

How to Submit and Circulate a 2022 Statewide Initiated Measure or Constitutional Amendment Petition

** A preliminary injunction has been granted by the U.S. District Court – District of South Dakota – Southern Division enjoining enforcement of Senate Bill 180 passed during the 2020 Legislative Session. In accordance with this order, the blank requesting a Circulator ID Number for paid circulators need not be completed on the petition sheet.*

*** By order of the U.S. District Court – District of South Dakota – Northern Division, the Secretary of State’s office is enjoined from enforcing the filing deadline for initiative measure ballot petitions contained in SDCL 2-1-1.2 (November 8, 2021). Furthermore, the filing deadline for initiated measure ballot petitions is ordered by the Court to be the first Tuesday in May during the year of the election (May 3, 2022). Please note that the filing deadline for initiated constitutional amendments continues to be November 8, 2021. Litigation in this case is ongoing.*

South Dakota Secretary of State’s Office
State Capitol, 500 E. Capitol Avenue, Pierre, SD 57501-5070
605-773-3537 • elections@state.sd.us • www.sdsos.gov

The Primary Election is June 7, 2022 and the General Election is November 8, 2022

Disclaimer: This information is provided as a general guide and is not a legal opinion.
We encourage Sponsors to review the statutes that apply.

INFORMATION FOR SPONSORS

SD Legislative Research Council, 605-773-3251 |
500 E. Capitol Ave., Pierre, SD 57501
www.sdlegislature.gov

Office of the SD Attorney General, 605-773-3215
1302 E. HWY 14, Suite 1, Pierre, SD 57501
www.atg.sd.gov

PETITIONS ARE DUE NO LATER THAN NOVEMBER 8, 2021.

Signatures required

- **Initiated Measure:** a minimum of **16,961** valid signatures
- **Initiated Constitutional Amendment:** a minimum of **33,922** valid signatures

STEP 1: The text of **EACH VERSION** of a measure to be circulated must **FIRST** be submitted to the Director of the Legislative Research Council (LRC) who will, within 15 workdays, provide written comments* for **EACH VERSION** to the sponsor(s) and the Secretary of State (SOS) (SDCL [12-13-25](#)).

*The comments provided by the Director of LRC shall include assistance regarding the substantive content of the initiated measure or initiated amendment to minimize any conflict with existing law and to ensure the measure’s or amendment’s effective administration.

IMPORTANT: if the sponsor submits the text of the measure to the Director of LRC between the dates of December 1 and the adjournment of the following legislative session, written comments will be provided no later than 15 workdays after the adjournment of the legislative session. (SDCL [12-13-25.2](#))

STEP 2: Following receipt of the written comments, the sponsor(s) shall submit a copy of the measure or amendment, **in final text form**, to the Attorney General (AG) and the Director of the LRC. The AG shall prepare an AG's statement which consists of a Title and Explanation. The AG shall file the Title and Explanation with the SOS and shall provide a copy to the sponsor(s) within 60 days of receipt of the final text of the measure or amendment (SDCL [12-13-25.1](#)). If the sponsor(s) disagrees with the wording of the Title and Explanation, the sponsor(s) would have to resolve that in Court. If LRC has indicated, in their written comments, that a **fiscal note** is necessary, LRC will provide a copy, within 60 days of receipt of the final text of the measure or amendment, to the sponsor(s) and the SOS. A fiscal note will outline the impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions and may also include any impact to the prison or county jail population (SDCL [2-9-30](#)). If a sponsor has any questions regarding the fiscal note, they need to contact LRC.

STEP 2A: If the sponsor(s) makes changes to the text that was submitted to the AG they **must start over** with **STEP 1**.

12-13-26. Unreviewed initiatives or initiated amendments unacceptable. The secretary of state may not accept any initiative or initiated amendment to the Constitution unless such initiative or initiated amendment to the Constitution has been submitted to the director of the Legislative Research Council and the director has reviewed and commented on such initiative or initiated amendment to the Constitution, and unless the attorney general has filed the title and explanation of the initiative or initiated amendment to the Constitution with the secretary of state.

STEP 3: The items below must be submitted to the SOS for approval before circulation may begin. The timeframe for SOS approval depends on how many edits the sponsor must make. Signatures obtained before SOS approval shall not be counted:

- **An original, hardcopy of the petition form** (**NEW Petition forms** that must be used as of October 6, 2020; SB 180 from the 2020 Legislative Session made these changes): ARSD [05:02:08:07](#) and [05:02:08:09](#)), containing the date of the General Election, the Title and Explanation of the measure or amendment as prepared by the AG and the full and final text of the measure that was submitted to the AG's office. The petition must be in the exact format as prescribed in Administrative Rule. Any deviation from this will result in the sponsor having to make corrections and resubmit another original, hardcopy petition form to the SOS.
 - o *A preliminary injunction has been granted by the U.S. District Court – District of South Dakota – Southern Division enjoining enforcement of Senate Bill 180 passed during the 2020 Legislative Session. In accordance with this order, the blank requesting a Circulator ID Number for paid circulators need not be completed on the petition sheet."*
- **A copy** (electronic format is acceptable) **of the prison/jail population cost estimate and/or fiscal note** (if applicable).
- **A campaign finance statement of organization**, if one has not been filed (SDCL [12-27-6](#)). This may be filed online, mailed or submitted electronically (fax or email).
- **An original, hardcopy of a notarized form** (ARSD [05:02:08:07.02](#)) that includes the names and addresses of the petition sponsor(s) (SDCL [2-1-1.1](#) & [2-1-1.2](#)).

- **The circulator handout (CH)** (SDCL [2-1-1.1](#) & [2-1-1.2](#)). This is a form that shall be provided to each petition signer. It **must contain**:
 - o The Title and Explanation of the measure or amendment as prepared by the Attorney General
 - o A fiscal note (if applicable)
 - o The name, phone number, and email address of each petition SPONSOR
 - o A statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid.

The circulator handout may be submitted electronically (fax or email). If the sponsor(s) are going to provide a handout to petition signers in a format other than on a regular 8.5x11 sheet of paper, the SOS will need to have a hard copy before petition circulation may begin.

STEP 4: After receiving SOS approval, the sponsor may begin circulating the petition for signatures.

Sponsors do not forget that all **PAID circulators** must fill out and submit the paid circulator registration application and obtain a Circulator Identification Number **BEFORE** they begin circulating any petitions. The **Paid Circulator Badge System** will be available online and will allow a circulator to submit this registration application electronically through that system. Paper applications will also be available upon request.

*Unpaid/Volunteer circulators **DO NOT** have to register or receive a circulator ID number from the SOS. These circulators may begin collecting signatures as soon as the sponsor has met all of the requirements in Step 3 and authorizes the circulator to begin.

Sponsors you are also required, per SDCL [2-1-1.5](#), to provide a list of any paid circulators for your ballot measure and their rate of pay to the SOS.

STEP 5: A **completed petition** for an initiated measure (a minimum of ***16,961** valid signatures required) or an initiated Constitutional amendment (a minimum of ***33,922** valid signatures required) must be submitted to the SOS's office by **5:00 pm (CT) on Nov 8, 2021** (SDCL [2-1-1](#) & [2-1-1.1](#); and SD Constitution [Article 23, Section 1](#)).

*the number of signatures required is based off the number of votes cast for Governor at the Nov. 6, 2018 General Election. ([SDCL 2-1-5](#))

STEP 5A:

- o All petitions shall be submitted to the SOS **simultaneously** with a sworn affidavit(s) signed by two-thirds of the petition sponsors (ARSD [05:02:08:07.01](#)).

MISCELLANEOUS SPONSOR INFORMATION

- If a ballot measure passes at the General Election, it will go into effect on July 1 after the statewide canvass unless specified differently within the language measure. (SDCL [2-1-12](#))
- For a signature line to not be counted in the random sample, the circulator or signer, must draw a line completely through **ALL** six boxes of text.
 - Writing “void” doesn’t invalidate a signature line.
 - Any sort of mark on a signature line would be considered for the random sample.
 - If only a portion of the text on a signature line is crossed off that signature line would still be considered for the random sample.
 - If there is any question on the best way to void a signature line please call or email the Election Team at the SOS.

INFORMATION FOR CIRCULATING

1. A petition circulator is a person of at least eighteen years of age and a resident of the state of South Dakota. (SDCL [12-1-3 \(11\)](#))
2. No registered sex offender may circulate a petition except if the sex offender is in the employ of, and under immediate supervision of, another person and where the circumstances preclude any contact with children (SDCL [12-1-32](#) through [12-1-34](#)).
3. The petition circulator must personally witness each signature on the petition being circulated. The petition's verification must be completed following circulation and must include the circulator's printed name, circulator ID number (if a paid circulator), residence address, city, state, complete date (includes month, day and year) and be signed under oath before a South Dakota notary public or other officer authorized to administer oaths.
4. Each petition signer must be a registered voter in the state of South Dakota. This website is available for circulators to verify voter registration: <https://vip.sdsos.gov/viplogin.aspx>
5. Signers must sign their names as they are registered to vote or as they usually sign their names.
6. The signer's printed name must also appear.
7. Each signature line must show a complete residence address. This can be the street and house number or rural route and box number (only if a resident of a second or third-class municipality, which are those with less than 5,000 populations) in addition to the city or town. Zip codes are optional. A signer in a first-class municipality may not use a PO Box. This would include the following which are first class municipalities:
Aberdeen, Belle Fourche, Box Elder, Brandon, Brookings, Harrisburg, Huron, Madison, Mitchell, Pierre, Rapid City, Sioux Falls, Spearfish, Sturgis, Tea, Vermillion, Watertown, and Yankton.
If the signer does not have a residence address or post office box number, a description of the residence location must be provided.
8. Each signature line must show the month and day it was signed.
9. Numbers to designate the month are permissible. Abbreviations commonly used are also acceptable.
10. The county of the signer’s voter registration must be included. This is not the county the signer was located in when signing the petition.

11. All six boxes of a signature line must be completed. If all the information for those six boxes is included but a signer wrote the information in the wrong box, that is acceptable. Example: A signer prints his/her name in the signature box and signs his/her name in the printed box.
12. Signers have to sign their name, but a circulator may fill in any of the other information. A circulator may fix any errors a voter may have made (such as writing their date of birth instead of date of signing.) The date, address, county of registration, and printed name may be added by the circulator prior to the petition being filed. Ditto marks may **not** be used.
13. Each petition sheet must be a self-contained sheet with the heading, instructions to signers, signature lines and circulator's verification on a single sheet. Stapled, taped or glued together petitions sheets will **not** be accepted.
14. Circulators for statewide ballot measures cannot be employed, rewarded or compensated based on the number of registered voters who signed the petitions. This does not prohibit any person from employing a circulator based on one of the following practices: Paying an hourly wage or salary; establishing either express or implied minimum signature requirements for the petition circulator; terminating the petition circulator's employment, if the petition circulator fails to meet certain productivity requirements; and paying discretionary bonuses based on reliability, longevity, and productivity. (SDCL [12-13-28](#))
15. Circulators for statewide ballot measures must make a reasonable inquiry of each signer to determine that each signer is a qualified voter of the state and county indicated on the signature line.
16. Circulators for statewide ballot measures must state under oath that no statute regarding petition circulation was knowingly violated. The verification shall be witnessed by a notary public commissioned in South Dakota or other officer authorized to administer oaths per SDCL [18-3-1](#).
17. State law prohibits a person from conducting petition signature gathering within 100 feet of a polling place (SDCL [12-18-3](#)).
18. The petition circulator shall provide to each person who signs the petition a form (to be approved by the SOS prior to circulation) containing the title and explanation of the measure or amendment as prepared by the Attorney General. Also, the name, phone number, email address of each petition sponsor and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. (SDCL [2-1-1.1](#), [2-1-1.2](#) & [2-1-3.1](#))
19. No signatures, for an initiated measure, may be obtained more than 24 months preceding the Nov. 8, 2022 General Election (SDCL [2-1-1.1](#)).
20. The **NOTARY PUBLIC MAY NOT** be the **CIRCULATOR** and the **NOTARY**. If this occurs, that would invalidate the entire petition sheet. (SDCL [18-1-12.2](#))
21. The **NOTARY PUBLIC MAY NOT** be a **SIGNER** on the **PETITION** they **NOTARIZE**. If this occurs, that signature line would be invalid. (SDCL [18-1-12.2](#))