

# SECRETARY OF STATE

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**Chris Nelson**  
Secretary of State

Teresa J. Bray  
Deputy

## Minutes State Board of Elections Meeting May 7, 2009

3:00 p.m. Central Time at the following DDN locations: State Capitol, 500 East Capitol, Room B12, Pierre, SD 57501 and University of South Dakota State University, 2205 Career Place, University Center Building Room 282, Sioux Falls, SD 57107.

The meeting was called to order by chair Chris Nelson at 3:00 p.m. Central Time on May 7, 2009 with the following members responding:

### Present

Chris Nelson  
Karen Layher  
Cindy Schultz

Christopher Madsen  
Matt McCaulley joined at 3:12

### Absent

Dick Casey  
Linda Lea Viken

Kea Warne, Election Supervisor; Teresa Bray, Deputy Secretary of State, Jennifer Headlee, HAVA Coordinator; Sue Roust, Minnehaha County Auditor; Rich Petersen, Brown and Saenger;; Robert Kean, South Dakota Advocacy Services; Julie Pearson, Pennington County Auditor; Maxine Taylor, Brown County Auditor; and Sherri Wald, Attorney General's Office.

Moved by Schultz and seconded to approve the minutes of the March 12, 2009 meeting. The roll being called:

Yeas 4, Nays 0, Absent 3  
Yeas: Nelson; Layher; Schultz; Madsen  
Absent: McCaulley; Casey; Viken  
Motion Passed.

A rules hearing was declared open at 3:08 p.m. Central Time.

Moved by Madsen and seconded to approve the changes to ARSD 5:02:03:19 as amended to require the verification notice to be mailed to the voter's mailing address and add additional instructions on how to handle the notice if the person is no longer residing at that address. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Layher and seconded to approve the changes to ARSD 5:02:04:22 to clarify if the district meeting will include the trustee election. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Schultz and seconded to repeal ARSD 5:02:06:04. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Schultz and seconded to approve the changes to ARSD 5:02:06:12 to include the different types of governing boards to be printed on the ballot. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Layher and seconded to add ARSD 5:02:06:21 as amended to prescribe the ballot format for a special district formation election. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Madsen and seconded to add ARSD 5:02:06:22 to prescribe the ballot format for a school district reorganization election. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Madsen and seconded to add ARSD 5:02:06:23 to prescribe the ballot format for a sanitary district election. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Schultz and seconded to approve the changes to ARSD 5:02:07:06 to include the principal residence address of the candidate on the certificate of nomination to fill vacancy. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Layher and seconded to add ARSD 5:02:08:43 to prescribe the petition form for establishing or eliminating school board representation areas. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Schultz and seconded to add ARSD 5:02:08:44 to prescribe the petition form for referring the discontinuance of an attendance center. The roll being called:

Yeas 5, Nays 0, Absent 2

Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by McCaulley and seconded to approve the changes to ARSD 5:02:09:02 as amended to allow the board of elections to certify automatic tabulating systems which have been certified to the national standard in another state and not require certification for modifications determined to be de minimis by the independent test authority. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Madsen and seconded to approve the changes to ARSD 5:02:10:04 to instruct the voter to not return the absentee ballot to the polling place. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Madsen and seconded to approve the changes to ARSD 5:02:16:37 as amended to clarify the sealing of the ballot box and include the type of seal to be used. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Madsen and seconded to repeal ARSD 5:02:16:38 and add the use of paper seals in ARSD 5:02:16:37. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Layher and seconded to approve the changes to ARSD 5:02:17:09 to include certification for election boards which use electronic pollbooks. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Schultz and seconded to add ARSD 5:02:17:14 as amended to prescribe electronic pollbook security. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Madsen and seconded to approve the changes to ARSD 5:02:05:00 to remove 'date of election' from the requirement of the ballot stamp. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken

Motion Passed

Moved by Layher and seconded to approve the changes to ARSD 5:02:10:03 by removing old effective date language and inserting a delayed implementation date of January 1, 2011. Also removed the requirement to print "This Envelope Contains the Official Ballots, Instructions, Return Envelope" in the lower left hand corner of the envelope. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Schultz and seconded to approve the changes to ARSD 5:02:10:05 by adding a delayed implementation date of January 1, 2011; include the type of envelope to be used to be a white security or heavy manila envelope; bold the signature of voter line; add the wording "Must be received by person in charge of the election by Election Day or the ballot will not be counted" to be printed on the back side of the envelope. The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Layher and seconded to approve the changes to ARSD 5:02:10:08 as amended by removing the date of signing line and adding a delayed implementation date of January 1, 2011. The roll being called:

Yeas 3, Nays 2, Absent 2  
Yeas: Layher; Schultz; McCaulley  
Nays: Madsen; Nelson  
Absent: Casey; Viken  
Motion Passed

Rules hearing concluded 4:29 p.m. Central Time.

Discussion and action was taken on recommendations to the Secretary of State on several legislative proposals as follows:

Moved by Madsen and seconded to add a date when a municipal vacancy must occur in order to fill the remainder of the vacant term at the next annual election; require the municipal ordinance to be enacted prior to the vacancy and set beginning date for circulation. (SDCL 9-13-4.1 & 9-13-14.2). The roll being called:

Yeas 4, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed.

Moved by Schultz and seconded to add the requirement of the board to indicate on the absentee ballot envelope the reason it cannot be opened. (SDCL 12-19-10). The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Madsen and seconded to instruct an absentee ballot counting board to process absentee ballots as prescribed in SDCL 12-19-10. (SDCL 12-19-47). The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken

Motion Passed

Moved by Layher and seconded to allow election contests for candidates for United States senator and representative in Congress. (SDCL 12-22-2). The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Madsen and seconded as amended to remove the nominating petition information for a vacancy on a new school board for newly created school districts and add a new statute under 13-7 specifically for the nominating petition process for newly created school districts. (SDCL 13-7-6 & 13-7). The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Moved by Schultz and seconded to direct fire and ambulance districts to conduct their annual elections under the provisions of SDCL 34-11A-29. (SDCL 34-47-2). The roll being called:

Yeas 5, Nays 0, Absent 2  
Yeas: Nelson; Layher; Schultz; Madsen; McCaulley  
Absent: Casey; Viken  
Motion Passed

Jennifer Headlee provided an update on HAVA funds.

Moved by Karen and seconded to approve the minor changes to Election Systems & Software M100.

Yeas 4, Nays 0, Absent 3  
Yeas: Nelson; Layher; Schultz; Madsen;  
Absent: Casey; Viken; McCaulley  
Motion Passed

Layher requested Secretary Nelson to look into the RV issues relating to the registration address verifications and report back to the board.

Moved by Layher and seconded to adjourn at 4:50 p.m. The roll being called:

Yeas 4, Nays 0, Absent 3  
Yeas: Nelson; Layher; Schultz; Madsen  
Absent: McCaulley; Casey; Viken  
Motion Passed.



Chris Nelson, Secretary of State



Kea Warne, Recorder