

State Board of Elections Adopted Rules Effective July 4, 2005

Chapter 5:02:03

Forms for Registration

Sec.

- 5:02:03:00. Repealed.
- 5:02:03:01. Voter registration form.
- 5:02:03:01.01 to 5:02:03:11. Repealed.
- 5:02:03:12. Agency voter registration instructions.
- 5:02:03:13. Voter registration instructions.
- 5:02:03:14. Acknowledgement notice for invalid or incomplete voter registration applications.
- 5:02:03:15. Acknowledgement notice for valid voter registrations.
- 5:02:03:16. Confirmation mailing notice.
- 5:02:03:17. Retention of confirmation mailing notice records.
- 5:02:03:18. Voter registration statistics.
- 5:02:03:19. Voter registration address verification notice.
- 5:02:03:20. Potential duplicate notice.
- 5:02:03:21. Statement by person registering without a driver's license or social security number.
- 5:02:03:22. Parameters for voter registration verification with driver's license records.
- 5:02:03:23. Parameters for voter registration verification with social security administration records.

5:02:03:01. Voter registration form

Prior to January 1, 2006, the voter registration form may follow the specifications provided in this section that were in effect on March 26, 2004.

The voter registration form shall be legibly printed. It is recommended that the form be printed on 90-pound index stock 5 inches wide by 10.5 inches tall and horizontally perforated seven inches from the top and scored for folding 3.5 inches from the top. The voter registration form shall contain the following information:

South Dakota Voter Registration

Are you a citizen of the United States of America? Yes No

Will you be 18 years of age on or before election day? Yes No

If you checked 'no' in response to either of these questions, do not complete this form.

VOTER REGISTRATION for _____ County, SD

Name _____

(Last) (First) (Middle)

Residence Address _____

City State Zip

Mailing Address (if different) _____

City State Zip

If residence address is a post office box, rural box, or general delivery, you must give the location of your residence: _____

Print previous name, if changed: _____

Driver license number required: _____ State of driver license issue: ____

(if you do not have a valid driver license, you must give the last four numbers of your social security number)

Please register me as a member of the _____ Party.

Birth Date Required: _____ Phone Number: _____

I declare, under penalty of perjury (5 years imprisonment and \$5,000 fine), that: I am a citizen of the United States; 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; and I am not currently serving a sentence for a felony conviction which included imprisonment, served or suspended, in an adult penitentiary system. I authorize cancellation of my previous registration as 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 Information Required

I wish to be registered as shown above. I was last registered with the following name and address which will be cancelled:

Name _____

Previous Address _____

City _____ State _____ Zip _____

County _____ Birth Date: _____

Driver license number: _____

Dated _____ Voter Signature _____

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.

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. Any private person or entity registering voters is required to provide you with their contact information.

Are you a citizen of the United States of America? Yes No

Will you be 18 years of age on or before election day? Yes No

If you checked 'no' in response to either of these questions, do not complete this form.

Last	First	Middle	Circle one: Jr Sr II III IV
Residence Address		City/Town	Zip

	Apt or Lot #		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:				
Print previous name, if changed:				
Driver License Number Required: (if you do not have a valid driver license, you must give the last four numbers of your social security number)		State of driver license issue:		
Please register me as a member of the _____ Party.		Birth Date <u>Required</u> :	Phone Number:	
I declare, under penalty of perjury (5 years imprisonment and \$5,000 fine), that:				
* I am a citizen of the United States;				
* 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 conviction which included imprisonment, served or suspended, in an adult penitentiary system.

* I authorize cancellation of my previous registration as written below.

Dated ___/___/___

Voter Signature:

For county auditor's office use only:

Ward Precinct Water Leg Comm Township School other

Previous Voter Registration Information Required

I wish to be registered as shown above. I was last registered with the following name and address which will be cancelled:

Last

First

Middle

Circle one: Jr Sr II III IV

Previous Address

City/Town

State

Zip

County:

Birth Date:

Driver license number:

Dated ___/___/___

Voter Signature:

~~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. If you give this voter registration to a person who is not an election official, the person (Bold) **must** (Unbold) provide you in writing with their contact information should you wish to check on the status of your registration.~~

~~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; 30 SDR 171, effective May 10, 2004.

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

Law Implemented: SDCL 12-4-3, 12-4-6, 12-4-8.

5:02:03:12 Agency voter registration instructions

The declination form and instructions ~~attached to~~ provided with each voter registration form used by an agency which provides food stamps; temporary assistance for needy families (TANF); the women, infants, and children nutrition program (WIC); military recruitment; or assistance to the disabled as provided by the Department of Human Services must be in the following form:

South Dakota Agency Voter Registration Form

If you are (bold) **not registered** (unbold) to vote where you live now, would you like to apply to register to vote here today? Yes _____ No _____

If you do not check either box, you will be considered to have decided not to register to vote at this time.

If you register to vote, the information regarding the office to which the application was submitted will remain confidential and be used only for voter registration purposes.

If you don't register to vote, this decision will remain confidential and be used only for voter registration purposes.

If you would like help filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.

If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Secretary of State, 500 E. Capitol, Pierre, SD 57501, 605-773-3537.

Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.

You can use this form to:

- ~~—* Register to vote in South Dakota~~
- ~~—* Change your registration name or address~~
- ~~—* Change your party affiliation~~

To register to vote in South Dakota, you must:

- ~~—* Be a United States citizen~~
- ~~—* Reside in South Dakota~~
- ~~—* Be at least 18 years old on or before the next election~~
- ~~—* Not be currently serving a sentence for a felony conviction which included imprisonment, served or suspended, in an adult penitentiary system~~

~~* Not be judged mentally incompetent by a court of law~~

To register, please complete the entire registration card by printing the requested information. If you are currently registered to vote, please also fill out the attached cancellation card. Return the registration card to the County Auditor in your county of residence or to your local TANF, food stamp, WIC, military recruitment, or Department of Human Services office. (Bold)**The deadline for registration is 15 days before any election.** (Unbold)

~~You will receive a notice from your county auditor that your registration has been received. If you do not receive this notice within 15 days, please contact your county auditor.~~

Source: 21 SDR 77, effective October 24, 1994; 23 SDR 115, effective January 22, 1997; 29 SDR 177, effective July 2, 2003.

General Authority: SDCL 12-4-35.

Law Implemented: SDCL 12-4-2.

5:02:03:13. Voter registration instructions

The instructions attached to each voter registration form other than those used in the county auditor's office, the alternative form provided in § 5:02:03:01, or those used by agencies listed in § 5:02:03:12 must be in the following form:

South Dakota Voter Registration Form

Please follow these instructions carefully to ensure that your voter registration is properly completed.

You can use this form to:

- * Register to vote in South Dakota
- * Change your registration name or address

* Change your party affiliation

To register to vote in South Dakota, you must:

- * Be a United States citizen
- * Reside in South Dakota
- * Be at least 18 years old on or before the next election
- * Not be currently serving a sentence for a felony conviction which included imprisonment, served or suspended, in an adult penitentiary system
- * Not be judged mentally incompetent by a court of law

To register, please complete the entire registration card by printing the requested information. If you are currently registered to vote, please also fill out the attached cancellation card. Return the registration/cancellation card to the County Auditor in your county of residence. Any private person or entity registering voters is required to provide you with their contact information. (Bold) **The deadline for registration is 15 days before any election. Your card must be received by the auditor by this deadline if you are to vote in the next election.** (Unbold)

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

Source: 21 SDR 77, effective October 24, 1994; 23 SDR 115, effective January 22, 1997; 29 SDR 177, effective July 2, 2003.

General Authority: SDCL 12-4-35.

Law Implemented: SDCL 12-4-2; 12-4-3.

5:02:03:16. Confirmation mailing notice

The mailing notice sent by forwardable mail to confirm voter registration information must contain the following information:

Voter Registration Information

(List voter's name, complete mailing, _____ (postage)
address, complete residence address, _____ County Auditor
political party, ward, precinct, _____
school district, county commission _____, SD _____
district, legislative district, water
district, township, and location of
precinct polling place)

If this information is correct and you wish to remain registered to vote, please check the first box, sign below, tear off this preaddressed and prepaid card and mail. If this is not correct, please see reverse side for further instructions.

Forwarding Service Requested

(Bold) You must check one: (Unbold)

I certify that the above information is correct or has been corrected; or

I certify that I have registered elsewhere and/or please cancel my registration. (Voter's Name) (Voter's Address)

registration.

(Voter's City, State, Zip)

Date _____

Voter Signature _____

The reverse side shall be in the following form:

Voter Registration Confirmation

1. If the information on the reverse side is correct and (Postage Prepaid)
you wish to remain registered to vote, please check
the first box, sign, tear off, and return the attached card.

2. If any of this information is not correct, please check
the first box, make the appropriate changes, sign, tear
off, and return the attached card. Your voter registration
will be changed to reflect the information which you provide.

If you indicate a residence address outside of ~~South~~
~~Dakota~~ your registration county, your voter registration will
be canceled; and we encourage you to register to vote in (County Auditor's Address)
your new county or state.

3. If this card is not returned within 30 days, your
voter registration will become inactive. With an
inactive registration you will be able to vote by

signing an affirmation of current address at your polling place.

4. If this card is not returned within 30 days and you do not vote by the second general election from today, your registration will be canceled.

5. If you have registered to vote elsewhere, please check the second box, sign, and return.

Source: 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(1), 12-4-35.

Law Implemented: SDCL 12-4-19, 12-4-19.1.

5:02:03:23. Parameters for voter registration verification with social security administration records

If the State of Driver License Issuance field is marked "SN", the voter registration fields to be compared to the social security administration records are:

- Â· SSN for an exact match with the last four digits of the social security number
- Â· last name for an exact match with the last name
- Â· first name for an exact match with the first name
- Â· date of birth for an exact match of the month and year

For each record checked, the Social Security Administration will respond with one of the following codes and the county auditor will take the action indicated by the code:

Code	Code Description	County Auditor Action
S	Invalid input data	Correct data and resubmit
T	Multiple matches – all deceased	Withdraw registration and investigate
V	Multiple matches – all alive	Remains registered
W	Multiple matches – at least one alive and at least one deceased	Withdraw registration and investigate
X	Single match – alive	Remains registered
Y	Single match – deceased	Withdraw registration and investigate
Z	No match found	Withdraw registration and investigate
9	System Error	Not returned to County – Resubmitted by State

Source:

General Authority: SDCL 12-4-5.5.

Law Implemented: SDCL 12-4-5.5.

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

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

Voter's Affirmation for a Provisional Ballot

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

_____. My name is _____, I reside at _____, my mailing address is _____, my daytime telephone number is _____ and my evening telephone number is _____.

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

Signature of Voter

Date

To be completed by a precinct election worker:

Precinct number _____ Type of ballot provided to voter _____

Signature of precinct worker

Source: 29 SDR 177, effective July 2, 2003.

General Authority: SDCL 12-18-40.

Law Implemented: SDCL 12-18-40.

The petition to increase or decrease the number of county commissioners shall be in the following form:

PETITION FOR CHANGE IN NUMBER OF COUNTY COMMISSIONERS

WE, THE UNDERSIGNED qualified voters of _____ County, State of South Dakota, petition that the number of commissioners for this county be (increased to five) (decreased to three) and that the proposal be submitted to the voters of _____ County for their approval or rejection at the ~~primary~~ general election to be held on November __, 19____.

The balance of this petition form is as 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 7-8-3.

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.

5:02:09:02.03 Criteria for approving electronic ballot marking systems.

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 5:02:09:21 Repealed.

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

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 ARSD 5:02:09:02.01 for each automatic tabulating system which will be counting ballots.

Source:

General Authority: SDCL 12-17B-17(1).

Law Implemented: SDCL 12-17B-2.

Chapter 5:02:10

Absentee Voting

Sec.

5:02:10:01. Application for absentee ballot.

5:02:10:01.01. Receipt for absentee ballot.

5:02:10:01.02 Guidelines for acceptance of facsimile absentee ballot applications from UOCAVA voters.

5:02:10:02. Envelope for transmitting ballot application to superintendent of elections.

5:02:10:03. Envelope for sending ballots to voter.

5:02:10:04. Instructions to absentee voters.

5:02:10:05. Official return envelope for ballots used in voting.

5:02:10:06. Official record of absentee ballots delivered to voters.

5:02:10:07. Repealed.

5:02:10:08. Envelopes for use with voting service and overseas ballots.

5:02:10:01.02 Guidelines for acceptance of facsimile absentee ballot applications from UOCAVA voters.

The person in charge of the election shall upon request make a fax number or email address available to Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) voters for the purpose of sending a facsimile or emailed image of their signed absentee ballot application or request.

The facsimile or emailed image must be legible. If the facsimile or emailed image is from a UOCAVA voter located in the United States, the application or request must have a legible notary seal or copy of the voter's identification card as required by SDCL 12-19-2.

If the application or request is not legible, the person in charge of the election shall attempt to notify the voter as soon as possible by telephone or email if such contact information is provided.

Source:

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

Law Implemented: SDCL 12-19-2.3.