:02:17:06. List of voters.

5:02:17:07.
5:02:17:08.
5:02:17:09.
5:02:17:10.
5:02:17:11.
5:02:17:12.
5:02:17:13.
Tally sheets.
Official vote count.
Certification by precinct election board.
Certification by counting board.
Official canvass sheet - Municipalities, school districts, and other local jurisdictions.
Duties of official board of canvassers for local jurisdiction.
Certification of provisional ballot count.

# 5:02:17:01. Size of pollbook

The pollbook must be 8 1/2 inches wide by 11 or 14 inches long in size. Repealed.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24,

1979; 25 SDR 8, effective August 3, 1998.

General Authority: SDCL 12-1-9(4). Law Implemented: SDCL 12-16-28.

# 5:02:17:12. Duties of official board of canvassers for local jurisdiction

The duties of the official board of canvassers for a local jurisdiction are as follows:

(1) Open the returns from each precinct which are found in each poll book;

(2) Satisfy itself that the returns are genuine and not forged;

(3) Tabulate the returns from the precincts and the certification of provisional ballot count; declare the result; and

(4) Declare the result; and

(4) (5) Make an abstract of the results of the votes cast for each of the candidates and each of the issues. The abstract must be signed and certified by the canvassers under the seal of the business manager or finance officer of the local jurisdiction.

Source: 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9(4).

Law Implemented: SDCL 9-13-24, 13-7-18, 12-20-13.2.