

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

The instructions to be posted in ~~three~~ 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 (●) ~~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 cannot mark a ballot because the voter has a physical disability or cannot 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.

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## 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 (nnnn→□)~~ 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; 30 SDR 171, effective May 10, 2004.

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

Law Implemented:Â SDCL 12-16-23.

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

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

#### **INSTRUCTIONS TO THE VOTERS**

##### **TO MARK THE BALLOT**

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

Follow the instructions on the screen to complete voting.

##### **IF YOU MAKE A MISTAKE**

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

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

## TO RETURN THE BALLOT AFTER VOTING

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

IF YOU NEED HELP, ASK.

Source:

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

Law Implemented: SDCL 12-16-23.

### **5:02:06:01.02. Optical scan ballot instructions.**

The instructions to voters found on optical scan ballots shall be enclosed in a box. The appropriate instructions shall be placed at the top of the first column containing presidential electors or presidential delegates and alternates, at the beginning of the portion containing other candidates and at the beginning of the portion containing ballot questions. The instructions for all elections must be in either of the following forms:

To vote for a group of presidential electors fill in the oval (●) next to the names.

To vote for a group of presidential delegates and alternates fill in the oval (●) next to the names.

To vote for a person fill in the oval (●) next to the name.

To vote on a ballot question fill in the oval (●) next to "yes" or "no".

Use only a pencil or marker.

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DO NOT cast more votes than are allowed in each race.

or

~~To vote for a group of presidential electors finish the arrow with a dark line (▣) next to the names.~~

~~To vote for a group of presidential delegates and alternates finish the arrow with a dark line (▣) next to the names.~~

~~To vote for a person finish the arrow with a dark line (▣) next to the name.~~

~~To vote on a ballot question finish the arrow with a dark line (▣) next to "yes" or "no".~~

~~Use only a pencil or marker.~~

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DO NOT cast more votes than are allowed in each race.

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Printers note: The instruction to "Use only a pencil or marker." should be included in the first instruction box only. Use either "pencil" or "marker" which ever is correct for your system. If the ballot has columns, the words "Go to top of next column" should be printed on the bottom of any column preceding each column to be voted. If the ballot has races on the back side, the words "Turn page" should be printed in the lower right corner.

Source: 22 SDR 95, effective January 18, 1996; 23 SDR 236, effective July 17, 1997; 26SDR168, effective June 25, 2000; 28 SDR 99, effective January 17, 2002; 29 SDR 113, effective January 30, 2003; 29 SDR 177, effective July 2, 2003; 31 SDR 35, effective September 23, 2004.

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

Law Implemented: SDCL 12-16-9.

**5:02:09:02. Approval of automatic tabulating systems required before distribution.**

Prior to distribution in South Dakota, a company or corporation dealing in automatic tabulating, direct recording electronic or electronic ballot marking systems shall give written notice to the state board of elections and demonstrate that its system complies with SDCL 12-17B-2, and § 5:02:09:02.01, ~~or~~ § 5:02:09:02.02 or § 5:02:09:02.03 and is certified as fulfilling the requirements of the ~~Federal~~ Election Assistance Commission 2002 voting system standards by an independent test authority accredited by the National Association of State Election Directors or the Election Assistance Commission.<sup>Â</sup> If the state board of elections approves the system, it shall issue a certificate of approval.<sup>Â</sup> Any system approved prior to December 15, 1995 may continue to be sold and operated in South Dakota without certification from an independent test authority.

Any changes or modifications in an approved electronic voting system may be certified by the state board of elections with or without the demonstration described in this section for initial approval provided that the modified system has been certified as fulfilling the requirements of the ~~Federal~~ Election Assistance Commission voting system standards by an independent test authority accredited by the National Association of State Election Directors or the Election Assistance Commission.

Source:<sup>Â</sup> 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 16 SDR 203, effective May 28, 1990; 21 SDR 77, effective October 24, 1994; 22 SDR 95, effective January 18, 1996; 29 SDR 113, effective January 30, 2003.

General Authority:<sup>Â</sup> SDCL 12-17B-17.

Law Implemented:<sup>Â</sup> SDCL 12-17B-2.

### **5:02:09:22<sup>Â</sup> Counting imperfectly marked optical scan ballots.**

A voting mark that touches the oval ~~or arrow~~ on an optical scan ballot shall be counted as if it were on or in the oval ~~or arrow~~.<sup>Â</sup> If the voting mark does not touch the oval ~~or arrow~~ and is not on or in the oval ~~or arrow~~, the vote may not be counted.

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



General Authority:Â SDCL 12-1-9(4).

Law Implemented:Â SDCL 12-1-9(4).

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

~~Prior to January 1, 2004, the absentee ballot application must follow the specifications provided in this section that were in effect on May 15, 2003.~~

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The application for an absentee ballot must be in the following form:

APPLICATION FOR ABSENTEE BALLOT

\_\_\_\_\_ COUNTY, SOUTH DAKOTA

(All ballots must be delivered or mailed to the person in charge of the election in time to permit transmittal to the polling place before the polls close.)

You may apply for an absentee ballot for any or all primary, general, or special elections conducted by your county with one request. However, you must make a separate request for municipal elections and another for school elections.

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

Primary (~~party ballot as shown on voter registration~~)

General

Municipal

School



(Seal) \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Signature of  
Officer Administering Oath

My  
Commission Expires \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Title of Officer  
Administering Oath

NOTE: The voter's signature must be witnessed by a notary public or other officer authorized to administer an oath. If the signature is not witnessed, this application must be accompanied by a copy of the voter's valid ID. If absentee voting at the office of the person in charge of the election, you must show a valid ID.

An acceptable ID is:

- A South Dakota driver's license or nondriver ID card
- A passport or other picture ID issued by the United States government
- A tribal photo ID
- A photo ID issued by a South Dakota high school or postsecondary education institution

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COMPLETE THIS PORTION IF BALLOT IS TO BE MAILED

Mail my ballot to the following address: \_\_\_\_\_

Daytime phone number: \_\_\_\_\_ (Street address or PO  
Box)(City)(State)(Zip)

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General Authority: SDCL 12-1-9(4), 12-19-2.

Law Implemented: SDCL 9-13-4.1, 12-19-2, 12-19-2.1, 12-19-2.2, 13-7-4.2.

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

§ 5:02:10:06. The official record of absentee ballots delivered to voters shall be in card file, computer file or ledger form and contain the following information:

(1) Date of election and party designation if primary ballot;

(2) Name of applicant;

(3) Current address of applicant and voting address if applicable;

(4) Voting precinct;

(5) Civilian or military;

(6) Date mailed to applicant, given to authorized messenger or voted in office;

(7) Name of authorized messenger and signature of person picking up ballot by request;

(8) Date returned and name of person returning ballot; and

(9) Signature of election official acknowledging return of ballot.

Following is an example:

Name \_\_\_\_\_ Precinct \_\_\_\_\_ Date mailed to applicant \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Date returned by mail \_\_\_\_\_

Mailing Address \_\_\_\_\_ Date voted in office \_\_\_\_\_

\_\_\_\_\_  
Date given to authorized messenger

\_\_\_\_\_  
Date returned by authorized messenger

\_\_\_\_\_  
Civilian

Voting Address \_\_\_\_\_ Military

Date of Election \_\_\_\_\_ Party designation if primary ballot \_\_\_\_\_

Name of authorized messenger, if applicable: \_\_\_\_\_

(The following is to be filled out if the application requests hand delivery.)

I received the official ballot for the above voter:

(Signed) \_\_\_\_\_, Carrier \_\_\_\_\_ (Date)

The official ballot was returned to my office \_\_\_\_\_

by \_\_\_\_\_ (voted) \_\_\_\_\_ (unvoted)

(Signed) \_\_\_\_\_, Auditor \_\_\_\_\_ (Date)

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Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; transferred from 5:02:05:16, 12 SDR 43, effective September 23, 1985.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-2.