

Date Printed: 01/07/2009

JTS Box Number: IFES_25
Tab Number: 9
Document Title: 1993 SOUTH DAKOTA ELECTION CODE
Document Date: 1993
Document Country: USA
Document Language: ENG
IFES ID: EL00507



1993 South Dakota Election Code



Comprising the General Election Statutes in Title 12 of the South Dakota Codified Laws, Portions of Titles 2, 9 and 13 together with portions of the South Dakota Constitution and the United States Constitution relating to elections and the Administrative Rules of the State Board of Elections

Issued By

Joyce Hazeltine
Secretary of State

**500 E. Capitol Avenue, Suite 204
Pierre, SD 57501-5070
605-773-3537**

Effective July 1, 1993

1993 ELECTION CODE

PREFACE

This book contains a reprint of Title 12 - Elections of the South Dakota Codified Laws. Also included are the United States and South Dakota Constitutional provisions regarding the right to vote, SDCL 2-1 Initiative and Referendum, SDCL 9-13 Municipal Elections, SDCL 9-20 Initiative and Referendum (Municipal) and 13-7 School District Elections.

Title 12 is a codification of the statutes dealing with primary and general elections in the state of South Dakota in effect on July 1, 1993. For statutes concerning elections in other subdivisions of government, please refer to the following volumes of the South Dakota Codified Laws:

Volume 3A, Title 7	Counties
Volume 3A, Title 8	Townships
Volume 3B, Title 9	Municipal Government
Volume 5, Title 13	School Districts
Volume 7, Title 16	Courts and Judiciary
Volume 13, Title 46	Water and Water Rights

The Administrative Rules of the State Board of Elections revised through July 19, 1993, are reprinted in the second half of this book.

COPYRIGHT (C) 1967-1993 BY THE STATE OF SOUTH DAKOTA

800 copies of this document were printed by the Secretary of State's Office at a cost of \$5.25 per document.

✓
Return to Resource Center
International Foundation
for Electoral Systems
1620 I St. NW, Suite 611
Washington, D.C. 20006

TABLE OF CONTENTS

Preface.....1
 Table of Contents.....2

United States Constitution

Article 26.....5

South Dakota Constitution

Elections and Right of Suffrage.....5

South Dakota Codified Laws

Chapter

2-1 Initiative and Referendum.....6
 9-13 Municipal Elections.....8
 9-20 Initiative and Referendum.....16
 12-1 General Provisions and State Board.....19
 12-2 Dates and Hours of Elections.....22
 12-3 Suffrage and Right to Vote.....23
 12-4 Registration of Voters.....25
 12-5 Political Parties and Party Affairs.....34
 12-6 Primary Elections.....41
 12-6A Repealed.....49
 12-7 Nomination of Independent Candidates.....49
 12-8 Certification of Nominations.....50
 12-9 Judicial Nominations and Elections.....51
 12-10 Repealed.....54
 12-11 Special Congressional Elections.....54
 12-12 Notice of Elections.....55
 12-13 Constitutional Amendments and Submitted Questions.....56
 12-14 Precincts and Polling Places.....59
 12-15 Precinct Election Officials.....61
 12-16 Ballots and Election Supplies.....64
 12-17 Voting Machines.....71
 12-17A Electronic Voting Systems.....75
 12-18 Arrangements and Conduct of Voting.....84
 12-19 Absentee Voting.....91
 12-19A Repealed.....100
 12-20 Return and Canvass of Votes.....100
 12-21 Recounts.....108
 12-22 Contests.....120
 12-23 Repealed.....126
 12-24 Presidential Electors.....126
 12-25 Campaign Financing and Candidates' Financial
 Statements.....127
 12-25A Repealed.....136
 12-26 Offenses Against the Elective Franchise.....137
 13-7 School District Elections.....142

Administrative Rules of South Dakota

Chapter

5-02-01 General Rules Affecting Board.....149
 5-02-02 Declaratory Rulings.....150
 5-02-03 Rules for Registration.....150

5:02:04	Forms of Notices.....	156
5:02:05	Forms for Conduct of Elections.....	166
5:02:06	Ballot Forms and Color.....	177
5:02:07	Miscellaneous Forms.....	190
5:02:08	Petitions.....	192
5:02:09	Electronic Voting.....	215
5:02:10	Absentee Voting.....	222
5:02:11	Voting Rights Act.....	228
5:02:12	Interpretive Rules.....	229
5:02:13	Reserved.....	230
5:02:14	Absentee Ballot Precincts.....	230
5:02:15	Certificates of Election, Nomination.....	231
5:02:16	Counting and Canvassing of Ballots.....	238
5:02:17	Pollbooks and Tally Sheets.....	249
5:02:18	Circuit Court Elections.....	253
5:02:19	Recounts.....	254
5:02:20	Presidential Preference Primary (Repealed).....	258
5:02:21	Revocation of Voter Registrar Authorization.....	258

Petitions

Sample of Nominating Petition for Partisan Election.....	261
Sample of Certificate of Nomination for Independent Candidate.....	263
Sample of Nominating Petition for Water Development District Director, Nonpartisan Election.....	265
Sample of Initiative Petition.....	267
Sample of Referendum Petition.....	269
Sample of Initiated Constitutional Amendment Petition or Initiated Petition for Repeal of Constitutional Provision.....	271



UNITED STATES CONSTITUTION

ARTICLE 26

1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
2. The Congress shall have power to enforce this article by appropriate legislation.

SOUTH DAKOTA CONSTITUTION

ARTICLE VII

ELECTIONS AND RIGHT OF SUFFRAGE

1. **Right to vote.** Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.
2. **Voter qualification.** Every United States citizen eighteen years of age or older who has met all residency and registration requirements shall be entitled to vote in all elections and upon all questions submitted to the voters of the state unless disqualified by law for mental incompetence or the conviction of a felony. The Legislature may by law establish reasonable requirements to insure the integrity of the vote.

Each elector who qualified to vote within a precinct shall be entitled to vote in that precinct until he establishes another voting residence. An elector shall never lose his residency for voting solely by reason of his absence from the state.

3. **Elections.** The Legislature shall by law define residence for voting purposes, insure secrecy in voting and provide for the registration of voters, absentee voting, the administration of elections, the nomination of candidates and the voting rights of those serving in the armed forces.

4. to 10. **Superseded.**

CHAPTER 2-1.

INITIATIVE AND REFERENDUM

Section

- 2-1-1. Initiative petitions - Number of signatures required.
- 2-1-2. Filing and transmittal of initiative petitions - Submission to voters at general election.
 - 2-1-2.1. Filing of initiated constitutional amendment - Submission to voters.
 - 2-1-2.2. Withdrawal of initiated constitutional amendment.
- 2-1-3. Referendum - Laws subject to petition - Form.
- 2-1-4. Time for filing of referendum petition.
- 2-1-5. Total vote used to determine number of signers required in petitions.
- 2-1-6. Persons qualified to sign petitions - False or unqualified signing as misdemeanor.
 - 2-1-6.1. Repealed.
 - 2-1-6.2. Filing petition prior to circulation - Collection and filing of signatures - Time limit - Affidavits.
- 2-1-7. Petitions to describe initiated and referred measures - Personal signature required.
- 2-1-8. Repealed.
- 2-1-9. Separate papers constituting single petition.
- 2-1-10. Affidavit of persons circulating initiative and referendum petitions - Witness - Petition circulator.
- 2-1-11. Petitions liberally construed.
- 2-1-12. Effective date of measures approved by voters.
- 2-1-13. Repealed.
- 2-1-14. Signatures secured contrary to chapter not to be counted.

2-1-1. Initiative petitions - Number of signatures required.

All measures proposed by initiative shall be presented by petition. The petition shall be signed by not less than five percent of the qualified electors of the state.

2-1-2. Filing and transmittal of initiative petitions - Submission to voters at general election.

The petition shall be filed in the office of the secretary of state by the first Tuesday in May of a general election year for submission to the electors at the next general election.

2-1-2.1. Filing of initiated constitutional amendment - Submission to voters.

A petition of the voters proposing an amendment to the Constitution shall be filed in the office of the secretary of state at least one year before the next general election and, if timely filed, shall be submitted to the voters at the next general election in the same manner as other questions and measures are submitted under the provisions of chapter 12-13.

2-1-2.2. Withdrawal of initiated constitutional amendment.

A petition of the voters proposing an amendment to the Constitution may be withdrawn within the meaning of section 3 of article XXIII of the Constitution not later than one hundred twenty days prior to the next general election, if not less than two-thirds of the named sponsors file with the secretary of state, in writing, their request for withdrawal of the question from the ballot. The secretary of state shall attach to the petitions on file the request for withdrawal and shall take no other action thereon.

2-1-3. Referendum - Laws subject to petition - Form.

Initiative and Referendum

Any law which the Legislature may have enacted, except one which may be necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, shall, upon the filing of a petition as hereinafter provided, be submitted to a vote of the electors of the state at the next general election. Such petition shall be signed by not less than five percent of the qualified electors of the state. The form of the petition shall be prescribed by the state board of elections.

2-1-4. Time for filing of referendum petition.

The petition shall be filed in the office of the secretary of state within ninety days after the adjournment of the Legislature which passed such law.

2-1-5. Total vote used to determine number of signers required in petitions.

The total number of votes cast for Governor at the last preceding gubernatorial election, shall for the purposes of this chapter, be the basis for determining the number of petitioners required.

2-1-6. Persons qualified to sign petitions - False or unqualified signing as misdemeanor.

Every person who is a qualified voter may sign a petition to propose a measure or submit a law. Whoever signs a petition for initiation or referendum of legislation, when he is not a qualified voter of the state, or signs a name other than his own, is guilty of a Class 1 misdemeanor.

2-1-6.1. Filing of petition required prior to circulation. Repealed by SL 1989, ch 23, 3.

2-1-6.2. Filing petition prior to circulation - Collection and filing of signatures - Time limit - Affidavits.

The full text of any initiative petition, referred law petition, or initiated constitutional amendment petition complete with names and addresses of the petition sponsors shall be filed with the secretary of state prior to circulation for signatures. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. The form of the petitions shall be prescribed by the state board of elections. Signatures may be collected on initiative petitions for one year following the filing of the full text. The petition signatures shall be filed no later than one year after filing the full text with the appropriate filing officer. All sections of any petition filed under this chapter shall be filed with the secretary of state simultaneously together with a sworn affidavit on forms promulgated by the state board of elections, signed by two-thirds of the sponsors stating that the documents filed constitute the entire petition and to the best of their knowledge contain a sufficient number of signatures.

2-1-7. Petitions to describe initiated and referred measures - Personal signature required.

Every petition proposing a measure must contain the substance of the law desired and must be signed in person by the petitioners, and every petition to submit a law to a vote of the electors must be signed in person by the petitioners and must describe the law desired to be submitted, by setting forth its title, together with the date of its passage and approval.

2-1-8. Ditto marks to show residence of signers or date of signing. Repealed by SL 1990, ch 104, 1.

2-1-9. Separate papers constituting single petition.

Initiative and Referendum

A single petition may be made up of one or more papers, each having the requisite heading and verification.

2-1-10. Affidavit of persons circulating initiative and referendum petitions - Witness - Petition circulator.

Every person who circulates and secures signatures to a petition to initiate or submit to the electors any law pursuant to 1, article III, of the Constitution, shall, before filing such petition with the officer in whose office it is by law required to be filed, make and attach to the petition an affidavit which shall be prescribed by the state board of elections. The affidavit must be witnessed by a notary public commissioned in South Dakota or other officer authorized to administer oaths pursuant to 18-3-1. A petition circulator shall be a registered voter in South Dakota.

2-1-11. Petitions liberally construed.

The petitions herein provided for shall be liberally construed, so that the real intention of the petitioners may not be defeated by a mere technicality.

2-1-12. Effective date of measures approved by voters.

The constitutional amendments and initiated and referred measures that have been approved by a majority of all votes cast become effective the day after the completion of the official canvass by the state canvassing board.

2-1-13. Circulators of petitions - Qualifications - Compensation prohibited - Expenses.
Repealed by SL 1989, ch 23, 5.

2-1-14. Signatures secured contrary to chapter not to be counted.

All signatures secured in a manner contrary to the provisions of this chapter may not be counted.

CHAPTER 9-13.

MUNICIPAL ELECTIONS

Section

- 9-13-1. Date of annual municipal election - Hours of voting.
- 9-13-1.1. Joint municipal and school district elections authorized - Date - Sharing costs and responsibilities.
- 9-13-1.2. Dates associated with joint election.
- 9-13-2. Repealed.
- 9-13-3. Repealed.
- 9-13-4. Superseded.
- 9-13-5. Election not held in absence of contest - Certificate of election issued to unopposed candidates.
- 9-13-5.1. Death or withdrawal of candidate resulting in no contest.
- 9-13-6. Publication of notice of vacancies - Times.
- 9-13-7. Nominating petition - Time of filing - Data concerning candidate - Form -
- 9-13-7.1. Withdrawal by candidate - Procedure - Ballot.
- 9-13-8. Repealed.
- 9-13-9. Number of signers required for nominating petitions in first and second class municipalities - Time for circulating petitions.
- 9-13-10. Repealed.

Municipal Elections

- 9-13-11. Residence mailing address and date added to signature - Form and verification of petition.
- 9-13-12. Repealed.
- 9-13-13. Notice of municipal election - Publication or posting.
- 9-13-14. Special elections governed by general provisions - Questions to be stated in notice.
- 9-13-14.1. Filling of vacancy on municipal governing body - No special election.
- 9-13-15. Repealed.
- 9-13-16. Election precincts - Division and consolidation of wards into precincts - Application to state and county elections.
- 9-13-16.1. Precinct election boards - Composition - Compensation.
- 9-13-17. Repealed.
- 9-13-21. Preparation and form of ballots - Insertion and arrangement of names of candidates.
- 9-13-22. Ballots for questions submitted to voters.
- 9-13-23. Repealed.
- 9-13-24. Return and canvass of votes.
- 9-13-25. Plurality election in municipalities.
- 9-13-26. Majority election in municipalities larger than twenty-five thousand - Plurality election of commissioners in municipalities with city manager.
- 9-13-27. Secondary election in municipalities larger than twenty-five thousand where no candidate receives majority.
- 9-13-27.1. Publication of notice of secondary election.
- 9-13-27.2. Tie vote - Recount - Determination by lot.
- 9-13-27.3. Requests for recounts.
- 9-13-27.4. Recount on ballot question, initiative, referendum or recall.
- 9-13-28. Notice to persons elected - Time allowed for qualification.
- 9-13-29. City officers subject to recall.
- 9-13-30. Petition for recall - Number of signers - Form - Time for signing.
- 9-13-31. Special election on recall petition - Notice and arrangements.
- 9-13-32. Incumbent as candidate in recall election - Other candidates - Secondary election on recall.
- 9-13-33. Continuation of incumbent in office if re-elected.
- 9-13-34. Removal of incumbent from office by election of another at recall - Qualification of successor.
- 9-13-35. Term of office of successor elected at recall election.
- 9-13-36. Election board for wards - Compensation.

9-13-1. Date of annual municipal election - Hours of voting.

In every municipality an annual election for the election of officers shall be held on the second Tuesday of April of each year, at such place in each ward of the municipality as the governing body shall designate.

The polls at such election shall be kept open continuously from eight o'clock in the forenoon until seven o'clock in the evening.

9-13-1.1. Joint municipal and school district elections authorized - Date - Sharing costs and responsibilities.

Any other provision of this chapter notwithstanding, the members of the governing body of a municipality may choose to hold a general municipal election in conjunction with a regular school district election. The combined election is subject to approval by the governing body of the school district. The combined election shall be held on the regular date set for either the general municipal election or the school district election and all dates associated with either election pursuant to chapters 9-13 and 13-7 shall be adjusted accordingly. Expenses of a combined election shall be shared in a manner agreed upon by

Municipal Elections

the governing bodies of the municipality and the school district. All other governmental responsibilities associated with holding elections under the provisions of chapters 9-13 and 13-7 shall be shared as agreed upon by the governing bodies.

9-13-1.2. Dates associated with joint election.

If the joint election provided for in 9-13-1.1 and 13-7-10.1 is held on the third Tuesday in June, all dates associated with the election are those provided in chapter 13-7.

9-13-2. Date of annual election where voting machines used. Repealed by SL 1971, ch 56, 3.

9-13-3. Police magistrates elected in smaller cities. Repealed by SL 1973, ch 130, 14.

9-13-4. Superseded.

9-13-5. Election not held in absence of contest - Certificate of election issued to unopposed candidates.

No election shall be held in any municipality, or ward thereof, wherein there is no question to be submitted to the voters or wherein there are no opposing candidates for any office; in case there are no opposing candidates the auditor or clerk shall issue certificates of election to the nominees, if any, in the same manner as to successful candidates after election.

9-13-5.1. Death or withdrawal of candidate resulting in no contest.

If death or withdrawal of a candidate or candidates at any time prior to forty-eight hours preceding the opening of the polls in any municipal election occasions that there is no contest on the ballot, that ballot need not be voted and if it constitutes the only ballot to be voted upon, then the election may be canceled by the officer responsible for its conduct and the unopposed candidate issued certificate of election as though duly elected.

9-13-6. Publication of notice of vacancies - Times.

The finance officer of the municipality shall have a notice published in the official newspaper of the municipality setting forth the vacancies which will occur by termination of the terms of office of elective officers. The notice shall also state the time and place where nominating petitions may be filed for such offices. The notice shall be published once each week for two consecutive weeks between the twenty-fifth day of January and the tenth day of February.

9-13-7. Nominating petition - Time of filing - Data concerning candidate - Form - Acceptance - Effect.

No candidate for elective municipal office may be nominated unless a nominating petition is filed with the finance officer no later than five p.m. on the second Friday in March preceding the day of election. The petition shall be considered filed if it is mailed by registered mail by five p.m. on the second Friday in March before the election. Such petition shall contain the name of the candidate, his residence, his business address and the office for which he is nominated and be on the form prescribed by the state board of elections. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. The finance officer may only accept nominating petitions that are on the prescribed form and were circulated and submitted pursuant to the provisions in chapters 9-13 and 12-6. If the nominating petition meets the statutory requirements, the filing of the petition shall constitute nomination.

Municipal Elections

9-13-7.1. Withdrawal by candidate - Procedure - Ballot.

Any person who has filed a nominating petition pursuant to 9-13-7 may withdraw his name from nomination by a written request, signed by himself and properly acknowledged and filed with the finance officer of the municipality. The name of a withdrawn candidate may not be printed on the ballot if it is withdrawn no later than five p.m. on the second Friday in March.

9-13-8. Certificate nominating more than one candidate. Repealed by SL 1979, ch 50, 1.

9-13-9. Number of signers required for nominating petitions in first and second class municipalities - Time for circulating petitions.

In municipalities of the first and second class, if the candidate is to be voted for by the voters at large, a nominating petition shall be signed by fifteen registered voters of the municipality for each thousand or major fraction of the population, as shown by the last preceding federal census. No petition need be signed by more than fifty voters.

If the candidate is to be voted for by the voters of a ward or subdivision of a municipality of the first or second class having more than one ward or subdivision, a nominating petition shall be signed by at least five percent of the registered voters of the ward or subdivision. The percentage shall be based on the total number of registered voters voting in the ward or subdivision at the last preceding general election. No petition need be signed by more than fifty voters.

In municipalities of the third class, if the candidate is to be voted for by the voters at large, the nominating petition shall be signed by not less than ten registered voters of the municipality. If the candidate is to be voted for by the voters of a ward or subdivision of a municipality having more than one ward or subdivision, the nominating petition shall be signed by not less than five registered voters of the ward or subdivision.

No nominating petition may be circulated until on or after the second Friday in February prior to the election.

9-13-10. Number of signers required for nominating petitions in towns - Time for circulating petitions. Repealed by SL 1987, ch 76, 2.

9-13-11. Residence mailing address and date added to signature - Form and verification of petition.

Each voter signing a nominating petition or the person circulating such petition shall add to the voter's signature the voter's residence mailing address and the date of signing. The petition may be composed of several sheets, which shall have identical headings and shall be verified under oath by the persons circulating it, attesting the legality of the signatures thereon.

9-13-12. Publication of list of nominees. Repealed by SL 1992, ch 62.

9-13-13. Notice of municipal election - Publication or posting.

Notice of every municipal election shall be given by publication thereof once each week for two successive weeks, the first publication may not be less than ten days prior to such election. The first notice shall contain a facsimile of the official ballot. Such notice shall be published in the official newspaper or newspapers of the municipality as designated in 9-12-6.

If no newspaper is published in the municipality, such notice shall be given by posting the same in three of the most public places therein.

Municipal Elections

9-13-14. Special elections governed by general provisions - Questions to be stated in notice.

Every special election authorized by law, except as provided in 6-8B-4, shall be held upon the same notice, at the same polling places, be conducted, returned, and canvassed, and the result declared as provided herein for the annual municipal election.

The notice of such special election shall state any question or questions to be voted upon.

9-13-14.1. Filling of vacancy on municipal governing body - No special election.

When a vacancy exists on a municipal governing body, the remaining members shall appoint a replacement to serve until the next annual municipal election. In the aldermanic form of municipal government, the appointment must be a person from the same ward of the first or second class municipality. There shall not be a special election held to fill a vacancy before the date of the annual municipal election.

9-13-15. Qualifications of voters at municipal elections. Repealed by SL 1973, ch 69, 4.

9-13-16. Election precincts - Division and consolidation of wards into precincts - Application to state and county elections.

Except as otherwise provided each ward shall constitute an election precinct. Whenever the number of legal voters in any ward shall exceed five hundred, the governing body may divide such ward into two or more precincts by ordinance. Whenever the number of legal voters in any two or more contiguous wards shall not exceed three hundred fifty as determined by the last annual election, the governing body may consolidate by ordinance such two or more wards into one precinct for voting purposes. Such ordinances shall be passed and take effect before the time of giving notice of election. Except as provided in 12-14-1 to 12-14-8, inclusive, such wards and precincts shall be election precincts for all state and county elections.

9-13-16.1. Precinct election boards - Composition - Compensation.

Each voting precinct shall be presided over by an election board consisting of a minimum of two clerks and one judge appointed by the governing body. Judges and clerks shall receive such compensation as shall be fixed by the governing body.

9-13-17. General election laws applicable - Number and appointment of judges and clerks. Repealed by SL 1973, ch 67, 4.

9-13-18. Entry on poll list of data concerning persons voting. Repealed by SL 1971, ch 56, 3.

9-13-19. Designation of voters not registered - Signing of registration card. Repealed by SL 1971, ch 56, 3.

9-13-20. Application of registration provisions to special elections. Repealed by SL 1971, ch 56, 3.

9-13-21. Preparation and form of ballots - Insertion and arrangement of names of candidates.

All official ballots shall be prepared and furnished by the auditor or clerk at the expense of the municipality. They shall be white in color, of good quality of print paper, printed in black ink and in the English language only.

The names of the candidates for each office to be voted for in the precinct shall be

Municipal Elections

The names of the candidates for each office to be voted for in the precinct shall be arranged in alphabetical order and without any other designation than that of the office for which they are candidates. When more than one commissioner or alderman is to be elected, the ballot shall contain instructions as to how many candidates for the office of commissioner or alderman are to be voted for.

There shall be a square or a circle at the left of the name of each candidate, and no other square or circle shall appear on the ballot.

The name of no candidate shall be printed upon the official ballot unless such candidate shall have been nominated as provided in this chapter.

9-13-22. Ballots for questions submitted to voters.

Questions submitted to the voters shall be printed upon official ballots containing only such questions and proper instructions to the voters.

Except when otherwise specially provided, each question shall be so stated in clear and concise language as to enable each voter to vote for or against the proposed action or measure by marking a cross (X) or check mark (✓) in a square or circle preceding the phrase "For _____" (the proposition, whatever it may be) or "Against _____" (the proposition, whatever it may be), or in case of a choice between alternative propositions, such shall be stated so as to enable the voter to choose by making a cross (X) or check mark (✓) in a square or circle preceding the proposition he favors.

9-13-23. Form of ballot on bond questions - General laws applicable. Repealed by SL 1984, ch 43, 131.

9-13-24. Return and canvass of votes.

The election returns shall be reported as soon as possible to the finance officer, and within seven days of the election, the governing body shall canvass the election returns, declare the result, and enter the result on its journal.

9-13-25. Plurality election in municipalities.

In municipalities with a population of twenty-five thousand or less, the person having the highest number of votes for any office shall be declared elected. However, in any municipality of the first or second class with a population of twenty-five thousand or less, the governing board may, on or before the first of October in the year preceding, approve an ordinance prescribing the secondary election procedures as found in 9-13-26 to 9-13-27.1, inclusive.

9-13-26. Majority election in municipalities larger than twenty-five thousand - Plurality election of commissioners in municipalities with city manager.

In municipalities over twenty-five thousand in population, if any person receives a majority of all the votes cast for the office for which he is a candidate, he shall be declared elected. However, in municipalities employing a city manager and having a commission form of government, the persons having the highest number of votes cast for offices of commissioner shall be declared elected.

9-13-27. Secondary election in municipalities larger than twenty-five thousand where no candidate receives majority.

In municipalities over twenty-five thousand in population, if no candidate in a race involving three or more candidates receives a majority of the votes cast, a secondary election shall be held two weeks from the date of the first election. At the secondary election the only persons voted for shall be the two candidates receiving the highest number

Municipal Elections

be conducted, returned and canvassed and the result declared and entered upon the journal of the municipality in the same manner as the first election. The person receiving the highest number of votes at the secondary election is elected.

9-13-27.1. Publication of notice of secondary election.

The finance officer shall have a notice of election published once during the week next preceding any secondary election. Such notice shall include a list of all persons appearing on the ballot for the election. A facsimile of the official ballot need not be published for secondary elections.

9-13-27.2. Tie vote - Recount - Determination by lot.

If a tie vote exists after a canvass of original official returns, the governing body making the canvass shall certify the vote to the auditor or clerk. The auditor or clerk shall then notify the candidates that if no request for recount is made in writing to the auditor or clerk within five days after the certification, a time and place shall be set for the drawing of lots. If any of the tied candidates makes a request for a recount, a recount board shall be established, consisting of one person chosen by each tied candidate and an additional person appointed by the auditor or clerk, who shall be approved by the tied candidates. The time and place for the recount shall be set by the auditor or clerk. The person having custody of the ballot boxes containing the ballots to be recounted shall deliver them to the recount board. Any question arising on the recount shall be determined by majority vote of the recount board. The recount shall proceed expeditiously until completed. If a tie vote between candidates is found to exist on the basis of the recount, the auditor or clerk shall fix a time and place for the drawing of lots, giving reasonable notice of the time and place to each of the tied candidates. The drawing of lots shall be in the manner directed by the auditor or clerk and the certificate of election shall be issued to the candidate winning in the drawing.

9-13-27.3. Requests for recounts.

If any candidate for the municipal governing body is defeated by a margin not exceeding two percent of the total votes cast for all candidates for the office, or by a margin of five votes or less, the candidate may, within five days after completion of the official canvass, file with the municipal auditor or finance officer a written request for a recount. Upon receipt of the request, the auditor or finance officer shall set the time and place for the recount which shall be conducted pursuant to the provisions of 9-13-27.2.

9-13-27.4. Recount on ballot question, initiative, referendum or recall.

Notwithstanding any other provisions of law, recounts of municipal ballot questions, initiatives, referendum and recall shall be conducted pursuant to the provisions set forth in chapter 12-21.

9-13-28. Notice to persons elected - Time allowed for qualification.

The auditor or clerk, within two days after the result of the election is declared, shall notify all persons elected to office of their election. Unless such persons shall qualify in ten days after such notice, the office shall become vacant.

9-13-29. City officers subject to recall.

In municipalities of the first and second classes with or without a city manager, the mayor or any commissioner or any alderman may be removed from office at any time by the voters qualified to vote for his successor as provided in 9-13-30 to 9-13-32, inclusive.

Municipal Elections

9-13-30. Petition for recall - Number of signers - Form - Time for signing.

A petition signed by fifteen percent of the registered voters of the first or second class municipality, based upon the total number of registered voters at the last preceding general election, demanding the election of a successor to the mayor, commissioner or alderman sought to be removed shall be filed with the auditor and presented by the auditor to the governing body. The petition shall contain a specific statement of the grounds on which removal is sought. The form for the municipal recall petition shall be prescribed by the state board of elections pursuant to chapter 1-26. No signature on a petition is valid if signed more than six months prior to the filing of the petitions.

9-13-31. Special election on recall petition - Notice and arrangements.

The governing body shall, upon the presentation of a petition pursuant to 9-13-30, within ten days, order and fix a date for holding a special election, to be on a Tuesday not less than thirty nor more than fifty days from the date of the order of the governing body. If a petition is filed on or after January first prior to the annual municipal election and within sufficient time to comply with the provisions of 9-13-14, the question of a successor shall be submitted at that annual election.

The governing body shall have a notice of election published in the same manner as provided in 9-13-13.

9-13-32. Incumbent as candidate in recall election - Other candidates - Secondary election on recall.

Any mayor or commissioner or alderman sought to be removed may be a candidate to succeed himself and, unless he requests otherwise in writing, the auditor shall place his name on the official ballot without nomination. The auditor shall also place on the official ballot the name of any other candidate nominated as provided in this chapter.

Any secondary election required shall be conducted as provided by this chapter.

9-13-33. Continuation of incumbent in office if re-elected.

If the incumbent shall be elected, he shall continue in office and not be obliged again to qualify.

9-13-34. Removal of incumbent from office by election of another at recall - Qualification of successor.

If some person other than the incumbent is elected, the incumbent shall be deemed removed from office upon or at the expiration of the time for qualification of his successor. The successor shall qualify within ten days after receiving notification of his election, and in case of his failure to qualify, the office shall be deemed vacant.

9-13-35. Term of office of successor elected at recall election.

The successor of any removed mayor or commissioner or alderman shall hold office during the unexpired term of his predecessor.

9-13-36. Election board for wards - Compensation.

If a municipality is divided into wards and all of the wards use the same polling places, the governing body of the municipality may appoint a single election board for all of the wards. The election board appointed pursuant to this section shall consist of a minimum of one judge and two clerks. The members of the election board shall receive such

Municipal Elections

compensation as shall be fixed by the governing body. If all of the wards are voting on an identical ballot, a single ballot box and one pollbook may be used for all wards.

CHAPTER 9-20.

INITIATIVE AND REFERENDUM

Section

- 9-20-1. Percentage of voters required to propose ordinance or resolution.
- 9-20-2. Petition proposing ordinance or resolution - Contents - Verification.
- 9-20-3. Ordinance may not be initiated to nullify bond purposes.
- 9-20-4. Presentation of initiative petition to governing body - Enactment and submission to voters.
- 9-20-5. Majority vote at election required for initiated ordinance or resolution - Effective date.
- 9-20-5.1. Year's waiting period required before amendment or repeal.
- 9-20-6. Time for filing referendum petition.
- 9-20-7. Description in referendum petition of matter covered.
- 9-20-8. Number of signers required for referendum petition - Data concerning signers.
- 9-20-9. Verification of referendum petition.
- 9-20-10. Liberal construction of referendum petition.
- 9-20-11. Date of election on referendum petition.
- 9-20-12. Publication of referred ordinance or resolution - Notice of election.
- 9-20-13. Ballots used in referendum election - Form and contents.
- 9-20-14. General municipal election law applicable to referendum elections.
- 9-20-15. Majority vote required for approval of referred measure - Effective date.
- 9-20-16. Preservation of referendum petitions - Open to public inspection.
- 9-20-17. Waiting period for new action after referendum election.
- 9-20-18. Legislative finding - Actions of municipal governing boards subject to referendum.
- 9-20-19. Legislative decision of governing body subject to referendum - Administrative decision not subject to referendum.

9-20-1. Percentage of voters required to propose ordinance or resolution.

The right to propose ordinances and resolutions for the government of any municipality shall rest with any five percent of the voters thereof, such percentage to be based upon the whole number of voters of said municipality as determined by the "precinct registration lists" or the "district registration lists" prepared by the county auditor from the master registration list in conformity to law as of the time of the filing of the petition mentioned in 9-20-2.

9-20-2. Petition proposing ordinance or resolution - Contents - Verification.

A petition to propose an ordinance or resolution shall be filed with the finance officer, containing in proper form the proposed ordinance or resolution. It shall be signed by the required number of the legal voters of the municipality, each voter adding to his signature his residence mailing address, including his street and house number, if any, and date of signing. The petition shall be verified as required for a referendum petition. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. No signature on a petition is valid if signed more than six months prior to the filing of the petitions.

9-20-3. Ordinance may not be initiated to nullify bond purposes.

The right to initiate an ordinance shall not be applicable to ordinances proposed to

Initiative and Referendum

nullify the purpose for which bonds have been sold by a municipality pursuant to statutory authority.

9-20-4. Presentation of initiative petition to governing body - Enactment and submission to voters.

When a petition to initiate is filed with the auditor or clerk, he shall present it to the governing body at its first ensuing regular or special meeting. The governing body shall enact the proposed ordinance or resolution and shall submit it to a vote of the voters in the manner prescribed for a referendum.

9-20-5. Majority vote at election required for initiated ordinance or resolution - Effective date.

No initiated ordinance or resolution shall become operative unless approved by a majority of the votes cast for and against the same. If so approved, it shall take effect upon the completion of the canvass of the election returns relating thereto.

9-20-5.1. Year's waiting period required before amendment or repeal.

No initiated ordinance or resolution may be amended or repealed by the governing body of a municipality until at least one year has passed from its effective date.

9-20-6. Time for filing referendum petition.

The required number of voters residing in any municipality may file within twenty days after the publication of any ordinance or resolution subject to referendum a petition with the auditor or clerk, requiring the submission of any such ordinance or resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the twentieth day after publication, such petitions shall be filed no later than normal closing hours of the city hall or city auditor's office on said twentieth day.

9-20-7. Description in referendum petition of matter covered.

If the matter intended to be covered by the referendum petition is the whole of any ordinance or resolution, the petition shall contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length.

9-20-8. Number of signers required for referendum petition - Data concerning signers.

The referendum petition shall be signed by at least five percent of the legal voters residing in the municipality. The percentage shall be based on the whole number of voters of the municipality as determined by the "precinct registration lists" or the "district registration lists" prepared by the county auditor from the master registration list in conformity to law as of the time of the filing of the petition. The signer or circulator shall add the signer's residence mailing address and date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class.

9-20-9. Verification of referendum petition.

Such referendum petition shall be verified as a petition to initiate a law except that the person verifying the same shall state that he and each of the persons signing the same is a resident and qualified voter of the municipality, naming it.

Initiative and Referendum

9-20-10. Liberal construction of referendum petition.

Such petition may be made up and signed and shall be liberally construed as provided by the statute governing an initiated law.

9-20-11. Date of election on referendum petition.

The governing body shall, upon the presentation of a petition pursuant to 9-20-6, within ten days, order and fix a date to hold a special election, to be on a Tuesday not less than thirty nor more than fifty days from the date of the order of the governing body. If a petition is filed on or after January first prior to the annual municipal election and within sufficient time to comply with the provisions of 9-13-14, the question shall be submitted at that annual municipal election.

9-20-12. Publication of referred ordinance or resolution - Notice of election.

The auditor or clerk shall cause the entire referred ordinance or resolution to be published once a week for two successive weeks immediately preceding the election.

Such publication shall include a notice that on the day of election therein stated such ordinance or resolution will be submitted to the voters or, if only a portion thereof is covered by the petition, then notice as to what portion will be submitted.

9-20-13. Ballots used in referendum election - Form and contents.

The auditor or clerk shall have ballots printed for the vote upon such referred ordinance or resolution and cause the same to be distributed as other official ballots are distributed.

Such ballots shall conform as near as may be to the law governing the submission of questions by the Legislature, except that the statement required to be printed on the ballots shall be prepared by the city attorney, or if there be no city attorney, by an attorney at law employed by the governing body for that purpose.

All questions to be voted upon at the same election may be submitted upon the same ballot.

9-20-14. General municipal election law applicable to referendum elections.

The elections provided for in this chapter shall be governed by the provisions of chapter 9-13 except as to the form of the ballots otherwise specifically provided.

9-20-15. Majority vote required for approval of referred measure - Effective date.

No referred ordinance or resolution so submitted shall become operative unless approved by a majority of the votes cast for and against the same. If so approved, it shall take effect upon completion of the canvass of the election returns relating thereto.

9-20-16. Preservation of referendum petitions - Open to public inspection.

The auditor or clerk shall preserve all petitions invoking the referendum filed in his office for a period of at least two years, during which time such petitions shall be open to public inspection upon reasonable request.

9-20-17. Waiting period for new action after referendum election.

No referred ordinance or resolution may be again voted upon by the government of any municipality within one year from the date of the election thereon.

9-20-18. Legislative finding - Actions of municipal governing boards subject to

Initiative and Referendum

referendum.

The Legislature finds that in making past grants of decision-making authority to municipal governing authorities, its intent was to grant that authority to the governing bodies of municipalities and that such actions, unless otherwise excluded from the referendum and initiative process by other state law, are subject to the initiative and referendum process. Therefore, the contrary holding in *Baker v. Jackson*, 372 NW2d 142 (SD, July 31, 1985) is hereby abrogated.

9-20-19. Legislative decision of governing body subject to referendum - Administrative decision not subject to referendum.

Any legislative decision of a governing body is subject to the referendum process. A legislative decision is one that enacts a permanent law or lays down a rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of a permanent or general character is a legislative decision.

No administrative decision of a governing body is subject to the referendum process, unless specifically authorized by this code. An administrative decision is one that merely puts into execution a plan already adopted by the governing body itself or by the Legislature. Supervision of a program is an administrative decision. Hiring, disciplining and setting the salaries of employees are administrative decisions.

CHAPTER 12-1.

GENERAL PROVISION AND STATE BOARD

Section

- 12-1-1. Elections to which title applies.
- 12-1-1.1. Laws applicable to election of county officers.
- 12-1-2. Application to local elections.
- 12-1-2.1. Option to adopt campaign finance law.
- 12-1-3. Definition of terms used in title.
- 12-1-4. Criteria for determining voting residence.
- 12-1-5. State board created - Members - Terms - Vacancies - Oath.
- 12-1-6. Per diem and expenses.
- 12-1-7. Assistance by secretary of state's office.
- 12-1-7.1. Report by county auditor to secretary of state prior to elections.
- 12-1-8. Legal assistance to board.
- 12-1-9. Rule-making power of board.
- 12-1-10. Recommendations to Legislature.
- 12-1-11. Costs paid by county - Exception for local elections.
- 12-1-12. Campaign materials and party headquarters prohibited from county courthouse.

12-1-1. Elections to which title applies.

The provisions of this title shall apply to all elections for state, district, and county officers and other officers except in cases where from the context of any statute a different intention plainly appears.

12-1-1.1. Laws applicable to election of county officers.

All election laws of this state relating to nomination and election of candidates for office on political ballots shall apply to the nomination and election of a sheriff, county auditor, register of deeds, treasurer, state's attorney and coroner.

General Provision and State Board

12-1-2. Application to local elections.

The provisions of this title apply to township, municipal, school and other subdivision elections unless otherwise provided by the statutes specifically governing their elections or this title.

12-1-2.1. Option to adopt campaign finance law.

The governing body of any political subdivision may, by ordinance or resolution, adopt the provisions of chapter 12-25.

12-1-3. Definition of terms used in title.

Terms used in this title mean:

- (1) "Candidate," a person whose name is on the ballot or who is entitled to have his name on the ballot to be voted upon for nomination or election at any election;
- (2) "Election," any election whatsoever held under the laws of this state;
- (3) "Election officials," state and local officials charged with the duty of conducting elections and the canvass of returns;
- (4) "Elector," a person qualified to register as a voter, whether or not such person is registered;
- (5) "General election," the vote required to be taken in every voting precinct of the state on the first Tuesday after the first Monday in November of each even-numbered year;
- (6) "Party office," an office of a political party organization as distinct from a public office;
- (7) "Person in charge of an election," or "person charged with the conduct of an election," the county auditor in all cases except local elections for a municipality, school district, township or other political subdivision, in which case it is the officer having the position comparable to the auditor in that unit of government if not specifically designated by law;
- (8) "Petition," a form prescribed by the state board of elections, which contains the question or candidacy being petitioned, the declaration of candidacy if required and the verification of the circulator. If multiple sheets of paper are necessary to obtain the required number of signatures, each sheet shall be self-contained and separately verified by the circulator;
- (9) "Petition circulator," a registered voter in South Dakota who circulates nominating petitions or other petitions for the purpose of placing candidates or issues on any election ballot.
- (10) "Political party," a party whose candidate for Governor at the last preceding general election at which a Governor was elected received at least two and one-half percent of the total votes cast for Governor;
- (11) "Primary" or "primary election," an election held at which candidates are nominated for public office;
- (12) "Public office," an elected position in government;
- (13) "Registered mail" does not include certified mail;
- (14) "Registration officials," the county auditor and deputies and other persons authorized to assist in registration pursuant to chapter 12-4;
- (15) "Voter," a person duly registered to vote or one who is performing the act of voting;

12-1-4. Criteria for determining voting residence.

For the purposes of this title, "residence" shall be the place in which a person has fixed his habitation and to which, whenever he is absent, he has the intention of returning.

A person who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

A person shall be considered to have gained a residence in any county or municipality of

General Provision and State Board

this state in which he actually lives, providing such person has no present intention to remove himself therefrom.

If a person moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

12-1-5. State board created - Members - Terms - Vacancies - Oath.

There is created a state board of elections to be composed of seven members, one of whom shall be the secretary of state who is chairman. Two of the members shall be county auditors appointed by the speaker of the house of representatives from a list of nominees supplied by the county auditors meeting at the South Dakota association of county officials. The auditors appointed by the speaker of the house of representatives shall be of different political party registration. One auditor appointed in 1991 shall be appointed for a two-year term and one shall be appointed for a four-year term. All appointments of auditors after 1991 shall be for four years. One member of the board shall be appointed by each of the following officers: the democratic leader of the senate, the democratic leader of the house of representatives, the republican leader of the senate and the republican leader of the house of representatives. Appointments to the board shall be as follows: the appointee of the democratic leader of the house of representatives, 1980 and each fourth year thereafter; the appointee of the republican leader of the senate, 1981 and each fourth year thereafter; the appointee of the republican leader of the house of representatives, 1982 and each fourth year thereafter; the appointee of the democratic leader of the senate, 1983 and each fourth year thereafter. After the appointments made in 1979, the terms of all appointed members of the board, except auditors, shall be for four years. All appointments to the board are to be made by January thirty-first of each year. Vacancies on the board shall be filled in the same manner as the original appointments were made. All appointed members of the board shall file with the secretary of state an oath in the form prescribed by 3-1-5.

12-1-6. Per diem and expenses.

The per diem and expenses of the board shall be established by the executive board of the legislative research council unless otherwise provided by law.

12-1-7. Assistance by secretary of state's office.

The office of the secretary of state is hereby charged with the duty and responsibility to serve as the secretariat of the state election board and shall assist the board as may be directed by the said board.

12-1-7.1. Report by county auditor to secretary of state prior to elections.

The county auditor shall report to the secretary of state prior to each primary and general election on forms provided by the secretary of state whether the county uses paper ballots, electronic voting systems or voting machines.

12-1-8. Legal assistance to board.

The office of the attorney general shall provide such legal assistance as the state election board may require.

12-1-9. Rule-making power of board.

The board of elections shall exercise the rule-making power previously granted to the secretary of state, relating to establishing forms for registration and forms and color of ballots and other forms for notices, and to otherwise prescribe forms where such are not

General Provision and State Board

made mandatory by law to provide for uniformity of election procedures. The board, in promulgation of its rules, shall comply with chapter 1-26.

12-1-10. Recommendations to Legislature.

The board of elections shall report to and make recommendations to the Legislature concerning desirable or necessary changes in the election laws of this state.

12-1-11. Costs paid by county - Exception for local elections.

Except as may be otherwise provided by law, in any election in which all voters of a county participate, the costs relating to the election shall be paid by the county from funds appropriated therefor. In all other elections costs therefor shall be paid from funds appropriated by the governing board of municipalities, school districts and other political subdivisions requiring an election for their own purposes. Costs relating to a combined municipal and school board election may be shared under the provisions of 9-13-1.1 and 13-7-10.1.

12-1-12. Campaign materials and party headquarters prohibited from county courthouse.

No person may display any campaign material in a county courthouse during the six weeks prior to and including election day. No political party may maintain an office in a county courthouse.

CHAPTER 12-2.

DATES AND HOURS OF ELECTIONS

Section

- 12-2-1. Date of primary election.
- 12-2-2. Date of general election - Officers elected.
- 12-2-2.1. Statewide elections limited to primary, runoff and general election dates.
- 12-2-3. Opening and closing times for polls - Voters in line at closing time.
- 12-2-4. Emergency extension of closing times.

12-2-1. Date of primary election.

The primary election provided for in chapter 12-6, except the presidential primary election, shall be held at the regular polling place in every voting precinct throughout the state on the first Tuesday in June of every even-numbered year. In a year when a President of the United States is to be elected, the primary for selection of delegates and alternates to the national convention shall be held on the last Tuesday in February of that year.

12-2-2. Date of general election - Officers elected.

On the first Tuesday after the first Monday in November of each even-numbered year an election shall be held in the several election precincts in the state, which shall be known as the general election and the several state, district, and county officers, members of the Legislature, senators and representatives in Congress, and judges of the Supreme and circuit Courts shall be elected at the general election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at a special election; and in a year when a President and vice-president of the United States are to be chosen, a number of electors of President and vice-president of the United States, equal to the number of senators and representatives in Congress to which the state may be entitled or such other number as the Congress of the United States may

Dates and Hours of Elections

require, shall be selected at such election.

12-2-2.1. Statewide elections limited to primary, runoff and general election dates.

No statewide election or referendum may be held on a date other than a date ordinarily provided by statute for a primary, runoff or general election.

12-2-3. Opening and closing times for polls - Voters in line at closing time.

At all elections to be held under this title, except the general election, the polls shall be opened at the hour of eight o'clock a.m. and remain continuously open until seven o'clock p.m., standard time or daylight savings time, whichever is in effect. At the general election, the polls shall be open from eight o'clock a.m. central standard time and seven o'clock a.m. mountain standard time until eight o'clock p.m. central standard time and seven o'clock p.m. mountain standard time. However, no polling place may be closed at any election until all the voters who have presented themselves at the polling place inside or outside for the purpose of voting prior to the time of the closing of the polls shall have had time to cast their ballots.

12-2-4. Emergency extension of closing times.

Notwithstanding 12-2-3, the county auditor may, upon request of the superintendent of an election precinct, where an emergency exists by reason of mechanical failure of a voting machine or an unanticipated shortage of ballots or like unforeseen event warrants it, extend the polling hours for that precinct until the emergency situation has been resolved.

CHAPTER 12-3.

SUFFRAGE AND RIGHT TO VOTE

Section

- 12-3-1. General qualifications of voters - Registration required.
- 12-3-1.1. Residents of federal areas.
- 12-3-2 to 12-3-4. Repealed.
- 12-3-5. Time allowed employees from work to vote - Penalty and pay deduction prohibited - Violation as misdemeanor.
- 12-3-6. Counties covered by Voting Rights Act Amendments - Designation by federal agencies - Notice from secretary of state.
- 12-3-7. Proceedings to exempt county from Voting Rights Amendments.
- 12-3-8. Implementation of Voting Rights Amendments in affected counties.
- 12-3-9. Sioux dialects defined as historically unwritten.
- 12-3-10. Linguistic assistance to Indians provided by counties.
- 12-3-11. Precinct interpreters provided - Payment.
- 12-3-12. Certification that precinct interpreter not needed - Proof.
- 12-3-13. Rules promulgated by state board.

12-3-1. General qualifications of voters - Registration required.

Every person resident of this state who shall be of the age of eighteen years and upwards, not otherwise disqualified, who shall have complied with the provisions of law relating to the registration of voters shall be entitled to vote at any election in this state.

12-3-1.1. Residents of federal areas.

No person residing on an area within the boundaries of this state which has been ceded

Suffrage and Right to Vote

to, or acquired by, the federal government shall be denied the right to vote in elections of this state or of the county, municipality, school district or special district wherein such area lies if such person is otherwise qualified to vote in such election or elections.

12-3-2. Right to vote of electors in unorganized counties - Officers and questions voted upon. Repealed by SL 1982, ch 28, 39.

12-3-3. Voting for legislators in unorganized county - Names included on ballots. Repealed by SL 1973, ch 69, 4.

12-3-4. Voting in precinct of residence. Repealed by SL 1973, ch 69, 4.

12-3-5. Time allowed employees from work to vote - Penalty and pay deduction prohibited - Violation as misdemeanor.

Any person entitled to vote at any election held within this state, including a primary election, shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two consecutive hours between the time of opening and the time of closing the polls; provided such person does not have a period of two consecutive hours during the time the polls are open during which he is not required to be present at his work or place of employment. Such voter is not, because of so absenting himself, liable to any penalty, nor may any deduction be made on account of such absence from his usual salary or wages. The employer may specify the hours during which such employee may absent himself as aforesaid.

An employer who refuses an employee the privilege conferred by this section or who subjects an employee to a penalty or reduction of wages because of the exercise of such privilege or who directly or indirectly violates this section is guilty of a Class 2 misdemeanor.

12-3-6. Counties covered by Voting Rights Act Amendments - Designation by federal agencies - Notice from secretary of state.

Whenever the United States department of justice and the United States census bureau, acting pursuant to Public Law 94-73, designate any county in South Dakota to be covered under the provisions of the Voting Rights Act Amendments of 1975, the county so designated shall be governed by the provisions of 12-3-6 to 12-3-13, inclusive. The secretary of state shall notify those affected counties that they are covered by the provisions of Public Law 94-73.

12-3-7. Proceedings to exempt county from Voting Rights Amendments.

The state's attorney of any affected county is hereby authorized to bring appropriate proceedings, pursuant to Public Law 94-73, to exempt the entire county from the provisions of that Act.

12-3-8. Implementation of Voting Rights Amendments in affected counties.

Sections 12-3-6 to 12-3-13, inclusive, shall apply to all elections held within the affected counties designated pursuant to 12-3-6, and the person in charge of such elections shall be responsible for the implementation of such sections.

12-3-9. Sioux dialects defined as historically unwritten.

The Legislature finds that the Lakota, Nakota and Dakota dialects of the Sioux language are "historically" unwritten languages and are defined as such by the provisions of Public Law 94-73.

Suffrage and Right to Vote

12-3-10. Linguistic assistance to Indians provided by counties.

The county auditor of the counties affected by 12-3-6 to 12-3-13, inclusive, shall provide election assistance to any Indian by providing a person proficient in both the local Sioux dialect and the English language in all precincts of the county for the purposes of registration, voting and instruction.

12-3-11. Precinct interpreters provided - Payment.

Interpreters shall be provided for precincts as determined by the auditor or person in charge of that election and interpreters shall be paid the same as judges of election. All expenses shall be paid out of the county general fund or other appropriate political subdivision fund.

12-3-12. Certification that precinct interpreter not needed - Proof.

If any precinct exists in any county that does not need the assistance of an interpreter, the county auditor and the county state's attorney shall certify such facts to the state board of elections. Appropriate proof shall accompany such certification.

12-3-13. Rules promulgated by state board.

The state board of elections shall have the authority, pursuant to chapter 1-26, to promulgate rules to implement, administer and enforce 12-3-6 to 12-3-13, inclusive, and the state board of elections shall have further authority, pursuant to chapter 1-26, to promulgate rules to implement, administer and enforce further federal administrative rulings made pursuant to Public Law 94-73.

CHAPTER 12-4.

REGISTRATION OF VOTERS

Section

- 12-4-1. Persons entitled to register.
- 12-4-2. County auditor in charge of registration - Deputy.
- 12-4-2.1 to 12-4-2.2. Repealed.
- 12-4-2.3. Instructions required to be read to person who will register voters - Written authorization - Inspection - Violation as misdemeanor.
- 12-4-3. Forms and supplies provided by auditor - Office hours before close of registration.
- 12-4-3.1. Record of registration cards supplied - Violation as misdemeanor.
- 12-4-4. Repealed.
- 12-4-4.1. Registration by absentees.
- 12-4-4.2. Purpose of overseas voting rights provisions.
- 12-4-4.3. Overseas citizen defined.
- 12-4-4.4. Registration and voting by overseas citizens - Conditions.
- 12-4-4.5. Absentee registration and voting in last county and precinct of residence.
- 12-4-4.6. Absentee ballot request as registration - Notarization not required.
- 12-4-4.7. Expedition of registrations and ballot requests.
- 12-4-4.8. Promulgation of rules by state board.
- 12-4-4.9. Election laws apply to overseas voting provisions.
- 12-4-5. Entry of applicants on registration lists - Deadline - Notice to voter - Lists for secondary elections.
- 12-4-5.1. Repealed.
- 12-4-5.2. Notice of registration procedures - Publication.

Registration of Voters

- 12-4-6. Filling out registration card and receipt - Validation - Applicant unable to write.
- 12-4-7 to 12-4-7.1. Repealed.
- 12-4-7.2. Duty to ensure completion of registration cards, removal notices, and voters' receipts - Delivery to county auditor - Failure as misdemeanor - Violator's authority revoked.
- 12-4-7.3. List of registered voters kept - Return of list and cards to county auditor - Violation as misdemeanor.
- 12-4-7.4. Delivery of card for voter - Signing statement on receipt.
- 12-4-8. Records prescribed by state board - Information required.
- 12-4-8.1. Postcard requests for absentee ballot under federal law - Indexing and furnishing to precinct board.
- 12-4-8.2. True copy to replace duplicate registration card.
- 12-4-9. Master registration list - Contents and arrangement - Open to public inspection.
- 12-4-9.1. Repealed.
- 12-4-10. Precinct registration lists - Contents - Entries by superintendent.
- 12-4-10.1. Registration lists furnished to federal court for jury selection - Return of lists to auditor.
- 12-4-11. Change of registration lists on change in precinct boundaries.
- 12-4-12. New registration on move between states or counties - Authorization to cancel previous registration.
- 12-4-13. Change of registration on moves within county - Change on notice to voter - Appeal from auditor's action.
- 12-4-14. Repealed.
- 12-4-15. Designation or change of party affiliation - Application.
- 12-4-16. Change of party registration - Filing - Late filing.
- 12-4-17. Repealed.
- 12-4-18. Health department's report of deaths - Court clerk's report of mental incompetence and felony convictions - Changes on master list - Filing to reinstate suspended rights.
- 12-4-19. Purge of names of voters failing to vote.
- 12-4-19.1. Notice to registrant of proposed purge - Postcard and return card - Contents.
- 12-4-19.2. Publication of names failing to return card - Notice that name to be stricken from books.
- 12-4-19.3. State board to prescribe forms - Directives and instructions.
- 12-4-20 to 12-4-22. Repealed.
- 12-4-23. Challenge of registration - Notice and hearing - Auditor's decision - Appeal to circuit court.
- 12-4-23.1. Repealed.
- 12-4-24. Precinct lists for local election - Delivery to voting precincts.
- 12-4-24.1. Precinct lists for parties and candidates.
- 12-4-25 to 12-4-28. Repealed.
- 12-4-29. Intentional refusal to register applicant or deliver registration card and false registration as felony.
- 12-4-30. Repealed.
- 12-4-31. Instructions for registration - Preparation - Posting.

12-4-1. Persons entitled to register.

Every person residing within the state who has the qualifications of a voter prescribed by 12-3-1 or 12-3-1.1, or who will have such qualifications at the next ensuing municipal, primary, general, or school district election, shall be entitled to be registered as a voter in the voting precinct in which he resides.

12-4-2. County auditor in charge of registration - Deputy.

The county auditor has complete charge of the registration of all voters in the county, and

Registration of Voters

the finance officer of each municipality in the county is a deputy county auditor to assist in voter registration.

If a community within a county is not organized under the laws of the state, the county auditor may appoint a person to act as a deputy county auditor for that community to assist in voter registration.

12-4-2.1. Deputy auditors in unorganized counties - Appointment and duties. Repealed by SL 1982, ch 28, 40.

12-4-2.2. Deputy auditors in unorganized counties - Compensation. Repealed by SL 1982, ch 28, 41.

12-4-2.3. Instructions required to be read to person who will register voters - Written authorization - Inspection - Violation as misdemeanor.

Before a person may register a voter, the county auditor must read to such person a list of instructions including, but not limited to, the completion of a registration card; and the auditor shall also furnish a copy of the list to such person. The list of instructions shall be promulgated on forms approved by the state board of elections and shall set forth in summarized form applicable provisions of law and regulation governing the registration of voters and the authority of notaries public. Upon completing the instructions, the county auditor shall give the person entitled to register voters a written authorization to do so. Such authorization shall be made available for inspection upon request of any person desiring to register. Violation of this section is a Class 2 misdemeanor.

12-4-3. Forms and supplies provided by auditor - Office hours before close of registration.

The county auditor shall provide the prescribed forms, blanks and supplies necessary to carry out the provisions of this chapter. On the closing day of registration and on each of the two business days immediately preceding the close of registration for each general and primary election, the office of the county auditor in all counties having a population of ten thousand or more shall remain open from 8:00 a.m. to 8:00 p.m. local time. On the closing day of registration and on the business day immediately preceding the closing of registration for the general and primary election, the office of the county auditor in all counties having a population less than ten thousand shall remain open from 8:00 a.m. to 8:00 p.m. local time.

12-4-3.1. Record of registration cards supplied - Violation as misdemeanor.

The county auditor shall keep a record of all persons entitled to register voters who have requested original and duplicate registration cards. The list shall contain the total number of cards supplied to each person. Cards supplied to a notary public may be used by any notary public who has been authorized to register voters in that county. The notary public to whom the cards were supplied is responsible for the return of those cards. Violation of this section is a Class 2 misdemeanor.

12-4-4. Personal application to register - Officers to whom made - Time of application. Repealed by SL 1974, ch 118, 200.

12-4-4.1. Registration by absentees.

At any time before registration is closed any person absent from the county of his voting residence may apply to the county auditor of any county in this state and complete a registration card on the form prescribed by the state board of elections. The auditor before whom the person appears shall sign the card, designate his office and forward the card and the duplicate to the appropriate county, and upon receipt the auditor of the voter's residence shall treat it in the same manner as a card timely completed before and delivered

Registration of Voters

to himself or a deputy.

12-4-4.2. Purpose of overseas voting rights provisions.

The purpose of 12-4-4.2 to 12-4-4.9, inclusive, is to implement the Overseas Citizens Voting Rights Act of 1975, P.L. 94-203, approved January 2, 1976.

12-4-4.3. Overseas citizen defined.

An "overseas citizen" is any person residing outside the territory of the United States of America including its territories and possessions, and who is a citizen of the United States.

12-4-4.4. Registration and voting by overseas citizens - Conditions.

Any overseas citizen shall have the right to register and vote in any federal, state, county or local election held within South Dakota under the following conditions:

(1) The overseas citizen or the spouse of the overseas citizen was last domiciled in South Dakota immediately prior to departure from the United States.

(2) The overseas citizen does not maintain a domicile, is not registered to vote and is not voting in any other state.

(3) The overseas citizen is otherwise qualified to vote according to law.

12-4-4.5. Absentee registration and voting in last county and precinct of residence.

The overseas citizen shall be allowed to register and vote absentee in the same county and election precinct in which the overseas citizen or spouse of the overseas citizen resided immediately prior to leaving the United States.

12-4-4.6. Absentee ballot request as registration - Notarization not required.

A request for an absentee ballot made by an overseas citizen that contains the information necessary to comply with 12-4-4.4 and 12-4-4.5 shall be sufficient for registration purposes, and these applications need not be notarized or otherwise sworn to.

12-4-4.7. Expedition of registrations and ballot requests.

The person in charge of the election shall expedite the processing of registrations and absentee ballot requests of overseas citizens.

12-4-4.8. Promulgation of rules by state board.

The state board of elections may promulgate rules pursuant to chapter 1-26 for the implementation of 12-4-4.2 to 12-4-4.9, inclusive.

12-4-4.9. Election laws apply to overseas voting provisions.

All other provisions of law relating to elections shall apply to 12-4-4.2 to 12-4-4.9, inclusive.

12-4-5. Entry of applicants on registration lists - Deadline - Notice to voter - Lists for secondary elections.

The county auditor shall enter on the master registration list and include in precinct registration lists the names of all persons who have registered with or have had their applications for registration received by any county auditor not less than fifteen days preceding such election. Any person registering with a deputy county auditor of a

Registration of Voters

municipality pursuant to 12-4-2 not less than fifteen days preceding an election meets the deadline and the deputy county auditor shall immediately forward completed voter registration cards to the appropriate county auditor. A notification of completed registration shall be issued by the county auditor and be delivered or mailed to the newly registered voter and it shall indicate the date of entry on the master registration list. The precinct registration list furnished by the county auditor shall also be the list used for any secondary election; however, any voter who may have registered fifteen days preceding the secondary election shall have his name added to the list used for the secondary election.

12-4-5.1. Time for registration other than by county auditor or deputy. Repealed by SL 1974, ch 118, 200.

12-4-5.2. Notice of registration procedures - Publication.

The county auditor or the person responsible for the conduct of a local election shall give notice of the availability of registration officials and state when registration will be terminated and the effect of a failure to have registered. Such notice shall be published in official newspapers at least once each week for two consecutive weeks, the last publication to be not less than ten nor more than fifteen days before the deadline for registration.

12-4-6. Filling out registration card and receipt - Validation - Applicant unable to write.

An applicant for registration shall answer questions as are required on the form prescribed by the state board of elections and the registration official or the applicant shall fill out the original registration card and voter's receipt which the applicant shall sign, and the registration official shall validate by signing the same. In case an applicant is unable to write his name, he shall make a cross which shall be certified by signing of the name of the applicant by the registration official taking the application.

12-4-7. Place of filing registration cards - Cards to be made available - Signature and statement of political designation - Verification and return - Receipt given. Repealed by SL 1981, ch 120, 2.

12-4-7.1. New duplicate registration obtainable by registered voter any time before election - Change of party prohibited. Repealed by SL 1974, ch 118, 200.

12-4-7.2. Duty to ensure completion of registration cards, removal notices, and voters' receipts - Delivery to county auditor - Failure as misdemeanor - Violator's authority revoked.

Any person who registers a voter shall ensure that the registration card, removal notice if applicable, and voters receipt, as prescribed by the state board of elections, are filled out completely. The newly registered voter shall retain the voter's receipt as proof of registration. The original registration card and removal notice shall be delivered to the county auditor's office within ten days of completion but in no instance later than eight o'clock p.m. fifteen days before the election. Any person who fails to deliver the original registration card and removal notice to the auditor's office within the prescribed time is guilty of a Class 2 misdemeanor. Any person authorized to register voters who violates any provision of this chapter may have his authority to register voters permanently revoked by the county auditor. The state board of elections shall promulgate rules pursuant to chapter 1-26 to prescribe procedures for such revocation and procedures to allow appeals therefrom.

12-4-7.3. List of registered voters kept - Return of list and cards to county auditor - Violation as misdemeanor.

Registration of Voters

Any person who registers voters shall keep a list of the voters he has registered. The list shall contain the name and address of each registrant and the date of registration. The person registering voters shall return to the county auditor the list and all completed registration cards within ten days of completion, or by the close of registration, whichever is the earlier date. All registration cards which are not completed shall be returned to the county auditor no later than the close of registration. Violation of this section is a Class 2 misdemeanor.

12-4-7.4. Delivery of card for voter - Signing statement on receipt.

The voter's receipt shall contain a statement which the person registering a voter must sign if he agrees to deliver the registration card to the county auditor for the voter.

12-4-8. Records prescribed by state board - Information required.

For the purpose of expediting work of the county auditor, to promote uniformity in registration, and for the preparation of abstracts and other forms to be used by election boards, registration records shall be prescribed by the state board of elections. The state board of elections may require such information, on registration records, as is necessary to effectuate the state election laws.

12-4-8.1. Postcard requests for absentee ballot under federal law - Indexing and furnishing to precinct board.

In lieu of forms for registration prescribed under 12-4-8, requests for absentee ballots submitted in accordance with the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973ff) shall be sufficient for registration purposes. The auditor shall make and file the index card for the master file and attach the card thereto and a photocopy shall be supplied to the election board of the precinct for the purposes of 12-19-2.

12-4-8.2. True copy to replace duplicate registration card.

Any voter whose name appears on the master registration list who makes written application to the county auditor for a duplicate registration card, who has not received one or who has lost it, shall be entitled to receive a true copy of the original card certified to by the auditor, which shall serve for all purposes as a duplicate.

12-4-9. Master registration list - Contents and arrangement - Open to public inspection.

The county auditor shall provide a list of voters in suitable binders, which binders shall be of a general type prescribed by the state board of elections and which shall be properly indexed, so made and arranged as to contain a list of all persons registered, alphabetically arranged according to surnames, residing in each voting precinct within the county, to be kept at the office of the county auditor and properly safeguarded. This list shall be known as the "master registration list," and shall not be removed from the office except upon an order of a court of competent jurisdiction. The "master registration list" shall be, at all times during office hours, open to public inspection.

12-4-9.1. Presidential voters listed separately - Preparation of poll list. Repealed by SL 1974, ch 118, 200.

12-4-10. Precinct registration lists - Contents - Entries by superintendent.

The county auditor shall provide from the "master registration list" a separate list of the names and addresses of all registered voters in each voting precinct as established pursuant to chapter 12-14, 9-13-16 or 13-7-11 in the county of which he is the auditor which shall be

Registration of Voters

known as the "precinct registration list." Such list for any voting precinct shall be designed so that each name can be distinctly marked whenever the registrant has presented himself for voting and must contain a space in which may be recorded the record of any challenge, affidavit or other information as may be required. The entries shall be made by the superintendent when the voter presents himself for voting.

12-4-10.1. Registration lists furnished to federal court for jury selection - Return of lists to auditor.

Whenever so requested, the county auditor shall furnish to the clerk of the United States district court for the district of South Dakota, at no cost to the county, the current precinct registration lists or certified copies thereof referred to in 12-4-10 for all election precincts in the county whenever such lists are required by said clerk of the United States district court in furtherance of a plan for random jury selection in the federal courts pursuant to 28 U.S.C. 1863 and other applicable federal statutes. Within thirty days after receipt of such precinct registration lists, the clerk of the United States district court shall return the same to the county auditor.

12-4-11. Change of registration lists on change in precinct boundaries.

When the boundaries of any election precinct shall be changed, the county auditor shall immediately change his registration lists so as to correctly show the names and the other relevant voting information required upon registration of the voters who are residents therein.

12-4-12. New registration on move between states or counties - Authorization to cancel previous registration.

Any person moving to this state from another state, or moving from this state to another state, or from one county to another in this state, shall be required to make a new registration; new registrants previously registered elsewhere in this state shall be required to sign an authorization which shall be forwarded by the registration official to the auditor of the county of former registration, or other appropriate registration official, who shall remove the registrant's name from the registration lists.

12-4-13. Change of registration on moves within county - Change on notice to voter - Appeal from auditor's action.

The county auditor may, when it will not delay delivery of the registration lists to precincts, make appropriate changes on the registration card and in lists to reflect a move of a voter from one precinct to another within the county. Such changes may be made on reregistration showing previous place of registration or on signed authorization of the registered voter. The voter will be notified of any denial of the change. When the county auditor knows or has reason to believe that a voter within his county has moved to a precinct other than the one in which he is registered, he may make such changes after notifying the voter either personally or by mail at least ten days prior to making of a change of his intention to do so and if no objection is made shall make the change. The voter shall have the same right to hearing and appeal from an adverse action of the auditor as he has on other challenge under this chapter. The appropriate change shall be made on the original registration card and initialed by the auditor who shall prepare and deliver a certified copy of the corrected original to the voter.

12-4-14. Removal notices executed by mark receivable only in person. Repealed by SL 1974, ch 118, 200.

12-4-15. Designation or change of party affiliation - Application.

Registration of Voters

Any person desiring to designate or change his party affiliation may do so by filling out, signing and mailing or delivering personally to his county auditor an application on the form prescribed by the state board of elections.

12-4-16. Change of party registration - Filing - Late filing.

Upon receiving the application described by 12-4-15, the county auditor shall make an appropriate entry on the master registration list and precinct registration list showing the party registration of the voter as designated in the application. Such cards shall be filed with or attached to the registration card. An application for change need not be honored if it has not been received prior to the final date for receiving applications for registration, but after the election the appropriate change shall be made. All applications for change of party registration must be received by the county auditor prior to the final date for receiving applications for registration for any primary election.

12-4-17. Review of lists for registrants without duplicate cards. Repealed by SL 1975, ch 121.

12-4-18. Health department's report of deaths - Court clerk's report of mental incompetence and felony convictions - Changes on master list - Filing to reinstate suspended rights.

The state department of health, in conjunction with preparation of abstracts of vital statistics records made pursuant to 34-25-46, shall prepare an abstract for the county auditor, listing names and addresses of voters who have been residents of that county who have died.

The register of deeds shall deliver a list of the names and addresses of all persons who have died and whose death certificates were filed in his office during the previous month to the county auditor by the tenth day of each month.

The clerk of courts shall within fifteen days after the close of each month prepare and deliver to the auditor an abstract from his records of the names of persons declared mentally incompetent, convicted and sentenced for a felony in the preceding month. The clerk of courts shall give such notice in all felony cases including those sentenced to probation. The notice shall be sent to the county auditor of the county in which the person declared incompetent or convicted resides. A convicted felon who has had his rights suspended under this section may reinstate them by filing the proper release documents with the county auditor. The county auditor shall make appropriate changes upon the master registration list in accordance with the information provided pursuant to this section.

12-4-19. Purge of names of voters failing to vote.

The name of any voter who has failed to vote at least once during the last preceding four consecutive years shall be purged from the registration books by the county auditor as provided by 12-4-19.1 to 12-4-19.3, inclusive. The county auditor, on being notified of the death of a registered voter, after confirming the fact, shall remove and destroy the original registration cards of that person that are on file.

12-4-19.1. Notice to registrant of proposed purge - Postcard and return card - Contents.

Whenever a registration is to be purged, notice of the proposed purging shall be sent to the registrant at his last known address shown upon the registration records. The notice shall be a double postcard stating on the back of the return card that his registration may be canceled for failure to vote if the card is not returned. In addition, the return card shall state that if the information on the return card is correct, he may sign and return the card within thirty days and his registration will not be canceled. The return card shall also state that if

Registration of Voters

the information on the return card is not correct, he must send the correct information or his registration will be canceled. The return card shall give the information about the voter as it appears in the general register.

12-4-19.2. Publication of names failing to return card - Notice that name to be stricken from books.

If the card is not returned to the county auditor within the stated time limit, the county auditor shall cause to be published in all official county newspapers in the county, a list of all such names. The county auditor shall give notice in the publications that unless any person listed therein appears in person or notifies the county auditor in writing within thirty days of the date of the publication and makes proper proof of his eligibility as a registered voter, his name will be stricken from the registration books.

12-4-19.3. State board to prescribe forms - Directives and instructions.

The state board of elections shall prescribe forms for the notices required in 12-4-19.1 and 12-4-19.2 and, from time to time, shall cause to be prepared and distributed to each county auditor such written directives and instructions as are necessary to maintain uniformity in the application, operation and interpretation of and to reflect changes in the election laws.

12-4-20. Affidavit of service in armed forces as reregistration of voter removed for failure to vote. Repealed by SL 1974, ch 118, 200.

12-4-21. Notice by mail to verify name and address of voter - Challenge of vote on failure to correct or return by post office. Repealed by SL 1974, ch 118, 200.

12-4-22. Challenge entered on notices returned by post office - Compliance with challenge law required before voting. Repealed by SL 1974, ch 118, 200.

12-4-23. Challenge of registration - Notice and hearing - Auditor's decision - Appeal to circuit court.

Any county auditor who, based upon any reports submitted to him under 12-4-18, believes the registration of a voter should be challenged, shall make such challenge. Any person may challenge a registration by filing a written challenge with the county auditor, who shall fix a time and place for hearing and notify all parties interested. Except as provided by 12-18-10, no such challenge shall be allowed unless notice of such challenge stating all claims as grounds for the challenge has been either mailed to or served upon the registered voter at least ten days preceding the election. The hearing shall be set within three days at the office of the county auditor and the matter shall be heard and determined by the county auditor, who shall file his written decision in his office within twenty-four hours after such hearing. Either party may within three days appeal from such decision to the circuit court for the county in which the voting precinct of the challenged voter is located, and the appeal shall be heard and determined by the court, giving it preference over other matters on the calendar.

12-4-23.1. Precinct purged registration list. Repealed by SL 1976, ch 105, 84.

12-4-24. Precinct lists for local election - Delivery to voting precincts.

The county auditor shall complete and make available to the official charged with the conduct of a local election at least one day preceding the election a precinct registration list and the person in charge of the election shall deliver the list to each of his superintendents of election.

Registration of Voters

12-4-24.1. Precinct lists for parties and candidates.

Upon request the county auditor shall provide at their actual cost no more than five copies of precinct registration lists to the chairman or central committee of each organized political party, and a copy to each candidate requesting them, by the first Tuesday of the month preceding an election.

12-4-25. Votes by unregistered persons not to be received. Repealed by SL 1974, ch 118, 200.

12-4-26. Designation of party required to vote at primary. Repealed by SL 1974, ch 118, 200.

12-4-27. Return of precinct and district registration lists after election. Repealed by SL 1974, ch 118, 200.

12-4-28. Expense paid by county - Reimbursement for municipal and school district elections. Repealed by SL 1974, ch 118, 200.

12-4-29. Intentional refusal to register applicant or deliver registration card and false registration as felony.

Any registration official who intentionally refuses to register a person who is qualified to be a voter who has made timely application or who intentionally refuses to deliver to the county auditor a registration card in his possession in time for purposes of registration for the election for which it is made, or any person who falsely registers a person who is not legally qualified to be a voter is guilty of a Class 5 felony.

12-4-30. Severability of provisions. Repealed by SL 1974, ch 118, 200.

12-4-31. Instructions for registration - Preparation - Posting.

The state board of elections shall prepare a list of instructions for voter registration. The list does not have to be adopted as a rule pursuant to chapter 1-26. Each county auditor shall post the instructions on a large poster printed in at least 14 point type at every permanent voter registration site.

CHAPTER 12-5.

POLITICAL PARTIES AND PARTY AFFAIRS

Section

- 12-5-1. Organization of new party - Filing and contents of declaration - Number of signatures required.
 - 12-5-1.1. Party constitution or bylaws required - Filing with secretary of state.
 - 12-5-1.2. Effective date of party rule for selection of officers.
 - 12-5-1.3. Notice to county auditors of party rules affecting elections.
 - 12-5-1.4. Nominating petitions of new party primary candidates.
- 12-5-2. Precinct officials elected at primary - State and national convention delegates.
- 12-5-3 to 12-5-3.5. Repealed.
- 12-5-3.6. Selection of method of allocating national convention vote.
- 12-5-3.7. Method determined by each party.
- 12-5-3.8. Certification of slates for primary - Placement on ballot.
- 12-5-3.9. Certification of slates by state chairman - Mandamus to compel certification -

Political Parties and Party Affairs

Hearing.

- 12-5-3.10. Alternatives available for selection of national convention delegates and alternates.
- 12-5-3.11. Primary election of national convention delegates and alternates - Grouping of names on nominating petition - Statement of preference - Position and form on ballot.
- 12-5-3.12. Preference of first nominating petition filed - One slate per candidate - Petitions rejected for noncompliance - Verified notice of disapproval filed by designated candidate removes slate from ballot.
- 12-5-3.13. Election of all delegates by slate receiving most votes.
- 12-5-3.14. Notice by candidates or supporters of intention to enter presidential primary.
- 12-5-3.15. State board to adopt rules.
- 12-5-4. Statement filed by candidates for precinct committee - Time of filing - Contents.
- 12-5-4.1. Unopposed candidate for precinct committee automatically elected.
- 12-5-5 to 12-5-7. Repealed.
- 12-5-8. Furnishing to precincts of ballots for precinct committee - Form prescribed by state board.
- 12-5-9. Votes for precinct committee restricted to nominees.
- 12-5-10 to 12-5-12. Repealed.
- 12-5-13. Precinct committeemen elected by plurality at primary - Term of office.
- 12-5-14. County central committee - Composition - Organization - Certification of party
- 12-5-3.15. State board to adopt rules.
- 12-5-4. Statement filed by candidates for precinct committee - Time of filing - Contents.
- 12-5-4.1. Unopposed candidate for precinct committee automatically elected.
- 12-5-5 to 12-5-7. Repealed.
- 12-5-8. Furnishing to precincts of ballots for precinct committee - Form prescribed by state board.
- 12-5-9. Votes for precinct committee restricted to nominees.
- 12-5-10 to 12-5-12. Repealed.
- 12-5-13. Precinct committeemen elected by plurality at primary - Term of office.
- 12-5-14. County central committee - Composition - Organization - Certification of party officials elected - Bylaws governing organization and procedure.
- 12-5-15. Vacancies filled by county committee.
- 12-5-16. Composition of state committee.
- 12-5-17. Biennial state convention - Time and place - Notice to secretary of state.
- 12-5-18. Voting by delegates to state convention.
- 12-5-19. Adoption of platform by state convention.
- 12-5-20. Repealed.
- 12-5-21. Nomination of state candidates not voted on at primary - Presidential electors and national committee members.
- 12-5-22. Majority required for nomination by convention - Certification to secretary of state.
- 12-5-23. State party officers elected by convention.
- 12-5-24. Vacancy in office of national representative or state chairman filled under party bylaws - Certification to secretary of state.

12-5-1. Organization of new party - Filing and contents of declaration - Number of signatures required.

A new political party may be organized and participate in the primary election, except the presidential primary election, by filing with the secretary of state not later than the first Tuesday of April at five o'clock p.m. prior to the date of the primary election, a written declaration signed by at least two and one-half percent of the voters of the state as shown by the total vote cast for Governor at the last preceding gubernatorial election, which declaration shall contain:

- (1) The name of the proposed party; and

Political Parties and Party Affairs

(2) A brief statement of the principles thereof; whereupon the party shall, under the party name chosen, have all the rights of a political party whose ticket shall have been on the ballot at the preceding general election. A new political party may participate in a presidential primary election by complying with the requirements of this section no later than the last Tuesday of December at five o'clock p.m. prior to the date of the presidential primary election.

12-5-1.1. Party constitution or bylaws required - Filing with secretary of state.

A political party shall adopt a constitution or a set of bylaws to govern its organization and the conduct of its affairs and exercise thereunder any power not inconsistent with laws of this state. The party central committee shall certify to and file with the secretary of state a copy of the document and amendments thereof within thirty days of their approval.

12-5-1.2. Effective date of party rule for selection of officers.

To the extent that a political party is authorized to provide for the means of selecting party officers other than election in a primary, such a provision of their constitution or bylaws which does so shall not be effective until it has been on file in the office of the secretary of state for a period of one hundred fifty days.

12-5-1.3. Notice to county auditors of party rules affecting elections.

It shall be the duty of the secretary of state to promptly notify the county auditor of each county of the effect of any provision of a party constitution or bylaw which affects an election to be conducted.

12-5-1.4. Nominating petitions of new party primary candidates.

If a political party qualifies for the primary ballot under 12-5-1, candidates intending to participate in the primary election the first year of qualification shall file nominating petitions pursuant to 12-6-4. However, if no voting history exists to determine the number of signatures required, state or federal candidates shall file petitions bearing signatures of at least two hundred fifty registered voters in the new party, legislative and county candidates shall file petitions bearing signatures of at least five registered voters in the new party.

12-5-2. Precinct officials elected at primary - State and national convention delegates.

At each primary election, other than a presidential primary election, the members of the respective political parties shall elect the precinct committeemen and precinct committeewomen of their political party, and pursuant to their constitution or bylaws shall elect or appoint, or both elect and appoint, the number of delegates and alternates set by the constitution or bylaws from each county for each political party to the state convention of the party. In the years when a President of the United States is to be elected, the political parties shall elect delegates and alternates to the national convention of each political party in accordance with the provisions of 12-5-3.6 to 12-5-3.15, inclusive. If delegates and alternates are not elected at large from the entire state the constitution or bylaws must set forth the area boundaries for representation coincident with some geographical division of the state otherwise authorized or provided by law.

12-5-3. National convention delegate candidates - Requirement for names on nominating petition - Form and arrangement of primary ballot. Repealed by SL 1977, ch 107, 10.

12-5-3.1. First approved delegate slate to show preferred presidential candidate - Disapproval of slate by candidate. Repealed by SL 1977, ch 107, 10.

Political Parties and Party Affairs

12-5-3.2. National convention delegate candidates - Pledge to support preference choice for President. Repealed by SL 1977, ch 107, 10.

12-5-3.3. Selection of method of allocating national convention vote - Alternatives available. Repealed by SL 1977, ch 107, 10.

12-5-3.4. Certification of national convention slates - Placement on ballot. Repealed by SL 1977, ch 107, 10.

12-5-3.5. Certification of slates by state chairman - Mandamus to compel certification - Hearing. Repealed by SL 1977, ch 107, 10.

12-5-3.6. Selection of method of allocating national convention vote.

A state political party, in its constitution or bylaws, or by action of its state convention, meeting in the even nonpresidential election years, shall determine the method of allocating delegates and alternates to its next national convention.

12-5-3.7. Method determined by each party.

Each political party shall determine the method by which its national convention delegates and alternates are chosen in the same manner as provided by 12-5-3.6.

12-5-3.8. Certification of slates for primary - Placement on ballot.

If a political party chooses to have a primary for selection of its delegates and alternates to the national convention, it shall certify the slates to the secretary of state by the last Tuesday in December preceding the primary by five o'clock p.m. The slates certified shall be placed on the ballot by the secretary of state and the position of the slates on the primary ballot shall be chosen by lot by the secretary of state. The certification shall be deemed to be filed if mailed by registered mail by five o'clock p.m. on the last Tuesday in December.

12-5-3.9. Certification of slates by state chairman - Mandamus to compel certification - Hearing.

The state chairman of the political party shall certify the slates to the secretary of state. In the event the state chairman wrongfully refuses to so certify, the aggrieved slate of delegates and alternates shall be entitled to a writ of mandamus against the state chairman pursuant to chapter 21-29 to compel certification. A hearing upon the writ shall be held within five days of the commencement of the action.

12-5-3.10. Alternatives available for selection of national convention delegates and alternates.

In the event the political party does not choose by its constitution, bylaws or its state convention the method of selecting its delegates and alternates to the national convention, it shall, at its state party convention, meeting in the even nonpresidential years, choose the method of selection from the alternatives as follows:

(1) The slate of delegates and alternates receiving the highest number of votes shall be declared elected.

(2) The total number of delegates and an equal number of alternates to the national convention shall be allocated between the two leading slates of the political party, and the same proportion of the total vote each slate received bears to the total combined votes of both slates. The appropriate number of delegates and alternates from each slate shall be deemed elected in the order in which the names appeared on the ballot.

(3) An allocation may be made among two or more slates which grants representation

Political Parties and Party Affairs

proportionately to various slates receiving a number of votes stated in the constitution or bylaws of the political party to be significant for purposes of representation of either, area of the state or support for candidates, or both, which shall be stated in the constitution or bylaws. A certificate of election shall be issued by the state party chairman to each delegate and each alternate entitled thereto by allocation.

12-5-3.11. Primary election of national convention delegates and alternates - Grouping of names on nominating petition - Statement of preference - Position and form on ballot.

In the event a political party has no prescribed method of selection of slates of delegates and alternates to its national convention, the slates of delegates and alternates to the national convention shall be elected by the primary. Names of candidates for delegates and alternates to the national convention, in number equal to the entire number of such delegates and alternates to be selected, shall be grouped in a slate under the respective designations upon a single nominating petition, which will contain a statement indicating their collective preference choice for President of the United States, if any, or that they have no preference or are uncommitted. No name of any candidate for delegate or alternate shall be filed in more than one slate, and the slate first filed shall occupy the left hand column on the primary election ballot followed by other slates in their order of filing. No squares shall appear at the left of individual names, but a circle shall be placed at the head of each slate and a cross or check mark placed therein shall be a vote for the entire number of delegates and alternates named in the slate.

12-5-3.12. Preference of first nominating petition filed - One slate per candidate - Petitions rejected for noncompliance - Verified notice of disapproval filed by designated candidate removes slate from ballot.

Under a petition filed under 12-5-3.11, the first nominating petition filed indicating a preference choice for any given person for President of the United States shall give the slate listed thereon the exclusive right to have their names appear on the ballot in preference of that person. Only one slate shall appear on the ballot in preference of any one person for President of the United States. Any nominating petition which does not comply with the requirements of law for such petitions shall not be accepted. Petitions shall be checked for such compliance at the time in the order of filing and the first to be found to be in compliance with law shall be accepted for purpose of this section. No slate of delegates or alternates appearing on a nominating petition filed pursuant to this section shall be placed on the ballot if the person designated as presidential candidate in such petition shall file a verified notice of disapproval. This notice must be filed with the secretary of state by such candidate within the time period required for the filing of nominating petitions for the primary.

12-5-3.13. Election of all delegates by slate receiving most votes.

In any election conducted under 12-5-3.11 and 12-5-3.12, the slate that receives the most votes shall elect all of its delegates and alternates on that slate.

12-5-3.14. Notice by candidates or supporters of intention to enter presidential primary.

Any candidate, committee or group supporting a candidate in any of the presidential primaries, shall, by the last Tuesday in December prior to the presidential primary election, notify the secretary of state that they intend to have the name of the candidate placed on the presidential primary election ballot or submit a slate of candidates or both.

12-5-3.15. State board to adopt rules.

The state board of elections may adopt rules pursuant to chapter 1-26 to implement

Political Parties and Party Affairs

12-5-3.6 to 12-5-3.14, inclusive.

12-5-4. Statement filed by candidates for precinct committee - Time of filing - Contents.

A candidate for party precinct committeeman or committeewoman shall file a statement in writing, with the county auditor of the county in which he is a candidate, not later than the first Tuesday in April before the primary election. The statement shall state that the person whose name is subscribed thereto is a resident of the precinct and registered as a member of the political party therein named and is a candidate for precinct committeeman or committeewoman, as the case may be, that he is desirous of serving in that position, and that, if elected, he will qualify and serve in the office. The statement, when properly filed, shall operate as a nominating petition for that office.

12-5-4.1. Unopposed candidate for precinct committee automatically elected.

Any candidate who has filed a statement of candidacy, as required by 12-5-4, having no opposing candidate shall automatically be elected, and after the canvass of the primary shall be so declared.

12-5-5. Posters furnished for listing precinct committee candidates - Specifications and form. Repealed by SL 1972, ch 79, 6.

12-5-6. Entry and posting of names of candidates for precinct committee. Repealed by SL 1972, ch 79, 6.

12-5-7. Order of listing of candidates for precinct committee - Display of posters. Repealed by SL 1972, ch 79, 6.

12-5-8. Furnishing to precincts of ballots for precinct committee - Form prescribed by state board.

At the time of printing the official primary election ballots, the county auditor shall also have printed in like number, and for each political party, separate ballots upon which party voters may vote for precinct committeeman and for precinct committeewoman of their political party. These ballots shall be furnished to any election precinct having a contest for such position at the same time with the other election supplies. The form of these ballots shall be prescribed by the state board of elections.

12-5-9. Votes for precinct committee restricted to nominees.

Only candidates nominated pursuant to 12-5-4 shall be voted upon for such precinct committeeman or committeewoman.

12-5-10. Statement filed by precinct committee candidate where voting machine used - Time of filing. Repealed by SL 1972, ch 79, 6.

12-5-11. Precinct committee candidates included in facsimile ballot for voting machines. Repealed by SL 1974, ch 118, 200.

12-5-12. Precinct committee candidates listed on voting machine ballot labels - Voting restricted to nominees. Repealed by SL 1974, ch 118, 200.

12-5-13. Precinct committeemen elected by plurality at primary - Term of office.

The person receiving the highest number of votes of his or her party, shall be declared elected precinct committeeman and committeewoman respectively, of their party, and shall

Political Parties and Party Affairs

hold such position for two years, or until his or her successor is elected unless otherwise provided by the party's constitution or bylaws.

12-5-14. County central committee - Composition - Organization - Certification of party officials elected - Bylaws governing organization and procedure.

The precinct committeemen and the precinct committeewomen of each political party elected at the primary election; the state committeemen and committeewomen; the county chairman, vice-chairman, and secretary-treasurer or secretary and treasurer; and the elected public officers who reside in the county, shall constitute the county central committee of their respective parties. They shall form their party organization by electing a county chairman, a vice-chairman, a secretary-treasurer or a secretary and a treasurer, a state committeeman and a state committeewoman, who shall hold their offices until their successors have been elected. A majority vote of the precinct committeemen and committeewomen, state committeemen and committeewomen, county officers and elected public officers present, shall constitute an election which shall be certified to the county auditor, except that the election of state committeemen, committeewomen and county chairmen shall also be certified to the secretary of state. Each political party shall adopt bylaws pursuant to 12-5-1.1 determining the organization and procedure of its county central committee.

12-5-15. Vacancies filled by county committee.

Vacancies occurring in any precinct or in any position the election to which is provided for in 12-5-14 by reason of death, resignation, or otherwise, and the filling of such vacancies, shall also be so certified. The county central committee shall have power to fill vacancies in its membership, or in the office of any other position the election to which is provided for in 12-5-14.

12-5-16. Composition of state committee.

Each political party shall adopt bylaws pursuant to 12-5-1.1 to determine which members of the county central committee shall represent all the party voters at the meetings of the state central committee.

12-5-17. Biennial state convention - Time and place - Notice to secretary of state.

Each political party shall hold a state convention in each even-numbered year in which they are necessary for the purposes of 12-5-3.3, 12-5-20 or 12-5-21. The time and place of holding such convention shall be determined by the state central committee of each political party, the chairman of which shall notify the secretary of state at least thirty days previous to the date so chosen.

12-5-18. Voting by delegates to state convention.

At the state convention of a political party, each delegate shall vote the number of votes equal to his proportionate representation as to all delegates present from that county bears to the number of votes cast in his county at the last gubernatorial election for his party candidate for Governor.

12-5-19. Adoption of platform by state convention.

After perfecting its organization, in years in which nominations are made pursuant to 12-5-21, the convention shall proceed to adopt the state platform of the party, voting on each plank separately.

Political Parties and Party Affairs

12-5-20. Nomination by convention of senatorial, congressional and gubernatorial candidates not selected by primary. Repealed by SL 1985, ch 110, 2.

12-5-21. Nomination of state candidates not voted on at primary - Presidential electors and national committee members.

The state convention shall nominate candidates for lieutenant governor, attorney general, secretary of state, state auditor, state treasurer, commissioner of school and public lands and public utilities commissioner and in the years when a President of the United States is to be elected, presidential electors and national committeeman and national committeewoman of the party.

12-5-22. Majority required for nomination by convention - Certification to secretary of state.

Nominations by a state convention shall be made by a majority vote of the votes cast, and shall be certified to the secretary of state by the officers of the convention, immediately at the close of the convention.

12-5-23. State party officers elected by convention.

The state convention, unless otherwise prescribed by party constitution or bylaws, shall also elect the party state chairman and vice-chairman who shall be of opposite sex and other officers needed to complete the state organization of the party.

12-5-24. Vacancy in office of national representative or state chairman filled under party bylaws - Certification to secretary of state.

A vacancy occurring in any position, such as delegate or alternate delegate to a national convention, national committeeman, national committeewoman or state chairman, by death, resignation, or otherwise, shall be filled in accordance with the party's bylaws. Vacancies occurring in any such office by reason of death, resignation, or otherwise, and the filling of such vacancies, shall be certified to the secretary of state.

CHAPTER 12-6.

PRIMARY ELECTIONS

Section

- 12-6-1. Offices to which chapter applies.
- 12-6-2. Third-term gubernatorial nomination prohibited.
- 12-6-3. Filing for two offices at one election prohibited - Party offices excepted.
- 12-6-3.1. Legislative candidates required to reside in district of candidacy.
- 12-6-4. Petition required to place candidate's name on primary ballot - Place of filing.
- 12-6-4.1. Earliest time for circulating petitions or certificates.
- 12-6-4.2. Reimbursement of counties for election costs.
- 12-6-5. Form of nominating petition prescribed by state board.
- 12-6-6. Joint petitions for delegate and legislative candidates - Individual petitions otherwise required.
- 12-6-7. Petition composed of several sheets - Number of signers required.
- 12-6-7.1. Petition for candidate for Legislature, county political public office, or county party office.
- 12-6-8. Time and manner of signing petition - Declaration of candidate - Verification - Signing for independent or nonpolitical candidate.
- 12-6-8.1. Withdrawal from primary election - Time and place of filing.

Primary Elections

- 12-6-9. Unopposed candidate automatically nominated - Primary not held if no contest.
- 12-6-10. Repealed.
- 12-6-11. Certification to county auditors of nominating petitions filed with secretary of state.
- 12-6-12, 12-6-13. Repealed.
- 12-6-14. Form of official primary ballot prescribed by state board.
- 12-6-14.1. Placement of candidates' names on voting machines.
- 12-6-15 to 12-6-25. Repealed.
- 12-6-26. Qualifications of voters at primary - Party registration required.
- 12-6-26.1 to 12-6-49. Repealed.
- 12-6-50. Nomination by plurality at primary.
- 12-6-51. Repealed.
- 12-6-51.1. Percentage of votes required to nominate for senate, congressman, or Governor - Secondary election.
- 12-6-51.2. Canvass of votes for primary or secondary election - Submission to secretary of state.
- 12-6-51.3. Examination of returns from counties - Certification of runoff candidates.
- 12-6-51.4. Combined election - Date held - Expenses and responsibilities shared as agreed.
- 12-6-52. Party officials elected by plurality at primary.
- 12-6-53, 12-6-54. Repealed.
- 12-6-55. Withdrawal by nominee - Time and place of filing.
- 12-6-56. Vacancies in party ticket to be filled by party committee.
- 12-6-57. Meeting of party committee to fill vacancies - Manner of voting.
- 12-6-58. Application of vacancy provisions to special congressional elections.
- 12-6-59 to 12-6-63. Repealed.
- 12-6-64. Liberal construction of primary election laws.

12-6-1. Offices to which chapter applies.

The provisions of this chapter shall apply to the election to party office and for the nominations of political and nonpolitical candidates for public offices except as may be otherwise provided.

12-6-2. Third-term gubernatorial nomination prohibited.

No person shall be nominated under the provisions of this chapter for election to the office of Governor for a third successive term.

12-6-3. Filing for two offices at one election prohibited - Party offices excepted.

No person shall be a candidate for nomination to more than one public office, but a candidate for any such office shall not be prohibited from being elected to any one or more party offices as may be provided in chapter 12-5.

12-6-3.1. Legislative candidates required to reside in district of candidacy.

Any candidate for office in the state Legislature shall be a resident of the district for which he is a candidate at the time he signs his declaration of candidacy as required by this chapter.

12-6-4. Petition required to place candidate's name on primary ballot - Place of filing.

Except as provided by 12-5-4 and as may be otherwise provided in chapter 12-9, no candidate for any office to be filled, or nomination to be made, at the primary election, other than a presidential election, may have his name printed upon the official primary election ballot of his party, unless a petition has been filed on his behalf not prior to

Primary Elections

January twentieth, at eight a.m., and not later than the first Tuesday of April at five p.m. prior to the date of the primary election. If the petition is mailed by registered mail by the first Tuesday of April at five p.m. prior to the primary election, it shall be considered filed. A nominating petition for national convention delegates and alternates as provided in 12-5-3.11 shall be filed in accordance with the provisions of this section. However, a nominating petition for national convention delegates and alternates shall be filed on or after October tenth, at eight a.m., and not later than the last Tuesday of December, at five p.m., prior to the date of the presidential primary election. Nominating petitions for all party and public offices except legislative and judicial offices shall be filed in the office of the county auditor of the county in which he is a candidate. Nominating petitions for legislative and judicial office whether elected in one or more counties, and all other party and public offices to be voted on in more than one county shall be filed in the office of the secretary of state.

12-6-4.1. Earliest time for circulating petitions or certificates.

No petition or certificate of nomination covered by this chapter may be circulated prior to the first day of January of the year in which the election will be held.

12-6-4.2. Reimbursement of counties for election costs.

The state shall reimburse each county for any costs incurred as a result of any presidential primary election held on the last Tuesday in February.

12-6-5. Form of nominating petition prescribed by state board.

The form of the nominating petition shall be prescribed by the state board of elections.

12-6-6. Joint petitions for delegate and legislative candidates - Individual petitions otherwise required.

Two or more candidates for delegates to the state convention of the party, and except as to candidates in joint legislative districts, candidates for two or more legislative offices may be included in one nominating petition. Except as provided herein and in 12-5-3, individual nominating petitions shall be filed.

12-6-7. Petition composed of several sheets - Number of signers required.

A nominating petition may be composed of several sheets, which shall have identical headings printed at the head thereof. The petition for party office or political public office shall be signed by not less than one percent of the voters who cast their vote for that party's gubernatorial candidate at the last gubernatorial election in the county, part of the county, district, or state electing a candidate to fill the office.

12-6-7.1. Petition for candidate for Legislature, county political public office, or county party office.

Notwithstanding the provisions of 12-6-7 a nominating petition for a candidate for office in the state Legislature, county political public office and county party office shall be signed by not less than fifty voters or not less than one percent of the voters who cast their vote for the party's gubernatorial candidate, whichever is less. The petition shall clearly designate the senatorial or representative district for which said individual is a candidate.

12-6-8. Time and manner of signing petition - Declaration of candidate - Verification - Signing for independent or nonpolitical candidate.

Primary Elections

No person shall sign the nominating petition of a candidate before January first in the year in which the election is to be held, nor for whom he is not entitled to vote, nor for a political candidate of a party of which he is not a member, nor of more than the number of candidates required to be nominated for the same office. There shall be added by either the signer or the circulator, the signer's place of residence, and the date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. A formal declaration of the candidate shall be signed by him prior to the circulation of petitions. The signed declaration of the candidate, or a facsimile thereof, may accompany and be a part of the petition. The original signed declaration shall accompany the group of petitions upon filing. Such petition shall be verified under oath by the persons circulating the same. The provisions of this section shall not prohibit a person registered with party affiliation from signing either a petition nominating an independent or a nonpolitical candidate for office if he has not previously signed a petition for that office to be filled.

12-6-8.1. Withdrawal from primary election - Time and place of filing.

Any person may have his name withdrawn from the primary election by making a written request under oath. The request shall be filed with the officer with whom the nominating petition was filed pursuant to 12-6-4, not later than the last Tuesday in March at five o'clock p.m. If the request is mailed by registered mail by the last Tuesday in March at five o'clock p.m., it is properly filed. No name so withdrawn may be printed on the ballots to be used at the election.

12-6-9. Unopposed candidate automatically nominated - Primary not held if no contest.

A candidate for nomination to an office, or election to a party office, having no opposing candidate within his party, shall automatically become the nominee of his party or elected party official for said office, and his name shall not be printed on the primary election ballot. If there are no opposing candidates for nomination or election of either state or county candidates in any county, no primary election shall be held in that county, and the candidates shall be automatically nominated or elected.

12-6-10. Publication of notice of primary - Form. Repealed by SL 1973, ch 74, 14.

12-6-11. Certification to county auditors of nominating petitions filed with secretary of state.

It shall be the duty of the secretary of state, as soon as the time for filing nominating petitions in his office has passed, immediately to certify to the several county auditors of the state the names of the persons in whose behalf nominating petitions have been filed in his office as candidates for each political party separately, with the name of the office for which each person is a candidate, and certify the color, style and form of the official primary election ballot of each political party.

12-6-12. Preparation and printing of official primary ballots - Candidates included. Repealed by SL 1973, ch 74, 14.

12-6-13. Arrangement of names of candidates on ballot - Sequence of offices. Repealed by SL 1973, ch 74, 14.

12-6-14. Form of official primary ballot prescribed by state board.

The form of the official primary election ballot shall be prescribed by the state board of elections.

Primary Elections

12-6-14.1. Placement of candidates' names on voting machines.

If voting machines are used in a primary election, the candidates of the party which received the highest number of votes for Governor at the preceding gubernatorial election shall be placed in the top column, the party which received the second highest number in the next column, and all other parties in their relative positions according to the number of votes so received. The name of the party shall be printed in large type and placed at the beginning of the column containing the names of the candidates.

12-6-15. Colors of party ballots - Ink and paper used - Form and size of ballots. Repealed by SL 1973, ch 74, 14.

12-6-16. Preparation of nonpolitical judicial and educational ballots - Laws pertaining to nonpartisan elections unaffected. Repealed by SL 1973, ch 74, 14.

12-6-17. Number of ballots printed - Retention by auditor and resupply of voting precincts. Repealed by SL 1973, ch 74, 14.

12-6-18. Appointment and qualifications of judges and clerks of election - Designation of superintendent. Repealed by SL 1972, ch 85, 4.

12-6-19. Judges of election acting as clerks where small vote expected. Repealed by SL 1973, ch 74, 14.

12-6-20. Delivery of ballots, ballot boxes and supplies to precinct superintendents. Repealed by SL 1973, ch 74, 14.

12-6-21. Filling vacancies among election judges or clerks. Repealed by SL 1973, ch 74, 14.

12-6-22. Preparation of voting booths - Oath of election judges and clerks. Repealed by SL 1973, ch 74, 14.

12-6-23. Appointment of party challengers - Right to remain in polling place - Protection by election judges and peace officers. Repealed by SL 1973, ch 74, 14.

12-6-24. Time of opening and closing polls - Announcement of opening and closing - Voters waiting at closing time - Adjournment not taken until votes counted. Repealed by SL 1973, ch 68, 3; 1973, ch 74, 14.

12-6-25. Distribution of duties among judges of election. Repealed by SL 1973, ch 74, 14.

12-6-26. Qualifications of voters at primary - Party registration required.

No person shall be allowed to vote a party ballot at any primary election unless he is registered as a member of that political party in the precinct in which he seeks to vote.

12-6-26.1. Party affiliation determined by duplicate registration - Affiliation of voter under emergency procedure. Repealed by SL 1973, ch 74, 14.

12-6-27. Challenge of voter at primary - Oath of person challenged. Repealed by SL 1973, ch 74, 14.

12-6-28. Rejection of voter on refusal to take oath - Requiring subscription of oath. Repealed by SL 1973, ch 74, 14.

Primary Elections

12-6-29. Statement of party preference by voter - Marking and folding of ballot - Offer for deposit in ballot box. Repealed by SL 1973, ch 74, 14.

12-6-30. Voter alone in booth - Showing of ballot or taking from room unlawful - Misdemeanor. Repealed by SL 1973, ch 74, 14.

12-6-31. Manner of marking ballot - Identifying marks disqualifying. Repealed by SL 1973, ch 74, 14.

12-6-32. Surrender and replacement of spoiled ballot - Disposition. Repealed by SL 1973, ch 74, 14.

12-6-33. Announcement of voter's name and deposit of ballot in box - Entry on pollbooks. Repealed by SL 1973, ch 74, 14.

12-6-34. Multiple voting as misdemeanor - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-35. Assisting or advising vote by disqualified person as misdemeanor - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-36. Importation of unqualified voters as misdemeanor - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-37. Bribery of voter as felony - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-38. Intimidation or interference with voting as misdemeanor. Repealed by SL 1973, ch 74, 14.

12-6-39. Canvass of votes commenced on closing of polls - General election rules applicable. Repealed by SL 1973, ch 74, 14.

12-6-40. Counting of voters and ballots for each party - Destruction of excess ballots. Repealed by SL 1973, ch 74, 14.

12-6-41. Counting and tally of votes for candidates - Rejection of ballots not legally marked. Repealed by SL 1973, ch 74, 14.

12-6-42. Footing and certification of tally sheets - Preparation and signature of return of votes. Repealed by SL 1973, ch 74, 14.

12-6-43. Binding, sealing and endorsement of ballots. Repealed by SL 1973, ch 74, 14.

12-6-44. Delivery of ballots, returns and records to county auditor. Repealed by SL 1973, ch 74, 14.

12-6-45. Return of unused, spoiled and rejected ballots to county auditor - Retention in auditor's office. Repealed by SL 1973, ch 74, 14.

12-6-46. County canvass and tabulation of election returns. Repealed by SL 1973, ch 74, 14.

12-6-47. Abstract of votes for state and district offices certified to secretary of state. Repealed by SL 1973, ch 74, 14.

12-6-48. State canvass and tabulation of returns from counties - Certification and filing of total vote. Repealed by SL 1973, ch 74, 14.

Primary Elections

12-6-49. Falsification or withholding of returns as misdemeanor - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-50. Nomination by plurality at primary.

Any candidate for a party nomination to public office, who receives the highest number of votes cast by the voters of his party for the office for which he is a candidate, shall be declared the nominee of his party.

12-6-51. Percentage of votes required to nominate for Congress, senate or Governor - Selection by state convention. Repealed by SL 1985, ch 110, 3.

12-6-51.1. Percentage of votes required to nominate for senate, congressman, or Governor - Secondary election.

If no candidate for United States senate, congressman or Governor in a race involving three or more candidates receives thirty-five percent of the votes of his party, a secondary election shall be held two weeks from the date of the first primary election. At the secondary election the only persons voted for shall be the two candidates receiving the highest number of votes at the first election. However, if there is a tie for second place in the first primary election and there is no tie for first place, all tying second place candidates shall be placed along with the first place candidate on the ballot for the secondary election. The secondary election shall be held at the same polling places, be conducted, returned and canvassed and the results declared in the same manner as the first election. The person receiving the highest number of votes at the secondary election is nominated as the candidate of his party.

12-6-51.2. Canvass of votes for primary or secondary election - Submission to secretary of state.

Within three days after the close of a primary or secondary election, the officer in charge of the election, with the assistance of a majority of the governing board as the canvassing board, shall make and submit to the secretary of state the canvass of votes.

12-6-51.3. Examination of returns from counties - Certification of runoff candidates.

Within seven days after any primary or secondary election, the board of state canvassers shall open and examine the returns from all counties and shall complete the canvass. Within twenty-four hours after the completion of the canvass, the secretary of state shall certify runoff candidates, listed in the order determined by a drawing of names, to all county auditors and include a ballot which may be duplicated.

12-6-51.4. Combined election - Date held - Expenses and responsibilities shared as agreed.

Any other provision of this chapter notwithstanding, the members of the county commission may, by resolution, choose to hold the secondary election authorized pursuant to 12-6-51.1 in conjunction with a regular school district election, and with a general municipal election if the municipality has chosen to combine with the school district pursuant to 9-13-1.1 and 13-7-10. The combined election shall be held on the third Tuesday of June. All expenses of a combined primary runoff, school district and municipal election shall be shared in a manner agreed upon by the governing bodies of the school district, the municipality and the board of county commissioners. All other governmental responsibilities associated with holding elections under the provisions of chapters 9-13, 12-6 and 13-7 shall be shared as agreed upon by the governing bodies.

Primary Elections

12-6-52. Party officials elected by plurality at primary.

Any candidate for party precinct committeeman, or committeewoman, or delegate to the state convention, who received the highest number of votes, shall be declared elected to the office for which he is a candidate.

12-6-53. Determination of tie vote. Repealed by SL 1973, ch 74, 14.

12-6-54. Preservation of nominating petitions and certificates of nomination - Open to public inspection. Repealed by SL 1973, ch 74, 14.

12-6-55. Withdrawal by nominee - Time and place of filing.

Any person nominated to any elective office may cause his name to be withdrawn from nomination by request in writing, subscribed and sworn to by him before any officer qualified to administer oaths and take acknowledgments. The request shall be filed with the officer with whom the nominating petition was filed pursuant to 12-6-4, not later than the first Tuesday in August at 5:00 p.m. before the ensuing election. No name so withdrawn shall be printed upon the ballots to be used at such election.

12-6-56. Vacancies in party ticket to be filled by party committee.

If a vacancy occurs by reason of death or withdrawal after a primary election, a party candidate for public office may be replaced by a new nominee if a meeting of the appropriate party central committee can be held and the results certified to the appropriate official within the times prescribed by 12-8-6. Such a vacancy, if for presidential elector or statewide office, shall be filled by the state party central committee. Such a vacancy, if for other than presidential elector or statewide office, shall be filled by a vote of all interested county party central committee members. If any part of a county lies within the geographic boundaries of such office, the party county central committee shall be deemed interested, and the central committee members from within the county, residing in the affected district, may vote to fill the vacancy. In multi-county districts, all county central committee members may vote to fill the vacancy.

12-6-57. Meeting of party committee to fill vacancies - Manner of voting.

The party state central committee chairman shall, upon learning of a vacancy for presidential elector or statewide office nominee, forthwith issue a call by mail for such central committee meeting to fill such vacancy, and designate the hour, date and place where such meeting shall be held. The call for a meeting of county party central committees interested, in multi-county legislative districts, to fill vacancies, shall be issued by the state party chairmen, who shall notify all interested central committee members of the hour, date and place where such meeting shall be held. A call for a meeting of a single-county district party central committee, to fill vacancies, shall be issued by such county central committee chairman upon learning of such vacancy. Vacancies filled by state central committee shall be by unit representation, each county casting the number of votes cast in that county at the last general election for that party's candidate for Governor; all other vacancies shall be filled by a majority vote of the party central committee or committees members present.

12-6-58. Application of vacancy provisions to special congressional elections.

Sections 12-6-56 and 12-6-57 shall also apply to the selection of candidates to be voted on at any special election to fill congressional vacancies pursuant to chapter 12-11.

12-6-59. Meetings held and acts performed on day after legal holiday. Repealed by SL

Primary Elections

1973, ch 74, 14.

12-6-60. Application of primary election laws to unorganized counties. Repealed by SL 1973, ch 74, 14.

12-6-61. Falsification, defacement or suppression of nominating petition or certificate as felony - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-62. General election laws applicable. Repealed by SL 1973, ch 74, 14.

12-6-63. Violation of chapter as misdemeanor - Penalty. Repealed by SL 1973, ch 74, 14.

12-6-64. Liberal construction of primary election laws.

The laws of this state pertaining to primary elections shall be liberally construed so that the real will of the voters may not be defeated by a mere technicality.

CHAPTER 12-6A.

PRESIDENTIAL PREFERENCE PRIMARIES

[Repealed by SL 1980, ch 113, 1 to 10]

CHAPTER 12-7.

NOMINATION OF INDEPENDENT CANDIDATES

Section

12-7-1. Certificate required for nomination - Number of signers - Certification of candidate for lieutenant governor or vice president.

12-7-1.1. Earliest time for circulation of petitions or nominating certificates.

12-7-2 to 12-7-4. Repealed.

12-7-5. Primary election candidate prohibited from filing as independent for same office in same year.

12-7-6. Candidates for Legislature required to reside in district of candidacy.

12-7-1. Certificate required for nomination - Number of signers - Certification of candidate for lieutenant governor or vice president.

Any candidate for nonjudicial public office who is not nominated by a primary election may be nominated by filing with the secretary of state or county auditor as prescribed by 12-6-4, not prior to May first at eight a.m. and not later than the first Tuesday in August at five p.m. prior to the election, a certificate of nomination, in the form prescribed by the state board of elections and which shall otherwise be executed as provided in chapter 12-6. If the certificate of nomination is mailed by registered mail by the first Tuesday of August at five p.m. prior to the election, it shall be considered filed. The certificate shall specify that an independent candidate for nonjudicial public office shall designate the name of any national political party, or political party organized pursuant to chapter 12-5, with which the candidate has an affiliation. If no affiliation exists, the candidate shall designate "independent." It shall be signed by not less than one percent of the voters residing within the district or political subdivision in and for which the officers are to be elected, based upon the total combined vote cast for Governor at the last certified gubernatorial election within the district or political subdivision. An independent candidate for Governor shall certify his selection for lieutenant governor to the secretary of state prior to circulation of

Nomination of Independent Candidates

his nominating petition. An independent candidate for President shall file a declaration of candidacy and a certification of his selection for vice president with the secretary of state prior to circulation of his nominating petitions.

12-7-1.1. Earliest time for circulation of petitions or nominating certificates.

No petition or certificate of nomination covered by this chapter may be circulated prior to the first day of January of the year in which the election will be held.

12-7-2. Joinder of candidates in certificate prohibited - Nomination for more than one office prohibited. Repealed by SL 1973, ch 74, 14; 1973, ch 75, 2.

12-7-3. Signers to add address and date of signing. Repealed by SL 1973, ch 75, 2.

12-7-4. Verification of certificate by circulator. Repealed by SL 1973, ch 75, 2.

12-7-5. Primary election candidate prohibited from filing as independent for same office in same year.

No person shall file a certificate of nomination pursuant to 12-7-1 for an office for which he has been a candidate in the primary election of the same year.

12-7-6. Candidates for Legislature required to reside in district of candidacy.

Any candidate for office in the state Legislature shall be a resident of the district for which he is a candidate at the time he signs his declaration of candidacy on the certificate of nomination as required by this chapter.

CHAPTER 12-8.

CERTIFICATION OF NOMINATIONS

Section

- 12-8-1. Certification by county board of nominees at primary - Certificate of election of party officials.
- 12-8-2. Certification by state board of nominees at primary - Certificate of election of party officials.
- 12-8-3 to 12-8-5. Repealed.
- 12-8-6. Time of filing certificates of nomination.
- 12-8-7. Repealed.
- 12-8-8. Certification to county auditors of nominations for state and district office - Delayed certification of presidential and vice-presidential candidates.

12-8-1. Certification by county board of nominees at primary - Certificate of election of party officials.

The county canvassing board, as soon as the returns of any primary election are canvassed, as provided in chapter 12-20, shall issue and mail to each person whom the returns show nominated for any county office, a certificate of nomination. The county canvassing board shall certify the names of such nominees to be printed on the official ballot at the succeeding November election. The board shall issue and mail a certificate of election to each person whom the returns show elected as party precinct committeeman or committeewoman, delegate or alternate to the state convention. The certificate shall be duly executed by said county canvassing board under the seal of the county. The county canvassing board shall similarly certify the election of the delegates and alternates to the

Certification of Nominations

state convention to the state political parties.

12-8-2. Certification by state board of nominees at primary - Certificate of election of party officials.

The state canvassing board, as soon as the returns of any primary election are canvassed as provided in 12-20-38, shall issue and mail to each person whom the returns show nominated for any congressional, state, judicial, or legislative office, or nominated pursuant to 12-6-9 or chapter 12-9, a formal certificate of nomination and shall certify the names of such nominees to be printed upon the official ballot at the succeeding November election under their respective political party designations; and to each person whom the returns show elected to a party position, a formal certificate of election; said certificates to be duly executed by said canvassing board under the great seal of the state.

12-8-3. Filing of party committee nominations to fill vacancies. Repealed by SL 1973, ch 76, 6.

12-8-4. Filing of certificates for independent candidates for local office. Repealed by SL 1973, ch 76, 6.

12-8-5. Filing of certificates for independent candidates for state or district office. Repealed by SL 1973, ch 76, 6.

12-8-6. Time of filing certificates of nomination.

Nominations by party committee to fill vacancies occurring in nominations made in primary elections and certificates of nomination to be filed with the secretary of state and those to be filed with the county auditor shall be filed not later than the second Tuesday in August at five p.m. or mailed by registered mail by that date and time prior to the election.

12-8-7. Filing requirements not applicable to special elections. Repealed by SL 1974, ch 118, 200.

12-8-8. Certification to county auditors of nominations for state and district office - Delayed certification of presidential and vice-presidential candidates.

The secretary of state, not later than the last Tuesday in August at five p.m. before the day fixed by law for the election of the persons nominated, shall certify to the county auditor of each county within which any voters of this state vote for such officer or officers nominated at the preceding primary, whose certificates of nomination have been filed in his office, or who have been regularly named or petitioned for filling of a vacancy, the name and description of each person so nominated. In years when a President and vice-president are to be nominated and the national party conventions are held at such a late date as to make the foregoing provisions impossible, then, the secretary of state shall make the certification not later than seven days after nominations of such President and vice-president.

CHAPTER 12-9.

JUDICIAL NOMINATIONS AND ELECTIONS

Section

- 12-9-1. Judicial officers nominated and elected in nonpolitical elections.
- 12-9-2. Party endorsement or nomination of judicial candidates as misdemeanor.
- 12-9-3. Repealed.

Judicial Nominations and Elections

- 12-9-3.1. Individual judicial positions designated by state board.
- 12-9-4. Filing of nominating petitions - Number of signatures - Form and contents.
- 12-9-5. Repealed.
- 12-9-6. Party references prohibited in petitions filed.
- 12-9-7. Repealed.
- 12-9-8. Primary not required if no more than two candidates for each position.
- 12-9-9. Repealed.
- 12-9-10. Order of listing candidates on ballot - Arrangement by lot - Right to be present.
- 12-9-11. Repealed.
- 12-9-12. Preparation of judicial primary ballots - Order of listing candidates.
- 12-9-13. Form of judicial ballot prescribed by board.
- 12-9-14. Nomination by highest vote - Number of nominees.
- 12-9-15. Petitions to fill vacancies after primary.
- 12-9-16 to 12-9-20. Repealed.

12-9-1. Judicial officers nominated and elected in nonpolitical elections.

All candidates for the office of judge of the circuit court, and such other judicial officers as may be required by law to be elected, shall be nominated and voted for at the primary and general elections in the manner provided by this chapter and not otherwise.

12-9-2. Party endorsement or nomination of judicial candidates as misdemeanor.

It is a Class 2 misdemeanor for any political party to endorse or nominate by any convention, or other method, any candidate for judicial office.

12-9-3. Individual nomination petitions required for nomination of judicial officers.
Repealed by SL 1973, ch 74, 14.

12-9-3.1. Individual judicial positions designated by state board.

The state board of elections shall designate each individual judicial position to be filled by election.

12-9-4. Filing of nominating petitions - Number of signatures - Form and contents.

Nominating petitions for judicial office filed pursuant to this chapter shall state the judicial position sought, using the designations established pursuant to 12-9-3.1, which shall be filed in the office of the secretary of state within the time prescribed by 12-6-4 and shall be signed by not less than fifty registered voters of the district or circuit or other division of court boundaries. To the extent it is consistent with this chapter, 12-6-8 shall govern such petitions.

12-9-5. Form of nominating petitions for judicial office. Repealed by SL 1974, ch 118, 200.

12-9-6. Party references prohibited in petitions filed.

In any petition filed by or on behalf of any candidate for nomination to judicial office at any primary election or any attachment thereto no reference shall be made to any party ballot or to the party affiliation of such candidate.

12-9-7. Verification of petition by circulator. Repealed by SL 1974, ch 118, 200.

12-9-8. Primary not required if no more than two candidates for each position.

Judicial Nominations and Elections

When nominating petitions are filed on behalf of candidates not to exceed twice the number of persons for the number of judicial positions to be filled, the names of such persons need not be placed upon the primary ballot but such persons shall be the nominees for such positions.

12-9-9. Certification to county auditors of candidates for Supreme, circuit and district county courts - District comprised of several counties - Names printed in order certified. Repealed by SL 1974, ch 118, 200.

12-9-10. Order of listing candidates on ballot - Arrangement by lot - Right to be present.

The order of names of judicial candidates certified by the secretary of state to each of the county auditors shall be arranged by lot. Any candidate shall have the right to be present or represented when the arrangement is being determined.

12-9-11. Order of name of candidates for district county judge. Repealed by SL 1974, ch 118, 200.

12-9-12. Preparation of judicial primary ballots - Order of listing candidates.

At all primary elections at which candidates for judicial office are to be nominated and a primary is required there shall be prepared and furnished by the several county auditors, separate ballots upon which shall be placed the names of the candidates for such offices, which ballots shall be entitled "nonpolitical judiciary ballot" and shall contain no other designation. The names of all candidates shall be placed thereon without any party designation in the order designated by the secretary of state.

12-9-13. Form of judicial ballot prescribed by board.

The form of the nonpolitical judiciary ballot shall be prescribed by the state board of elections.

12-9-14. Nomination by highest vote - Number of nominees.

The nominees shall be those persons constituting twice the number of persons to be elected receiving the highest number of votes in the primary election.

12-9-15. Petitions to fill vacancies after primary.

Whenever after nominations have been made under the provisions of this chapter and the number of nominees for a judicial office shall be reduced through death, withdrawal, or disqualification of a nominee or nominees for such office, the registered voters of the district or circuit as the case may be, may, if there is sufficient time for filing a nominating petition pursuant to 12-8-6, nominate one or more candidates for such judicial office by a petition otherwise complying with 12-9-4.

12-9-16. Form of petition to fill vacancy controlled by chapter - Number of signers required. Repealed by SL 1974, ch 118, 200.

12-9-17. Restrictions on filling of vacancies in two-judge circuits with limitations on residence of judges. Repealed by SL 1974, ch 118, 200.

12-9-18. Restrictions on filling of vacancies in three-judge circuits with limitations on residence of judges. Repealed by SL 1974, ch 118, 200.

12-9-19. Recall provisions not applicable to judicial office. Repealed by SL 1974, ch 118,

Judicial Nominations and Elections

200.

12-9-20. Application of general election laws to judicial nominations and elections.
Repealed by SL 1974, ch 118, 200.

CHAPTER 12-10.

NOMINATION AND ELECTION OF EDUCATIONAL OFFICERS

[Repealed by SL 1971, ch 89, 4; 1973, ch 74, 14; 1974, ch 119, 2]

CHAPTER 12-11.

SPECIAL CONGRESSIONAL ELECTIONS

Section

- 12-11-1. Special election to fill congressional vacancy - Time of election of representative.
- 12-11-2. Filing of election proclamation - Notice to county auditors and political parties - Nominations.
- 12-11-3. Filing of nominations - Certification - Conduct of elections.
- 12-11-4. Temporary appointment by Governor to fill vacancy in United States senate.
- 12-11-5. Special election to fill senate vacancy.
- 12-11-6. No special election if appointed senator's term expires at normal time.
- 12-11-7. Vacancy within ninety days of general election - Concurrent elections.
- 12-11-8. Nominations for specially elected senator - Vacancy near primary election.

12-11-1. Special election to fill congressional vacancy - Time of election of representative.

If a vacancy occurs in the office of a senator or representative in the United States Congress it shall be the duty of the Governor within ten days of the occurrence, to issue a proclamation setting the date of and calling for a special election for the purpose of filling such vacancy. If either a primary or general election is to be held within six months, an election to fill a vacancy in the office of representative in the United States Congress shall be held in conjunction with that election, otherwise the election shall be held not less than eighty nor more than ninety days after the vacancy occurs.

12-11-2. Filing of election proclamation - Notice to county auditors and political parties - Nominations.

The proclamation issued pursuant to 12-11-1 shall be filed with the secretary of state who shall, if a special election is called for, thereupon notify each county auditor and the chairman of each political party recognized pursuant to chapter 12-5 of the date and purpose thereof. The state central committee of each political party so recognized shall be entitled to nominate a person to fill such vacancy and independent candidates filing nominating petitions meeting the requirements of 12-7-1 may also have their names placed on the ballot.

12-11-3. Filing of nominations - Certification - Conduct of elections.

Party nominations and independent petitions shall be filed with the secretary of state not less than forty-five days preceding the elections. Such nominations shall be certified in like manner as are nominations for the purposes of a general election and such elections shall be conducted, canvassed and the results certified as in general elections.

Special Congressional Elections

12-11-4. Temporary appointment by Governor to fill vacancy in United States senate.

Pursuant to the Seventeenth Amendment to the Constitution of the United States of America, the Governor may fill by temporary appointment, until a special election is held pursuant to this chapter, vacancies in the office of senator in the senate of the United States.

12-11-5. Special election to fill senate vacancy.

The special election to fill the vacancy of a senator shall be held at the same time as the next general election. The general election laws shall apply unless inconsistent with this chapter.

12-11-6. No special election if appointed senator's term expires at normal time.

No special election, to fill a vacancy, may be held if the term of office of the appointed senator expires in the month of January immediately following the next general election that would occur after the vacancy.

12-11-7. Vacancy within ninety days of general election - Concurrent elections.

If a vacancy occurs within ninety days of the next general election, the special election to fill the vacancy shall be held concurrently with the general election to be held two years later.

12-11-8. Nominations for specially elected senator - Vacancy near primary election.

Nominations of candidates for the special election for senator shall be conducted pursuant to chapter 12-6. If a vacancy occurs within ninety days of the date of the primary election, or between the primary election and at least ninety days prior to the general election, the provisions of 12-11-2 and 12-11-3 shall apply.

CHAPTER 12-12.

NOTICE OF ELECTIONS

Section

12-12-1. Notice of offices to be filled - Publication.

12-12-2 to 12-12-4. Repealed.

12-12-1. Notice of offices to be filled - Publication.

The county auditor or a local election official charged with the conduct of local elections shall give notice of the offices that are to be filled by nomination or by declaration and the deadlines for filing thereof, and a further notice of each election stating the date and time of the election and designating polling places. Such notices shall be published in the official newspaper or newspapers at least once each week for two consecutive weeks, the last publication to be not less than ten nor more than fifteen days before the deadline for filing or the election. However, for any secondary election as provided for in 12-6-51.1, one notice shall be published along with a copy of the ballot in each of the newspapers in the state which publish on Saturday and Sunday. The secretary of state shall direct the newspapers to publish the ballot and notice on the eleventh and twelfth days after the primary election. The secretary of state shall pay all costs of publication.

12-12-2. Publication by county auditor of nominations certified for general or special

Notice of Elections

election - Time of publication. Repealed by SL 1973, ch 77, 2.

12-12-2.1. Uncontested candidacy included in notice. Repealed by SL 1973, ch 77, 2.

12-12-3. Posting by sheriff in lieu of publication by county auditor. Repealed by SL 1973, ch 77, 2.

12-12-4. Publication of facsimile ballot for voting machines - Expense of publication - Instructions for operation of machines. Repealed by SL 1973, ch 77, 2.

CHAPTER 12-13.

CONSTITUTIONAL AMENDMENTS AND SUBMITTED QUESTIONS

Section

12-13-1. Delivery of copies of submitted questions to county auditors - Attorney general's explanation.

12-13-2. Mailing to county newspapers of copies of submitted questions.

12-13-3. Newspaper publication of submitted questions - Compensation - Suspension of status on failure to publish - Election valid despite refusal to publish.

12-13-4. Lettering and numbering of submitted questions.

12-13-5. Statement to precede proposed constitutional amendments - Form prescribed by board.

12-13-6. Statement to precede initiated measures - Form prescribed by board.

12-13-7. Statement to precede referred laws.

12-13-8. Titles of proposed constitutional amendments.

12-13-8.1. Titles of initiated measures.

12-13-8.2. Titles of referred laws.

12-13-9. Attorney general's explanation of submitted questions - Maximum length - Effect of yes and no votes - Placement.

12-13-10. Repealed.

12-13-11. Materials printed on ballot in lieu of full text - Separate ballot.

12-13-12 to 12-13-15. Repealed.

12-13-16. Publication of false or erroneous information on constitutional amendment or submitted question as misdemeanor.

12-13-17 to 12-13-22. Repealed.

12-13-23. Preparation and distribution of public information.

12-13-1. Delivery of copies of submitted questions to county auditors - Attorney general's explanation.

The secretary of state, at least twelve weeks prior to the general election, shall deliver to each county auditor in this state four certified copies of each initiated measure or referred law and of all proposed amendments to the Constitution submitted by the Legislature or initiated pursuant to article XXIII of the Constitution to be voted on at such election together with the statement, title and attorney general's explanation to be published preceding the text of the proposed amendment or statement of repeal.

12-13-2. Mailing to county newspapers of copies of submitted questions.

The county auditor shall, on or before the first day of October of each year when there is a general election, mail to each official newspaper of the county a copy of all measures and questions as certified to him pursuant to 12-13-1.

12-13-3. Newspaper publication of submitted questions - Compensation - Suspension of

Constitutional Amendments and Submitted Questions status on failure to publish - Election valid despite refusal to publish.

It shall be the duty of each official newspaper of the county to publish once not less than two nor more than four weeks prior to each general election full copies of that material supplied pursuant to 12-13-2, and for such publication such newspaper shall receive compensation at the legal rate prescribed by law to be paid out of the general fund.

In case any official newspaper shall fail or refuse to make such publication as hereinbefore provided, such newspaper shall thereupon cease to be an official newspaper for the remainder of that year and for the following calendar year, and the board of county commissioners of such county shall appoint some other newspaper of such county as an official newspaper. The refusal of an official newspaper or newspapers to publish shall not invalidate the results of an election on such question.

12-13-4. Lettering and numbering of submitted questions.

In the publication of constitutional amendments, initiated measures, or referred laws, and in official ballots upon which the same are submitted, the constitutional amendments shall be designated by letters and the initiated measures and referred laws shall be numbered consecutively.

12-13-5. Statement to precede proposed constitutional amendments - Form prescribed by board.

In the publication of constitutional amendments and on official ballots upon which the amendments are submitted, the proposed constitutional amendments shall be preceded by a statement in the form prescribed by the state board of elections.

12-13-6. Statement to precede initiated measures - Form prescribed by board.

In the publication of initiated measures and on official ballots upon which the initiated measures are submitted, initiated measures shall be preceded by a statement in the form prescribed by the state board of elections.

12-13-7. Statement to precede referred laws.

In the publication of referred laws and on official ballots upon which the same are submitted, the referred laws shall be preceded by a statement in the form prescribed by the state board of elections.

12-13-8. Titles of proposed constitutional amendments.

Immediately following the statement required by 12-13-5, there shall be set forth a title to the measure or question in the form prescribed by the state board of elections.

12-13-8.1. Titles of initiated measures.

Immediately following the statement required by 12-13-6, there shall be set forth a title for the measure or question in the form prescribed by the state board of elections.

12-13-8.2. Titles of referred laws.

Immediately following the statement required by 12-13-7 for a referred law, there shall be set forth a title in the form prescribed by the state board of elections.

12-13-9. Attorney general's explanation of submitted questions - Maximum length - Effect of yes and no votes - Placement.

Constitutional Amendments and Submitted Questions

Not later than the fourth Tuesday in July, the attorney general shall prepare and deliver to the secretary of state the explanatory statement required by 12-13-1 of the purpose and legal effect of proposed or initiated amendments to the Constitution and of initiated measures and referred laws. This explanatory statement shall not exceed two hundred words. The explanatory statement shall be followed by a recitation of the effect of a "Yes" or "No" vote and shall be in the form prescribed by the state board of elections. The explanatory statement shall immediately follow the title on the printed ballots.

12-13-10. Statement of effect of yes and no votes. Repealed by SL 1974, ch 118, 200.

12-13-11. Materials printed on ballot in lieu of full text - Separate ballot.

The title, explanatory statement, the recitation of the effect, the place for voting and the statement opposite as required by 12-13-8 and 12-13-9 shall be printed on the ballot in lieu of the law, measure, constitutional amendment, or other question to be submitted to a vote of the people. All proposed constitutional amendments to be submitted at an election shall be placed on one ballot and all initiated measures or referred laws upon one ballot separate from the proposed constitutional amendments.

12-13-12. Attorney general's abbreviated statement for use on voting machines. Repealed by SL 1974, ch 118, 200.

12-13-13. Preparation and mailing to electors of sample ballots for submitted questions - Posting. Repealed by SL 1974, ch 118, 200.

12-13-14. Publication of facsimile ballots in lieu of mailing samples - Compensation of newspaper. Repealed by SL 1974, ch 118, 200.

12-13-15. Publication of constitutional amendments and submitted questions restricted to that provided. Repealed by SL 1974, ch 118, 200.

12-13-16. Publication of false or erroneous information on constitutional amendment or submitted question as misdemeanor.

Any person knowingly printing, publishing, or delivering to any voter of this state a document containing any purported constitutional amendment, question, law, or measure to be submitted to the voters at any election, in which such constitutional amendment, question, law or measure is misstated, erroneously printed, or by which false or misleading information is given to the voters, is guilty of a Class 2 misdemeanor.

12-13-17. Separate ballot and separate ballot box for constitutional amendments and submitted questions. Repealed by SL 1974, ch 118, 200.

12-13-18. Printing specifications for ballots on constitutional amendments and submitted questions - Size of ballots. Repealed by SL 1974, ch 118, 200.

12-13-19. Marking of ballots on constitutional amendments and submitted questions. Repealed by SL 1974, ch 118, 200.

12-13-20. Canvass and return of votes on constitutional amendments and submitted questions. Repealed by SL 1974, ch 118, 200.

12-13-21. Unorganized county - Duties of auditor of county to which attached. Repealed by SL 1974, ch 118, 200.

Constitutional Amendments and Submitted Questions

12-13-22. Failure to perform official duty as misdemeanor. Repealed by SL 1974, ch.118, 200.

12-13-23. Preparation and distribution of public information.

The secretary of state shall prepare and distribute public information on any constitutional amendment, initiated or referred measure submitted to the electors for approval.

CHAPTER 12-14.

PRECINCTS AND POLLING PLACES

Section

- 12-14-1. Designation of precincts and polling places by county commissioners - Changes - Local election precincts - Separate lists for local elections.
- 12-14-1.1. Notice to county auditor of boundary change for local election.
- 12-14-2. Boundaries to be clearly defined in resolution.
- 12-14-3. Repealed.
- 12-14-4. Maximum number of voters in paper ballot precinct - Reduction in size of precincts - Sufficient number of voting machines - Unreasonable waiting time.
- 12-14-5 to 12-14-8. Repealed.
- 12-14-9. Location of polling places.
- 12-14-10. Repealed.
- 12-14-11. Consolidation of precincts where voting machines used - Number of voters in precinct.
- 12-14-12. Number of precincts reported by county auditors to secretary of state.
- 12-14-13. Display of flag at polling places at election.

12-14-1. Designation of precincts and polling places by county commissioners - Changes - Local election precincts - Separate lists for local elections.

The board of county commissioners shall by resolution provide for election precincts throughout its county and shall designate polling places within such precincts. The board shall establish new election precincts when required by the provisions of this chapter or 2-2-22, and may by resolution change the boundaries of election precincts already established. The precincts and polling places shall be the same for all elections except where election by ward or a boundary other than a precinct is required for the purposes of a local election and would be inconsistent therewith. In such event, the governing board may establish its precincts for the purposes of its elections. The county auditor shall keep separate lists of voters living within the boundaries of the municipality and outside the boundaries for the purpose of municipal and school elections.

12-14-1.1. Notice to county auditor of boundary change for local election.

It shall be the duty of officials in charge of local elections to notify the county auditor at least thirty days preceding their local elections, of the precinct boundary changes if any have been made.

12-14-2. Boundaries to be clearly defined in resolution.

The resolution of the board of county commissioners establishing new precincts or making any change in precincts already established shall clearly set forth and define the boundaries of the election precincts established or altered.

Precincts and Polling Places

12-14-3. Civil township as election precinct. Repealed by SL 1974, ch 118, 200.

12-14-4. Maximum number of voters in paper ballot precinct - Reduction in size of precincts - Sufficient number of voting machines - Unreasonable waiting time.

No paper ballot election precinct shall be continued if more than five hundred votes were cast in any contest for two consecutive general elections. If two elections pass and a paper ballot precinct continues to cast more than five hundred votes in any contest, the state board of elections shall give notice to the county auditor and board of county commissioners of the county in which the precinct is situated that the precinct shall be reduced so that less than five hundred votes shall be cast in any contest within the precinct. If the board of county commissioners refuses to reduce the size of the precinct in accordance with 12-14-1, the state board of elections shall issue an order reducing the size of the precinct. This procedure shall not be deemed a "contested case" as defined in 1-26-1. The state board of elections may redraw other precinct boundaries as necessary within the county to facilitate the reduction in size of the precinct casting over five hundred votes. In precincts where voting machines or electronic voting systems are used, the board of county commissioners shall provide sufficient machines and electronic voting systems or reduce the size of any precinct at which there was unreasonable waiting time imposed upon the voters at the last preceding general election. Under ordinary circumstances, more than thirty minutes waiting time shall be deemed unreasonable waiting time except at the time when the polls close.

12-14-5. Division of organized township into two precincts on petition by voters - Names of precincts - Polling places. Repealed by SL 1974, ch 118, 200.

12-14-6. Combination of townships in single precinct. Repealed by SL 1974, ch 118, 200.

12-14-7. Municipal ward as precinct - Consolidation of wards into single precinct. Repealed by SL 1974, ch 118, 200.

12-14-8. Town and contiguous territory as separate precinct on petition by electors. Repealed by SL 1974, ch 118, 200.

12-14-9. Location of polling places.

Polling places shall be selected with reference to the convenience of the voters in the various election precincts, and should be as near the center of the election precincts as practicable but if in their judgment the convenience of the voters will be served thereby or if communication can be thereby made available, the polling place may be located outside the boundaries of the precinct.

12-14-10. Selection of polling places by township or municipality - Designation by county commissioners. Repealed by SL 1974, ch 118, 200.

12-14-11. Consolidation of precincts where voting machines used - Number of voters in precinct.

All precincts and polling places as constituted under the election laws for use of paper ballots may be consolidated for the use of voting machines into fewer and larger precincts as deemed necessary and advisable by the governing body having jurisdiction thereof. Such precincts, consolidated for voting machines only, when voting machines are used, may have as many registered voters therein as deemed advisable in the interest of economy and efficiency.

12-14-12. Number of precincts reported by county auditors to secretary of state.

Precincts and Polling Places

Five days after the close of voter registration for each primary and general election, each county auditor shall report to the secretary of state the number of election precincts throughout the county.

12-14-13. Display of flag at polling places at election.

The American flag shall be displayed inside or outside of all polling places within this state at each election.

CHAPTER 12-15.

PRECINCT ELECTION OFFICIALS

Section

- 12-15-1. Appointment by county auditor of precinct election officials - Names submitted by parties.
- 12-15-1.1, 12-15-1.2. Repealed.
- 12-15-2. Judges and clerks to be registered voters and residents of precinct or district.
- 12-15-2.1. Judges and clerks prohibited to serve as poll watchers.
- 12-15-3. Distribution of precinct officials among parties - Superintendent from majority party.
- 12-15-4. Repealed.
- 12-15-5. Repealed.
- 12-15-6. Repealed.
- 12-15-7. Meetings of precinct officials for instruction on laws and duties - Compensation for attendance.
- 12-15-8. Repealed.
- 12-15-9. Oath of precinct officials - Entry in pollbook.
- 12-15-10. Replacement of judge or clerk failing to take oath or to serve.
- 12-15-11. Fee paid election judges and clerks - Mileage for returning pollbooks and ballot boxes.
- 12-15-12. Repealed.
- 12-15-13. Certification of fee of election judges and clerks - Order for payment from treasury.
- 12-15-14. Counting boards in large paper ballot precincts - Duties.
- 12-15-14.1. Counting boards in smaller precincts to avoid unreasonable delay.
- 12-15-14.2. Counting boards in voting machine precincts with large number of absentee ballots - Applicability.
- 12-15-14.3. Certain relatives of candidates prohibited from serving on election and counting boards.
- 12-15-15, 12-15-16. Repealed.

12-15-1. Appointment by county auditor of precinct election officials - Names submitted by parties.

The county auditor shall, not less than twenty days before any election, appoint a minimum of one judge of election, two clerks of election and judges and clerks of the counting board if such board is appointed pursuant to 12-15-14 or 12-15-14.1 for each of the voting precincts of the county. Two or four additional judges may be appointed. The auditor shall designate one judge of elections and one judge of the counting board as superintendent of their respective boards. The auditor shall make the appointments from lists of names submitted by the county central committee of each party. If a list is submitted, it must be received by the county auditor no less than forty-five calendar days prior to an election. If no names are presented, the county auditor shall use his own discretion.

Precinct Election Officials

12-15-1.1. Appointment of local election officials by county auditor upon resolution of local governing board - Continuing effect of resolution. Repealed by SL 1985, ch 111, 3.

12-15-1.2. Local superintendents chosen - No extra pay. Repealed by SL 1985, ch 111, 4.

12-15-2. Judges and clerks to be registered voters and residents of precinct or district.

Any judge or clerk appointed under the provisions of 12-15-1 shall be a registered voter and a resident of the precinct or election district for which he is appointed. If, by the time prescribed in 12-15-1, a sufficient number of judges or clerks are unable to be appointed, a vacancy may be filled by appointing any registered voter of the county in which the precinct is located provided the voter meets the party distribution required by 12-15-3.

12-15-2.1. Judges and clerks prohibited to serve as poll watchers.

No person appointed as a judge or clerk of any election may serve as a poll watcher at that election.

12-15-3. Distribution of precinct officials among parties - Superintendent from majority party.

In the appointment of judges of election and of the counting board under this chapter, if three or more parties have candidates on the official ballot, one judge shall be appointed from each party having at least fifteen percent of the voters as shown by the precinct or district returns of the last preceding general election. If but two parties have candidates on such ballots, the judges shall be selected therefrom and the party receiving a majority of the votes cast for Governor in the election precinct at the last preceding gubernatorial election shall have a majority of judges. In all cases the judge selected as superintendent of elections shall belong to the party whose candidate received the most votes for Governor in the last gubernatorial election in that precinct. Clerks of election and counting boards shall be of the different political parties represented in the primary election, if possible. If a precinct has been created since the last election, one of the judges and the superintendent of elections shall belong to the party which received the most votes for Governor in the county in the last gubernatorial election.

12-15-4. Clerks of election chosen by superintendent - Party representation. Repealed by SL 1975, ch 119, 22.

12-15-5. Judges acting as clerks in small precincts. Repealed by SL 1993, ch 112, 3.

12-15-6. Election officials where voting machines used. Repealed by SL 1974, ch 118, 200.

12-15-7. Meetings of precinct officials for instruction on laws and duties - Compensation for attendance.

Prior to each general or primary election, each county auditor, assisted by the state's attorney, shall call together the superintendents from each of the precincts in the county, and such clerks and judges of elections as the county auditor may deem appropriate, at some convenient time and place and instruct them and the judges and clerks of all counting boards on the election laws and the duties of the judges and clerks of election and counting boards. The superintendents and all judges and clerks including the judges and clerks of the counting boards who are called to the meeting and who attend the meeting shall be paid a fee fixed by the board of county commissioners of not less than five dollars for attending the meeting.

Precinct Election Officials

12-15-8. Preparation of instruction material by attorney general - Distribution of copies of law and sample ballots. Repealed by SL 1974, ch 118, 200.

12-15-9. Oath of precinct officials - Entry in pollbook.

Previous to votes being taken, the judges and the clerks of the election and counting boards shall severally take an oath in the following form:

"I, A.B., do solemnly swear (or affirm) that I will perform the duties of judge (or clerk) according to law and the best of my ability and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the election about to be held."

The judges of election and counting boards may administer the oath to each other and to the clerks of the election and counting boards. The person administering the oaths shall cause an entry thereof to be made and subscribed by him and prefixed to the pollbook.

12-15-10. Replacement of judge or clerk failing to take oath or to serve.

If any person appointed as judge or clerk of election or as a judge or clerk of the counting board neglects or refuses to be sworn or to act as such, the position of the person shall be filled by the voters of the precinct present at the polling place when it opens, from the different political parties, as provided in this chapter. The person so elected to fill the vacancy is vested with the same power for that election, as if regularly appointed.

12-15-11. Fee paid election judges and clerks - Mileage for returning pollbooks and ballot boxes.

The judges and clerks of each election and counting boards shall receive a fee to be established annually by resolution of the board of county commissioners at its first regular meeting each year. The person delivering the pollbooks and ballot boxes to the proper authority at the county seat shall receive the county rate for mileage as established pursuant to 7-7-24, for miles necessarily traveled in going to and returning from making the delivery.

12-15-12. Compensation of judges and clerks where voting machines used - Mileage for returning pollbook and keys to county seat. Repealed by SL 1974, ch 118, 200.

12-15-13. Certification of fee of election judges and clerks - Order for payment from treasury.

The county auditor shall, on the receipt of the returns of any primary, general or special election make out a certificate stating the fee the judges and clerks of the election board and counting board of such election are entitled for their services. The county auditor shall submit the certificate to the board of county commissioners at its next session. The board shall order the fee to be paid out of the county treasury.

12-15-14. Counting boards in large paper ballot precincts - Duties.

In every election precinct where the number of ballots to be voted on paper ballots, including absentee ballots, has in prior general elections exceeded three hundred voters, the auditor shall appoint a precinct counting board or boards to be composed of three judges, one of whom shall be superintendent, and two clerks who shall count the ballots cast in the general election under the direction of the superintendent of the counting board.

12-15-14.1. Counting boards in smaller precincts to avoid unreasonable delay.

Notwithstanding 12-15-14, the county auditor may appoint counting boards in those precincts where the number of ballots to be voted on paper ballots, including absentee

Precinct Election Officials

ballots, has in prior elections unreasonably delayed the completion of the ballot count even though the total number of ballots cast in prior elections did not exceed three hundred voters.

12-15-14.2. Counting boards in voting machine precincts with large number of absentee ballots - Applicability.

In every election precinct where voting machines are used, a separate counting board shall be appointed if more than two hundred absentee ballots were cast in that precinct in the last general election. Either the counting board or the election board shall process all absentee ballots which have not been processed prior to the close of the polls.

This section does not apply if an absentee ballot precinct is created pursuant to 12-19-37 and applies only to the general election.

12-15-14.3. Certain relatives of candidates prohibited from serving on election and counting boards.

No person may serve on an election or counting board who is a candidate or related by blood or marriage within the second degree to a candidate who is on the ballot in that precinct.

12-15-15. Composition and appointment of separate canvassing board - Qualifications. Repealed by SL 1974, ch 118, 200.

12-15-16. Compensation of separate canvassing board - Mileage for delivery of pollbooks and ballot boxes to county seat. Repealed by SL 1974, ch 118, 200.

CHAPTER 12-16.

BALLOTS AND ELECTION SUPPLIES

Section

- 12-16-1. Printed ballots to be provided - Candidates listed - Sample ballots - Submitted questions.
- 12-16-1.1. Automatic election of unopposed candidate - Certificate of election.
- 12-16-2. Paper and printing specifications - Columns for parties and independent candidates - Party affiliation printed below independent candidate's name.
- 12-16-2.1. Colors for ballots - Selection by party for primary ballots.
- 12-16-3. Repealed.
- 12-16-3.1. Order of party columns.
- 12-16-4. Repealed.
- 12-16-5. Order of offices placed on ballot.
- 12-16-6. Presidential and vice-presidential candidates listed - Single square to vote for electors.
- 12-16-7. Number stated where more than one to be chosen - More than one independent candidate.
- 12-16-8. Order of listing candidates for same office in same column.
- 12-16-9. Form for official ballot at general election.
- 12-16-10. Election of two or more candidates to same office - Official ballot.
- 12-16-11. Separate nonpolitical judiciary ballot.
- 12-16-12, 12-16-13. Repealed.
- 12-16-14. Affidavit for correction of errors in ballot - Circuit court order - Patent errors corrected without order.
- 12-16-15. Mailing of sample ballots to voters - Posting.
- 12-16-16. Publication of facsimile ballots in lieu of mailing - Compensation of newspapers.

Ballots and Election Supplies

- 12-16-16.1. Publication of facsimile ballots by counties using same legal newspaper.
- 12-16-17. Number of official and sample ballots provided to precincts - Reserve supply retained and delivered on request - Samples or photocopies used in emergency.
- 12-16-18. Delivery of ballots to precinct superintendents - Packaging and marking - Receipts.
- 12-16-19. Delivery of ballots and supplies at instruction meeting - Sheriff to deliver if judge not present.
- 12-16-20. Delivery of unbroken package to election board - Receipts.
- 12-16-21. Replacement of ballots lost, stolen or not delivered - Additional ballots.
- 12-16-22. Repealed.
- 12-16-23. Instruction cards for voters.
- 12-16-24. Repealed.
- 12-16-25. Posting of instruction cards in polling place.
- 12-16-26. Construction of ballot boxes - Openings.
- 12-16-27. Repealed.
- 12-16-28. Pollbooks provided - Form.
- 12-16-29. Repealed.
- 12-16-30. Official stamp for ballots - Delivery of stamp and supplies.
- 12-16-31. Repealed.
- 12-16-32. Separate tally sheets provided.
- 12-16-33. Repealed.
- 12-16-34. Rules and columns on tally sheets - Headings.
- 12-16-35. Listing of candidates and submitted questions on tally sheets.
- 12-16-36. Space for tally marks and vote totals on tally sheets.
- 12-16-37. Space for tallying votes on submitted questions.
- 12-16-38. Tallying and marking of straight party and mixed votes - Entry of total votes.
- 12-16-39. Tally sheets for candidates and submitted questions.
- 12-16-40. Repealed.
- 12-16-41. Tally lists govern over certificate.

12-16-1. Printed ballots to be provided - Candidates listed - Sample ballots - Submitted questions.

The county auditor shall provide printed ballots for every election in which the voters of the entire county participate. Except as provided in 12-6-9, printed ballots for a primary election shall contain the name of every candidate who has filed for nomination and is approved. The printed ballots for the election of officers shall contain the name of every candidate whose nomination has been certified or filed with the county auditor in the manner provided by law unless they are deemed elected by having no opposition. The names of the candidates shall appear on the ballot exactly as listed in the declaration of candidacy of the candidates' nominating petitions. Sample ballots shall be printed on paper of a different color from the official ballot but in the same form. The sample ballots and official ballots shall be printed and in the possession of the county auditor not later than six weeks prior to a primary or general election. The county auditor shall also prepare the necessary ballots if any question is required to be submitted to the voters of the county. Ballots for general elections shall be of the style and form prescribed in 12-16-2 to 12-16-11, inclusive.

12-16-1.1. Automatic election of unopposed candidate - Certificate of election.

Any candidate who has been duly nominated to an elective office except state Legislature, political or nonpolitical, having no opposing candidate at the general election shall automatically be elected and the county auditor or secretary of state, as the case may be, shall, following the official canvass, issue a certificate of election to such candidate and his name shall not be printed on the general election ballot.

Ballots and Election Supplies

12-16-2. Paper and printing specifications - Columns for parties and independent candidates - Party affiliation printed below independent candidate's name.

All official ballots shall be printed on good quality bond paper, in black ink, and in the English language. The names of candidates for each office shall be printed in large type under the designation of the party or principle for which the nomination is made, so that all the names of candidates for each party shall be in separate columns and each party ticket shall be printed side by side on the ballot with names of candidates for each office directly opposite each other and the names of all independent candidates shall occupy a column separate from regular party tickets under the heading "independent candidates." If the certificate of nomination of an independent candidate filed pursuant to 12-7-1 specifies the name of a national political party, or a political party organized pursuant to chapter 12-5, with which the independent candidate has an affiliation, the name of the political party specified shall be printed directly below his name on the ballot.

12-16-2.1. Colors for ballots - Selection by party for primary ballots.

The state board of elections shall, by rule adopted pursuant to chapter 1-26, establish for sample ballots the color or colors and shall from time to time establish the color of ballots to be voted in all elections so as to differentiate between the political and nonpolitical judicial and educational ballots and other ballots to be voted upon, to facilitate sorting and counting of the vote. Colors for primary ballots shall be that color requested by the state central committee of the party unless the requested color is like or too similar to that established for sample ballots.

12-16-3. Order of party columns - Party headings. Repealed by SL 1984, ch 107, 1B.

12-16-3.1. Order of party columns.

When more than one political party qualifies for the general election, the position on the ballot shall be determined by drawing of lots by the secretary of state at the same time and in the same manner as prescribed for candidates in 12-16-8. The first name drawn shall be placed in the left-hand column, the second name drawn shall be placed in the next column and each succeeding name drawn shall be placed on the ballot in the order drawn. Representatives of the parties shall have the right to be present when such arrangement is determined.

12-16-4. Party and individual candidate squares or circles - Addresses of candidates shown. Repealed by SL 1976, ch 105, 84.

12-16-5. Order of offices placed on ballot.

The names of the candidates shall be placed upon the ballot in the following order: presidential electors, if any, United States senator, if any, representatives in Congress, state officials, legislative, and county candidates.

12-16-6. Presidential and vice-presidential candidates listed - Single square to vote for electors.

The group of presidential electors in each column shall be preceded by the surnames of the respective candidates for President and vice-president for whom they are pledged; as for instance, "□ Coolidge and Dawes electors," "□ Davis and Bryan electors," etc., which shall be printed conspicuously and be preceded by a square as above indicated.

12-16-7. Number stated where more than one to be chosen - More than one independent candidate.

Ballots and Election Supplies

If more than one candidate is to be nominated or elected to the same office the ballot shall so state, as for instance, "For state senator, any two to be elected." In the independent column if there is more than one candidate for a single office the ballot shall so state, as for instance, "For United States senator, one to be elected."

12-16-8. Order of listing candidates for same office in same column.

When there is more than one candidate seeking nomination or election for the same office in any column, the names of candidates for that office shall be arranged by lot, under the supervision of the county auditor, if such candidates can be voted for only in one county or district therein, and by the secretary of state in case such candidates can be voted for in more than one county. Such candidates shall have the right to be present or represented when such arrangement is being determined.

12-16-9. Form for official ballot at general election.

The form of the official general election ballot shall be prescribed by the state board of elections in accordance with other provisions of the law.

12-16-10. Election of two or more candidates to same office - Official ballot.

If two or more members of the state house of representatives or the county commission are to be elected at large from a county, that portion of the official ballot shall also be prescribed, in accordance with 12-16-8, by the state board of elections.

12-16-11. Separate nonpolitical judiciary ballot.

At each general election when judicial officers are elected, there shall be a separate ballot entitled "nonpolitical judiciary ballot" which shall be prescribed by the state board of elections.

12-16-12. Nonpolitical educational ballot provided - Candidates listed. Repealed by SL 1974, ch 118, 200.

12-16-13. Combined nonpolitical judicial and educational ballot - Order of offices listed - Highway board in unorganized county. Repealed by SL 1974, ch 118, 200.

12-16-14. Affidavit for correction of errors in ballot - Circuit court order - Patent errors corrected without order.

Whenever it shall appear by affidavit that an error has occurred in the publication of the names or descriptions of the candidates nominated for office or in the printing of any sample or official ballots, the judge of the circuit court, upon application of any voter, shall by an order require the county auditor or other officer charged with the duty of preparing ballots to correct such error or to show cause at such time and place as under the circumstances he may deem necessary why such error should not be corrected. The county auditor or such other officer shall, upon his own motion, correct without delay any patent error in ballots which he may discover or which shall be brought to his attention.

12-16-15. Mailing of sample ballots to voters - Posting.

When directed by his board of county commissioners, the county auditor shall forthwith upon receipt from the printer of the sample ballots described in 12-16-1, mail to every voter of his respective county at his post-office address, one of each of such printed sample ballots in an envelope with postage fully paid thereon, and it shall also be his duty to forthwith post

Ballots and Election Supplies

at the front door of the courthouse, in a conspicuous place, one or more of such printed sample ballots, in such manner that the same can be plainly seen and read by the public.

12-16-16. Publication of facsimile ballots in lieu of mailing - Compensation of newspapers.

If the county commissioners direct that sample ballots not be mailed as provided by 12-16-15, the county auditor shall publish in each official newspaper of the county, facsimiles of the official ballots of every election in which the voters of the entire county participate. The facsimile shall be published once in each legal newspaper at least ten days prior to each election. The newspaper shall receive for the publications, compensation at the same rate as the general display rate for the newspaper. The published facsimile may be reduced in size proportionately up to fifty percent but in no case may the ballot wording be in a type less than eight point. If a portion of a candidate ballot is not voted on in the entire county, a facsimile of that portion of the ballot may be published simultaneously but separate from the candidate ballot and shall contain a description of who will vote on that portion of the ballot.

12-16-16.1. Publication of facsimile ballots by counties using same legal newspaper.

If two or more counties use the same legal newspaper and use the same type of ballot, that portion of the ballot which each county votes on in common may have its facsimile published once. If a portion of the ballot is not voted on in common, a facsimile of that portion of the ballot may be published simultaneously but separate from the common portion of the ballot and shall contain a description of who will vote on that portion of the ballot.

12-16-17. Number of official and sample ballots provided to precincts - Reserve supply retained and delivered on request - Samples or photocopies used in emergency.

Where paper ballots are used, the county auditor shall provide official and sample ballots to each precinct using them in the county. The quantity provided for a primary election shall be at least ten percent more than the number of votes cast for the gubernatorial candidate of the respective parties in the preceding gubernatorial primary election. The quantity provided for a general election shall be at least ten percent more than the number of votes cast for all candidates for Governor as shown by the returns of the last preceding gubernatorial election. In the case of newly created precincts, the quantity shall be determined by the reports of the judges of elections for the same. The county auditor shall also provide and retain in that office an ample supply of all official ballots, and if at any time before or during an election, an additional supply for any precinct shall be requested by the judges of election, the county auditor shall immediately cause to be delivered, to the judges of election of the precinct, a supply of extra official ballots. If the supply of official ballots has been completely exhausted, the county auditor may make emergency substitution by delivering or authorizing the use of sample ballots or photocopies of the official ballot. The election board shall account for any sample ballots or photocopies authorized to be used.

12-16-18. Delivery of ballots to precinct superintendents - Packaging and marking - Receipts.

The county auditor shall, not later than the opening of the polls on the day of the election, cause to be delivered to the superintendent of election of each precinct the proper number of ballots provided for the use of the voters of such precinct at such election. The same shall be delivered in sealed packages, with marks on the outside of each package clearly stating the polling place for which it is intended, together with the number of ballots enclosed. Receipts for ballots, showing the number delivered, shall be given by the superintendent of election, which receipts shall at once be forwarded to the county auditor.

Ballots and Election Supplies

12-16-19. Delivery of ballots and supplies at instruction meeting - Sheriff to deliver if judge not present.

Such ballots, together with all other election supplies may be delivered to the superintendent of elections or a judge for such precincts at the time they are called together to receive instructions pursuant to 12-15-7; and in case any such superintendent, or another judge from that precinct who shall give receipt therefor be not present to receive instructions, the ballots, election supplies, and the ballot boxes for his precinct shall be delivered to the sheriff for delivery to said superintendent of election.

12-16-20. Delivery of unbroken package to election board - Receipts.

The judge of election receiving such package of ballots shall at the opening of the polls on election day cause the same to be delivered with the seal unbroken to the election board of his election precinct and shall take receipts therefor from the judges of election, which receipts shall be returned to the county auditor with the election returns.

12-16-21. Replacement of ballots lost, stolen or not delivered - Additional ballots.

In case the ballots to be furnished to any precinct shall for any reason fail to be duly delivered or received, or after delivery be exhausted, destroyed, or stolen, it shall be the duty of the judge of election or election board of such precinct immediately to procure from the county auditor replacement ballots.

12-16-22. Expense of printing and distributing ballots and instruction cards. Repealed by SL 1974, ch 118, 200.

12-16-23. Instruction cards for voters.

The county auditor shall cause to be printed in large type on cards in the English language and such other languages as may be deemed necessary, instructions for the guidance of voters in preparing their ballots in such form as prescribed by the state board of elections and deliver them with the ballots in sufficient numbers to meet the requirements of 12-16-25.

12-16-24. Contents of instruction cards. Repealed by SL 1974, ch 118, 200.

12-16-25. Posting of instruction cards in polling place.

The judges of election shall post no less than one of such cards in each booth or compartment provided for the preparation of ballots and not less than three of such cards elsewhere in and about the polling place upon the day of election.

12-16-26. Construction of ballot boxes - Openings.

Ballot boxes shall be so constructed to preclude the removal of any material therefrom except by means of an opening which may be secured in the closed position by means of a metal seal which will preclude opening of the box without the destruction of the seal; materials used in the construction of ballot boxes shall be such that they will prevent tampering with or mutilation of ballots within them. There shall be a second opening in each such ballot box, at the top when the box is upright, not larger than is sufficient to admit a single closed ballot to be inserted therein at one time.

12-16-27. Metal seals used in lieu of padlocks on ballot boxes. Repealed by SL 1974, ch 118, 200.

Ballots and Election Supplies

12-16-28. Pollbooks provided - Form.

The person in charge of an election shall provide paper ballot precincts with a pollbook in the form prescribed by the state board of elections for each election precinct for the purposes of 12-18-5.

12-16-29. Combination registration and pollbook furnished where voting machines used - Headings on pollbooks. Repealed by SL 1974, ch 118, 200.

12-16-30. Official stamp for ballots - Delivery of stamp and supplies.

Before opening the polls the county auditor or officer charged with the conduct of a local election shall cause to be delivered to a judge of election of each precinct within the county, for use at the polling place of the precinct, a rubber or other stamp which shall contain the words "official ballots," the name or number of the election precinct, the name of the county, and the date of the election. Such stamp and other supplies for the election shall be delivered and receipted for by the various officers in the same manner and at the same time as provided in this chapter for the delivery and receipt of packages of ballots.

12-16-31. Tally sheets delivered to polling place before opening of polls. Repealed by SL 1974, ch 118, 200.

12-16-32. Separate tally sheets provided.

A separate tally sheet shall be provided for computing the votes for candidates of each political party, for independent candidates, and for judicial offices, and for all constitutional amendments, referred laws and initiated measures submitted to the voters at such elections as they appear on separate ballots.

12-16-33. Combined tally sheets for nonpolitical candidates and submitted questions. Repealed by SL 1974, ch 118, 200.

12-16-34. Rules and columns on tally sheets - Headings.

Such tally sheets in the area for tallying votes cast shall be ruled by horizontal and perpendicular lines so as to form squares of suitable size to contain five tally marks each, four of which may be upright and the fifth crossing the same at an oblique angle, every fifth perpendicular line in such ruling to be red, so that five squares for tally marks shall be contained between each two red lines. In a perpendicular column at the left margin of each tally sheet there shall be left sufficient space so that there may be printed or written in ink in plain and legible manner the names of all candidates and all questions submitted to the voters at such election, in the same order that the same shall have been arranged upon the official ballots used in such election. At the extreme right margin of the tally sheet there shall be three perpendicular columns with sufficient space that each of said perpendicular columns may be labeled at the top of said tally sheet, commencing at the extreme right margin and proceeding toward the left margin, as follows: "Total All Votes"; "Total Straight Party Votes"; and "Total Mixed Votes Tallied."

12-16-35. Listing of candidates and submitted questions on tally sheets.

The names of candidates and all questions submitted to the voters shall be listed in the perpendicular column at the left of the tally sheet as required by 12-16-34.

12-16-36. Space for tally marks and vote totals on tally sheets.

Ballots and Election Supplies

There shall be at the right of each name or question in one or two horizontal lines a sufficient number of squares for the tally marks as provided in 12-16-34, on the tally sheets for each precinct, to contain the tally marks for one-third more votes than were cast in such precinct at the last preceding general election, not exceeding six hundred in any case. There shall be sufficient spaces at the right of the squares on such tally sheet so that the clerk may write out in full: first, the total number of votes tallied for each candidate upon ballots where votes were cast for candidates from more than one political party; second, the total number of votes accruing to each candidate upon ballots where votes were cast for candidates from only one political party; and third, the total number of votes tallied for such candidate.

12-16-37. Space for tallying votes on submitted questions.

There shall be sufficient spaces at the right of the squares on each tally sheet used for questions submitted to the voters to tally in full the total number of votes tallied for each question voted upon.

12-16-38. Tallying and marking of straight party and mixed votes - Entry of total votes.

Ballots which are found to contain votes cast for candidates from only one political party shall not be individually tallied for each candidate, but when counted, their numerical result shall be placed in the column marked "Total Straight Party Votes" for each candidate listed on such tally sheet. After the tallying and marking in the tally sheet, of the votes for each candidate upon ballots where votes were cast for candidates from more than one political party, the number of votes so tallied for each candidate shall be counted, and the numerical result shall be placed in the column marked "Total Mixed Votes Tallied" opposite his name. The numerical result found by adding the numbers placed in the columns marked "Total Mixed Vote Tallied" and "Total Straight Party Votes" shall be entered for each candidate in the column marked "Total All Votes" opposite his name.

12-16-39. Tally sheets for candidates and submitted questions.

The tally sheets for candidates for public office and submitted questions shall be prescribed by the state board of elections.

12-16-40. Form for tally sheets for submitted questions. Repealed by SL 1976, ch 105, 84.

12-16-41. Tally lists govern over certificate.

In any case in which the certificate of the precinct judges as to the number of votes cast for any candidate or in favor of or against any question submitted to the voters shall not agree with the votes as shown by such tally list, the canvassing board to which such returns are made shall take as correct the number of such votes shown by such tally list rather than the certificate.

CHAPTER 12-17.

VOTING MACHINES

Section

- 12-17-1. Rental or purchase of voting machines authorized.
- 12-17-2. Methods of financing voting machines - Sources of payment.
- 12-17-3. Contracts for joint use and maintenance of machines.
- 12-17-4. Voting facilities required in machines - Places for ballot labels and submitted questions.

Voting Machines

- 12-17-5. Repealed.
- 12-17-6. Machine to permit voting for multiple candidates - Prevention of unauthorized voting - Primaries.
- 12-17-7. Machine to permit change of vote before final operation.
- 12-17-8. Protection of secrecy - Prevention of tampering.
- 12-17-9. Protective counters - Visibility during operation.
- 12-17-10. Accurate registration by machine.
- 12-17-11. Locking device to prevent operation after close of polls.
- 12-17-12. Device for printing or photographing totals.
- 12-17-13. Designation and training of machine custodians - Compensation - Duties.
- 12-17-14. Public exhibition and demonstration before first use of machines.
- 12-17-15. Mechanical instruction model used at polls during voting - Attendance by board member.
- 12-17-16. Instructions by county, municipality or school district for examination of machines, conduct of election and canvass of returns.
- 12-17-17. Locking and sealing of machine after completion of canvass.
- 12-17-18. Use of machine in closely following election notwithstanding pendency of contest or recount - Certificate filed with clerk of courts - Duties of official canvassers.
- 12-17-18.1. Circuit court order to clear machine for use in closely following election.
- 12-17-19. Application of general election laws where voting machines used - Special provisions govern where in conflict.

12-17-1. Rental or purchase of voting machines authorized.

The governing body of any county or municipality may adopt, rent or purchase or procure any voting machines which comply with the requirements herein provided and they may thereafter be used for all elections.

12-17-2. Methods of financing voting machines - Sources of payment.

The governing board of any county or municipality may lease, purchase, or lease-purchase voting machines meeting the requirements of this chapter. Such voting machines or rental thereon may be paid, from general funds, from tax levy therefor or on lease-purchase for any period of years not to exceed ten.

12-17-3. Contracts for joint use and maintenance of machines.

A public agency owning voting machines may, pursuant to chapter 1-24, contract with any other public agency for the joint use and maintenance of the machines.

12-17-4. Voting facilities required in machines - Places for ballot labels and submitted questions.

Any voting machine adopted, rented or purchased by any county or municipality in this state, in accordance with the provisions of this chapter, shall provide facilities for voting for all candidates to be nominated, or elected and upon all questions or measures as may be submitted to the voters. There shall be clearly correlated places for ballot labels to be affixed and the names of all candidates, questions and measures and for the placement of a copy of the attorney general's statement prepared pursuant to 12-13-9.

12-17-5. Method of operating voting machine to be readily learned. Repealed by SL 1974, ch 118, 200.

12-17-6. Machine to permit voting for multiple candidates - Prevention of unauthorized voting - Primaries.

Voting Machines

A machine shall permit each voter to vote for as many persons for any office as he is entitled to vote for and to vote in primary elections for candidates for nomination by the political party of his choice but it shall preclude each voter from voting for more persons for any office than he is entitled to vote for, from voting more than once for the same candidate or upon the same measure or question submitted to the voters, or voting the ballot of more than one political party in any primary election.

12-17-7. Machine to permit change of vote before final operation.

A machine shall also permit each voter to change his vote for any candidate, or upon any measure or question submitted to the voters, up to the time he begins his final operation to register his vote.

12-17-8. Protection of secrecy - Prevention of tampering.

A machine shall also permit and require voting in absolute secrecy, and shall be so constructed and controlled that no person can see or know for whom any other voter has voted or is voting, save a voter whom he has assisted or is assisting in voting, as prescribed by law, and that no person may see or know the number of votes registered for any candidate or question or tamper with any of the registering mechanism.

12-17-9. Protective counters - Visibility during operation.

A machine shall have a counter or other device which shall show the total number of voters who have operated the machine during any period of voting, and have a protective counter, or other device, nonresettable, which shall record the cumulative total number of movements of the operating mechanism. The register of one of said counters or other devices shall be visible at all times from the outside of the machine.

12-17-10. Accurate registration by machine.

A machine shall also be so constructed that when properly operated it shall register or record correctly and accurately every vote cast.

12-17-11. Locking device to prevent operation after close of polls.

A machine shall be provided with a lock or locks by the use of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movements of the registering mechanism of the machine are absolutely prevented.

12-17-12. Device for printing or photographing totals.

Any voting machine placed in service subsequent to February 22, 1974 shall be provided with a device for printing or photographing candidate and amendment counters prior to the opening of the polls and after the closing of the polls.

12-17-13. Designation and training of machine custodians - Compensation - Duties.

The governing board or boards jointly using the voting machines shall designate and provide for the compensation of a sufficient number of persons to be trained in the method of preparation of the voting machines for correct use in the elections and such persons shall be called the custodians of the voting machines. Such persons under the supervision of the official having charge of such election or primary, shall conduct the instruction meeting for the election officials. The custodians of the voting machines shall be charged with the duty of preparing all such voting machines for proper use in all elections.

Voting Machines

12-17-14. Public exhibition and demonstration before first use of machines.

Preceding the first use of voting machines in any precinct during the first two years of use, there shall be placed on public exhibition one or more of the voting machines, with a similar ballot in place, attended by a competent person, for the instruction of the voters in its use.

12-17-15. Mechanical instruction model used at polls during voting - Attendance by board member.

At each polling place, during an election, primary or referendum election, there shall be at least one mechanical instruction model, capable of being operated in the same manner as the official voting machines, for the instruction of the voters. Such mechanical instruction model shall be attended at all times by a member of the election board of such precinct, who shall instruct all voters requiring instruction in the correct operation of the voting machine.

12-17-16. Instructions by county, municipality or school district for examination of machines, conduct of election and canvass of returns.

The examination by the election board of the voting machines preceding the opening of the polls, the conduct of that primary or election throughout, the canvass of the returns thereof, shall be carried out in accordance with the printed or written instructions furnished by the county, or municipality or school district having jurisdiction over such election.

12-17-17. Locking and sealing of machine after completion of canvass.

After completion of the canvass by the election board the voting machines shall be closed and locked and sealed in accordance with the instructions furnished by the county, municipality or school district having charge of the election and they shall so remain for a period of not less than thirty days, except as provided by 12-17-18 or by 12-17-18.1.

12-17-18. Use of machine in closely following election notwithstanding pendency of contest or recount - Certificate filed with clerk of courts - Duties of official canvassers.

The voting machines may be opened and unlocked and the seals thereon broken notwithstanding pendency of a contest or recount in such cases as where one election follows another within such a short time as to require it, but this shall be done only after the local or county canvass and upon the filing of a certificate with the clerk of courts of the county in which such machines are located by the local or county board charged with the duty of the official canvass. They shall, in addition to finding the necessity therefor, examine and compare the abstract of votes certified by the official canvassers with the canvass of counters as provided by 12-20-16 and in said certificate recite the discrepancies, if any. If no discrepancy exists, then such certificate shall recite that fact and such certificate together with the abstract of votes certified by the official canvassers and the canvass of counters shall be conclusive as to the votes cast for any candidate or upon any question submitted in any recount procedure and further, shall be deemed a preservation of ballots as the votes cast upon such machine.

12-17-18.1. Circuit court order to clear machine for use in closely following election.

If a discrepancy is certified to pursuant to 12-17-18 the machines may be cleared for such closely following election only upon an order of the circuit court of the county in which the machines are located only upon his finding, from his own examination, that the certificate filed is true, or upon his order correcting the certificate.

12-17-19. Application of general election laws where voting machines used - Special

Voting Machines

provisions govern where in conflict.

All provisions of all election laws of this state are applicable to all elections where voting machines are used, insofar as they are not in conflict with this chapter. However, any provision of law in conflict with the special provisions governing the conduct of elections by the use of voting machines in this chapter, shall not be applicable when voting machines are used.

CHAPTER 12-17A.

ELECTRONIC VOTING SYSTEMS

Section

- 12-17A-1. Definition of terms.
- 12-17A-2. Adoption of system by governing body - Abandonment - Partial use.
- 12-17A-3. Contracts for use of county system in municipal and school elections.
- 12-17A-4. Capabilities required of electronic voting systems - Marking and tabulating equipment to be approved by state board.
- 12-17A-5. Specifications for approval of marking and tabulating equipment.
- 12-17A-6. Notice before first use of electronic system - Publication.
- 12-17A-7. Public demonstration of system before election.
- 12-17A-8. Test of system before election - Notice of time and place - Conduct of test - Errorless count required.
- 12-17A-9. Specimen ballot published before election day.
- 12-17A-10. Alteration of precincts to facilitate use of electronic systems.
- 12-17A-11. Voting booths.
- 12-17A-12. Model marking device at each polling place on election day - Location.
- 12-17A-13. Paper ballot voting procedure applied.
- 12-17A-14. Ballot information arrangement - Questions and propositions.
- 12-17A-15. Ballot label booklet - Specifications and colors.
- 12-17A-16. Dividing ballot label booklet between candidates and propositions - No division between pages.
- 12-17A-17. Single ballot card or paper ballot used.
- 12-17A-18. Color of ballot pages, columns, and envelope.
- 12-17A-19. Preparations by person in charge of election - Judges to check and certify ballots.
- 12-17A-20. Instructions and practice for voters before entering voting booth - Instructors neutral - Judges to alternate as instructors - No instructions after voter enters booth.
- 12-17A-21. Suggesting particular vote to voter prohibited - Private instruction prohibited.
- 12-17A-22. Replacement of spoiled ballot.
- 12-17A-23. Absentee voting procedure.
- 12-17A-24 to 12-17A-29. Repealed.
- 12-17A-30. Electronic processing.
- 12-17A-31. Single-box procedure - Deposit or rejection of absentee ballots - Box opened and ballots counted - Examination of paper ballots, cards and envelopes.
- 12-17A-32. Single-box procedure - Preparation of duplicate absentee ballots - Deposit for counting.
- 12-17A-33. Single-box procedure - Preparation of duplicates for damaged ballots - Disposition of originals.
- 12-17A-34. Single-box procedure - Number of voters recorded - Sealing of box - Transportation to counting location.
- 12-17A-35. Single-box procedure - Sealing and return to counting location of defective and duplicated ballots.
- 12-17A-36. Single-box procedure - Box inspected and opened - Delivery of ballots to

Electronic Voting Systems

- tabulation technicians - Discrepancies in number of ballots.
- 12-17A-37. Tabulation of vote outside territorial jurisdiction.
- 12-17A-38. Direction of proceedings at counting location - Bipartisan representation - Proposed employee list submitted to party chairman.
- 12-17A-38.1. Oath required of tabulation center employees.
- 12-17A-39. Tabulation procedure - Proceedings open to public.
- 12-17A-40. Retest of equipment before official count - Programs and ballots sealed after count.
- 12-17A-41. Duplicate copies of damaged or defective ballots - Labeling and numbering.
- 12-17A-42. Official precinct returns - Retabulation when obvious discrepancy appears - Party representatives present - Returns open to public.
- 12-17A-42.1. Resealing ballot boxes after tabulation - Locking electronic voting devices - Return of spoiled and unused ballots.
- 12-17A-43. Recounts and election contests - Procedure.
- 12-17A-44. Rules made by state board - Voting booth requirements.
- 12-17A-45. Repealed.

12-17A-1. Definition of terms.

Terms used in this chapter mean:

- (1) "Automatic tabulating equipment," apparatus necessary to automatically examine and count votes as designated on ballots, and data processing machines which can be used for counting ballots and tabulating results;
- (2) "Ballot card," a ballot which is voted by the process of punching;
- (3) "Ballot labels," the cards, papers, booklet, pages or other material containing the names of officers and candidates and statements of measures to be voted on;
- (4) "Ballot," ballot cards, ballot labels and paper ballots;
- (5) "Column," a space on a ballot card for punching the voter's vote in an electronic voting system which utilizes a ballot card, arranged in a row running lengthwise on the ballot card;
- (6) "Counting location," one or more locations selected by the election official in charge of the election for the automatic processing or counting, or both, of ballots. A counting location shall be within the territorial jurisdiction of such election official unless there is no suitable tabulating equipment available within his territorial jurisdiction. However, in any event, a counting location shall be within this state;
- (7) "Election official in charge of the election," the county auditor or other election official charged by law with the duty of conducting an election in and for the jurisdiction or territory, or any part thereof, for which an election is held other than under the direction of the county auditor;
- (8) "Electronic voting system," a system of casting votes by use of marking devices with ballot cards or optically scanned paper ballots, and tabulating ballots employing automatic tabulating equipment or data processing equipment;
- (9) "Marking device," an apparatus in which ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter;
- (10) "Person in charge of the election," the county auditor in state or county elections, the finance officer in municipal elections, and the business manager in school district elections;
- (11) "Optical scan," a type of electronic voting system which records votes by means of marks made in voting response locations on the ballot.

12-17A-2. Adoption of system by governing body - Abandonment - Partial use.

Except as otherwise provided in this chapter, any governing body having supervision of elections within any political subdivision may adopt, experiment with, or abandon any electronic voting system authorized by this chapter and approved for use in this state by the state board of elections, and may use the system in all or some of the precincts within its

Electronic Voting Systems

jurisdiction or in combination with paper ballots or voting machines.

12-17A-3. Contracts for use of county system in municipal and school elections.

Any governing board of a municipality or school district, which lies within a county which has adopted an electronic voting system, may contract with the county for the use of the system for elections which these aforementioned governmental units may be authorized to hold.

12-17A-4. Capabilities required of electronic voting systems - Marking and tabulating equipment to be approved by state board.

Any electronic voting system used in an election shall enable the voter to cast a vote for all offices and on all measures on which he is entitled to vote, and the automatic tabulating equipment shall be able to be set to reject all votes for any office or measure when the number of votes therefor exceeds the number for which the voter is entitled to cast, and all marking devices and automatic tabulating equipment shall be of a type approved by the state board of elections.

12-17A-5. Specifications for approval of marking and tabulating equipment.

No marking device or automatic tabulating equipment may be approved unless:

- (1) It enables the voter to vote in absolute secrecy;
- (2) It enables a voter to vote a straight party ticket;
- (3) It enables a voter to vote a ticket selected from all candidates;
- (4) It rejects all votes for an office or upon a proposition if the voter has cast more votes for such office or upon such proposition than he is entitled to cast;
- (5) It accommodates all propositions to be submitted to the voters in the form provided by law or, if no such form is provided, then in brief form, not to exceed two hundred words;
- (6) It meets the minimum specifications of the Federal Election Commission's Voting Systems Standards as revised through April, 1990.

12-17A-6. Notice before first use of electronic system - Publication.

Before any electronic voting system is introduced, adopted or used in any county, municipality or school district at least two months' public notice shall be given before the date of the first election wherein such voting system is to be used. The person in charge of the election shall publish the notice at least once in the official newspaper of the county, municipality or school board, as the case may be, in which the election is held. The state board of elections shall prescribe the form for the notice required by this section.

The notice required by this section shall be given only at the first election at which such voting machines or electronic voting systems are used.

12-17A-7. Public demonstration of system before election.

If an electronic voting system is to be used in a forthcoming election, the person in charge of the election may provide, for the purpose of instructing voters in the election, one demonstrator electronic voting system marking device for placement in any public library or other public place within the political subdivision in which the election occurs. If a demonstrator is provided it shall be made available at least four weeks before the election.

12-17A-8. Test of system before election - Notice of time and place - Conduct of test - Errorless count required.

On any day not more than ten days prior to an election day, the person in charge of the election shall have the automatic tabulating equipment tested to ascertain that the

Electronic Voting Systems

equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight hours prior thereto by publication once in the official newspaper of the election jurisdiction. The test shall be open to representatives of political parties, the press, and the public. The test shall be conducted by processing a preaudited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved.

12-17A-9. Specimen ballot published before election day.

If an electronic voting system is used, the person in charge of the election shall have published, at least ten days before the day of election, an actual size copy of the specimen ballot label containing the names of offices and candidates and statements of measures to be voted on, as near as may be, in the form in which they will appear on the official ballot label on election day.

12-17A-10. Alteration of precincts to facilitate use of electronic systems.

If an electronic voting system is used, the person in charge of the election may retain existing precincts or may consolidate, combine, alter, decrease or enlarge the boundaries of the precincts to change the number of registered voters in the precincts using the electronic voting system to afford adequate voting facilities and efficient, economical elections.

12-17A-11. Voting booths.

In precincts where an electronic voting system is used, a sufficient number of voting booths shall be provided for the use of such systems according to the requirements determined by the state board of elections, and the booths shall be arranged in the same manner as provided for use with paper ballots.

12-17A-12. Model marking device at each polling place on election day - Location.

For the instruction of voters on election day, the person in charge of the election shall provide at each polling place one instruction-model electronic voting system marking device. Each such instruction-model shall show the arrangement of party rows, office columns and questions. Such model shall be located at a place which voters must pass to reach the official marking device used in the actual casting of votes.

12-17A-13. Paper ballot voting procedure applied.

So far as applicable, the procedure provided for voting paper ballots shall apply when electronic voting systems are used.

12-17A-14. Ballot information arrangement - Questions and propositions.

The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order or arrangement provided for paper ballots, except that such information may be in vertical or horizontal rows, or on a number of separate pages. Ballots for all questions or propositions to be voted on shall be provided in the same manner and shall be arranged on or in the marking device in the places provided for such purposes.

Electronic Voting Systems

12-17A-15. Ballot label booklet - Specifications and colors.

If an electronic voting system uses a ballot label booklet and ballot card, the ballot label pages shall be white for a general election. If provision is made for straight party voting by marking a party circle, the designation of the political parties for straight party voting shall be on a separate page on which no names of candidates may appear. Each succeeding page of the candidate booklet shall carry the party appellations. In primary elections, a separate ballot label booklet, marking device and voting booth shall be used for each political party holding a primary, with the ballot label booklet arranged to include ballot label pages of the candidates of the party and public measures and other propositions to be voted upon on the day of the primary election.

12-17A-16. Dividing ballot label booklet between candidates and propositions - No division between pages.

If the ballot label booklet includes both candidates for office and public measures or propositions to be voted on, the person in charge of the election shall divide the pages. No individual race or ballot question may be divided between pages.

12-17A-17. Single ballot card or paper ballot used.

One ballot card or paper ballot may be used for recording the voter's vote or choice on all such ballots, proposals, public measures or propositions.

12-17A-18. Color of ballot pages, columns, and envelope.

The ballot, ballot ink or the ballot pages shall be of the color prescribed for candidates' ballots at the primary election. Ballots printed for use with an approved automatic tabulating system shall meet the standards prescribed for that system. At an election where no candidates are being nominated or elected, the ballot card, its columns, and the ballot card envelope shall be of a color designated by the election official in charge of the election.

12-17A-19. Preparations by person in charge of election - Judges to check and certify ballots.

The person in charge of the election shall cause the marking devices to be put in order and the set adjusted and made ready for voting when delivered to the polling places. Before the opening of the polls the judges of election shall compare the ballots used in the marking devices with the sample ballots furnished and see that the names, numbers and letters thereon agree and shall certify that fact thereto on forms provided by the person in charge of the election.

12-17A-20. Instructions and practice for voters before entering voting booth - Instructors neutral - Judges to alternate as instructors - No instructions after voter enters booth.

Before entering the voting booth, each voter shall be offered instruction in the operation of the marking device by use of the instruction-model and the voter shall be given ample opportunity to operate the model by himself. In instructing voters, no precinct official may show partiality to any political party, and when instructing a voter on how to vote a straight ticket for one political party the precinct official shall at the same time instruct the voter how to vote a straight ticket for any other political party which appears on the ballot label. The duties of instruction shall be discharged by a judge from each of the political parties represented and they shall alternate serving as instructor so that each judge shall serve a like time at such duties. No instructions may be given after the voter has entered the voting booth.

Electronic Voting Systems

12-17A-21. Suggesting particular vote to voter prohibited - Private instruction prohibited.

No precinct official or person assisting a voter may in any manner request, suggest, or seek to persuade or induce any voter to cast his vote for any particular ticket, candidate, amendment, question or proposition. All instructions shall be given by precinct officials in such a manner that it may be observed by other persons in the polling place.

12-17A-22. Replacement of spoiled ballot.

Any voter who spoils his ballot or makes an error may return the ballot to the judges of election and secure another.

12-17A-23. Absentee voting procedure.

Absentee ballots may consist of ballot cards, envelopes and paper ballots voted in person in the office of the election official in charge of the election, delivered by authorized messenger, or voted by mail. If a ballot card is used for voting by mail it shall be accompanied by a punching tool, voter instructions, and a specimen ballot showing the proper positions to vote on the ballot card for each party, candidate, proposal, public measure or proposition and shall be mounted on a suitable material to receive the punched out chip. If a paper ballot is used for voting by mail which will be counted by an approved automatic tabulating system, a marking device approved for use with that system shall accompany the paper ballot.

12-17A-24. Selection of double-box or single-box procedure. Repealed by SL 1993, ch 113, 2.

12-17A-25. Double-box procedure - Purpose of boxes - Counting and return of paper ballots. Repealed by SL 1993, ch 113, 3.

12-17A-26. Examination, stamping and deposit of absentee ballots in second box - Opening of box - Examination of absentee ballots - Disposition of unstamped ballots. Repealed by SL 1993, ch 113, 4.

12-17A-27. Preparation of duplicate absentee ballots in double-box - Procedure - Deposit in first box - Disposition of original paper ballots. Repealed by SL 1993, ch 113, 5.

12-17A-28. Double-box procedure - Number of voters recorded - Sealing of first box - Transportation to counting location. Repealed by SL 1993, ch 113, 6.

12-17A-29. Double-box procedure - Opening first box and counting ballots - Destruction of excess ballots. Repealed by SL 1993, ch 113, 7.

12-17A-30. Electronic processing.

All ballots to be processed and tabulated with the electronic voting system shall be processed as prescribed by 12-17A-31 to 12-17A-36, inclusive.

12-17A-31. Single-box procedure - Deposit or rejection of absentee ballots - Box opened and ballots counted - Examination of paper ballots, cards and envelopes.

If the election board is not otherwise engaged in official duties, or if there are absentee ballots not processed when the polls close, the absentee ballots, which have been delivered to the election board by the person in charge of the election, shall be examined to determine that the ballots comply with chapter 12-19, and are entitled to be deposited in the ballot box. Those entitled to be deposited in the ballot box shall be stamped by the

Electronic Voting Systems

precinct judges of election and deposited in the ballot box. Those ballots not entitled to be deposited in the ballot box shall be marked "Rejected" and disposed of as provided in chapter 12-20. Immediately after the polls close, the election board shall open the ballot box and count the ballots cast to determine that the number of ballots therein agree with the number of voters voting as shown by the pollbook. If the ballot count does not agree with the number of names in the pollbook, a comparison of the voters in the pollbook and the registration list shall be made and the correction of any mistakes therein shall be made. The judges of election shall make the ballots agree with the pollbook and registration list in the manner provided by 12-20-3. The judges of election shall then examine all paper absentee ballots, ballot cards and ballot card envelopes which are in the ballot box to determine whether the paper ballots, ballot cards and ballot card envelopes bear the official ballot stamp. If any paper ballot, ballot card or ballot card envelope is not stamped, it shall be marked on the back "Defective," and not counted, but placed in the wrapper provided for that purpose.

12-17A-32. Single-box procedure - Preparation of duplicate absentee ballots - Deposit for counting.

The judges of election, consisting in each case of at least one judge of election of each of the two major political parties, shall then make a true duplicate ballot of the remaining valid votes on each paper absentee ballot which was in the ballot box and properly stamped, by using the electronic voting system used in the precinct and one of the marking devices of the precinct so as to transfer the remaining valid votes of the voter on the paper absentee ballot to an official ballot or a ballot card of that kind used in the precinct at that election. The original paper absentee ballot shall be clearly labeled "Absentee Ballot" and the ballot card so produced "Duplicate Absentee Ballot," and each shall bear the same serial number which shall be placed thereon by the judges of election, commencing with number 1 and continuing consecutively for the ballots of that kind in that precinct. The judges of election shall initial the "Duplicate Absentee Ballot" ballots or ballot cards, and shall place them in the box for return of the ballots with all other ballots or ballot cards to be counted at the central counting location in lieu of the paper absentee ballots. The paper absentee ballots shall be placed in an envelope provided for that purpose labeled "Duplicate Ballots."

12-17A-33. Single-box procedure - Preparation of duplicates for damaged ballots - Disposition of originals.

The judges of election shall examine the ballots and ballot cards to determine if any is damaged or defective so that it cannot be counted by the automatic tabulating equipment. If any ballot or ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the judges of election, consisting in each case of at least one judge of election of each of the two major political parties, shall make a true duplicate ballot of all votes on such ballot card by using the ballot label booklet of the precinct and one of the marking devices of the precinct. The original ballot or ballot card and envelope shall be clearly labeled "Damaged Ballot" and the ballot or ballot card so produced "Duplicate Damaged Ballot," and each shall bear the same number which shall be placed thereon by the judges of election, commencing with number 1 and continuing consecutively for the ballots of that kind in the precinct. The judges of election shall initial the "Duplicate Damaged Ballot" ballot or ballot cards, and shall place them in the box for return of the ballots. The "Damaged Ballot" ballots or ballot cards and their envelopes shall be placed in the "Duplicated Ballots" envelope.

12-17A-34. Single-box procedure - Number of voters recorded - Sealing of box - Transportation to counting location.

A slip indicating the number of voters voting in person, the number of absentee votes deposited in the ballot box, and the total number of voters of the precinct who voted at the

Electronic Voting Systems

election shall be made out, signed by all judges of elections, and inserted in the box for return of the ballots. The judges of election shall immediately securely lock or seal with an appropriate seal device the ballot box or other box furnished for return of the ballots by the person in charge of the election. A separate seal label signed by each of the judges of election of the precinct shall be affixed to the box so as to cover any slot therein and to identify the box of the precinct. Two of the judges of election, of different major political parties, shall by the most direct route transport the box to the central counting location designated by the person in charge of the election or the ballots may be transported to the counting location by a sheriff's deputy and two deputy county auditors, one of each major political party, or by two deputy county auditors, one of each major political party.

12-17A-35. Single-box procedure - Sealing and return to counting location of defective and duplicated ballots.

The "Defective Ballots" wrapper, and "Duplicated Ballots" envelope each shall be securely sealed and the flap or end thereof of each signed by the precinct judges of election and returned to the central counting location with the box for return of the ballots, enclosed ballots and returns.

12-17A-36. Single-box procedure - Box inspected and opened - Delivery of ballots to tabulation technicians - Discrepancies in number of ballots.

At the central counting location, a team of tally judges designated by the person in charge of the election shall check the box returned containing the ballots to determine that all seals are intact, and thereupon shall open the box, check the voters' slip and compare the number of ballots so delivered against the total number of voters of the precinct who voted, remove the ballots or ballot cards and deliver them to the technicians operating the automatic tabulating equipment. Any discrepancies between the number of ballots and total number of voters shall be noted on a sheet furnished for that purpose and signed by the tally judges.

12-17A-37. Tabulation of vote outside territorial jurisdiction.

Any county board of commissioners or any governing body having supervision of election for officers within any municipality or school district may contract for the tabulation of votes at a location outside its territorial jurisdiction when there is no suitable tabulating equipment available within its territorial jurisdiction.

12-17A-38. Direction of proceedings at counting location - Bipartisan representation - Proposed employee list submitted to party chairman.

All proceedings at the counting location shall be under the direction of the person in charge of the election. Except for any specially trained technicians required for the operation of the automatic tabulating equipment, the employees at the counting station shall be equally divided between members of the two leading political parties and all duties performed by such employees shall be by teams consisting of an equal number of members of each political party. Thirty days before an election the person in charge of the election shall submit to the county chairman of each political party, for his approval or disapproval, a list of persons of his party proposed to be employed. If a chairman fails to notify the person in charge of the election of his disapproval of any proposed employee within a period of ten days thereafter the list shall be deemed approved.

12-17A-38.1. Oath required of tabulation center employees.

Prior to counting the ballots, the tabulation center employees shall take and subscribe to an oath as prescribed by the state board of elections.

Electronic Voting Systems

12-17A-39. Tabulation procedure - Proceedings open to public.

The procedure for tabulating the votes by the automatic tabulating equipment shall be under the direction of the person in charge of the election, and shall conform to the requirements of the automatic tabulating equipment. The proceedings at the counting location shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot box, return, or equipment.

12-17A-40. Retest of equipment before official count - Programs and ballots sealed after count.

The test required by 12-17A-8 shall be repeated immediately before the start of the official count of the ballots, in the same manner as provided in this chapter. After the completion of the count, the programs used and ballots shall be sealed and retained under the custody of the person in charge of the election.

12-17A-41. Duplicate copies of damaged or defective ballots - Labeling and numbering.

If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of a defective ballot, which shall not include the invalid votes. All duplicate ballots shall be clearly labeled "duplicate," shall bear a serial number which shall be registered on the damaged or defective ballot, and shall be counted in lieu of the damaged or defective ballot.

12-17A-42. Official precinct returns - Retabulation when obvious discrepancy appears - Party representatives present - Returns open to public.

The return printed by the automatic tabulating equipment shall constitute the official return of each precinct. However, the person in charge of the election shall check the totals shown by such return and, if it appears that there is an obvious discrepancy with respect to the total number of votes cast in any precinct, he shall have the ballots for such precinct retabulated to correct the return. The chairman of the county central committee of each established political party, or his delegate, may be present at any such retabulation. Upon completion of the count, the returns shall be open to the public.

12-17A-42.1. Resealing ballot boxes after tabulation - Locking electronic voting devices - Return of spoiled and unused ballots.

After the tabulation, the ballot boxes shall be resealed. The electronic voting devices shall be locked during transfer to and from the storage area. All spoiled and unused ballots shall be returned to the person in charge of the election in a plain brown wrapper or envelope.

12-17A-43. Recounts and election contests - Procedure.

Except as otherwise provided in this chapter, recounts and election contests shall be conducted as otherwise provided for in this title. The automatic tabulating equipment shall be tested prior to the recount or election contest as provided in this chapter, and then the official ballots or ballot cards shall be recounted on the automatic tabulating equipment. In addition, the ballot or ballot cards shall be checked for the presence or absence of the official ballot stamp and other distinguishing marks; the ballots marked "Rejected" and "Absentee Ballot" shall be examined to determine the propriety of such labels; and the "Duplicate Absentee Ballots," and "Duplicate Damaged Ballots" shall be compared with their respective originals to determine the correctness of the duplicates.

Electronic Voting Systems

12-17A-44. Rules made by state board - Voting booth requirements.

The state board of elections may make rules for the administration of this chapter and may prescribe the number of voting booths required for the various types of voting systems.

12-17A-45. Clerks - Elimination in certain precincts. Repealed by SL 1993, ch 112, 4.

CHAPTER 12-18.

ARRANGEMENTS AND CONDUCT OF VOTING

Section

- 12-18-1. Preparation of voting booths and supplies for paper ballot elections - Private voting required.
- 12-18-1.1. Verification of blank ballots received.
- 12-18-1.2. Specific duties of precinct superintendent and judges - Deposit of ballot in ballot box by voter.
- 12-18-1.3. Zeroing of machines before voting - Verification of ballot labels - Certificate.
- 12-18-1.4. Attendance by judges and clerks during voting and counting.
- 12-18-1.5. Attendance until polls closed by judges and clerks in precincts with counting boards - Attendance by board members during counting.
- 12-18-2. Repealed.
- 12-18-3. Electioneering, offices, communications centers, and polling prohibited near polling place - Violation as misdemeanor.
- 12-18-3.1. Simulated elections - Access to polling place - Notice to county auditor - Costs.
- 12-18-4. Examination and sealing of ballot box before opening of polls - Closed until counting of vote.
- 12-18-5. Poll lists maintained by clerks - Duties where machines used.
- 12-18-5.1. Consecutive number slip issued in voting machine precinct - Surrender at machine.
- 12-18-5.2. Repealed.
- 12-18-6, 12-18-7. Repealed.
- 12-18-7.1. Registered persons entitled to vote - Voting on duplicate registration card - Verification with auditor - Emergency voting card.
- 12-18-7.2. Voting without duplicate registration card on verification by auditor - Emergency voting card.
- 12-18-7.3, 12-18-8. Repealed.
- 12-18-8.1. Number of poll watchers set by state board - Rules.
- 12-18-9. Observation of voting and counting - Poll watchers' positions and accommodations.
- 12-18-9.1. Poll watchers and waiting voters not to see into booths or machines - Interference with official actions - Violation as misdemeanor.
- 12-18-9.2. Removal of unauthorized material and disobedient persons - Arrest authorized.
- 12-18-10. Grounds for challenge of applicant to vote - Determination by judges - Notation on registration list.
- 12-18-11. Repealed.
- 12-18-12. Stamping of ballot before delivery to voter.
- 12-18-13. Use of unauthorized ballot prohibited.
- 12-18-14. Entry of voting booth or machine by voter.
- 12-18-15. Voting without delay - Maximum time in booth or machine - Reentry prohibited.
- 12-18-16. Pencil or pen required for paper ballot - Form of mark.
- 12-18-17. Repealed.
- 12-18-18. Manner of voting party ticket - Scratching after voting party ticket.
- 12-18-19. Repealed.

Arrangements and Conduct of Voting

- 12-18-20. Additional marks required after scratching where two or more to be elected.
- 12-18-21. Voting for individual candidates without marking party ticket.
- 12-18-22. Identifying marks prohibited on ballot.
- 12-18-23. Return to judges of unmarked ballot.
- 12-18-24. Replacement of spoiled ballots - Marking and preservation.
- 12-18-25. Assistance of disabled voter by person of his choice.
- 12-18-26. Repealed.
- 12-18-27. Marked ballot not to be shown - Folding for deposit in ballot box.
- 12-18-28. Deposit of folded ballot in ballot box.
- 12-18-29 to 12-18-31. Repealed.
- 12-18-32. Packaging and return of unused ballots - Record accounting for ballots.
- 12-18-33. Comparison of ballot accounting with record of number sent to precinct - Notice and correction of discrepancies.
- 12-18-34 to 12-18-38. Repealed.

12-18-1. Preparation of voting booths and supplies for paper ballot elections - Private voting required.

The superintendent of the election precinct in which voting machines are not in use shall perform the duty of erecting and having ready for the election a sufficient number of booths to accommodate the voters in the precinct in relation to the number of ballots to be voted. The booths shall be furnished by the auditor, together with supplies and conveniences to enable the voter to prepare his ballot conveniently. All voting at the polling place shall be in private voting booths or compartments and, except as provided in 12-18-25, shall be screened from observation.

12-18-1.1. Verification of blank ballots received.

Before the opening of the polls the judges of election shall count and verify against the receipt given the ballots delivered to them for the purposes of the election.

12-18-1.2. Specific duties of precinct superintendent and judges - Deposit of ballot in ballot box by voter.

The superintendent shall be in charge of the registration list and shall designate one judge to be in charge of the official ballots and the official stamp. The remaining judge shall be in charge of receiving and depositing in the ballot boxes the ballots as they are voted. The voter may place his own voted ballot in the ballot box to insure the privacy of his vote after showing the judge responsible for the ballot box the official stamp on the ballot.

12-18-1.3. Zeroing of machines before voting - Verification of ballot labels - Certificate.

Where voting machines are used the entire election board shall view and sign certificates stating that all registering counters were found to stand at 000; that the ballot labels on each machine are correct; and further that if any discrepancy is found the custodian had corrected the discrepancy before the machine was used for voting. The printed or photographed record, if available, shall accompany the certificate.

12-18-1.4. Attendance by judges and clerks during voting and counting.

The judges of election, including the superintendent, and the clerk of each precinct shall attend at all times at the place for holding the election to be and remain where the ballot boxes or voting machines are kept, at all times after the polls are opened. Except as provided by 12-18-1.5, they shall further attend at all times from the time the polls are closed and until completion of the vote count and execution of the returns on the election.

Arrangements and Conduct of Voting

12-18-1.5. Attendance until polls closed by judges and clerks in precincts with counting boards - Attendance by board members during counting.

In those precincts where counting boards have been appointed, the judges and clerks of election shall remain at the place of election at all times after the polls are opened until the polls are closed, the election supplies are turned over to the counting board and the certificate and receipt required by 12-20-28 have been signed. At this time, the counting board shall assume its duties and the election board shall be excused. The members of the counting board shall remain at the place of vote counting at all times from the time they assume their duties until the completion of the vote count and execution of the returns on the election.

12-18-2. Removal, destruction or defacement of supplies, candidate lists or instruction cards as misdemeanor - Penalty. Repealed by SL 1974, ch 118, 200.

12-18-3. Electioneering, offices, communications centers, and polling prohibited near polling place - Violation as misdemeanor.

Except for sample ballots and materials and supplies necessary for the conduct of the election, no person may, in any polling place or within or on any building in which a polling place is located or within one hundred feet from any entrance leading into a polling place, maintain an office or communications center or public address system or display campaign posters, signs or other campaign materials or by any like means solicit any votes for or against any person or political party or position on a question submitted. No person may engage in any practice which interferes with the voter's free access to the polls or disrupts the administration of the polling place, or conduct, on the day of an election, any exit poll or public opinion poll with voters within one hundred feet of a polling place. A violation of this section is a Class 2 misdemeanor.

12-18-3.1. Simulated elections - Access to polling place - Notice to county auditor - Costs.

Minors voting in a simulated election and persons supervising or working in a simulated election in which minors vote shall be allowed in a polling place. All activities associated with a simulated election are subject to the provisions of 12-18-3. A ballot used in a simulated election held pursuant to this section shall be labeled in such a manner as to easily distinguish such ballot. No results from a simulated election for minors may be released prior to the close of the polls. The superintendent of the election board shall exercise authority over all election and simulated election related activities at the polling place. Anyone conducting a simulated election for minors at a polling place shall notify the county auditor in that county at least thirty days prior to the election. The cost of conducting a simulated election pursuant to this section may not be borne by the county.

12-18-4. Examination and sealing of ballot box before opening of polls - Closed until counting of vote.

Before opening the polls each ballot box shall be carefully examined by the judges of election and everything therein shall be removed. Each ballot box shall then be sealed and may not be opened during the election except for vote counting as provided for in chapter 12-20.

12-18-5. Poll lists maintained by clerks - Duties where machines used.

In paper ballot precincts, the clerk of election belonging to a political party which is not the same as the political party of the superintendent shall keep a poll list which shall contain in numerical order the names of all persons voting at the election. In precincts where voting machines are used, the clerks shall be assigned to machines or any other duty

Arrangements and Conduct of Voting

except being in charge of the registration list.

12-18-5.1. Consecutive number slip issued in voting machine precinct - Surrender at machine.

Where voting machines are used, in lieu of a poll list the judge having charge of the registration list shall place beside the name of the voter a consecutive voter's number appearing on a slip, which either the judge or a clerk supplies to the voter and which the voter must deliver to the judge or clerk at the voting machine before the voter is allowed to vote.

12-18-5.2. Use of computerized registration list in certain precincts. Repealed by SL 1993, ch 113, 11.

12-18-6. Proof of eligibility by voter not on registration list - Completion of registration card and affidavit. Repealed by SL 1969, ch 83, 5.

12-18-7. Administration of oath to person registering at election - Superintendent of election as deputy for registration. Repealed by SL 1969, ch 83, 5.

12-18-7.1. Registered persons entitled to vote - Voting on duplicate registration card - Verification with auditor - Emergency voting card.

Any person whose name appears on the registration list in the possession of the precinct election judges shall be entitled to vote at that election. However, if a person's name does not appear on the registration list, but he does present his duplicate registration card, he shall be permitted to vote if one of the judges communicates with the office of the county auditor and confirms that his name was erroneously omitted from the list and has not been purged according to 12-4-19 and 12-4-23. If it is not possible to communicate with the office of county auditor, he shall be entitled to vote after executing an emergency voting card pursuant to 12-18-7.2.

12-18-7.2. Voting without duplicate registration card on verification by auditor - Emergency voting card.

If any person presenting himself to vote claims to be registered under the permanent registration system but he does not have in his immediate possession his duplicate registration card and his name does not appear in the registration list of the precinct, he shall still be permitted to vote if one of the election judges first confirms by telephone or other means with the county auditor or one of his deputies that the name was erroneously omitted from the list and has not been purged according to 12-4-19, and an emergency voting card, in duplicate, in the form prescribed by the state board of elections is signed by the applicant and the judges. The original emergency voting card shall be retained by the superintendent of elections as part of his permanent records, and the duplicate shall be given to the voter. In a primary election, the party affiliation of any voter using the emergency voting procedure of this section shall be designated on the emergency voting card.

12-18-7.3. List of voters removed from lists furnished to judges - Alternative means of verification - Voter with duplicate card permitted to vote if in doubt. Repealed by SL 1976, ch 105, 84.

12-18-8. Duty of election judge to challenge unqualified elector. Repealed by SL 1974, ch 118, 200.

12-18-8.1. Number of poll watchers set by state board - Rules.

Arrangements and Conduct of Voting

The state board of elections shall for each primary and general election set the number of poll watchers for the various precincts within the state taking into consideration the number of candidates and issues to be voted upon at that election. Such rules shall be promulgated pursuant to chapter 1-26.

12-18-9. Observation of voting and counting - Poll watchers' positions and accommodations.

Any person may be present at any polling place for the purpose of observing the voting and counting process. A number of poll watchers shall be permitted for each candidate at a primary election or political party and independent candidate at a general election pursuant to 12-18-8.1. Poll watchers shall be allowed to position themselves where they can plainly see and hear what is done within the polling place, and such polling place shall be arranged that poll watchers shall be so accommodated.

12-18-9.1. Poll watchers and waiting voters not to see into booths or machines - Interference with official actions - Violation as misdemeanor.

The superintendent of elections may order poll watchers and voters waiting to vote to position themselves where they cannot see into voting booths or voting machines occupied by voters in the act of voting and will not interfere with the official actions of the election board. A violation of such an order is a Class 2 misdemeanor.

12-18-9.2. Removal of unauthorized material and disobedient persons - Arrest authorized.

Each election officer and all law enforcement officers shall remove materials in violation of 12-18-3 and disobedient persons in violation of 12-18-9.1 and arrest any person so interfering with the conduct of the election.

12-18-10. Grounds for challenge of applicant to vote - Determination by judges - Notation on registration list.

When any person shall make application for ballots, or where absentee ballot has been cast, his right to vote at that poll and election may be challenged only as to his identity as the person registered whom he claims to be or on grounds that within fifteen days preceding the election he has been convicted of a felony or declared by proper authority to be mentally incompetent, and such proceedings shall thereupon be had before the judges of election who shall determine from the evidence presented whether or not the person shall be permitted to vote and they shall indicate beside the name on the registration list the ground stated and the result of their decision.

12-18-11. Oath administered to challenged voter - Rejection of vote on refusal to take oath - False statement under oath as perjury. Repealed by SL 1974, ch 118, 200.

12-18-12. Stamping of ballot before delivery to voter.

Before delivering a ballot to any voter the judge having charge of the ballots shall stamp on its back and near the top of the ballot the official stamp provided for that purpose.

12-18-13. Use of unauthorized ballot prohibited.

No voter shall receive or vote a ballot from any other person than the judge of election having charge of the ballots, nor shall any person other than such judges of election deliver a ballot to such voter.

Arrangements and Conduct of Voting

12-18-14. Entry of voting booth or machine by voter.

On receipt of his ballot or delivery to him of his voter's consecutive number, the voter shall forthwith and without leaving the polling place retire alone to one of the booths or voting machines provided to cast his vote.

12-18-15. Voting without delay - Maximum time in booth or machine - Reentry prohibited.

The person voting shall cast his vote without delay. No voter may occupy a voting booth or voting machine already occupied by another, nor occupy a voting booth or machine for more than ten minutes. No voter, other than an election officer, may reenter the enclosed space during any election.

12-18-16. Pencil or pen required for paper ballot - Form of mark.

The voter shall use a pencil or pen to mark his ballot and no stamp or other instrument than a pencil or pen shall be used for such purpose and he shall mark his ballot with either a cross (x) or check mark (✓).

12-18-17. Manner of voting for presidential electors. Repealed by SL 1976, ch 105, 84.

12-18-18. Manner of voting party ticket - Scratching after voting party ticket.

To vote a party ticket, the voter shall mark his ballot in the circle at the top of a party column; provided, however, the voter may mark in the circle at the top of the party column and may also mark the square preceding the name or names of one or more candidates printed under another party column. A ballot so marked shall be counted as cast for all the candidates or presidential electors named under the party column which has been so marked, except as to the office or offices of a candidate or candidates or presidential electors marked in another column. A mark in another column shall be counted as cast for the candidate or candidates or presidential electors beside whose name or names such mark may have been placed.

12-18-19. Pen or pencil and cross or check mark as uniform means of marking ballots - Conflicting statutes amended. Repealed by SL 1974, ch 118, 200.

12-18-20. Additional marks required after scratching where two or more to be elected.

When at any election two or more persons are to be elected to the same office and a voter places a mark in the circle at the top of the column of the party ticket which he desires to vote, but also places a mark to the left of the name of a candidate whose name appears on the ballot in the independent column, or in the column of another party as a candidate for such office, the voter may vote for additional candidates for such office in the column where he has placed a mark in the circle at the top of the column only by placing a mark in the square to the left of the name of the candidate or candidates for that particular office.

12-18-21. Voting for individual candidates without marking party ticket.

In case a voter does not wish to vote a party ticket, he need not mark the ballot in the circle at the head of the ticket, but may mark the ballot in the square at the left of the name of each candidate for whom he may desire to vote.

12-18-22. Identifying marks prohibited on ballot.

No voter shall place any mark upon his ballot by which it may afterwards be identified as

Arrangements and Conduct of Voting

the one voted by him.

12-18-23. Return to judges of unmarked ballot.

Every voter who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges.

12-18-24. Replacement of spoiled ballots - Marking and preservation.

If any voter spoils a ballot he may obtain another ballot, and so on, successively, not to exceed three ballots in all, upon returning to the ballot clerk the spoiled ballot. In obtaining a ballot to replace a spoiled one, the name of the voter shall be given and the number of the ballot so spoiled, which number shall be noted opposite his name as "spoiled." The ballots thus returned shall be forthwith canceled by writing the words "spoiled and replaced" across the face of the ballot and all such ballots shall be placed in a separate envelope identifying them as such and stating the number thereof for accounting purposes.

12-18-25. Assistance of disabled voter by person of his choice.

Any voter who by reason of physical disability is unable to mark his ballot, including an absentee ballot, or operate the voting machine as required by law may receive the assistance of any person whom he may select.

12-18-26. False affidavit requesting assistance as misdemeanor - Penalty. Repealed by SL 1979, ch 104.

12-18-27. Marked ballot not to be shown - Folding for deposit in ballot box.

No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his vote, nor shall any person solicit the voter to show the same. Immediately after marking his ballot the voter shall fold and refold the ballot, if necessary, for deposit in the ballot box in such a way that the official stamp shows when it is handed to the judge.

12-18-28. Deposit of folded ballot in ballot box.

When a ballot is received pursuant to 12-18-27 with the official stamp showing, the judge in charge of the ballot box, without opening the same or permitting it to be opened or examined except to ascertain whether it be a single ballot, shall deposit it in the ballot box, making such additional folds as necessary to deposit it.

12-18-29. Receipt of vote from unqualified persons prohibited. Repealed by SL 1974, ch 118, 200.

12-18-30. Deposit of ballot without official stamp prohibited - Misdemeanor. Repealed by SL 1974, ch 118, 200.

12-18-31. Removal of ballot from polling place prohibited. Repealed by SL 1974, ch 118, 200.

12-18-32. Packaging and return of unused ballots - Record accounting for ballots.

All ballots which have not been distributed to voters, excluding those marked "spoiled and replaced" separately enclosed, together with a record of ballots stating the number of ballots voted, the number of ballots spoiled and replaced, and the number of ballots not

Arrangements and Conduct of Voting

delivered to voters, shall be placed in a parcel separate from the ballot box and returned to the auditor along with the ballot boxes.

12-18-33. Comparison of ballot accounting with record of number sent to precinct - Notice and correction of discrepancies.

The county auditor, on receipt of the unused, defective, or spoiled ballots, and the statement mentioned in 12-18-32, shall carefully compare the same with the record in his office of the number of ballots sent to such election precinct. If the same are not accounted for in the statement before mentioned, he shall at once notify the person sending the same, who shall, with such county auditor, recount the unused, defective, and spoiled ballots and correct, if possible, such errors, if any there be, in such count or statement.

12-18-34. Delivery to county auditor of registration cards, removal notices and cancellations of previous registration. Repealed by SL 1969, ch 83, 5.

12-18-35. Examination of voting machine counters and ballot labels before opening of polls - Notice and correction of discrepancies - Printed or photographic record. Repealed by SL 1974, ch 118, 200.

12-18-36. Voter's number entered on registration list where voting machines used - Voter's slip issued and turned in at machine. Repealed by SL 1974, ch 118, 200.

12-18-37. Assistance in operation of voting machine. Repealed by SL 1974, ch 118, 200.

12-18-38. Custody and detention of persons interrupting or disturbing election proceedings - Offender permitted to vote - Detention not a defense in prosecutions for offenses. Repealed by SL 1974, ch 118, 200.

CHAPTER 12-19.

ABSENTEE VOTING

Section

- 12-19-1. Absentee ballot - Persons entitled to vote.
- 12-19-2. Application for absentee ballot - Contents - Form - Address to which ballot sent - Stamping date of receipt - Delivery.
 - 12-19-2.1. Application in person or by authorized messenger - Delivery of ballot to messenger.
 - 12-19-2.2. Authorized messenger for more than one voter.
- 12-19-3. Forwarding of ballot to voter - Instructions and return envelope.
- 12-19-4. Voter's statement on return envelope - Federal service voting forms.
- 12-19-5. Mailing of ballot and enclosures to voter - Free air mail for federal service voters.
- 12-19-6. Repealed.
- 12-19-7. Marking and folding ballot - Officer before whom marked - Mailing or delivering ballot.
 - 12-19-7.1. Candidates and election officials not to serve as authorized messenger.
 - 12-19-7.2. Display of campaign material by messenger as misdemeanor.
- 12-19-8. Repealed.
- 12-19-9. Delivery of absentee ballot - Receipt given - Personal delivery when mailing time insufficient.
 - 12-19-9.1. Health care facility having multiple absentee ballot requests in general elections - Assistance to residents.
 - 12-19-9.2. Marking and return of ballot on death of voter before opening of polls.
- 12-19-10. Preservation and delivery of ballot to precinct superintendent - Verification of

Absentee Voting

- affidavit - Opening and deposit in ballot box - Unauthorized examination as misdemeanor.
- 12-19-11. Preservation and return of application and return envelope.
 - 12-19-12. Endorsement and return of ballot received after close of polls.
 - 12-19-13. Counting absentee ballots where voting machines used.
 - 12-19-14. Unlawful disposition of ballot as misdemeanor.
 - 12-19-15 to 12-19-31. Repealed.
 - 12-19-32. Ballot not invalidated by federal censorship.
 - 12-19-33. Failure to deliver or tampering with ballot as felony.
 - 12-19-34. Informalities do not invalidate election - Liberal construction.
 - 12-19-35, 12-19-36. Repealed.
 - 12-19-37. Absentee ballot precincts - Creation - Absentee ballot counting board.
 - 12-19-38. Appointment of absentee ballot counting board - Number of members.
 - 12-19-39. Oath of board members - Compensation.
 - 12-19-40. Repealed.
 - 12-19-41. Powers and duties of absentee ballot counting board.
 - 12-19-42. Envelope containing voted ballots kept closed - Delivery to county board.
 - 12-19-43. Review of absentee voters' affidavits prior to closing of polls - Ballots not counted.
 - 12-19-44. Counting process open.
 - 12-19-45. Record of applicants' names, addresses, and voting precincts - Delivery to counting board - Record of authorized messengers.
 - 12-19-46. Commencement of count when polls close - Place.
 - 12-19-47. Comparison of affidavits with written applications - Entry of voters' names on pollbook - Stamping and deposit of ballots - Counting - Improper examination and disclosure of contents of ballot as misdemeanor.
 - 12-19-48. Delivery of absentee ballot after polls closed - Endorsement of late receipt on unopened ballot - Return to officer in charge.
 - 12-19-49. Death of absentee voter prior to opening of polls - Ballot returned to person in charge - Election not invalidated by casting of ballot.
 - 12-19-50. Forms for recording tally - Special pollbook - Tally added to home precinct totals.
 - 12-19-51. Voting machines - Entry of absentee votes - Witness of recording and counting process.
 - 12-19-52. Electronic voting systems.
 - 12-19-53. Contracting for services of county auditor from another county.

12-19-1. Absentee ballot - Persons entitled to vote.

A registered voter who expects to be or may be absent outside the county, state or the United States on the day an election is held or who may be within the county on the day of an election but, because of permanent and total disability, illness or temporary physical disability, the observance of a religious holiday pursuant to the tenets of his religion, resident attendance at a school, college or university or because of the nature and hours of his employment, will be unable to cast his ballot at the polling place in his election district on the day of the election and is not otherwise disqualified by law from voting in the election may vote by absentee ballot. A member of the armed forces or of the merchant marine of the United States, and citizens of this state temporarily residing outside the territorial limits of the United States and the District of Columbia, and the spouses and dependents of any such persons, when residing with or accompanying them, as those terms are defined by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. 1973ff-6), hereinafter referred to as a federal service voter, if registered as a voter pursuant to chapter 12-4, are entitled to vote by absentee ballot.

12-19-2. Application for absentee ballot - Contents - Form - Address to which ballot sent - Stamping date of receipt - Delivery.

Absentee Voting

An absentee voter desiring to vote by mail may apply to the person in charge of the election for an absentee ballot. The application or request shall be made in writing and be signed by the applicant and state his voting precinct, place of voting residence and the reason for which the ballot is requested. The application or request may be used to obtain an absentee ballot for all primary and general elections in that calendar year if so indicated. The ballot shall be sent to the voter's residence, as shown on the voter registration list or any temporary residence address designated in writing by the voter, at the time of applying for the absentee ballot. The state board of elections shall promulgate rules pursuant to chapter 1-26 to prescribe a form which delineates the reasons for an absentee ballot request and allows the voter to indicate the proper reason for the request. The person in charge of the election shall stamp the application with the date it was received in his office. The application may be made by letter or upon blanks furnished by the person in charge of the election or upon any form prescribed by the state board of elections or the postcard form referred to in 12-4-8.1, executed by persons authorized in accordance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. 1973ff). The person in charge of the election shall preserve a record of the name, post office address and voting precinct of each applicant and, except as provided by 12-19-45, send each written application by registered mail or deliver the same to the superintendent of the election board of the home precinct of the applicant.

12-19-2.1. Application in person or by authorized messenger - Delivery of ballot to messenger.

At anytime prior to an election, a voter may apply in person to the person in charge of the election for an absentee ballot during regular office hours up to 3:00 p.m. of the day of the election.

In the event of sickness or confinement, a qualified voter may apply in writing for and obtain an absentee ballot by authorized messenger so designated over the signature of the voter. The person in charge of the election may deliver to the authorized messenger a ballot to be delivered to the qualified voter. An application for a ballot by authorized messenger must be received by the person in charge of the election before 3:00 p.m. the day of the election.

12-19-2.2. Authorized messenger for more than one voter.

If a person is an authorized messenger for more than one voter, he must notify the person in charge of the election of all voters for whom he is a messenger.

12-19-3. Forwarding of ballot to voter - Instructions and return envelope.

Upon receiving an application for absentee ballots, the person in charge of an election shall, within forty-eight hours, or if ballots are not then on hand, then within forty-eight hours after receipt of the ballots, after confirming from the master registration list that the applicant is registered as a voter pursuant to chapter 12-4, enclose one of each of the official ballots, a set of instructions on absentee balloting, in an unsealed return envelope which shall be prescribed by the state board of elections. All of the enclosures shall be sealed in an envelope addressed to the applicant at the place stated in his application.

12-19-4. Voter's statement on return envelope - Federal service voting forms.

The return envelope for the absent voter's ballot shall have printed on the reverse thereof a statement to be signed by the voter. The state board of elections shall prescribe the forms for the return envelope, ballots, instructions to the voter, and such certification to accommodate the federal service voter under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. 1973cc-1).

Absentee Voting

12-19-5. Mailing of ballot and enclosures to voter - Free air mail for federal service voters.

The envelope containing the enclosures, if not delivered to the voter personally by the person in charge of the election or the authorized messenger filing the voter's request for an absentee ballot, shall, except for federal service voters, be mailed by first class mail to the address of the applicant stated in his application, with postage prepaid thereon. Both the return envelope and the envelope for transmitting the enclosures to federal service voters shall meet the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. 1973) and shall be transmitted by air mail, free of United States postage, including air mail.

12-19-6. Separate affidavit form enclosed with ballots. Repealed by SL 1970, ch 91, 4.

12-19-7. Marking and folding ballot - Officer before whom marked - Mailing or delivering ballot.

A voter voting an absentee ballot shall mark it and fold it without revealing the marks to any other person. The voter shall place the voted ballots in the return envelope provided and seal the envelope. The voter shall sign the statement on the return envelope. The voter shall either mail the ballot, deliver it in person or have it delivered to the person in charge of the election.

12-19-7.1. Candidates and election officials not to serve as authorized messenger.

No person who is a candidate for any elective office, except for political party offices described in 12-5-2 or county auditor or such deputy, at the election for which the ballot or ballots are to be voted, may serve as an authorized messenger.

12-19-7.2. Display of campaign material by messenger as misdemeanor.

No authorized messenger may, in the presence of the voter at or before the time of voting, display campaign posters, signs or other campaign materials or by any like means solicit any votes for or against any person, political party or position on a question submitted. A violation of this section is a Class 2 misdemeanor.

12-19-8. Certificate of officer witnessing marking of ballot. Repealed by SL 1971, ch 93, 2.

12-19-9. Delivery of absentee ballot - Receipt given - Personal delivery when mailing time insufficient.

An authorized messenger shall deliver the absentee ballot to the person in charge of the election. The person in charge of the election shall provide the authorized messenger referred to in 12-19-2.1 with a receipt when he returns the absentee ballot. If there is not sufficient time for the person in charge of the election to transmit the ballot to the voter's home precinct, the authorized messenger shall deliver it personally to the superintendent of the voter's home precinct.

12-19-9.1. Health care facility having multiple absentee ballot requests in general elections - Assistance to residents.

If there is any health care facility within any county from which there might reasonably be expected to be five or more absentee applications, the county auditor shall notify the person in charge of that facility and the chairman of the county central committee of each party and any other person who has filed a request to be notified of the date and time at which

Absentee Voting

representatives of the auditor's office will be present to assist the residents of that facility to vote, utilizing the absentee procedure. Any political party, independent candidate and nonpolitical candidate may assign a person to accompany the auditor's representatives. At the date and time announced, the auditor's representative and the representatives of the parties, independent candidates and nonpolitical candidates, if such there be, shall deliver ballots to and assist all persons at that facility who desire such assistance and who have applied for absentee ballots. This section applies only to a general election.

12-19-9.2. Marking and return of ballot on death of voter before opening of polls.

Whenever, prior to the casting of absentee ballots, it is made to appear by due proof to the county auditor or election board that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of the election, the ballot of the voter shall be returned in the unsealed return envelope with the evidence of death attached and the envelope marked "Unopened by reason of death of voter" to the officer in charge of the conduct of the election. The casting of any such ballot shall not invalidate the election.

12-19-10. Preservation and delivery of ballot to precinct superintendent - Verification of affidavit - Opening and deposit in ballot box - Unauthorized examination as misdemeanor.

Upon receipt of the sealed return envelope containing the voted ballots, the person in charge of the election shall keep it in a safe place without opening the envelope or breaking the seal thereof and shall, except as provided by 12-19-42, deliver it to the superintendent of election of the voter's home precinct. The person in charge of the election shall have the absentee ballots delivered with the election supplies, or if received later, then prior to the close of the polls. If the election board is not otherwise engaged in official duties, or if there are absentee ballots not processed when the polls close, immediately thereafter, the board shall carefully compare the statement on the reverse side of the official return envelope with the written application received from the officer in charge of the election without opening or breaking the seal of the return envelope. The board shall enter the voter's name on the election pollbook and mark the registration list if:

- (1) The ballots received were voted by the voter whose name appears on the statement;
- (2) The voter is registered in such precinct and has not previously voted in that precinct at the election; and
- (3) The written application and statement were both signed by the voter.

The board shall then open the envelope without opening, unfolding or examining the ballots the envelope may contain, stamp the ballots with the official stamp, and deposit the ballots with the other ballots cast at the election. No person may, prior to the counting of the votes, open, unfold or examine any ballot, or make any communication to any person concerning the markings or contents of the ballot. A violation of the preceding sentence is a Class 2 misdemeanor.

12-19-11. Preservation and return of application and return envelope.

The written application and official return envelope shall be preserved by the election officers and returned by them to the proper office together with the other election returns.

12-19-12. Endorsement and return of ballot received after close of polls.

If any absentee ballot is delivered to any polling place after the polls are closed such ballot shall neither be counted nor opened, but a clerk or judge of the election at such polling place shall immediately endorse on the envelope the following: "Received after closing of polls" and subscribe his signature thereto and return same with other ballots to the officer in charge of the conduct of the election.

Absentee Voting

12-19-13. Counting absentee ballots where voting machines used.

Where voting machines are used, absentee ballots, if any, may not be registered on the voting machines, but shall be handled and counted in the manner prescribed by law for handling and counting absentee ballots where voting machines are not in use.

12-19-14. Unlawful disposition of ballot as misdemeanor.

Any voter who, having procured an official ballot or ballots as provided in 12-19-1 to 12-19-13, inclusive, intentionally disposes them in any manner other than as provided in said sections is guilty of a Class 2 misdemeanor.

12-19-15. Absentee voting while in federal service - Definition of terms. Repealed by SL 1974, ch 118, 200.

12-19-16. Persons entitled to benefit of federal service absentee voting provisions. Repealed by SL 1974, ch 118, 200.

12-19-17. Registered voters absent in federal service entitled to vote as if present. Repealed by SL 1974, ch 118, 200.

12-19-18. Application for registration of absentee in federal service - Time of application and registration. Repealed by SL 1974, ch 118, 200.

12-19-19. Contents of application for registration - Statement and proof of party preference. Repealed by SL 1974, ch 118, 200.

12-19-20. Post card form used as application for registration. Repealed by SL 1974, ch 118, 200.

12-19-21. Determination of eligibility and addition to master list of applicant for registration. Repealed by SL 1974, ch 118, 200.

12-19-22. Application for registration deemed application for ballot. Repealed by SL 1974, ch 118, 200.

12-19-23. Time for performance of acts necessary before printing of ballots. Repealed by SL 1971, ch 87, 6.

12-19-24. Application for ballots for voter absent in federal service - Contents and verification of application. Repealed by SL 1974, ch 118, 200.

12-19-25. Post card form used as application for ballots. Repealed by SL 1974, ch 118, 200.

12-19-26. Time of availability of printed ballots for distribution - Immediate mailing to voters absent in federal service. Repealed by SL 1974, ch 118, 200.

12-19-27. Return envelopes and instructions enclosed with ballots mailed - Specifications for envelopes. Repealed by SL 1974, ch 118, 200.

12-19-28. Marking, folding and sealing of absentee ballot - Certification and deposit in mail. Repealed by SL 1974, ch 118, 200.

12-19-29. Persons authorized to witness and certify ballots of voters in federal service. Repealed by SL 1974, ch 118, 200.

Absentee Voting

12-19-30. Time of casting absentee ballot - Receipt by precinct superintendent required before closing of polls. Repealed by SL 1974, ch 118, 200.

12-19-31. Preservation and delivery to election board of ballots received - Handling as other absentee ballots. Repealed by SL 1974, ch 118, 200.

12-19-32. Ballot not invalidated by federal censorship.

The exercise of the right of censorship by the federal authorities upon the marked ballot while same is in transit in the mail, shall not invalidate the ballot or be cause for its rejection.

12-19-33. Failure to deliver or tampering with ballot as felony.

Any person who, having procured an official ballot or ballots for another, intentionally fails to deliver the ballots to the voter or who intentionally fails to deliver the return envelope with ballots contained therein to the proper officer, or who tampers with the envelope or ballots is guilty of a Class 6 felony.

12-19-34. Informalities do not invalidate election - Liberal construction.

No mere informality in the matter of carrying out or executing the provisions of this chapter shall invalidate the election or authorize the rejection of the returns thereof, and the provisions of this chapter shall be liberally construed for the purposes herein expressed or intended.

12-19-35. Federal-service absentee voting law supplementary - Conflict with other laws - General absentee voting laws alternative. Repealed by SL 1974, ch 118, 200.

12-19-36. Separability of provisions for voting by absentees in federal service. Repealed by SL 1974, ch 118, 200.

12-19-37. Absentee ballot precincts - Creation - Absentee ballot counting board.

Any county may create a special precinct to be known as an absentee ballot precinct. If the county creates an absentee ballot precinct, all absentee ballots cast at any election shall be counted in such precinct. However, if a paper ballot precinct has ten or fewer absentee ballots cast at the time the polls open on election day, the absentee ballots in that precinct shall be counted at the polling place. The election board of the absentee ballot precinct is the absentee ballot counting board. There may be only one absentee ballot counting board at any time in a county.

12-19-38. Appointment of absentee ballot counting board - Number of members.

The county auditor shall appoint the absentee ballot counting board in the manner prescribed in chapter 12-15, except that the number of election officials on the absentee ballot counting board shall be sufficient to complete the counting of ballots within a reasonable time.

12-19-39. Oath of board members - Compensation.

Each election official of the absentee ballot counting board shall take the oath required by 12-15-9 and shall be paid as provided by 12-15-11.

12-19-40. Exemption of small precincts - Procedure. Repealed by SL 1982, ch 130.

Absentee Voting

12-19-41. Powers and duties of absentee ballot counting board.

Except as otherwise provided in 12-19-37 to 12-19-52, inclusive, the absentee ballot counting board's powers and duties shall be the same as provided in chapters 12-19 and 12-20 for precinct election officials in regular precinct polling places, except that the board shall receive and count all absentee ballots for all precincts in the county upon receipt thereof from the person in charge of the election.

12-19-42. Envelope containing voted ballots kept closed - Delivery to county board.

Upon receipt of the sealed return envelope containing the voted ballots, the person in charge of the election shall keep it in a safe place without opening the envelope or breaking the seal thereof. The person in charge of the election shall cause to be delivered to the absentee ballot counting board, the absentee ballot or ballots with the election supplies, or if later received, then prior to the close of the polls.

12-19-43. Review of absentee voters' affidavits prior to closing of polls - Ballots not counted.

The county auditor may direct the board to meet on election day prior to the closing of the polls for the sole purpose of reviewing the absentee voters' affidavits appearing on the sealed ballot envelopes, if in the auditor's judgment this procedure shall be necessary due to the number of absentee ballots received. The absentee ballots may be opened, stamped and placed in the ballot box, but under no circumstances shall they be counted prior to the closing of the polls.

12-19-44. Counting process open.

The room occupied by the absentee ballot counting board shall be open to any person for the purpose of observing the counting process.

12-19-45. Record of applicants' names, addresses, and voting precincts - Delivery to counting board - Record of authorized messengers.

The person in charge of the election shall preserve a record of the name, post-office address and voting precinct of each applicant for absentee ballots and shall personally deliver the same to the absentee ballot counting board. The person in charge of the election shall keep a record of the name of the authorized messenger requesting an absentee ballot to be delivered to another voter.

12-19-46. Commencement of count when polls close - Place.

The absentee ballot counting board shall commence counting the absentee voters' ballots immediately upon close of the polls at a central place designated by the county auditor.

12-19-47. Comparison of affidavits with written applications - Entry of voters' names on pollbook - Stamping and deposit of ballots - Counting - Improper examination and disclosure of contents of ballot as misdemeanor.

The absentee ballot counting board, during the time prescribed in 12-19-46, shall carefully compare the statement on the reverse side of the official return envelope with the written application received from the officer in charge of the election without opening or breaking the seal of the return envelope. If the board is satisfied that the ballots received were voted by the voter whose name appears on the statement and that he is registered in such precinct and has not previously voted in that precinct at the election, they shall enter

Absentee Voting

the voter's name on the election pollbook and, after opening the envelope without opening, unfolding or examining the ballots the envelope may contain, affix to the ballots the official stamp and deposit the ballots in the proper ballot box and count the ballots in the manner prescribed by the state board of elections. No person, may, prior to the counting of the votes, open, unfold or examine any ballot, or make any communication to any person concerning the markings or contents of the ballot. A violation of the preceding sentence is a Class 2 misdemeanor.

12-19-48. Delivery of absentee ballot after polls closed - Endorsement of late receipt on unopened ballot - Return to officer in charge.

If any absentee ballot shall be delivered to any absentee ballot counting board after the polls are closed such ballot shall neither be counted nor opened, but a clerk or judge of the absentee ballot counting board shall immediately endorse on the envelope the following: "Received after closing of polls," sign his name thereon and return it with other ballots to the officer in charge of the election.

12-19-49. Death of absentee voter prior to opening of polls - Ballot returned to person in charge - Election not invalidated by casting of ballot.

If, prior to the casting of absentee ballots, the person in charge of the election or absentee ballot counting board shall have sufficient cause to believe that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of the election, the ballot of the voter shall be returned in the sealed return envelope with the evidence of death attached and the envelope marked "Unopened by reason of death of voter" to the person in charge of the election. The casting of any such ballot, however, shall not invalidate the election.

12-19-50. Forms for recording tally - Special pollbook - Tally added to home precinct totals.

The tally shall be recorded on forms prescribed by the state board of elections. A special pollbook shall also be prescribed by the state board of elections. Except as provided by 12-19-51 or 12-19-52, the tally shall be recorded according to the precincts in which the voters are registered and then added to those individual precinct totals.

12-19-51. Voting machines - Entry of absentee votes - Witness of recording and counting process.

In any county which provides the absentee ballot counting board with a voting machine, the absentee ballot envelopes shall be opened by the counting board and the ballots of each precinct individually shall, without being unfolded, be thoroughly intermingled after which they shall be unfolded and, under the personal supervision of all the election board, be registered on the voting machine the same as if the absent voter had been present and voted in person. Each step of the recording and counting process shall be witnessed by at least two people, not of the same political party.

12-19-52. Electronic voting systems.

In those counties which have adopted an electronic voting system, counting shall be as prescribed in chapter 12-17A.

12-19-53. Contracting for services of county auditor from another county.

If a county contracts for the services of a county auditor from another county, that county auditor shall make absentee ballots available in the contracting county if the contracting

Absentee Voting

county requests that absentee ballots be provided. The contracting county shall reimburse the county auditor for the costs incurred pursuant to this section.

CHAPTER 12-19A.

SPECIAL VOTING RIGHTS

[Repealed by SL 1972, ch 76, 24; 1974, ch 118, 200; 1975, ch 119, 22]

CHAPTER 12-20.

RETURN AND CANVASS OF VOTES

Section

- 12-20-1. Delivery of supplies to counting board - Commencement of count - Continuation without adjournment - Comparison and correction of poll lists.
- 12-20-2. Opening of ballot box - Sorting and counting of unopened ballots - Ballots folded together.
- 12-20-3. Drawing of excess ballots.
- 12-20-4. Repealed.
- 12-20-5. Count of votes for candidates - Scrutiny of ballots by judges - Decisions on disputed ballots.
- 12-20-6. Unstamped ballots not counted.
- 12-20-7. Ballot counted when intent determinable if no identifying marks.
- 12-20-8. Counting of party ticket vote - Scratching after party ticket marked.
- 12-20-9. Repealed.
- 12-20-10. Blank list for unofficial return of precinct vote for candidates and submitted questions - Return envelope.
- 12-20-11. Entry of precinct vote on unofficial return list - Return with election returns.
- 12-20-12. Repealed.
- 12-20-13. Tabulation and public release of unofficial returns - Entry into central election reporting system.
- 12-20-14. Repealed.
- 12-20-15. State messenger to secure delinquent returns - Expenses deducted from county auditor's salary.
- 12-20-16. Examination and recording of voting machine counters - Printed or photographic record - Return of record and absentee ballot tally.
- 12-20-17. Returns not disclosed until all polls in state closed.
- 12-20-18. Entry of candidates' votes in precinct pollbooks.
- 12-20-19. Repealed.
- 12-20-20. Sealing of ballot boxes after deposit of counted ballots - Violation as misdemeanor.
- 12-20-21. Return of ballot boxes, returns, records and supplies to officer in charge - Tampering prohibited - Violation as felony.
- 12-20-21.1. Circumstances requiring report of official returns by telephone.
- 12-20-22 to 12-20-27. Repealed.
- 12-20-28. Certificate executed by judges and clerks.
- 12-20-29, 12-20-30. Repealed.
- 12-20-31. Destruction of ballots and pollbooks - Period for which held - Pending recount or contest.
- 12-20-32. Preservation of ballot boxes and pollbooks - Delivery of pollbooks to county canvassing board - Violation as felony.
- 12-20-33, 12-20-34. Repealed.
- 12-20-35. Returns not refused for irregularity - Certificate issued to candidate with most

Return and Canvass of Votes

- votes.
- 12-20-36. Time for canvass of vote - Governing board as canvassing board - Representatives for absent board members.
 - 12-20-37. Envelopes with directions for return of county vote furnished by secretary of state.
 - 12-20-38. Abstracts of precinct returns prepared by board of canvassers - Certification - Deposit.
 - 12-20-38.1. Certified copy of official county canvass furnished to secretary of state - Permanent record.
 - 12-20-39. Election by plurality.
 - 12-20-40. Certificate of election delivered by county auditor to persons elected to local office.
 - 12-20-41 to 12-20-45. Repealed.
 - 12-20-46. Composition of state canvassing board - Candidate disqualified from participation.
 - 12-20-47. Time of convening of state canvassers - Adjournment to obtain late returns.
 - 12-20-48. Abstract by state canvassers of county returns - Signature and seal - Recording and filing of abstracts.
 - 12-20-48.1. Certification to state party chairman of votes for national convention slates.
 - 12-20-49. Certificate of election issued for federal, state or legislative office.
 - 12-20-50. Repealed.
 - 12-20-51. Disputes decided by majority of state canvassers - Irregularities disregarded.
 - 12-20-52. Rules and regulations for counting and canvass of vote.

12-20-1. Delivery of supplies to counting board - Commencement of count - Continuation without adjournment - Comparison and correction of poll lists.

As soon as the polls are closed, the judges of election shall immediately deliver the ballot boxes, registration book, pollbook, and other election supplies, including voided and unused ballots, to the counting board, if appointed, and sign the certificate required by 12-20-28. The judges and clerks of election or the counting board, if appointed, shall then immediately proceed to count publicly, in the presence of all persons desiring to attend the count, the votes received at the polls, and continue without adjournment until the count is completed. In counting the votes, they shall use the tally sheets provided.

12-20-2. Opening of ballot box - Sorting and counting of unopened ballots - Ballots folded together.

The box shall be opened and the ballots taken out, sorted so that all ballots on certain candidacies and issues are separately identified, and counted by the judges unopened, except so far as to ascertain if each ballot is single. If two or more ballots are found folded together and present the appearance of a single ballot, they shall be laid aside until the count of ballots is completed. Upon the comparison of the count with the pollbook and registration list, or in machine precincts, with the number of return envelopes from absentee voters, and the appearance of the ballots, if a majority of such judges are of the opinion that the ballots folded together were voted by one voter, they shall be endorsed as "duplicate ballot of one voter not counted." If the ballot count does not agree with the number of votes in the pollbook, a comparison of the voters in the pollbook and the registration list shall be made and the correction of any mistakes therein shall be made.

12-20-3. Drawing of excess ballots.

Following the comparison of the pollbook and registration list in 12-20-2, if the ballots in the box exceed the number of names in the pollbook, they shall be replaced in the box, after any such ballots folded together are canceled, and one of the judges shall publicly draw therefrom as many ballots, unopened, as equal to the excess.

Return and Canvass of Votes

12-20-4. Marking and accounting for canceled and defective ballots. Repealed by SL 1974, ch 118, 200.

12-20-5. Count of votes for candidates - Scrutiny of ballots by judges - Decisions on disputed ballots.

The votes for the several candidates shall be counted in the order in which they occur upon the ballots. If there is no counting board, all three judges, after separation of ballots and further separation of straight party ballots, shall personally scrutinize each ballot as the vote on that ballot is announced. At least two judges, of opposite political parties, shall scrutinize each ballot in like manner where counting boards are used with the superintendent acting to break any tie vote of the two judges ruling on a ballot. As the vote is announced each of the two clerks assisting the judges shall make the mark required on the tally sheet.

12-20-6. Unstamped ballots not counted.

In the counting of the votes any ballot which is not endorsed as provided in 12-18-12 by the official stamp shall be void and may not be counted.

12-20-7. Ballot counted when intent determinable if no identifying marks.

Any ballot or part of a ballot from which it is impossible to determine the voter's choice shall be void and shall not be counted. When the marks complying with 12-18-16 to 12-18-21, inclusive, on a ballot are sufficiently plain to gather therefrom a part of the voter's intention and there are no marks placed on the ballot contrary to 12-18-22 it shall be the duty of the judges of election to count such part.

12-20-8. Counting of party ticket vote - Scratching after party ticket marked.

The judges, in counting the votes, shall endeavor to record the intention of the voter. Should there be a mark on the ballot in the circle at the head of any column, the judges shall hold the intention of the voter to be to vote for all candidates in the column over which the mark is placed, unless there should be a mark in the square at the left of the name of some candidate in some other column on the ballot. The judges shall then hold the intention of the voter to be to vote for the candidate or candidates before whose name he has placed a mark, and for all candidates in the column over which he has placed a mark, except for the candidate or candidates where a mark has been placed in some other column; except, also, that where there is more than one candidate in the same column for the same office and the voter has placed a mark in the square at the left of the name of a candidate for that office in some column other than the one over which he has placed a mark, the judges shall hold the intention of the voter to be to vote only for the candidate or candidates for that office before whose name he has placed a mark.

12-20-9. Recording of one vote for unopposed candidate - Further count not required. Repealed by SL 1976, ch 105, 84.

12-20-10. Blank list for unofficial return of precinct vote for candidates and submitted questions - Return envelope.

There shall be furnished by the officer in charge of the election to each voting precinct, for each election, a blank list which shall have space after each candidate's name and after each measure, law, or amendment to be voted upon at such election, in which to enter the number of votes cast in the precinct for each candidate, measure, law, or amendment, together with an envelope addressed to the officer in charge of the election and labeled in

Return and Canvass of Votes

plain letters, "Immediate - Unofficial Return - Do not put this in ballot box."

12-20-11. Entry of precinct vote on unofficial return list - Return with election returns.

When the vote count is complete, the judges of the election shall enter upon such blank list the true number of votes cast in the precinct for each person, measure, law, or amendment which appears upon the official ballot, and shall enclose the same in the envelope described in 12-20-10. The judge of election deputed to deliver the election returns to the officer in charge of the election shall return it separate from any other envelopes or wrappers returned at the time he delivers the election returns.

12-20-12. Judge not compensated if unofficial returns not furnished. Repealed by SL 1974, ch 118, 200.

12-20-13. Tabulation and public release of unofficial returns - Entry into central election reporting system.

Except as provided in 12-20-17, the county auditor shall tabulate election returns as rapidly as received and make the result available for the information of the public, but such returns are not the official returns. The county auditor shall enter such information into the central election reporting system by using the state computer located in the county treasurer's office immediately following the tabulation of each precinct.

12-20-14. Transmittal of unofficial returns to secretary of state. Repealed by SL 1981, ch 126, 1.

12-20-15. State messenger to secure delinquent returns - Expenses deducted from county auditor's salary.

If any county auditor fails to perform the duties required of him by 12-20-38.1, the secretary of state shall send a messenger to the county auditor to secure such returns. All expenses for such service shall be paid by the county of which such auditor is an officer upon the filing of a certificate from the secretary of state as to the amount of such expenses, and the amount so paid shall be deducted from the next monthly salary of the county auditor of such county.

12-20-16. Examination and recording of voting machine counters - Printed or photographic record - Return of record and absentee ballot tally.

After the close of the polls where voting machines are used, the election board shall examine the registering counters on the voting machines, transcribing and recording all votes as shown thereon, onto the official return sheets furnished for that purpose. If the machine is equipped with a device for printing or photographing returns, the election board shall obtain a printed or photographed record of the votes cast on the candidate and question counters. Such record together with tally sheets for absentee ballots cast are the official returns for that precinct.

12-20-17. Returns not disclosed until all polls in state closed.

In primary elections there shall be no public disclosure of the returns of state and federal elections until all precinct polling places in the state are closed. This provision is applicable to all precinct polling places within the state.

12-20-18. Entry of candidates' votes in precinct pollbooks.

After the votes have been counted, the clerks shall set down in their pollbook and

Return and Canvass of Votes

duplicate tally sheet on forms therein prescribed by the state board of elections the name of every person voted for, the office for which such person received votes, and the number of votes such person received, the number being expressed at length.

12-20-19. Gummed seals provided for ballot boxes and envelopes. Repealed by SL 1974, ch 118, 200.

12-20-20. Sealing of ballot boxes after deposit of counted ballots - Violation as misdemeanor.

The counted ballots shall be sorted in the manner provided in 12-20-2 and wrapped, sealed and deposited in the ballot box or boxes. Judges of election, after the counting of ballots and deposit of the ballots counted in the ballot box or boxes, shall properly seal, with seals furnished pursuant to 12-16-26, any ballot box opening and the place where the clasp and box connect, and all places where a ballot box may be opened before turning such ballot box over to the person deputed to deliver the same. A violation of this section is a Class 1 misdemeanor.

12-20-21. Return of ballot boxes, returns, records and supplies to officer in charge - Tampering prohibited - Violation as felony.

The ballot box so sealed, together with the pollbook and duplicate tally sheet, registration lists, and the envelope containing the unofficial returns and all supplies and returns required, shall be returned by the superintendent or a judge designated by him, to the officer in charge of the election immediately after completion of the vote count. The person delivering such envelope may not deface, destroy, or remove any seals, or the pollbook, duplicate tally sheet and registration lists, or otherwise tamper with any of them. A violation of this section is a Class 6 felony.

12-20-21.1. Circumstances requiring report of official returns by telephone.

Notwithstanding the provisions of 12-20-21, if the person in charge of the election determines that the roads are impassable between a polling place and the office of the person in charge of the election, the superintendent shall report unofficial election returns by telephone to the person in charge of the election immediately following completion of the vote count. The superintendent shall return the sealed ballot box together with the pollbooks, registration lists, the envelope containing the unofficial returns and all supplies to the person in charge of the election as soon as possible but no later than noon on the day following the election.

12-20-22. Delivery of registration lists, pollbook and keys to auditor or clerk. Repealed by SL 1974, ch 118, 200.

12-20-23. Delivery of ballot boxes to clerk or auditor. Repealed by SL 1974, ch 118, 200.

12-20-24. Delivery of registration cards and notices to county auditor. Repealed by SL 1974, ch 118, 200.

12-20-25. Preservation of pollbooks and ballot boxes. Repealed by SL 1974, ch 118, 200.

12-20-26. Delivery of primary and general election pollbooks, ballot boxes and keys to auditor and clerk of court - Failure to deliver as misdemeanor - Penalty. Repealed by SL 1974, ch 118, 200.

12-20-27. Administration of oath to separate precinct canvassing board - Reconciliation of ballot count performed by judges of election. Repealed by SL 1974, ch 118, 200.

Return and Canvass of Votes

12-20-28. Certificate executed by judges and clerks.

The election judges and the judges of counting boards and clerks shall then complete and sign a certificate as prescribed by the state board of elections.

12-20-29. Completion of canvass and returns by separate precinct canvassing board. Repealed by SL 1974, ch 118, 200.

12-20-30. Preservation of primary and general election pollbooks, ballots and ballot boxes. Repealed by SL 1974, ch 118, 200.

12-20-31. Destruction of ballots and pollbooks - Period for which held - Pending recount or contest.

The officer in charge of an election may destroy voted ballots and pollbooks from a nonfederal election sixty days following the election at which such ballots were voted. However, they may not be destroyed if any recount or contest of such election is pending. The officer in charge of an election may destroy voted ballots, pollbooks and all other election material relating to a federal election twenty-two months after the election at which the ballots were voted. For the purpose of this section, a federal election is any election to nominate or elect persons to the United States Congress or other national elected position, including national issues or questions. If a ballot is used for a federal election and a state or local election, the ballots and all other election material shall be maintained for twenty-two months. All federal election material may be removed from the ballot box if it is maintained in such a manner as to guarantee the safety and integrity of such material.

12-20-32. Preservation of ballot boxes and pollbooks - Delivery of pollbooks to county canvassing board - Violation as felony.

The county auditor shall keep the ballot boxes and pollbooks in the same condition as when received, until the meeting of the county canvassing board, when he shall deliver the pollbooks to such board. A violation of this section is a Class 6 felony.

12-20-33. Safeguarding of ballot boxes by clerk of courts. Repealed by SL 1974, ch 118, 200.

12-20-34. Failure to safeguard or deliver ballot boxes or pollbooks as felony - Penalty. Repealed by SL 1982, ch 86, 94.

12-20-35. Returns not refused for irregularity - Certificate issued to candidate with most votes.

No election returns shall be refused by any officer for the reason that the same may be returned or delivered to him in any other than the manner directed in this chapter, nor shall he refuse to include any returns in his estimate of votes for any informality in holding an election or making returns thereof; but all returns shall be received and the votes canvassed by such officer, and a certificate given to the person or persons who may by such returns have the greatest number of votes.

12-20-36. Time for canvass of vote - Governing board as canvassing board - Representatives for absent board members.

Within six days after the close of any election, except a primary or secondary election, the officer in charge of the election, with the assistance of a majority of the governing board as

Return and Canvass of Votes

the canvassing board, shall make the canvass of votes. Each member of the governing board may name and have on file with the officer in charge of the election a person to represent him at the official canvass in the event of his absence for cause.

12-20-37. Envelopes with directions for return of county vote furnished by secretary of state.

The secretary of state shall, at least thirty days before every primary and general election, transmit to the county auditors of the several counties envelopes for all returns of votes required to be made to his office, with printed directions on the envelopes as are deemed necessary by the state board of elections for the guidance and direction of the officers in making the returns according to law. The expense of printing the envelopes shall be paid by the state.

12-20-38. Abstracts of precinct returns prepared by board of canvassers - Certification - Deposit.

The board of canvassers for both primary and general elections shall at the time provided by 12-20-36 proceed to open the returns from the various voting precincts in the county and make abstracts of the votes cast for each of the candidates and each of the issues. Each of the abstracts of the votes made shall be signed and certified by the canvassers, under the seal of the county auditor, and be deposited in the office of the auditor.

12-20-38.1. Certified copy of official county canvass furnished to secretary of state - Permanent record.

The county auditor shall immediately make and file with the secretary of state a certified copy of the official county canvass of votes prepared pursuant to 12-20-38 which shall be used for the official state canvass. The abstracts shall be permanent records of the state of South Dakota and be kept by the secretary of state.

12-20-39. Election by plurality.

Except when otherwise specially provided in all elections for the choice of any officer, the person receiving the highest number of votes for any office shall be deemed to have been elected to that office.

12-20-40. Certificate of election delivered by county auditor to persons elected to local office.

It shall be the duty of the county auditor to make out a certificate of election to each of the persons having the highest number of votes for county and precinct officers, respectively, and to deliver such certificate to the person entitled to it.

12-20-41. Abstract of county votes for legislative and local offices forwarded to secretary of state. Repealed by SL 1974, ch 118, 200.

12-20-42. Abstract of county votes for federal office forwarded to secretary of state - Endorsement on envelope. Repealed by SL 1974, ch 118, 200.

12-20-43. Abstracts of county votes for state office forwarded to members of state canvassing board - Endorsement on envelopes. Repealed by SL 1974, ch 118, 200.

12-20-44. State messenger to obtain delayed abstracts of county votes - Expense reimbursed by county - Payment of expense to messenger. Repealed by SL 1974, ch 118, 200.

Return and Canvass of Votes

12-20-45. Preservation of unopened abstracts - Opening before board of canvassers.
Repealed by SL 1974, ch 118, 200.

12-20-46. Composition of state canvassing board - Candidate disqualified from participation.

The Governor, or his designee, the chief justice of the Supreme Court, or his designee, and the secretary of state, in the presence of the attorney general shall constitute a board of canvassers to canvass the returns of the votes for representatives in Congress, United States senators, and for electors of President and vice-president of the United States and all state officers, members of the state Legislature, constitutional amendments, initiated measures, and referred laws, but no member thereof shall take part in canvassing the votes for any office for which he is a candidate.

12-20-47. Time of convening of state canvassers - Adjournment to obtain late returns.

Within fifteen days after the day of election, except a primary or secondary election, such board of state canvassers shall open and examine the returns from all the counties, if they are received from all counties, and if not all received, they may adjourn, not exceeding ten days, for the purpose of obtaining the returns from all the counties, and when these are received shall proceed with the canvass.

12-20-48. Abstract by state canvassers of county returns - Signature and seal - Recording and filing of abstracts.

The board of state canvassers shall make an abstract stating the number of votes cast for each of such officers, the names of all persons voted for, for what office they respectively received the votes, and the number of votes each received, in words at length, and stating whom they declare to be elected to each office, which abstract shall be signed by the canvassers in their official capacity and as state canvassers, and have the great seal of the state affixed.

The secretary of state shall record such abstracts in a book to be kept by him for recording the result of state elections, called the "election book," and also file such abstracts.

12-20-48.1. Certification to state party chairman of votes for national convention slates.

Upon the completion of the state canvass of the results of the primary election for delegates and alternates to the national convention, the state canvassing board shall certify to the state chairman of each political party the slates (groups of delegates and alternates) entered in the primary for each political party and the number of votes in the primary for each slate pursuant to 12-5-3.10.

12-20-49. Certificate of election issued for federal, state or legislative office.

A certificate of election, signed by the Governor, attested by the secretary of state, with the great seal of the state affixed, shall be issued to each person elected to a federal or state office, or a member of the state Legislature. The secretary of state shall forward to the appropriate federal officer certified copies of the certificates as may be required.

12-20-50. State canvass of returns for federal office - Tie vote - Certificates of election.
Repealed by SL 1973, ch 76, 6.

12-20-51. Disputes decided by majority of state canvassers - Irregularities disregarded.

A majority of the members of the state canvassing board shall decide all matters of

Return and Canvass of Votes

dispute, and it shall be their duty to disregard all technicalities and misspelling, the use of initial letters or abbreviations of the names of candidates, if it can be ascertained from the returns for whom the votes were intended.

12-20-52. Rules and regulations for counting and canvass of vote.

The state board of elections may, by rule, in accordance with chapter 1-26, promulgate rules and regulations to clarify the procedure by which ballots are counted and canvassed in all elections.

CHAPTER 12-21.

RECOUNTS

Section

- 12-21-1. Purpose of chapter - Liberal construction.
- 12-21-2. Composition and appointment of county recount board - Good faith and impartiality.
- 12-21-3. Notice of appointment and time and place of recount - Notice to candidates.
- 12-21-4. Compensation of recount referee and appointive members of board.
- 12-21-4.1. Mileage allowance for recount board members.
- 12-21-5. Repealed.
- 12-21-6. Application of chapter.
- 12-21-6.1. Code of regulations to govern recounts.
- 12-21-7. Conditions under which recount made.
- 12-21-8. Precinct recount on petition by voters of precinct.
- 12-21-9. Extended time for filing additional precinct recount petitions.
- 12-21-10. Complete recount on candidate's petition in close local election.
- 12-21-11. Complete recount on candidate's petition in close election in joint legislative district.
- 12-21-11.1. Notice to secretary of state of petition filed with county auditor.
- 12-21-12. Candidate's petition for recount in close state or district election - Notice to county auditors.
- 12-21-13. Computation of total vote where two or more candidates elected to same office.
- 12-21-14. Voters' petition for recount on question submitted to entire state - Form of petition - Notice to county auditors.
- 12-21-15. Petition for recount in close presidential election - Time of filing - Notice to county auditors.
- 12-21-16. Tie vote certified by canvassing board - Automatic recount.
- 12-21-17. Repealed.
- 12-21-18. Chapter not applicable where runoff election required.
- 12-21-19. Joint petition by defeated candidates.
- 12-21-20. Notice to circuit judge of recount petition - Appointment and convening of recount board.
- 12-21-21. Adjournment by board to another place.
- 12-21-22. Adjournment to permit combining separate recounts of same ballots.
- 12-21-23. Majority vote of county recount board - Quorum.
- 12-21-24. Ballot boxes produced before recount board.
- 12-21-25. Recount to proceed expeditiously.
- 12-21-26. Candidates' right to witness recount - Witnesses to recount on submitted question.
- 12-21-27. Segregation and identification of disputed ballots.
- 12-21-28. Identification of ballots disputed in two or more recounts - Substitution of memorandum describing ballot.
- 12-21-29. Opening of segregated ballot for purpose of different recount - Identification and

Recounts

- substitution of memorandum if disputed - Resealing.
- 12-21-30. Opening of segregated ballots involved in previous judicial proceedings - Court order to preserve rights.
- 12-21-31. Return and resealing of undisputed ballots - Certification of disputed ballots.
- 12-21-32. Certification of recount result - Contents and execution - Transmittal to secretary of state.
- 12-21-33. Sealing and certification of disputed ballots.
- 12-21-34. Filing and preservation of certificates - Court order required to open.
- 12-21-35. Certification of recount result to canvassing board - Recount result in lieu of official returns.
- 12-21-36. Recanvass and corrected abstract of votes in local election.
- 12-21-37. New certificate of election or nomination to local office when result changed by recount.
- 12-21-38. Repealed.
- 12-21-39. Reconvening of state canvassers after recount - Recanvass and corrected abstract.
- 12-21-40. New certificate of election or nomination on change of result by corrected abstract of state returns.
- 12-21-41. Original certificate of nomination or election superseded by certificate issued after recount - Rights of holder.
- 12-21-42. Original determination on submitted question superseded by determination after recount.
- 12-21-43. Tie vote after recount determined by lot - Issuance of certificate.
- 12-21-44. Second recount prohibited - Exception.
- 12-21-45. Court order for second recount - Grounds - Time of filing petition.
- 12-21-46. Court removal and replacement of recount board member not acting in good faith.
- 12-21-47. Persons entitled to certiorari for review of recount - Time of filing of petition.
- 12-21-48. Original jurisdiction of certiorari proceedings.
- 12-21-49. Form and contents of petition for certiorari.
- 12-21-50. Issuance of writ of certiorari - Officials to whom addressed - Contents.
- 12-21-51. Service of writ of certiorari - Persons on whom served.
- 12-21-52. Intervention in certiorari involving submitted question.
- 12-21-53. Answer to petition for certiorari - Joint or several answer.
- 12-21-54. Defenses set forth in answer to certiorari - New allegations - Petition for additional writ.
- 12-21-55. Insufficient certification - Further certification required.
- 12-21-56. Hearing on certiorari - Conference to narrow issues.
- 12-21-57. Scope of review on certiorari - Correction of errors.
- 12-21-58. Procedure as in other cases of certiorari.
- 12-21-59. Judgment on certiorari.
- 12-21-60. Right of appeal to Supreme Court from judgment on certiorari.
- 12-21-61. Procedure on appeal to Supreme Court - Provisions to secure speedy determination.

12-21-1. Purpose of chapter - Liberal construction.

The intent of the provisions of this chapter is to procure a speedy and correct determination of the true and actual count of all ballots cast at an election, which ballots are valid on their face, and all provisions of this chapter shall be liberally construed to that end.

12-21-2. Composition and appointment of county recount board - Good faith and impartiality.

The county recount board of each county which conducts a recount authorized by this

Recounts

chapter shall consist of a recount referee and two voters of the county to be appointed by the presiding judge of the circuit court for that county, providing for representation of the different political parties. The recount referee shall be a duly qualified member of the bar of the state of South Dakota and a member of the political party which polled the largest number of votes for Governor in the county in the last gubernatorial election. All members of the recount board shall act in good faith and impartiality.

12-21-3. Notice of appointment and time and place of recount - Notice to candidates.

The judge shall immediately give notice to the members of the recount board of their appointment to such board, and the time and the place of the recount as prescribed in 12-21-20, and, immediately after such appointment, he shall notify all candidates for public office subject to recount of the names of the recount referee and the additional members of the recount board, and the time and place of the recount.

12-21-4. Compensation of recount referee and appointive members of board.

The recount referee shall receive compensation in the amount of thirty-five dollars per day and the other two members so appointed to the recount board shall each receive compensation in the amount of twenty-five dollars per day.

12-21-4.1. Mileage allowance for recount board members.

The members of the recount board shall receive mileage for the miles traveled each day of the recount from their points of residence in an amount equal to that set by the state board of finance for state employees; provided however, that this provision shall not apply to the first ten miles traveled each day.

12-21-5. Recount board for unorganized county. Repealed by SL 1982, ch 28, 46.

12-21-6. Application of chapter.

Except in school and municipal elections and as provided in 12-21-18, the provisions of this chapter apply to the recount of ballots cast in any election conducted.

12-21-6.1. Code of regulations to govern recounts.

The state board of election may by rule, in accordance with chapter 1-26, adopt a code of regulations to govern the conduct of recounts.

12-21-7. Conditions under which recount made.

Such recount shall be made under any of the conditions described in 12-21-8 to 12-21-15, inclusive.

12-21-8. Precinct recount on petition by voters of precinct.

When within ten days after an election any three registered voters of a precinct file with the officer in charge of the election a petition, duly verified by them, setting forth that they believe that the official returns from such precinct as to a specified candidate or as to a specified referred or submitted question are erroneous, the votes of such precinct as to the office or position specified or as to the question specified shall be recounted.

12-21-9. Extended time for filing additional precinct recount petitions.

When as to any candidate or any submitted or referred question a petition or petitions

Recounts

are filed under 12-21-8 as to any particular precinct or precincts within a county, similar petitions as to the same question or candidate may be filed within three days thereafter as to another precinct or precincts within the county, even though the specified period of ten days from the election expires within such three days. But such three-day extension shall only apply as from the filing of the first petition as to any such candidate or any such question.

12-21-10. Complete recount on candidate's petition in close local election.

A candidate for any office, position or nomination which is voted upon only by the voters of one county or part thereof may ask for a recount of the official returns if such candidate is defeated, according to the official returns, by a margin not exceeding two percent of the total vote cast for all candidates for such office, position or nomination. Candidates for nonlegislative offices shall file a verified petition with the county auditor within ten days after the election returns have been canvassed by the official county canvass. Candidates for legislative offices shall file a verified petition with the county auditor within ten days after the election returns have been canvassed by the official state canvass. The petition shall state that the candidate believes a recount will change the result of the election and that all of the votes cast for the office, position or nomination should be recounted. A recount shall then be conducted.

12-21-11. Complete recount on candidate's petition in close election in joint legislative district.

When any legislative district comprises more than one county, any candidate for election to or nomination for the Legislature who, according to the official returns, has been defeated by a margin not exceeding two percent of the total vote cast for all candidates for such office, he may, within ten days after completion of the official canvass of the returns, file a petition such as that set forth in 12-21-10 with the county auditor of each of such counties, and such recount shall then be had in each of such counties.

12-21-11.1. Notice to secretary of state of petition filed with county auditor.

Whenever a petition for recount is filed with the county auditor for an election which has been canvassed by the state board of canvassers, the county auditor shall notify the secretary of state of the petition for recount.

12-21-12. Candidate's petition for recount in close state or district election - Notice to county auditors.

Whenever any candidate for an office, position, or nomination other than the Legislature is voted upon in more than one county, and has been defeated according to the official returns by a margin which does not exceed one-fourth of one percent of the total vote cast for all candidates for such office, position, or nomination, he may within ten days after completion of the official canvass by the state board of canvassers file a petition with the secretary of state setting forth that he believes a recount will change the result and praying that such recount be had in all the precincts involved in the election, whereupon the secretary of state shall forthwith by registered or certified mail notify each county auditor whose county includes any such precincts of the filing of such petition, and such recount shall be conducted as to all of such precincts in each such county.

12-21-13. Computation of total vote where two or more candidates elected to same office.

When in any election a voter may vote for two or more candidates for the same office, such as members of the Legislature, the total vote cast for all candidates for such office shall for the purposes of 12-21-10 to 12-21-12, inclusive, be deemed to be two times the

Recounts

average number of votes cast for the candidates officially declared nominated or elected as shown by the official returns.

12-21-14. Voters' petition for recount on question submitted to entire state - Form of petition - Notice to county auditors.

Whenever any referred or submitted question is voted upon throughout the state and is determined according to the official canvass by a margin of not exceeding one-fourth of one percent of the total vote cast for and against on such question, there may be filed with the secretary of state within ten days after the completion of the official canvass by the state board of canvassers a petition signed by not less than one thousand registered voters of the state, and representing at least five counties of the state, setting forth that petitioners believe a recount will change the result and praying that such recount shall be had in all the precincts involved. Such petition may consist of different petitions bound together and signed and verified substantially as provided by law with regard to petitions to invoke the referendum. Upon the filing of such petition, the secretary of state shall forthwith by registered or certified mail notify each county auditor whose county voted upon the question and such recount shall then be conducted in all of the precincts in each of such counties.

12-21-15. Petition for recount in close presidential election - Time of filing - Notice to county auditors.

Whenever according to the official returns as publicly announced and compiled, although not yet officially canvassed, it fairly appears that one group of candidates for presidential electors has been elected over another group of such candidates by a margin not exceeding one-fourth of one percent of the total of votes cast for both such groups, the chairman of the state central committee of the political party which nominated either of such groups, or any two or more candidates of either such group, may file with the secretary of state at any time after the election and prior to the canvass by the state board of canvassers, a petition setting forth that in the opinion of the petitioner or petitioners all votes cast for presidential electors should be recounted. Upon the filing of such petition, the secretary of state shall forthwith by registered or certified mail notify each county auditor in the state thereof, and such recount shall then be conducted in all of the precincts in all of such counties.

12-21-16. Tie vote certified by canvassing board - Automatic recount.

Whenever by reason of a tie vote found to exist upon the canvass of the original official returns, it is impossible to declare who has been elected or nominated to an office or position, it shall thereupon be the duty of the official board making such canvass to certify said vote to the county auditor where the election involved is confined to or within the limits of a county, and to the secretary of state as to all other elections. Thereupon such county auditor or such secretary of state, as the case may be, shall proceed exactly as if a petition had been duly filed under 12-21-7 to 12-21-15, inclusive, requiring a recount to be made of all votes involved, and such recount shall proceed accordingly. This section shall not apply to school and township elections.

12-21-17. Chapter not applicable where state convention must nominate - Exceptions for close contest. Repealed by SL 1985, ch 110, 4.

12-21-18. Chapter not applicable where runoff election required.

The provisions of this chapter shall not apply to any election which must be followed by a second or runoff election by reason of no majority choice, according to the official returns.

12-21-19. Joint petition by defeated candidates.

Recounts

In any case where a voter may vote for two or more persons for the same office, nomination, or position, such as members of the Legislature, delegates to a convention, or presidential electors, and more than one defeated candidate desires such recount, such candidates may at their option file joint instead of individual petitions under this chapter.

12-21-20. Notice to circuit judge of recount petition - Appointment and convening of recount board.

The county auditor, immediately on the due filing with him of any petition for a recount or upon receipt from the secretary of state of notice of such filing with the secretary of state, shall notify in writing, with the seal of his office, the presiding judge of the circuit court for his county. The presiding judge shall appoint a board, as is provided by 12-21-2, for each county in his circuit in which a recount is to be conducted. The presiding judge may appoint the board provided by 12-21-2 anytime within thirty days prior to a primary or general election or upon the filing of the petition for recount. The board shall then convene in the office of the county auditor on the second Monday, at ten o'clock in the morning following the filing of such petition, unless that day is a legal holiday, in which case the board shall convene at ten o'clock in the morning of the day following, and then proceed with the recount.

12-21-21. Adjournment by board to another place.

Any county recount board, after convening at the time and place provided by this chapter, may adjourn its proceedings to any other more convenient place at the county seat.

12-21-22. Adjournment to permit combining separate recounts of same ballots.

Whenever a county recount board is required to make two or more different recounts of the same ballots, such board may, by written order, filed as a public record in the office of the county auditor, adjourn any recount, other than a recount of votes for presidential electors, so that all such recounts may be at the same time.

12-21-23. Majority vote of county recount board - Quorum.

All questions arising on such recount shall be determined by majority vote of such board, and at least two members of such board shall be present at all times. When only two members are present, the presence of the third member may be required for the purpose of determining any disputed question on which the two members present are unable to agree.

12-21-24. Ballot boxes produced before recount board.

It shall be the duty of any person or official having custody of ballot boxes containing the ballots to be recounted to produce the same before such board for the purposes of such recount upon notice so to do from the county auditor.

12-21-25. Recount to proceed expeditiously.

The recount shall proceed as expeditiously as reasonably possible until completed.

12-21-26. Candidates' right to witness recount - Witnesses to recount on submitted question.

Each candidate for any office, nomination, or position involved in any such recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots. If the recount is upon a referred or

Recounts

submitted question, any registered voter of the state favoring either side as to such question may be present and represent such side, and if more than one person favoring such side is present, they shall designate one of their number to represent such side, who shall have full opportunity to witness the opening of all ballot boxes and the recount of all ballots.

12-21-27. Segregation and identification of disputed ballots.

If any such candidate or any such representative, protests the ruling of such board as to any ballot, such ballot shall be adequately identified by the board as an exhibit and segregated by the board as a disputed ballot.

12-21-28. Identification of ballots disputed in two or more recounts - Substitution of memorandum describing ballot.

When upon consolidated recounts as described by 12-21-22 it becomes necessary, under the provisions of this chapter, to identify and segregate the same ballot as disputed in two or more such recounts, such board shall determine and designate the recount as to which such ballot shall be segregated and sealed, but shall also identify it as an exhibit as to each of the other recounts, and in the sealed envelope in which disputed ballots are segregated in each of the other recounts, shall substitute in lieu of such ballot a memorandum briefly describing such ballot as to the question which is raised with reference thereto, how it has been identified as an exhibit, and the identification of the envelope in which it is sealed.

12-21-29. Opening of segregated ballot for purpose of different recount - Identification and substitution of memorandum if disputed - Resealing.

When in any recount, ballots have, in a previous recount, been identified and sealed as disputed but are still in the custody of the county auditor, the circuit court for the county shall, upon application to the county auditor, order the opening of such sealed envelopes solely for the purposes of the recount, and such envelopes may then be opened by such board in the presence of all persons entitled to appear at such recount and the ballots in such envelopes recounted. If it becomes necessary to identify any such ballot as disputed, it shall be marked as an exhibit, and in the sealed envelope in which disputed ballots are segregated in the pending recount, such board shall substitute in lieu of such ballot a memorandum briefly describing such ballot as to the question that is raised with reference thereto, how it has been identified as an exhibit and the identification of the envelope in which it was sealed in the previous recount. After such ballots have been recounted, they shall be resealed in the same identical envelope from which they were taken.

12-21-30. Opening of segregated ballots involved in previous judicial proceedings - Court order to preserve rights.

When any such sealed ballots have been certified to any court in judicial proceedings, the court which has custody thereof shall, on application of such board or any person interested in a pending recount, make such order as may be necessary to permit a recount of such ballots, and to preserve the rights of all persons interested with regard to all questions and to safeguard the rights of the parties in the pending proceeding.

12-21-31. Return and resealing of undisputed ballots - Certification of disputed ballots.

At the conclusion of the recount of each precinct the undisputed ballots shall be returned to the ballot box and resealed, and the disputed ballots, if any, shall be certified pursuant to 12-21-33.

12-21-32. Certification of recount result - Contents and execution - Transmittal to secretary of state.

Recounts

Forthwith upon conclusion of the recount of all ballots to be recounted the county recount board shall certify the result. The certificate must be signed by at least two members of such board, attested under seal by the county auditor. Such certificate shall set forth in substance the proceedings of the board and appearances of any candidates or representatives, shall adequately designate each precinct recounted, the vote of such precinct according to the official canvass thereof previously made as to the office, nomination, position, or question involved, and the correct vote of such precinct as to such office, nomination, position, or question as determined by such board through such recount. Such certificate shall be made in duplicate, and either the original or duplicate original forthwith transmitted to the secretary of state by registered or certified mail in any recount affecting a certificate to be issued by the secretary of state.

12-21-33. Sealing and certification of disputed ballots.

Disputed ballots shall be securely sealed in a separate envelope for each precinct. The county recount board shall also make a separate and distinct certificate, signed by at least two members of such board and attested by the county auditor under seal, setting forth the number of such disputed ballots as to each precinct, and adequately identifying the envelope in which the same are sealed.

12-21-34. Filing and preservation of certificates - Court order required to open.

Both the certificate as to the result of the recount and the certificate as to disputed ballots shall be filed and preserved by the county auditor as public records for at least one year after such recount and they shall be opened only under order of a court of competent jurisdiction.

12-21-35. Certification of recount result to canvassing board - Recount result in lieu of official returns.

Whenever a recount is completed by the county recount board prior to the official canvass of the vote as to the office, position, nomination, or question, involved in such recount, the county recount board shall forthwith upon such completion, certify the result directly to the official, board, or tribunal making such canvass, and the result determined on such recount shall be included in the official canvass in lieu of the result as determined by the official returns as to all precincts involved in the recount.

12-21-36. Recanvass and corrected abstract of votes in local election.

In the case of a recount as to any local election, it shall be the duty of the county recount board forthwith to recanvass the official returns as corrected by the certificate showing the result of the recount, and to make a new and corrected abstract of the votes cast as to such office, nomination, position, or question, which corrected abstract shall be signed by at least two members of said board and filed as a public record in the office of the county auditor and a certified copy of the certificate shall be transmitted to the officer in charge of that election.

12-21-37. New certificate of election or nomination to local office when result changed by recount.

If such corrected abstract by the county recount board shows no change in the result as previously found on the official returns, no further action shall be taken. But if there is a change in such result, a new certificate of election or nomination shall be issued to each candidate found to have been elected or nominated as the case may be, which certificate shall be signed by at least two members of such board, and shall set forth the nomination or

Recounts

election of such person as to such office or position.

12-21-38. Certification to local authorities of result of recount on submitted question.
Repealed by SL 1974, ch 118, 200.

12-21-39. Reconvening of state canvassers after recount - Recanvass and corrected abstract.

Upon receipt by the secretary of state of certificates by county recount boards required to be forwarded to the secretary of state, the secretary of state shall file the same, and as soon as all certificates involved in the recount as to any office, nomination, position, or question have been received, the secretary of state shall fix a time and place as early as reasonably possible for reconvening the state board of canvassers and shall notify the members of such state board of canvassers thereof. Such state board of canvassers shall reconvene at the time and place so designated and recanvass the official returns as to such office, nomination, or position, as corrected by such certificates, and shall make a new and corrected abstract of the votes cast as to such office, nomination, or position which shall state whom they declare elected or nominated as the case may be, or the determination of any such question, which corrected abstract shall be signed by the members of the state board of canvassers in their official capacities and as state canvassers, and shall have the great seal of the state affixed, and which corrected abstract shall be filed and recorded by the secretary of state in the "election book."

12-21-40. New certificate of election or nomination on change of result by corrected abstract of state returns.

If such corrected abstract by the state board of canvassers shows no change in the result previously found on the official returns, no further action shall be taken. If there is a change in such result, a new certificate of election or nomination shall be issued in the same manner and by the same authority as the certificate of election or nomination previously issued to each candidate found to have been elected or nominated as the case may be. Such certificate shall set forth the fact of the nomination or election of such person to such office or position, and that the certificate supersedes the certificate previously issued, which shall be adequately identified.

12-21-41. Original certificate of nomination or election superseded by certificate issued after recount - Rights of holder.

Any certificate of nomination or election issued under the provisions of this chapter shall have the effect of and shall be recognized as superseding and rendering null and void any certificate of election or nomination previously issued which shall be adequately identified which is inconsistent with such new certificate, and the holder of any certificate of nomination or election issued under this chapter shall have the same identical rights as if he held the original certificate of nomination or election and no recount had been had.

12-21-42. Original determination on submitted question superseded by determination after recount.

The determination, as provided in this chapter, of a corrected and changed result upon a recount as to any referred or submitted question shall have the effect of superseding and rendering null and void the result as found upon the original canvass.

12-21-43. Tie vote after recount determined by lot - Issuance of certificate.

When a tie vote between candidates is found to exist on the basis of any such recount, and by reason of such tie vote it cannot be determined who has been nominated or elected,

Recounts

it shall be the duty of the authority charged by law with the responsibility of issuing the certificate of election or nomination to fix a time and place for the drawing of lots by such candidates involved in such tie vote, giving reasonable notice of such time and place to each of such candidates. Each such candidate may appear at the time and place designated either in person or by a representative, whereupon in the presence of such authority charged with the responsibility of issuing the certificate of nomination or election, the candidate or candidates entitled to the certificate or certificates of nomination or election shall be determined by drawing of lots in the manner directed by such authority, and the certificate or certificates of nomination or election shall be issued accordingly.

12-21-44. Second recount prohibited - Exception.

Whenever the ballots cast in any precinct have been recounted as to any office, nomination, petition, or question, such ballots shall not thereafter, except as specifically provided in 12-21-45, be recounted as to the same office, nomination, position, or question.

12-21-45. Court order for second recount - Grounds - Time of filing petition.

At any time while any recount is pending before a county recount board, the circuit court for such county, on petition of any interested person, and upon due notice to such board, if satisfied that such board has acted fraudulently or arbitrarily and in disregard of law, and in such a way as likely to reach an unfair result, may order any ballots already recounted to be recounted a second time. Such petition, however, must be filed prior to final certification of the recount, and to give opportunity for hearing and decision, the court may enjoin such certification for a period not exceeding three days.

12-21-46. Court removal and replacement of recount board member not acting in good faith.

When satisfied on any such petition that the conduct of such board, or any member thereof, has been fraudulent, or deliberately and willfully in disregard of law, and not in good faith, the court may remove such member or members guilty of such conduct and appoint in the place of such member or members removed any registered voter or voters of the county who shall thereupon assume the duties and responsibilities of such removed member or members for the purpose of such recount.

12-21-47. Persons entitled to certiorari for review of recount - Time of filing of petition.

Whenever any candidate is aggrieved by the final determination made as a result of any recount, he may have the proceedings of such recount board reviewed upon certiorari as provided by this chapter. Such review may also be obtained as to any submitted or referred question by any voter who was entitled to vote thereon, but only with the approval of the court in which such review is asked, or of a judge of such court, which approval must be endorsed upon the petition before it is filed. The petition for the writ must be filed within five days after the filing of the recount certificate with the secretary of state or county auditor.

12-21-48. Original jurisdiction of certiorari proceedings.

Original jurisdiction of such certiorari proceeding shall be as follows:

(1) Where the same involves a submitted or referred question voted upon in more than one county, or the nomination or election of presidential electors, United States senator, representative in Congress, member of the Legislature, or any state or judicial officer, in the Supreme Court;

(2) In all other cases in a circuit court of a county which includes the locality where the election or some part thereof was conducted.

Recounts

12-21-49. Form and contents of petition for certiorari.

The petition for the writ, if involving a nomination or election as to any office or position, shall denominate the candidate seeking the review as plaintiff, and shall name the candidate or candidates declared elected as defendants. If the petition seeks a review as to a determination of any submitted or referred question, it shall be entitled: "In the matter of petition for writ of certiorari as to determination of election on (specifying the question submitted or referred)." In any case the petition shall concisely set forth the nature of the election involved, the result thereof as pronounced by the official returns, the basis for and proceedings had upon the recount, the respects in which any county recount board, or other authority, is claimed to have exceeded its jurisdiction, and a brief summarized statement of the particulars in which it is claimed any county recount board, or other authority, has misapplied the law in the determination of questions concerning disputed ballots.

12-21-50. Issuance of writ of certiorari - Officials to whom addressed - Contents.

If the court concludes that the facts set forth in the petition, if true, are sufficient to justify the issuance of the writ, the same shall be issued. It shall be addressed to each county recount board, and to each other authority which the plaintiff claims to have exceeded its jurisdiction, including misapplication of the law in determination of questions concerning disputed ballots, and shall command each such board or authority at or before a time specified to certify to the court all its records and proceedings with reference to such matter. If questions as to validity of any disputed ballots are involved, the writ shall command the county auditor having custody thereof to return at the time designated the sealed envelopes containing the disputed ballots in question.

12-21-51. Service of writ of certiorari - Persons on whom served.

Such writ shall forthwith be served personally, or by registered or certified mail, on each county auditor as to any county where the county recount board or such auditor is claimed to have exceeded jurisdiction, and in the same manner upon the secretary of state in case the secretary of state, or the state board of canvassers, is claimed to have exceeded jurisdiction. Only one writ need be issued, and shall be sufficient irrespective of the number of officials, boards, or tribunals from which certification of records or proceedings may be required. The writ and petition shall also be served forthwith upon all defendants named in case the proceeding involves election or nomination to any office or position, and upon the attorney general, in case the proceeding involves a submitted or referred question voted upon in more than one county. In any case where the proceeding involves the vote upon a submitted or referred question within a single county, the court shall in the writ direct additional service of the writ and petition on such officer or officers, or person or persons, whom the court believes might be interested in resisting the relief asked.

12-21-52. Intervention in certiorari involving submitted question.

In any such proceeding involving a submitted or referred question, the court may upon good cause shown, either ex parte or otherwise, permit any officer or person desiring to be heard to intervene, either as a party plaintiff or party defendant.

12-21-53. Answer to petition for certiorari - Joint or several answer.

On or before the return day of the writ, the defendant must serve and file his answer to the petition, and if there are several defendants, they may answer jointly or severally, at their option. In the case of a proceeding involving a vote on a referred or submitted question, any officer or person, on whom the writ is served, may interpose an answer, or several such officers or persons may unite in a single answer.

Recounts

12-21-54. Defenses set forth in answer to certiorari - New allegations - Petition for additional writ.

All defenses, either of fact or of law, must be set forth in the answer and no other pleading in response to the petition shall be permitted. Such answer may also allege matters showing error by any county recount board or boards, or other official, tribunal, or authority not covered by such petition, and pray for an additional writ for certification of additional proceedings and records relative thereto, in which event such additional writ may be granted in the same manner, and with the same procedure and effect as the original writ.

12-21-55. Insufficient certification - Further certification required.

When any certification is insufficient to show adequately the proceedings had, the court may by order require further certification of records and proceedings.

12-21-56. Hearing on certiorari - Conference to narrow issues.

Upon the returns made as required by the writ, the court shall hear the parties, and if further hearing is deemed necessary to determine the case, the court may make such order as deemed advisable fixing such further procedure as may be conducive to expeditious and just determination of the proceeding, including a requirement for a conference of all parties appearing and their attorneys designed to narrow the issues inasmuch as reasonably possible through eliminating questions as to ballots, when such questions are not seriously urged, and the offsetting against each other of ballots which are marked for opposing candidates involved, or on opposite sides of the question, and which present identical issues as to validity, and through segregation of ballots remaining disputed into classes or groups where different classes or groups of ballots present identical questions.

12-21-57. Scope of review on certiorari - Correction of errors.

In such proceedings the court may review completely all of the proceedings had relative to such recount as shown by such certifications, and correct any errors made in the determination of questions as to validity of ballots, and in computation of returns, and any errors which may be manifest from such certifications.

12-21-58. Procedure as in other cases of certiorari.

Except as otherwise specifically provided and so far as applicable the practice and procedure shall be the same as in other cases of review on certiorari.

12-21-59. Judgment on certiorari.

The judgment rendered by the court shall be such as the court deems required by the law as applied to the facts disclosed by the record presented, and shall pronounce what the court deems the correct result of the election involved as shown by the record.

12-21-60. Right of appeal to Supreme Court from judgment on certiorari.

As to any such judgment of a circuit court any party to the proceeding aggrieved thereby may appeal to the Supreme Court in the manner provided by 12-21-61. For the purposes of this section, any person or official who has been permitted to appear in the proceeding shall be deemed a party thereto.

12-21-61. Procedure on appeal to Supreme Court - Provisions to secure speedy determination.

Recounts

Such appeals shall be taken and perfected in the same manner as appeals from other judgments, except:

- (1) Such appeal must be taken within twenty days of the entry of such judgment;
- (2) Forthwith upon such appeal the entire record shall be certified by the clerk of the circuit court and transmitted to the clerk of the Supreme Court;
- (3) A stay of proceedings shall be within the discretion of the circuit court, subject to review by the Supreme Court, and shall be granted only upon adequate bond with sufficient security for payment to the respondent of all damages of any kind whatever resulting from the delay, and the court shall determine the terms of the bond so as adequately to protect the respondent from such damage;
- (4) The Supreme Court may on its own motion, or on motion of any party, make such order as it deems advisable to bring about a speedy determination of the appeal, including shortening of the time for filing briefs, dispensing with printing briefs, or dispensing entirely with briefs; and assigning date for oral argument.

CHAPTER 12-22.

CONTESTS

Section

- 12-22-1. "Contest" defined.
- 12-22-2. Candidate's right to institute contest - Legislative contests excepted.
- 12-22-3. Right to institute contest on submitted question - Judge's permission required.
- 12-22-4. Electoral candidates' and party chairman's right to institute contest of presidential election.
- 12-22-5. Time of commencement of contest - Commencement after recount.
- 12-22-6. Time of commencement of contest of presidential election.
- 12-22-7. Original jurisdiction of contests.
- 12-22-8. Summons and complaint to commence contest.
- 12-22-9. Service of summons and complaint - Time of serving.
- 12-22-10. Court orders to expedite proceedings.
- 12-22-11. Joinder of parties in commencement of contest - Denomination of plaintiffs and defendants.
- 12-22-12. Intervention by other candidates - Assertion of right to nomination or office.
- 12-22-13. Designation of defendants in contest of presidential election.
- 12-22-14. Title of proceeding on submitted question.
- 12-22-15. Service of summons and complaint in contest on submitted question - Intervention.
- 12-22-16. Answer to present all defenses - Admission of matters not denied - Affirmative defense.
- 12-22-17. Hearing on contest - Default judgment prohibited.
- 12-22-18. Court to proceed expeditiously - Designation of judge and relief from other duties.
- 12-22-19. Official returns or recount conclusive as to accuracy of count - Other issues determined in contest.
- 12-22-20. Certiorari to review recount as alternative remedy - Consolidation of proceedings.
- 12-22-21. Judgment withheld while recount or certiorari pending - Judgment declaring election result.
- 12-22-22. Supreme Court order directing consolidation of contests involving same office or question - Duty of judges and attorneys to notify Supreme Court.
- 12-22-23. Conflicting circuit court decisions on same submitted question - Appeal determinative - Direction to attorney general to prosecute appeal.
- 12-22-24. Procedure as in other civil proceedings.

Contests

- 12-22-25. Right of appeal to Supreme Court - Expediting proceedings in Supreme Court - Combining with appeal from certiorari to review recount.
- 12-22-26. Notice of intention to institute legislative contest - Time for service - Answer.
- 12-22-27. Depositions in legislative contest - Filing with secretary of state.
- 12-22-28. Public funds not used for legislative contest.
- 12-22-29. Candidate's right to contest primary election - Filing of complaint - Circuit court jurisdiction.
- 12-22-30. Notation of filing of complaint in primary contest - Date of hearing - Apparently successful candidate as defendant.
- 12-22-31. Service of order fixing hearing date on primary contest - Answer.
- 12-22-32. Hearing of primary contest in or out of term - Preference in order of hearing.
- 12-22-33. Dismissal of insufficient complaint - Hearing of evidence - Entry of orders and decisions.
- 12-22-34. Elections to which primary contest law applies.
- 12-22-35. Supreme Court jurisdiction of primary contests for state office.

12-22-1. "Contest" defined.

"Contest," as used in 12-22-1 to 12-22-28, inclusive, shall mean a legal proceeding, other than a recount, instituted to challenge the determination of any election under the provisions of this title, or any municipal, school, or township election.

12-22-2. Candidate's right to institute contest - Legislative contests excepted.

Such contest may be instituted by any candidate for a public office, other than a candidate for United States senator, representative in Congress, member of the Legislature, or delegate to, or representative in any other body, convention, committee, or tribunal, which has the final right to determine the qualifications of its members. Legislative contests shall be instituted as provided in 12-22-26.

12-22-3. Right to institute contest on submitted question - Judge's permission required.

Such contest may be instituted by any registered voter who was entitled to vote on a referred or submitted question, but in such case such contest may be instituted only with the permission of a judge of the court in which such contest is instituted, endorsed upon the complaint before the same is filed.

12-22-4. Electoral candidates' and party chairman's right to institute contest of presidential election.

Such contest may be instituted, in the case of a presidential elector, by any one or more of a group of candidates for election as such electors, or by the chairman of the state central committee of any political party, which had on the ballot candidates duly nominated for such position.

12-22-5. Time of commencement of contest - Commencement after recount.

Any such contest, except as to the election of presidential electors, shall not be commenced until after the official canvass of the returns as to the office, nomination, position, or question involved; and must be commenced within ten days thereafter, except that where upon a recount there is a determination that is contrary to the result as pronounced on the official returns, such contest may be started within five days after such pronouncement of such result of such recount.

12-22-6. Time of commencement of contest of presidential election.

Contests

Any such contest as to the election of presidential electors shall not be instituted at any time after the expiration of the time limit prescribed by 12-22-5. In case any person or persons entitled to institute such contest as to presidential electors, claim that for any reason returns from any precinct or precincts should be eliminated in the determination of the result, or that any ballots should be eliminated, such contest may be instituted at any time after the election and prior to the expiration of such time limit.

12-22-7. Original jurisdiction of contests.

Original jurisdiction over such contests shall be as follows:

- (1) As to contests involving state offices, or judicial officers in the Supreme Court;
- (2) As to all other contests, in the circuit court of a county which includes the locality where the election or some part thereof was conducted.

12-22-8. Summons and complaint to commence contest.

Such contest shall be deemed commenced upon the filing with the clerk of the court of a summons and complaint, which complaint shall be duly verified, and set forth a concise statement of the facts on which the contest is based. The summons shall be in the same form as the summons in a civil action, except that the time for answer shall be specified as within ten days after the service, unless the court shorten such time, as provided by 12-22-10, in which event the time fixed by the court shall be specified.

12-22-9. Service of summons and complaint - Time of serving.

Forthwith upon the filing of the summons and complaint, the same shall be served on the defendant or defendants, or on such other persons as may be required by 12-22-11 to 12-22-15, inclusive. If such filing is within the time prescribed by 12-22-5 and 12-22-6, such service may be made after expiration of such time, if made as soon as reasonably possible.

12-22-10. Court orders to expedite proceedings.

Whenever it shall appear that substantial rights may be lost or impaired by delay, the court may, at any time after the contest is commenced, upon application of any party, and upon reasonable notice to the other party or parties, make such order or orders as the court deems necessary to bring about the expeditious and just determination of the contest, including the shortening of the time for answer, the time, manner, and method of taking depositions, reference to a referee or referees, including power to appoint different referees for different purposes, and directing that when feasible the taking of evidence on depositions or before referees may proceed simultaneously, safeguarding the right of each party to be represented, if he so desires, in all such proceedings.

12-22-11. Joinder of parties in commencement of contest - Denomination of plaintiffs and defendants.

When two or more persons are entitled to commence any such contest, any one of them may institute it, or two or more may join. The person or persons instituting any such contest involving an election or nomination to any office or position shall be denominated plaintiff or plaintiffs. The person or persons who at the time of starting such contest are officially declared elected or nominated to such office or position shall be named defendant or defendants.

12-22-12. Intervention by other candidates - Assertion of right to nomination or office.

Any other person who was a candidate for such office or nomination may be permitted at any time to intervene, but shall not be permitted to assert any right to such nomination or

Contests

office unless such intervention is within the time in which he might have started a contest.

12-22-13. Designation of defendants in contest of presidential election.

In case of commencement of a contest involving presidential electors, prior to the official canvass, the plaintiff or plaintiffs must in good faith designate as defendants all candidates for such electors as shall have received a sufficient number of votes so there is a reasonable chance of their election.

12-22-14. Title of proceeding on submitted question.

In the case of a contest as to a submitted or referred question, the proceeding shall be entitled: "In the matter of election contest as to _____ (naming the question involved)."

12-22-15. Service of summons and complaint in contest on submitted question - Intervention.

In a contest as to a submitted or referred question voted upon in more than one county, the summons and complaint must be served on the attorney general. In other cases involving a submitted or referred question, the court shall, upon filing the complaint, direct by order the service upon such persons or officials as the court believes might be interested in resisting the relief sought. Any person on whom such complaint is served may answer the complaint, and shall thereafter be deemed a party. After commencement of a contest involving a submitted or referred question, any voter who was entitled to vote on such question may be permitted to intervene as a party plaintiff or defendant.

12-22-16. Answer to present all defenses - Admission of matters not denied - Affirmative defense.

No pleading to the complaint, other than an answer, shall be permitted, and all defenses of fact or law must be presented in such answer. Any matters alleged in the complaint and not denied shall be deemed admitted, but the court may, in its discretion, require that such admitted matters be nevertheless shown by competent evidence. The answer may also set forth matter in the nature of an affirmative defense.

12-22-17. Hearing on contest - Default judgment prohibited.

After answer has been interposed or after time for answer has expired, and when no answer is interposed, the court on application of any party, and on five days' notice to all other parties, unless the court for cause shall shorten such time, shall conduct a hearing on which a date for trial shall be fixed, which date shall be as early as reasonably possible, and the procedure to be followed determined, with full power in the court to provide for any and all of the matters specified in 12-22-10. No judgment shall be entered by default, and if no answer is interposed, the court shall nevertheless proceed to determine the relevant and material facts.

12-22-18. Court to proceed expeditiously - Designation of judge and relief from other duties.

The court shall proceed as expeditiously as reasonably possible, and the chief justice of the Supreme Court may, upon the application of the judge of any circuit court, before which such a contest is pending, or upon the application of any party, make an order designating any judge of any circuit court of the state to hear such contest, and relieving such judge of his other official duties pending the final determination of the contest.

12-22-19. Official returns or recount conclusive as to accuracy of count - Other issues

Contests

determined in contest.

In such proceeding the accuracy of the count of the ballots as established by the official returns or as corrected by a recount, if a recount has been had under chapter 12-21, or as ultimately determined upon certiorari proceedings if such certiorari proceedings have been had, shall be accepted as conclusive, the intent hereof being that the remedies provided by chapter 12-21 for determination of the accuracy of the count shall be deemed exclusive as to such accuracy. There may, however, be determined in such contest all other questions relevant or material to the ultimate question of whether the official determination of the result of the election is correct.

12-22-20. Certiorari to review recount as alternative remedy - Consolidation of proceedings.

Whenever any person entitled to commence certiorari proceedings to review any recount under chapter 12-21 also desires to institute a contest under 12-22-1 to 12-22-28, inclusive, he may resort to both remedies, and such remedies shall be deemed consistent and concurrent. The court may, in such a case, order the consolidation of such proceedings.

12-22-21. Judgment withheld while recount or certiorari pending - Judgment declaring election result.

When any recount is pending under chapter 12-21, or when there are pending certiorari proceedings to review such recount, judgment shall not be entered until the result of such recount is finally determined. The judgment finally entered shall declare the result of the election.

12-22-22. Supreme Court order directing consolidation of contests involving same office or question - Duty of judges and attorneys to notify Supreme Court.

Whenever it shall come to the attention of the Supreme Court that two or more contests are pending involving nomination or election to the same office or position, or the same submitted or referred question, the court may, on its own motion, or on the motion of any interested person and on reasonable notice to the parties, make an order, under its power of supervision of lower courts, directing that such proceedings be consolidated, and designating the circuit court in which further proceedings are to be had, with such provisions as the court considers necessary to safeguard the rights of the parties. It shall be the duty of any attorney appearing in any such case, upon learning of the pendency of any such other proceedings, to call the same to the attention of the Supreme Court. Any circuit judge before whom any such case is pending, upon learning of the pendency of any such other case, shall proceed no further, but shall at once notify the Supreme Court of the situation.

12-22-23. Conflicting circuit court decisions on same submitted question - Appeal determinative - Direction to attorney general to prosecute appeal.

In any instances where two or more such contests involve the same submitted or referred question, and where judgments are rendered by different circuit courts with conflicting results, and an appeal is taken in any such case, the appeal shall be determinative of any other such case in which no such appeal is taken, and in case no appeal is taken in any such case, where the determinations in circuit courts are conflicting, within the time provided by law, the time for appeal shall be deemed extended in all of such cases, and the Supreme Court may, at any time, direct that the attorney general prosecute an appeal in some one of such cases.

12-22-24. Procedure as in other civil proceedings.

Contests

Except as otherwise specifically provided, and so far as applicable, the procedure shall be the same as in other civil proceedings.

12-22-25. Right of appeal to Supreme Court - Expediting proceedings in Supreme Court - Combining with appeal from certiorari to review recount.

An appeal may be taken from the judgment of the circuit court the same as in other civil proceedings, but within the time, and subject to the same conditions, as specified in subdivisions 12-21-61 (1), (2), (3), and (4), relating to appeals in certiorari proceedings to review recounts. An appeal from a judgment rendered under the provisions of 12-22-1 to 12-22-28, inclusive, and an appeal from a judgment in such certiorari proceeding, may be combined into one appeal, and if taken separately may be consolidated by order of the Supreme Court.

12-22-26. Notice of intention to institute legislative contest - Time for service - Answer.

Any person who intends to contest the election of any person to either branch of the Legislature may within ten days after the official canvass of the votes, or within five days after final determination of a recount, if a recount has been had, give written notice to such other person of such contest, specifying the grounds of such contest. The person on whom such notice is served may within ten days after such service, serve on the person giving such notice an answer, admitting or denying the grounds alleged, and shall be deemed to admit any grounds not denied.

12-22-27. Depositions in legislative contest - Filing with secretary of state.

At any time after the service of the notice of such contest, the person serving the same may proceed to take depositions as hereinafter provided, and the person to whom a notice is given may proceed to take such depositions as soon as he serves his answer. Such depositions shall be taken with the same notice and under the same procedure and subject to the same conditions, so far as applicable, as depositions in a civil action, and shall be returned by the officer taking the same to the secretary of state, and filed in the office of the secretary of state, who shall be authorized to open the same at the instance of either party, his attorney, or agent.

12-22-28. Public funds not used for legislative contest.

No payment shall be made or authorized by the Legislature out of its contingent fund or from public funds to either party to a contested election, for expenses incurred in prosecuting or defending any contest.

12-22-29. Candidate's right to contest primary election - Filing of complaint - Circuit court jurisdiction.

Any candidate for nomination to any elective office, or for election to any party position, whose name appears on the official primary election ballot of any political party may contest the primary election as to the office or position for which he was a candidate for nomination or election, by filing with the clerk of the circuit court for the county in which his nominating petition was filed, a complaint in writing within ten days after the returns have been canvassed by the county canvassing board or boards, setting forth the grounds of his contest, which complaint shall be verified by the complainant. The complainant shall give security for all costs. Authority and jurisdiction are hereby vested in the circuit court to hear and determine such contests.

12-22-30. Notation of filing of complaint in primary contest - Date of hearing - Apparently

Contests

successful candidate as defendant.

When a complaint has been filed it shall forthwith be presented to the judge of the circuit court in which it is filed, who shall note thereon the day of presentation and also the day and place where he will hear the same, which shall be not later than ten days thereafter. The candidate who appears upon the face of the returns to have been elected, or to whom a certificate of nomination has been issued, shall be named as defendant.

12-22-31. Service of order fixing hearing date on primary contest - Answer.

When the court has fixed the day for hearing the complaint, an order fixing such hearing shall be personally served upon the defendant, in the same manner as is provided for the service of a summons in a civil action. The defendant must answer on or before the day of hearing.

12-22-32. Hearing of primary contest in or out of term - Preference in order of hearing.

The cause may be heard and determined by the court in term time, or by the judge thereof in vacation, and shall have preference in order of hearing to all other cases.

12-22-33. Dismissal of insufficient complaint - Hearing of evidence - Entry of orders and decisions.

If, in the opinion of the court, the grounds alleged for the contest are insufficient, the complaint shall be dismissed. If the grounds are sufficient, the court shall proceed in a summary manner and may hear evidence, examine the returns, recount the ballots, and enter such orders and decisions as the facts and the law may require.

12-22-34. Elections to which primary contest law applies.

The judgment of the court shall be final, and the provisions of 12-22-29 to 12-22-35, inclusive, shall, so far as applicable, apply to contests of nominations and elections by primary election.

12-22-35. Supreme Court jurisdiction of primary contests for state office.

Where the nominating petitions have been filed with the secretary of state, a contest affecting such candidates shall be brought in and determined by the Supreme Court in the same manner.

CHAPTER 12-23.

ELECTIONS IN UNORGANIZED COUNTIES

[Repealed by SL 1974, ch 118, 200; 1982, ch 28, 47]

CHAPTER 12-24.

PRESIDENTIAL ELECTORS

Section

- 12-24-1. Elector's notice to Governor of readiness to perform duties - Certificate of names presented to electors.
- 12-24-2. Replacement of elector failing to appear.

Presidential Electors

- 12-24-3. Notice to and powers of elector chosen to fill vacancy.
- 12-24-4. Time and place of performance of constitutional duties by electors.
- 12-24-5. Compensation and mileage of electors.

12-24-1. Elector's notice to Governor of readiness to perform duties - Certificate of names presented to electors.

Each elector of President and vice-president of the United States shall, before the hour of eleven o'clock in the morning of the day fixed by the act of Congress to elect a President and vice-president, give notice to the Governor that he is at the seat of government and ready at the proper time to perform the duties of an elector; and the Governor shall forthwith deliver to the electors present a certificate of all the names of the electors.

12-24-2. Replacement of elector failing to appear.

If any elector named in the Governor's certificate fails to appear before nine o'clock in the morning of the day of election of President and vice-president as aforesaid, the electors there present shall immediately proceed to elect by ballot, in the presence of the Governor, a person to fill such vacancy. If more than one person voted for to fill such vacancy shall have the highest and an equal number of votes, the Governor, in the presence of the electors attending, shall decide by lot which of such persons shall be elected.

12-24-3. Notice to and powers of elector chosen to fill vacancy.

Immediately after such choice is made, the name of the person so chosen shall forthwith be certified to the Governor by the electors making such choice; and the Governor shall cause notice to be immediately given, in writing, to the elector chosen to fill such vacancy; and the person so chosen shall be an elector and shall meet the other electors at the same time and place, and then and there discharge all and singular the duties enjoined upon him as an elector by the Constitution and laws of the United States and of this state.

12-24-4. Time and place of performance of constitutional duties by electors.

The electors of President and vice-president shall, at twelve o'clock noon on the day which is or may be directed by the Congress of the United States, meet at the seat of government of this state and then and there perform the duties enjoined upon them by the Constitution and laws of the United States.

12-24-5. Compensation and mileage of electors.

The electors shall receive the same compensation per diem and the same mileage as members of the Legislature.

CHAPTER 12-25.

CAMPAIGN FINANCING AND CANDIDATES' FINANCIAL STATEMENTS

Section

- 12-25-1. Definition of terms.
- 12-25-1.1. Maximum campaign contribution for individual candidate - Exception for relatives - Violation as misdemeanor.
- 12-25-1.2. Maximum contribution to political party - Violation as misdemeanor.
- 12-25-2. Allowable contribution sources - Contribution by corporation prohibited - Associations not to contribute from dues or treasury funds - Violation as misdemeanor.

Campaign Financing and Candidates' Financial Statements

- 12-25-3, 12-25-4. Repealed.
- 12-25-4.1. Disclaimers required for campaign literature and advertisements - Violation as misdemeanor.
- 12-25-5, 12-25-6. Repealed.
- 12-25-6.1. Judicial, school and subdivision candidates excluded - Municipal, school district or subdivision option.
- 12-25-7 to 12-25-11. Repealed.
- 12-25-12. Voluntary work and ordinary expenses permitted - Expenses to be included in statements - Failure to list as misdemeanor.
- 12-25-12.1. Certain political contributions exempt.
- 12-25-13. Preelection statement required of candidates and committees - Contents - Detailed statement at end of year - Violation as misdemeanor.
- 12-25-13.1. Supplemental statement required on large contributions received after original statement - Filing time - Violation as misdemeanor.
- 12-25-13.2. Repealed.
- 12-25-13.3. Statements required of candidates for county or legislative office - Contents - Time for filing - Violation as misdemeanor.
- 12-25-13.4. Record of small contributions required.
- 12-25-13.5. Elected or appointed officials to file statement - Time limit.
- 12-25-14. Verification of statements on prescribed forms.
- 12-25-14.1. Repealed.
- 12-25-14.2. Repealed.
- 12-25-15 to 12-25-17. Repealed.
- 12-25-18. Verification of committee treasurer's statement - Form.
- 12-25-18.1. Repealed.
- 12-25-19. Repealed.
- 12-25-19.1. Statement required of persons involved in referrals, invitations, or proposed constitutional amendments - Contents.
- 12-25-19.2. Filing of statements of considerations received, obligated or paid - Time for filing - Violation as misdemeanor.
- 12-25-19.3. Summary of reports of receipts and expenditures.
- 12-25-20. Repealed.
- 12-25-21. Endorsement, preservation and destruction of statements of campaign expenses.
- 12-25-22. False statement as to campaign expenses as perjury.
- 12-25-23. Repealed.
- 12-25-24. Investigations and prosecution by attorney general.
- 12-25-25. Self-incrimination not ground for refusing testimony - Immunity from prosecution.
- 12-25-26. Forfeiture of office or removal from ballot for violation.
- 12-25-27. Candidates' financial statements - Definition of terms.
- 12-25-28. Statements of financial interest by candidates for state or federal office subject to primary - Violation as petty offense - Intentional violation as misdemeanor.
- 12-25-29. Statements of financial interest by convention nominees for state office - Violation as petty offense - Intentional violation as misdemeanor.
- 12-25-30. Filing of statements by candidates for local office - Violation as petty offense - Intentional violation as misdemeanor.
- 12-25-31. Forms for financial statements - Value not required - Verification - Open to public.
- 12-25-32. Repealed.
- 12-25-33. No filing fee for required statements.
- 12-25-34. Information from reports or statements - Sale or use for solicitation or commercial purpose prohibited - Misdemeanor.

12-25-1. Definition of terms.

Terms used in 12-25-1 to 12-25-26, inclusive, mean:

Campaign Financing and Candidates' Financial Statements

(1) "Ballot question committee," any two or more people who cooperate for the purpose of raising, collecting or disbursing money for the adoption or defeat of any question submitted to the voters at any election;

(2) "Candidate for election," any person who has qualified through nomination in a primary election, nomination at a party convention or by filing a petition as an independent candidate for the general election;

(3) "Candidate for nomination," any person who has filed a nominating petition for office at any primary election;

(4) "Candidate's committee," any two or more people who cooperate for the purpose of raising, collecting or disbursing money to secure the nomination or election of a person to public office;

(5) "Contributions," any valuable consideration in whatever form received by any candidate, candidate's committee, political party committee, ballot question committee or political action committee.

(6) "Contributions in behalf of an individual candidate," do not include costs incurred without the request or consent of the candidate or his agent;

(7) "Election expenses," all expenditures of money or other valuable thing in furtherance of the nomination of any person as a candidate for public office, or in furtherance of the election of any person to public office, or to defeat the nomination or election to public office of any person, or in furtherance of or to defeat any constitutional amendment, initiated measure, referred law, or other question submitted to the voters of the whole state;

(8) "Political action committee," any two or more people who cooperate for the purpose of raising, collecting or disbursing money to influence the outcome of an election and who are not candidates for nomination, candidates for election, a political party or a candidate's committee;

(9) "Political party committee," the state and county central committees of any political party qualified to participate in a primary election, and any auxiliary organizations of such political party committees;

(10) "Public office," every public office to which a person can be elected by vote of the people under the laws of this state; and

(11) "State office," the offices of Governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, commissioner of school and public lands and public utilities commissioner.

12-25-1.1. Maximum campaign contribution for individual candidate - Exception for relatives - Violation as misdemeanor.

It is a Class 2 misdemeanor for any person, except as otherwise provided in this chapter, to contribute more than one thousand dollars to or in behalf of any individual candidate for state-wide office in any calendar year or more than two hundred and fifty dollars to or in behalf of any individual candidate for legislative or county office in any calendar year. The limitation on individual contributions to any individual candidate in this section does not apply to contributions from the candidate, his spouse, any relative within the third degree of kinship of the candidate or his spouse, and the spouses of such relatives.

12-25-1.2. Maximum contribution to political party - Violation as misdemeanor.

No person, except as otherwise provided in this chapter, may contribute more than three thousand dollars to or in behalf of any political party in any calendar year. A violation of this section is a Class 2 misdemeanor.

12-25-2. Allowable contribution sources - Contribution by corporation prohibited - Associations not to contribute from dues or treasury funds - Violation as misdemeanor.

No candidate, candidate's committee, political action committee or political party committee may receive any contribution except from an individual, political action

Campaign Financing and Candidates' Financial Statements

committee or a political party. No corporation may contribute or attempt to contribute any valuable consideration to any candidate, committee or political party except a ballot question committee.

Associations may contribute any valuable consideration out of funds contributed for the purpose of making political contributions but may not make contributions out of dues or treasury funds.

A violation of this section is a Class 2 misdemeanor.

12-25-3. Solicitation and acceptance of contributions from business or cooperative corporations prohibited. Repealed by SL 1975, ch 125, 25.

12-25-4. Author and publisher to be shown on campaign literature. Repealed by SL 1975, ch 125, 25.

12-25-4.1. Disclaimers required for campaign literature and advertisements - Violation as misdemeanor.

All printed campaign literature and paid print or television advertisements shall include a disclaimer with the full name, title and address of the person authorizing the literature or advertisement and the name, title and address of the person paying for such literature or advertisement if other than the person authorizing such literature and advertisement. All radio or television advertising time provided at no cost or at a reduced cost to a candidate committee or ballot issue committee shall include a disclaimer indicating that such time was provided at no cost or at a reduced cost to the committee. All paid radio advertisements shall include a disclaimer with the full name and title of the person authorizing the advertisement and the name and title of the person paying for such advertisement if other than the person authorizing such advertisement. The name, title and address of such persons shall be supplied to, and kept on file with, the radio station. The radio station shall keep such information in a readily accessible form and permit the public reasonable access to such information. If such person is acting on behalf of a committee, the name of such committee shall be included in the disclaimer. A violation of this section is a Class 2 misdemeanor.

12-25-5. Newspapers and periodicals to label campaign advertising - Additional information shown. Repealed by SL 1975, ch 125, 25.

12-25-6. Candidates not to spend money on submitted-question campaign. Repealed by SL 1975, ch 125, 25.

12-25-6.1. Judicial, school and subdivision candidates excluded - Municipal, school district or subdivision option.

The provisions of this chapter, except 12-25-27 through 12-25-31, inclusive, do not apply to any candidate for judicial, municipal, school district or other governmental subdivision offices. However, the governing body of any municipality, school district or other governmental subdivision may adopt an ordinance or resolution to make the provisions of chapter 12-25, with or without amendments, applicable to municipal, school district or other governmental subdivision elections.

12-25-7. Maximum campaign expenditures for candidates. Repealed by SL 1976, ch 109, 8.

12-25-7.1. Maximum contribution or expenditure by candidate - Persons included. Repealed by SL 1976, ch 109, 8.

12-25-7.2. Candidates for Governor and lieutenant governor as one person for

Campaign Financing and Candidates' Financial Statements
expenditure purposes. Repealed by SL 1976, ch 109, 8.

12-25-7.3. Determination of expenditure limitations by state ethics commission - Use of census statistics - Cost of living adjustments. Repealed by SL 1976, ch 109, 8.

12-25-7.4. County auditor to determine county and district expenditure limitations - Census statistics used - Cost of living adjustments. Repealed by SL 1976, ch 109, 8.

12-25-8. Payment for electioneering at polls prohibited. Repealed by SL 1982, ch 86, 99.

12-25-8.1. Apportionment of political committee expenditures among candidates - Application to individual limitations. Repealed by SL 1976, ch 109, 8.

12-25-8.2. Central committee service expenses exempt from apportionment - Expenses included. Repealed by SL 1976, ch 109, 8.

12-25-9. Payment for influencing voters to vote or remain away from polls prohibited. Repealed by SL 1975, ch 125, 25.

12-25-10. Payment for services on election day to influence vote prohibited. Repealed by SL 1975, ch 125, 25.

12-25-11. Payments and expenses for political organizations contrary to chapter prohibited. Repealed by SL 1975, ch 125, 25.

12-25-12. Voluntary work and ordinary expenses permitted - Expenses to be included in statements - Failure to list as misdemeanor.

This chapter does not prohibit voluntary work for or on behalf of any candidate for public office, nor prevent the necessary expenditure of money for any ordinary or usual expense of conducting a political campaign unless expressly forbidden by the provisions of this chapter; but all expenses for any such purposes, either by committees or by candidates, shall be set forth in the respective statements provided for in 12-25-13 to 12-25-14, inclusive. Failure to list all expenses in such statements is a Class 2 misdemeanor.

12-25-12.1. Certain political contributions exempt.

For the purposes of this chapter, a contribution does not include administration of and solicitation of contributions for a political action committee established by a corporation or association, or the use of a corporation's or association's real or personal property located on its business premises.

12-25-13. Preelection statement required of candidates and committees - Contents - Detailed statement at end of year - Violation as misdemeanor.

Any candidate or candidate's committee for any state office at any general or primary election and any political action committee or political party committee shall file with the secretary of state on the last Tuesday prior to any election a detailed statement, complete through the tenth day prior to the election, of all valuable considerations received, obligated or paid by the candidate or committee or by persons authorized by the candidate or committee. The statement shall itemize all contributions and expenditures and shall include the name, residence address and place of employment of any person who has contributed an aggregate amount of more than one hundred dollars or the equivalent thereof in that calendar year. However, with regard to political action committees, the statement shall include the name of any political action committee that contributed any amount. However, a county political party committee need not file a pre-primary report. Also, if a candidate

Campaign Financing and Candidates' Financial Statements

has no opposition in his primary, neither he nor his committee need to file a pre-primary report. By February first of each calendar year, any candidate or committee shall file a detailed statement for the preceding year or the remainder of the calendar year in the manner provided in this section. All reports filed pursuant to this section shall be consecutive and, taken together, shall cover the entire year's receipts and expenditures. A report postmarked on or before the date due is properly filed.

A violation of this section by a candidate or committee treasurer is a Class 2 misdemeanor.

12-25-13.1. Supplemental statement required on large contributions received after original statement - Filing time - Violation as misdemeanor.

If any candidate, candidate's committee, ballot question committee, political action committee or political party committee receives any contribution of five hundred dollars or more within the nine days immediately prior to any election from any individual contributor, such candidate or committee shall make and file a supplement to the statement required in 12-25-13 stating the name, residence address and place of employment of any individual contributor or the name and address of the committee and the amount of the contribution within forty-eight hours of the receipt thereof. A violation of this section is a Class 2 misdemeanor.

12-25-13.2. Annual audit by state ethics commission of statements of state committee and gubernatorial candidates - Random and requested audits - Reports. Repealed by SL 1979, ch 108, 1.

12-25-13.3. Statements required of candidates for county or legislative office - Contents - Time for filing - Violation as misdemeanor.

Any candidate or candidate's committee for county or legislative office at any general or primary election shall make and file by July first and December thirty-first of the election year a detailed statement of all valuable considerations received, obligated or paid by the candidate or committee or by persons authorized by the candidate or committee. The statement shall itemize all contributions and expenditures received or incurred since the last report filed pursuant to this section and shall include the name, residence address and place of employment of any person who has contributed an aggregate amount of more than one hundred dollars or the equivalent thereof in that calendar year. However, with regard to political action committees, the statement shall include the name of any political action committee that contributed any amount. However, a county political party committee need not file a pre-primary report. Also, if a candidate has no opposition in his primary, neither he nor his committee need to file a pre-primary report. A candidate or candidate's committee shall file a termination statement following disposition of all funds and payment of all obligations.

Candidates or committees for county offices shall file with the county auditor. Legislative candidates or committees shall file with the secretary of state. A violation of this section by a candidate or committee treasurer is a Class 2 misdemeanor.

12-25-13.4. Record of small contributions required.

All candidates and committees covered by this chapter shall maintain accurate records of contributions of one hundred dollars or less in the event of an audit. These records shall be kept for one year past the last election in which the candidate or committee participates.

12-25-13.5. Elected or appointed officials to file statement - Time limit.

Any person elected or appointed to a state office shall make and file a detailed statement with the secretary of the state as prescribed in 12-25-13. The statement shall be filed by

Campaign Financing and Candidates' Financial Statements

February first of each calendar year.

12-25-14. Verification of statements on prescribed forms.

Any statement required by this chapter shall be on forms and verified in the manner prescribed by the secretary of state.

12-25-14.1. Violation of candidate's statement of expenses requirements - Misdemeanor. Repealed by SL 1975, ch 125, 25.

12-25-14.2. Maximum amount requiring filing - Verified statement when less collected or expended. Repealed by SL 1989, ch 135, 2.

12-25-15. Political committee not to receive or disburse money until treasurer chosen. Repealed by SL 1982, ch 86, 103.

12-25-16. Political committee members to report receipts and disbursements to treasurer. Repealed by SL 1975, ch 125, 25.

12-25-17. Political committee to have treasurer and keep accounts - Treasurer's statement of campaign receipts and expenses - Time and place of filing - Contents. Repealed by SL 1975, ch 125, 25.

12-25-18. Verification of committee treasurer's statement - Form.

Any statement by the treasurer of any committee, required by this chapter shall be filed on forms and verified in the manner prescribed by the secretary of state.

12-25-18.1. Contributions and expenditures requiring preelection report. Repealed by SL 1989, ch 135, 3.

12-25-19. Statement of campaign expenses required of persons other than committee members. Repealed by SL 1976, ch 109, 8.

12-25-19.1. Statement required of persons involved in referrals, invitations, or proposed constitutional amendments - Contents.

Any legal or natural person or ballot question committee who is involved in the referral or initiation of any question or proposed constitutional amendment at any general election shall file with the secretary of state by the first day of July in that year and the last Tuesday prior to any election a detailed statement, complete through the tenth day prior to that election, of all valuable considerations received, obligated or paid by that person or committee, including the fair market value of advertising time, either paid or unpaid. The statement shall itemize all contributions and expenditures and shall include the name, residence address and place of employment of any person who has contributed an aggregate amount of more than one hundred dollars or the equivalent thereof in that calendar year. However, with regard to political action committees, the statement shall include the name of any political action committee that contributed any amount. By February first of each calendar year, that person or committee shall file a detailed statement for the preceding year or the remainder of the calendar year in the manner provided in this section. All reports filed pursuant to this section shall be consecutive and, taken together, shall cover the entire year's receipts and expenditures. A report postmarked on or before the date due is properly filed. A violation of this section is a Class 2 misdemeanor.

12-25-19.2. Filing of statements of considerations received, obligated or paid - Time for filing - Violation as misdemeanor.

Campaign Financing and Candidates' Financial Statements

Any person or ballot question committee involved in the referral or initiation of any question at any election, other than a statewide election, shall file with the person in charge of that election detailed statements of all valuable considerations received, obligated or paid by that person or committee. A preelection statement shall be filed ten days prior to the election and be complete through the seventeenth day prior to the election. A postelection termination statement shall be filed thirty days following the election and shall include all receipts and expenditures not included in the preelection report. The termination statement shall indicate the disposition of any remaining funds or obligations of such person or committee. The statements shall include the name and address of any person contributing an aggregate of one hundred dollars or more to such person or political committee for the election. However, with regard to political action committees, the statement shall include the name of any political action committee that contributed any amount. A report postmarked on or before the date due is properly filed. A violation of this is a Class 2 misdemeanor.

12-25-19.3. Summary of reports of receipts and expenditures.

The secretary of state shall prepare a report which summarizes the reports of receipts and expenditures filed by all the legislative candidates and candidates' committees. The report shall be prepared after each legislative election and shall include the following information:

- (1) The total amount of individual contributions of one hundred dollars or less in terms of a total dollar amount and as a percentage of all contributions;
- (2) The total amount of individual contributions of more than one hundred dollars in terms of a total dollar amount and as a percentage of all contributions;
- (3) The total amount of political party contributions in terms of a total dollar amount and as a percentage of all contributions;
- (4) The total amount of political action committee contributions in terms of a total dollar amount and as a percentage of all contributions;
- (5) The total amount of the candidate's own contribution in terms of a total dollar amount and as a percentage of all contributions;
- (6) The total amount of fund-raising events proceeds in terms of a total dollar amount and as a percentage of all contributions;
- (7) The total amount of in-kind contributions in terms of a total dollar amount and as a percentage of all contributions;
- (8) The total amount of other income in terms of a total dollar amount and as a percentage of all contributions;
- (9) The total amount of expenditures; and
- (10) The total amount of unpaid obligations.

In addition, this information shall be categorized by incumbency and nonincumbency.

12-25-20. Verification of statement by person other than candidate or treasurer - Form.
Repealed by SL 1975, ch 125, 25.

12-25-21. Endorsement, preservation and destruction of statements of campaign expenses.

The county auditor and secretary of state shall endorse on each statement filed with them pursuant to 12-25-13 to 12-25-19, inclusive, the date of the filing thereof, and to preserve the same among the public records of their office. However, the county auditor and secretary of state may destroy any records which the records destruction board, acting pursuant to 1-27-19, declares to have no further administrative, legal, fiscal, research or historical value.

12-25-22. False statement as to campaign expenses as perjury.

Campaign Financing and Candidates' Financial Statements

Any person who intentionally makes any false statement in any sworn statement required by 12-25-13 to 12-25-19, inclusive, is guilty of perjury.

12-25-23. Violation of chapter as misdemeanor. Repealed by SL 1982, ch 86, 106.

12-25-24. Investigations and prosecution by attorney general.

It shall be the duty of the attorney general to investigate any unlawful expenditures or statements filed under the provisions of this chapter, and to prosecute any violation thereof.

12-25-25. Self-incrimination not ground for refusing testimony - Immunity from prosecution.

No person shall be excused from giving testimony upon any investigation or proceeding for any violation of this chapter, upon the ground that such testimony would tend to convict him of a crime; but, if compelled to testify, his testimony shall not be used against him in any action or proceeding, civil or criminal, nor shall he be thereafter punished or prosecuted for the offense with reference to which his testimony was given.

12-25-26. Forfeiture of office or removal from ballot for violation.

Any person nominated or elected to any office, who shall be proved in a contest of such election or in any other manner provided by law to have violated any provision of this chapter, except those punishable as petty offenses or Class 2 misdemeanors, shall forfeit his office and such office shall be declared vacant and shall be filled in the manner provided by law for filling vacancies occasioned by death or resignation or shall be removed from the ballot or may not be certified for election.

12-25-27. Candidates' financial statements - Definition of terms.

Terms as used in 12-25-27 to 12-25-31, inclusive, unless the context otherwise requires, mean:

(1) "Close economic interest," any enterprise that, in the calendar year preceding filing of a statement under any of 12-25-28 to 12-25-30, inclusive, contributes either more than ten percent of or more than two thousand dollars, to the gross income of the family which shall include the individual required to file the statement and any member of his immediate family, or an enterprise in which such individual or any member of his immediate family control more than ten percent of the capital or stock;

(2) "Any member of his immediate family," a spouse or minor children living at home;

(3) "Enterprise," any business or economic relationship;

(4) "Statement of financial interest," a description of the type of financial activity and the nature of the association with the enterprise as provided in subdivision (1) of this section.

12-25-28. Statements of financial interest by candidates for state or federal office subject to primary - Violation as petty offense - Intentional violation as misdemeanor.

All candidates for the United States Senate, the United States House of Representatives, Governor, circuit court judge, and the state Legislature shall file a statement of financial interest with the secretary of state within fifteen days after filing nominating petitions. A Supreme Court justice shall file a statement of financial interest with the secretary of state within fifteen days of notifying the secretary of state of his intention to place his name on the retention ballot. A violation of this section is a petty offense. An intentional violation of this section is a Class 2 misdemeanor.

12-25-29. Statements of financial interest by convention nominees for state office - Violation as petty offense - Intentional violation as misdemeanor.

Campaign Financing and Candidates' Financial Statements

All candidates for lieutenant governor, state treasurer, attorney general, secretary of state, state auditor, public utilities commissioner and commissioner of school and public lands shall file a statement of financial interest with the secretary of state within fifteen days after their nominations have been certified. A violation of this section is a petty offense. An intentional violation of this section is a Class 2 misdemeanor.

12-25-30. Filing of statements by candidates for local office - Violation as petty offense - Intentional violation as misdemeanor.

Each candidate for county commissioner, school board member in a school district with a total enrollment of more than two thousand students, or commissioner, councilman or mayor in municipalities of the first class, shall file a statement of financial interest with the county auditor of the county of which he is a resident within fifteen days after filing nominating petitions or, if otherwise nominated, within fifteen days after such nomination is certified. A violation of this section is a petty offense. An intentional violation of this section is a Class 2 misdemeanor.

12-25-31. Forms for financial statements - Value not required - Verification - Open to public.

The secretary of state shall prescribe and provide forms for the reporting of close economic interest. The value of a close economic interest need not be reported. Each individual filing a statement of financial interest shall subscribe to an oath or affirmation verifying the contents of such statement. All statements of financial interest shall be open to public inspection.

12-25-32. Violation as misdemeanor - Penalty - Willful violation. Repealed by SL 1982, ch 86, 110.

12-25-33. No filing fee for required statements.

No filing fee may be charged for any report required by this chapter.

12-25-34. Information from reports or statements - Sale or use for solicitation or commercial purpose prohibited - Misdemeanor.

Any information copied, or otherwise obtained, from any report or statement, or copy, reproduction, or publication thereof, filed with the secretary of state under this chapter, shall not be sold or utilized by any person for the purpose of soliciting contributions, or any commercial purpose. For purposes of this section, "any commercial purpose" does not include the sale of newspapers, magazines, books, or other similar communications, the principal purpose of which is not to communicate lists or other information obtained from a report filed in accordance with this chapter.

Any violation of this section shall be a Class 2 misdemeanor.

CHAPTER 12-25A.

STATE ETHICS COMMISSION

[Repealed by SL 1979, ch 108, 9]

CHAPTER 12-26.

OFFENSES AGAINST THE ELECTIVE FRANCHISE

Section

- 12-26-1. Elections to which chapter applies.
- 12-26-2. Repealed.
- 12-26-3. False representation to procure registration or acceptance of vote as misdemeanor - Failure to deny false statement as misrepresentation.
- 12-26-4. Voting or offer to vote by unqualified person as misdemeanor.
- 12-26-5, 12-26-6. Repealed.
- 12-26-7. Impersonation of registered voter as felony.
- 12-26-8. Voting more than once at any election as misdemeanor.
- 12-26-9. Good faith defense to prosecution for illegal voting.
- 12-26-10. Threats or intimidation to prevent public assembly of electors as misdemeanor - Hindering attendance at meeting.
- 12-26-11. Disturbance of public meeting of voters as misdemeanor.
- 12-26-12. Persecution, threats or intimidation to influence vote as misdemeanor - Obstruction of voter on way to polls.
- 12-26-13. Unlawful influence of employees' political activities or voting as misdemeanor - Forfeiture of corporate charter.
- 12-26-14. Use of public relief, loans or grants to influence political activity or vote as misdemeanor.
- 12-26-15. Bribery of voter as misdemeanor - Acts constituting bribery.
- 12-26-16. Acceptance of bribe by voter as misdemeanor - Acts constituting acceptance of bribe.
- 12-26-17. Bribery or acceptance of bribe as infamous crime - Forfeiture of office.
- 12-26-18. Repealed.
- 12-26-19. Betting with intent to procure challenge as misdemeanor.
- 12-26-20. Repealed.
- 12-26-21. Disobedience of election judge as misdemeanor.
- 12-26-22. Disturbance of election proceedings as misdemeanor.
- 12-26-23. Tampering with ballots, ballot box or poll list as felony.
- 12-26-23.1. Tampering with automatic ballot counting devices and punch card ballot booklets as felony.
- 12-26-24. Exclusion by election judge of lawful vote as misdemeanor.
- 12-26-25. False count or return by election official as misdemeanor - Defacement or concealment of statement or certificate.
- 12-26-26. Repealed.
- 12-26-27. Bribery of election official as misdemeanor.
- 12-26-28. Offenses relating to election on submitted question.
- 12-26-29. Prevention of unlawful election not prohibited.
- 12-26-30. Irregularities in proceedings not a defense.
- 12-26-31. Offender as witness against another - Compelling testimony - Immunity from prosecution.

12-26-1. Elections to which chapter applies.

The word "election" as used in this chapter includes any election held in this state for the purpose of enabling the voters to nominate or elect any United States, state, or local officer, or to vote upon any question submitted to them.

12-26-2. Unqualified voter permitting registration - Penalty. Repealed by SL 1974, ch 118, 200.

Offenses Against the Elective Franchise

12-26-3. False representation to procure registration or acceptance of vote as misdemeanor - Failure to deny false statement as misrepresentation.

Any person who, at the time of requesting his name to be registered as a voter, or who at the time of offering his vote at any election, knowingly makes any false statement or employs any false representation to procure his name to be registered or his vote to be received, is guilty of a Class 2 misdemeanor. A false statement or representation made or used in the presence and to the knowledge of a person requesting his name to be registered, or offering his vote, is to be deemed made by himself if it appears that it was made or used in support of his claim to be registered or to vote, that he knew it to be false and that he allowed it to pass uncontradicted.

12-26-4. Voting or offer to vote by unqualified person as misdemeanor.

Any person knowing himself not to be a qualified voter who votes or offers to vote at any election is guilty of a Class 2 misdemeanor.

12-26-5. Aiding or advising vote by unqualified person as misdemeanor. Repealed by SL 1982, ch 86, 113.

12-26-6. Voting or offer to vote in wrong precinct as misdemeanor. Repealed by SL 1974, ch 118, 200.

12-26-7. Impersonation of registered voter as felony.

A person who impersonates a registered voter and, as such, offers to vote at any election, is guilty of a Class 5 felony.

12-26-8. Voting more than once at any election as misdemeanor.

A person who votes more than once at any election or who offers to vote after having once voted, either in the same or in another election precinct, is guilty of a Class 1 misdemeanor.

12-26-9. Good faith defense to prosecution for illegal voting.

Upon any prosecution for procuring, offering, or casting an illegal vote, the accused may give in evidence any facts tending to show that he honestly believed upon good reason that the vote complained of was a lawful one; and the jury may take such facts into consideration in determining whether the acts complained of were knowingly done or not.

12-26-10. Threats or intimidation to prevent public assembly of electors as misdemeanor - Hindering attendance at meeting.

A person who by threats, intimidation, or unlawful force or violence, intentionally hinders or prevents voters from assembling in a public meeting for considering of public questions, or who hinders or prevents any individual voter from attending any such meeting, is guilty of a Class 2 misdemeanor.

12-26-11. Disturbance of public meeting of voters as misdemeanor.

A person who intentionally disturbs or breaks up any public meeting of voters lawfully being held for the purpose of considering public questions is guilty of a Class 2 misdemeanor.

12-26-12. Persecution, threats or intimidation to influence vote as misdemeanor -

Offenses Against the Elective Franchise

Obstruction of voter on way to polls.

A person who directly or indirectly, intentionally, by force or violence, or by unlawful arrest, or by any abduction, duress, damage, harm, or loss, or by any forcible or fraudulent contrivance, or by threats to do or employ any of them, or by threats of bringing civil suit or criminal prosecution, withdrawal of customs or dealing in business or trade, or enforcing payment of debts, or by any kind of injury or threat of injury inflicted or to be inflicted on any voter or person to influence any voter, and attempted, done, or threatened, or caused to be attempted, done, or threatened by any person in his own behalf or in behalf of any other person or question voted upon or to be voted upon at any election, for the purpose of preventing, causing, or intimidating a voter to vote or refrain from voting for or against any person or question, or who does or causes to be done any of such things because of a voter having voted or refrained from voting on any such matter, or who intentionally and without lawful authority obstructs, hinders, or delays a voter on his way to any poll where an election is to be held, is guilty of a Class 2 misdemeanor.

12-26-13. Unlawful influence of employees' political activities or voting as misdemeanor - Forfeiture of corporate charter.

It is a Class 2 misdemeanor for any employer in paying his employees the salary or wages due them, to enclose their pay in "pay envelopes" upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees.

It is a Class 2 misdemeanor for any employer, within ninety days of a general election, to put up or otherwise exhibit in his factory, mill, workshop, or other establishment or place where his employees may be working, any handbill or placard containing any threat, notice, or information that in case any particular tickets or candidate shall be elected, work in his place or establishment will cease in whole or in part, or that his establishment will be closed, or the wages of his workmen will be reduced, or other threats, express or implied, intended or calculated to influence the political opinion or the actions of his employees in voting.

Any corporation violating this section shall, upon proof thereof, forfeit its charter.

12-26-14. Use of public relief, loans or grants to influence political activity or vote as misdemeanor.

It is a Class 1 misdemeanor for any person, directly or indirectly, to promise or threaten to grant or withhold or to cause to be granted or withheld, any public relief, assistance loans or grants for the purpose or with the intention of controlling or influencing the political affiliations, party registration, support or vote at any election, of any person so promised or threatened.

The terms "public relief" and "assistance" include all forms of direct public relief and also all forms of indirect relief such as employment on any public works or project. The terms "loans" and "grants" include all forms of financial assistance granted by the federal government or any of its agencies and also by this state or any of its political subdivisions.

12-26-15. Bribery of voter as misdemeanor - Acts constituting bribery.

It is a Class 2 misdemeanor for any person, directly or indirectly, by himself or through any other person:

(1) To pay, lend, contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration, to or for any voter or to or for any other person, to induce such voter to vote or refrain from voting at any election or to induce any voter to vote or refrain from voting at such election for any particular person or to induce such voter to go to the polls or remain away from the polls at such election, or on account of such voter having voted, refrained from voting or having voted or refrained from voting for any

Offenses Against the Elective Franchise

particular person, or having gone to the polls or remained away from the polls at such election;

(2) To give, offer, or promise any office, place or employment, or to promise to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person in order to induce such voter to vote or refrain from voting at such election for any particular person;

(3) To make any gift, loan, or promise, offer, procurement, or agreement as aforesaid to, for, or with any person in order to induce such person to procure or endeavor to procure the election of any person, or the vote of any voter at any election;

(4) To procure or engage, promise, or endeavor to procure, in consequence of any such gift, loan, offer, promise, procurement, or agreement, the election of any person or the vote of any voter at such election;

(5) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same or any part thereof shall be used in bribery at any election, or to knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

12-26-16. Acceptance of bribe by voter as misdemeanor - Acts constituting acceptance of bribe.

It is a Class 2 misdemeanor for any person, directly or indirectly, by himself or through any other person:

(1) To receive, agree, or contract for, before or during any election, any money, gift, loan, or other valuable consideration, offer, place, or employment for himself or any other person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls at any such election;

(2) To receive any money or other valuable thing during or after an election, for himself or any other person for having voted or refrained from voting at such election, or on account of himself or any other person having voted or refrained from voting for any particular person at such election, or on account of himself or any other person having gone to the polls or remained away from the polls at such election, or on account of having induced any other person to vote or refrain from voting, for any particular person at such election.

12-26-17. Bribery or acceptance of bribe as infamous crime - Forfeiture of office.

Any person committing the offense of bribery of voters or receiving a bribe as specified in 12-26-15 and 12-26-16 is guilty of an infamous crime, and any person convicted thereof shall, in addition to the criminal punishment, forfeit any office to which he may have been elected at the election at which such offense was committed.

12-26-18. Betting on election as misdemeanor. Repealed by SL 1976, ch 105, 84.

12-26-19. Betting with intent to procure challenge as misdemeanor.

Any person who shall directly or indirectly make a bet with a voter depending upon the result of any election, with the intent thereby to procure the challenge of such voter or to prevent his voting at an election, is guilty of a Class 2 misdemeanor.

12-26-20. Betting by candidate as misdemeanor. Repealed by SL 1976, ch 105, 84.

12-26-21. Disobedience of election judge as misdemeanor.

A person who intentionally disobeys a lawful command of a judge or board of judges of any election, given in the execution of their duty as such at an election, is guilty of a Class 2

Offenses Against the Elective Franchise

misdemeanor.

12-26-22. Disturbance of election proceedings as misdemeanor.

No person may cause any disturbance or breach of the peace, or engage in disorderly conduct in violation of 22-13-1, or use threats of violence, whereby an election is impeded or hindered, or whereby the lawful proceedings of the judges, ballot counters or canvassers of an election, in the discharge of their duty, are interfered with. A violation of this section is a Class 2 misdemeanor.

12-26-23. Tampering with ballots, ballot box or poll list as felony.

A person who intentionally breaks, destroys, steals, or conceals any ballot box or any poll list used or intended to be used at any election, or who, before the ballots have been counted or canvassed, or during the time within which a contest or recount may be instituted or is pending and undisposed of, shall intentionally deface, change, injure, destroy, steal or conceal any ballot or ballots which have been voted and deposited in any ballot box at an election, is guilty of a Class 6 felony.

12-26-23.1. Tampering with automatic ballot counting devices and punch card ballot booklets as felony.

No person may intentionally program or alter an automatic ballot counting device to erroneously count voted ballots or to render an erroneous total. No person may intentionally alter a punch card ballot booklet to the extent that votes are miscast or are unable to be cast because of the misalignment of the punch card or other alteration. A violation of this section is a Class 5 felony.

12-26-24. Exclusion by election judge of lawful vote as misdemeanor.

A judge of an election who intentionally excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election, is guilty of a Class 2 misdemeanor.

12-26-25. False count or return by election official as misdemeanor - Defacement or concealment of statement or certificate.

No judge of any election, member of any counting board, member of any board of canvassers, messenger or other officer authorized to take part in or perform any duty in relation to any count, canvass or official statement of the votes cast at any election, may intentionally make any false count or canvass of such votes, or make, sign, publish or deliver any false return of such election, knowing it to be false. No such person may intentionally deface, destroy or conceal any statement or certificate entrusted to his care. A violation of this section is a Class 2 misdemeanor.

12-26-26. Mutilation, destruction or prevention of delivery of election returns and certificates - Penalty. Repealed by SL 1974, ch 118, 200.

12-26-27. Bribery of election official as misdemeanor.

A person who gives or offers a bribe to any judge, clerk, canvasser, or other officer of an election as a consideration for doing or omitting to do any act in violation of his official duty in relation to such election, is guilty of a Class 2 misdemeanor.

12-26-28. Offenses relating to election on submitted question.

Offenses Against the Elective Franchise

Every act which by the provisions of this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to voters to be decided by votes cast at an election.

12-26-29. Prevention of unlawful election not prohibited.

Nothing in this chapter shall be construed to authorize the punishment of any person who, by authority of law, may interfere to prevent or regulate an election which has been unlawfully noticed or convened, or is being, or is about to be, unlawfully conducted.

12-26-30. Irregularities in proceedings not a defense.

Irregularities or defects in the mode of noticing, convening, holding, or conducting an election authorized by law, form no defense to a prosecution for a violation of the provisions of this chapter.

12-26-31. Offender as witness against another - Compelling testimony - Immunity from prosecution.

A person offending against any provision of this title is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation, in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, and he shall not thereafter be liable to prosecution or punishment for the offense with reference to which his testimony was given.

CHAPTER 13-7.

SCHOOL DISTRICT ELECTIONS

Section

- 13-7-1, 13-7-2. Repealed.
- 13-7-3. Public offices incompatible with board membership.
- 13-7-4. Registration of voters - Notice of registration.
- 13-7-4.1. Notice concerning voter registration.
- 13-7-5. Publication of notice prior to filing of nominating petitions for school board membership.
- 13-7-6. Filing of nominating petition for candidate - Formal declaration of candidacy - Contents, circulation and verification of nominating petition.
- 13-7-6.1. Option to adopt campaign finance law.
- 13-7-7. Withdrawal by candidate for board membership.
- 13-7-8. Publication of notice of election - Contents.
- 13-7-8.1. Notice of special election.
- 13-7-9. Election not held if no contest or question - Certificates of election.
- 13-7-9.1. Death or withdrawal of candidate resulting in no contest.
- 13-7-9.5. Secondary election to break tie vote.
- 13-7-9.6. Secondary election - Time and place - Notice - Tie vote after secondary election.
- 13-7-10. Date and hours of annual school elections - Procedure for absentee voting, voter registration and counting ballots.
- 13-7-10.1. Joint school district and municipal elections authorized - Date - Sharing costs and responsibilities.
- 13-7-10.2. Notices and nomination procedure for certain joint elections.
- 13-7-11. Voting precincts and polling places.
- 13-7-12. Judges and clerks of school elections - Compensation.

School District Elections

- 13-7-13. Ballots and election supplies - Form and content of ballots.
- 13-7-14. Absentee voting in school elections.
- 13-7-15, 13-7-16. Repealed.
- 13-7-17. Certification of school district election returns - Preservation of ballots and ballot boxes.
- 13-7-18. Canvass of election results - Certificates of election - Certification of results.
- 13-7-19. Repealed.
- 13-7-19.1. Tie vote - Recount procedure - Resolution by lot.
- 13-7-19.2. Close margin in school board election - Request for recount.
- 13-7-19.3. Close margin in school election - Petition for recount - Appointment of recount board.
- 13-7-19.4. Compensation of recount board.
- 13-7-20 to 13-7-26. Repealed.
- 13-7-27. Definitions.

13-7-1. Qualifications to vote and hold office in school districts. Repealed by SL 1973, ch 69, 4.

13-7-2. Residence for school district purposes. Repealed by SL 1973, ch 69, 4.

13-7-3. Public offices incompatible with board membership.

No elective county, municipal or state officer or the holder of any other office, the duties of which are incompatible or inconsistent with the duties of a school board member, shall be eligible for such membership.

13-7-4. Registration of voters - Notice of registration.

Registration to vote and notice of registration in school district elections shall be as provided in chapter 12-4.

13-7-4.1. Notice concerning voter registration.

The business manager shall give notice of the availability of voter registration officials and state when voter registration will be terminated and the effect of a failure to have registered. The notice shall be published in official newspapers at least once each week for two consecutive weeks, the last publication to be not less than twenty-five nor more than thirty days before the election.

13-7-5. Publication of notice prior to filing of nominating petitions for school board membership.

Between the first day of April and the fifteenth day of April, except in the case of the joint election as provided in 13-7-10.1, the business manager of each school district shall publish once each week for two consecutive weeks in the official newspaper, a notice setting forth the vacancies which will occur by termination of the terms of the elective or appointive school board members. The notice shall also state the time and place where nominating petitions for school board membership may be filed for the vacancies.

13-7-6. Filing of nominating petition for candidate - Formal declaration of candidacy - Contents, circulation and verification of nominating petition.

No candidate for elective school board membership may be nominated unless he is a resident voter of the school district and unless a nominating petition has been filed on his behalf with the business manager of the school district no later than the third Friday in May at five p.m. before the date of the election. If the petition is mailed by registered or certified

School District Elections

mail by the third Friday in May at five p.m. before the election, it shall be considered filed. A formal declaration of a candidate shall be signed by the candidate before the circulation of the petition. The petition shall be signed by not less than twenty voters of the school district. No petition may be circulated until the first day of May before the election. There shall be added by either the signer or the circulator the signer's place of residence and date of signing. The petition shall be verified under oath by the person circulating it. The filing of the nominating petition shall constitute nomination and will entitle the candidate to have the candidate's name placed on the ballot for the term the candidate desires only upon verification signed by the business manager that the nominating petition contains the minimum number of signatures and that the candidate is a resident voter.

13-7-6.1. Option to adopt campaign finance law.

The school district governing body may, by ordinance or resolution, adopt the provisions of chapter 12-25.

13-7-7. Withdrawal by candidate for board membership.

Any person who has filed a nominating petition pursuant to 13-7-6 may withdraw from nomination by request in writing signed by the person and properly acknowledged and filed with the business manager of the school district by the third Friday in May at five p.m. before the day of the election. No name withdrawn may be printed on the ballots to be used.

13-7-8. Publication of notice of election - Contents.

The business manager of the school district shall publish in the official newspaper notices of an election once each week for two consecutive weeks with the first publication not less than ten days before the election. The notice shall state the date of the coming school election, the vacancies to be filled with terms of each, the candidates who have filed for these vacancies, questions, if any, to be submitted at the election, and the location of polling places.

13-7-8.1. Notice of special election.

When a special election is held to decide an issue, the business manager of the school district shall publish notices as provided in 13-7-4.1 and 13-7-8.

13-7-9. Election not held if no contest or question - Certificates of election.

In school districts if only one nominating petition is filed for each board vacancy to be filled and if there are no other questions to be submitted to the voters, there shall be no election and the notices and publication provided in 13-7-8 will not be necessary, but the business manager shall issue certificates of election to the nominees in the same manner as to successful candidates after election.

13-7-9.1. Death or withdrawal of candidate resulting in no contest.

If death or withdrawal of a candidate or candidates at any time prior to forty-eight hours preceding the opening of the polls in any school district election occasions that there is no contest on the ballot, that ballot need not be voted and if it constitutes the only ballot to be voted upon, then the election may be canceled by the officer responsible for its conduct and the unopposed candidate issued certificate of election as though duly elected.

13-7-9.5. Secondary election to break tie vote.

School District Elections

If there are more than two candidates for a position on the school board and two candidates are tied for a position after a recount has been held according to 13-7-19.1, a secondary election between the tied candidates shall be held.

13-7-9.6. Secondary election - Time and place - Notice - Tie vote after secondary election.

If a secondary election is required according to 13-7-9.5, the secondary election shall be held two weeks from the date of the first election. The secondary election shall be held at the same polling places, be conducted, returned and canvassed, and the result declared in the same manner as the first election except that the business manager shall publish a notice of election only once during the week preceding the secondary election.

The person receiving the highest number of votes at the secondary election shall be elected. If there is a tie vote after a secondary election the tie shall be resolved according to the provisions of 13-7-19.1.

13-7-10. Date and hours of annual school elections - Procedure for absentee voting, voter registration and counting ballots.

The annual election for school districts shall be held on the third Tuesday in June between the hours of eight o'clock in the forenoon and seven o'clock in the afternoon of that day. Voter registration, absentee voting and procedures used in counting ballots shall be in accordance with Title 12 except as specifically provided in chapter 13-7.

13-7-10.1. Joint school district and municipal elections authorized - Date - Sharing costs and responsibilities.

The members of the governing body of a school district may choose to hold a general school district election in conjunction with a regular municipal election. The combined election is subject to approval by the governing body of the municipality. The combined election shall be held on the regular date set for either the school district election or the general municipal election. Expenses of a combined election shall be shared in a manner agreed upon by the governing bodies of the municipality and the school district. All other governmental responsibilities associated with holding elections under the provisions of chapters 9-13 and 13-7 shall be shared as agreed upon by the governing bodies.

13-7-10.2. Notices and nomination procedure for certain joint elections.

If the joint election provided for in 13-7-10.1 is held on the second Tuesday in April, between the twenty-fifth day of January and the tenth day of February, the business manager of each school district shall publish once each week for two consecutive weeks in the official newspaper, a notice setting forth the vacancies which will occur by termination of the terms of the elective or appointive school board members. The notice shall also state the time and place where nominating petitions for school board membership may be filed for the vacancies.

No candidate for elective school board membership may be nominated unless the candidate is a resident voter of the school district and unless a nominating petition has been filed on the candidate's behalf with the business manager of the school district no later than the second Friday in March at five p.m. prior to the date of the election. If the petition is mailed by registered mail by the second Friday in March at five p.m. before the election, it shall be considered filed. A formal declaration of a candidate shall be signed by him before the circulation of the petition. The petition shall be signed by not less than twenty voters of the school district. No petition may be circulated until the second Friday in February before the election. There shall be added by either the signer or the circulator the signer's place of residence and date of signing. The petition shall be verified under oath by the person circulating the petition. The filing of the nominating petition shall constitute nomination and will entitle the candidate to have the candidate's name placed on the ballot for the term

School District Elections

the candidate desires only upon verification signed by the business manager that the nominating petition contains the minimum number of signatures and that the candidate is a resident voter.

Publication of the notice of the election provided for in 13-7-10.1 shall be in accordance with 13-7-8.

13-7-11. Voting precincts and polling places.

The number and place of voting precincts shall be determined by the school board.

13-7-12. Judges and clerks of school elections - Compensation.

Each voting precinct shall be presided over by an election board consisting of a minimum of two clerks and one judge appointed by the school board. Members of school boards may serve on election boards.

Judges and clerks other than members of school boards shall receive such compensation as shall be fixed by the school board and paid from the district treasury.

13-7-13. Ballots and election supplies - Form and content of ballots.

The business manager of the school district shall provide proper ballots, pollbooks, voting booths, and necessary supplies as required by law to the proper election officials on election day. The ballots shall be similar in form to those authorized by law for municipal elections. No party affiliation may appear on the ballot and the names of the candidates for the respective vacancies shall be printed thereon, each being given a position for such vacancy in the order of the priority of the filing of their nominating petitions or in alphabetical order if filed simultaneously.

13-7-14. Absentee voting in school elections.

Absentee voting shall be permitted in school district elections, including school district bond elections.

13-7-15. Nomination of candidates in common school district - Casting of votes. Repealed by SL 1973, ch 86, 20.

13-7-16. Supplies and procedure for common school district elections - Quorum. Repealed by SL 1973, ch 86, 20.

13-7-17. Certification of school district election returns - Preservation of ballots and ballot boxes.

The returns from a school district election shall be certified by the election board in each polling place, and the ballots, properly sealed in ballot boxes, together with the pollbooks, shall be placed in the custody of the school district's business manager, who shall keep such boxes inviolate for at least sixty days after the canvass of the returns.

13-7-18. Canvass of election results - Certificates of election - Certification of results.

The election results shall be canvassed by the school board at the next meeting and certificates of election shall be issued by the business manager of the district to the successful candidates and election results shall be certified to the county auditor of the counties in which the school district is located.

13-7-19. Tie vote settled by lot. Repealed by SL 1981, ch 130, 1.

School District Elections

13-7-19.1. Tie vote - Recount procedure - Resolution by lot.

If a tie vote exists after the canvass of the original official returns, it is the duty of the school board making the canvass to certify the vote to the business manager. The business manager shall then notify the candidates that if no request for recount is made in writing to the business manager within five days, a time and place shall be set for the drawing of lots. If any of the tied candidates makes a request for a recount, a recount board shall be established consisting of one person chosen by each tied candidate and an additional person appointed by the business manager, who shall be mutually agreeable to the tied candidates. The time and place for such recount shall be set by the business manager. It is the duty of the person having custody of the ballot boxes containing the ballots to be recounted to produce them before such recount board. All questions arising on the recount shall be determined by majority vote of such board. The recount shall proceed as expeditiously as reasonably possible until completed. If a tie vote between candidates is found to exist on the basis of such recount, it is the duty of the business manager to fix a time and place for the drawing of lots, giving reasonable notice of the time and place to each of the candidates involved in the tie vote. Drawing of lots shall be in the manner directed by the business manager and the certificate of election shall be issued to the candidate winning in the drawing of lots.

13-7-19.2. Close margin in school board election - Request for recount.

If any candidate for the school board is defeated by a margin not exceeding two percent of the total votes cast for all candidates for the office, the candidate may, within five days after completion of the official canvass, file with the business manager of the school district a written request for a recount. Upon receipt of the request, the business manager shall set the time and place for a recount according to the provisions of 13-7-19.1.

13-7-19.3. Close margin in school election - Petition for recount - Appointment of recount board.

A recount shall be conducted when, within five days after completion of the official canvass of a school district regular or special election at which a question is approved or disapproved by a margin not exceeding two percent of the total votes cast in the election, any three registered voters of the school district file a petition duly verified by them, setting forth that they believe a recount will change the outcome. A recount board shall be appointed by the business manager who shall appoint one person on each side of the question and one person who shall be mutually agreed upon by the other two appointed. The recount shall be conducted according to the provisions of 13-7-19.1.

13-7-19.4. Compensation of recount board.

In school district election recounts there shall be paid out of the general fund of the school district to the members of the recount board compensation set by the school board, to be not less than the minimum wage established by 60-11-3.

13-7-20. General election laws applicable - Conduct of elections. Repealed by SL 1973, ch 67, 4.

13-7-21. Annual business meeting of common school district - Instructions to board - Nomination of candidates for five-member boards - Presiding officer. Repealed by SL 1973, ch 86, 20.

13-7-22. Clerk's and treasurer's reports to annual business meeting of common school district. Repealed by SL 1973, ch 86, 20.

School District Elections

13-7-23. Adjournment of annual common school district meeting - Minutes of meeting. Repealed by SL 1973, ch 86, 20.

13-7-24. Binding effect of instructions at annual meeting of common school district - Discretion of board. Repealed by SL 1973, ch 86, 20.

13-7-25. Petition by voters for special meeting of common school district - Posting of notice. Repealed by SL 1973, ch 86, 20.

13-7-26. Business permitted at special meeting of common school district - Reconsideration of questions previously considered. Repealed by SL 1973, ch 86, 20.

13-7-27. Definitions.

The terms "election," "candidate," "election officials," "elector," "voter," and "registration officials" when used in a school district election or petition are defined in 12-1-3.



CHAPTER 5:02:01
GENERAL RULES AFFECTING BOARD

Sec.

- 5:02:01:01. Official office.
- 5:02:01:02. Filing and notice.
- 5:02:01:03. Special meetings of the board.
- 5:02:01:04. Quorum and presiding officer.

5:02:01:01. Official office

The South Dakota state board of elections shall maintain an office as its principal place of business which shall be located, until otherwise designated, at the office of the Secretary of State, Capitol Building, Pierre, South Dakota 57501.

Source: 2 SDR 5, effective July 30, 1975.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-1-5, 12-1-9.

5:02:01:02. Filing and notice

Whenever filing with, or notice to, the board is permitted or required by these rules, the same shall be done, unless otherwise specifically provided, by written document addressed to the South Dakota state board of elections and delivered in person or mailed to the board at its principal place of business. The date of such filing or notice, unless otherwise specifically provided in these rules, shall be the date upon which the document is received at the principal place of business of the board.

Source: 2 SDR 5, effective July 30, 1975.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-1-5, 12-1-9.

5:02:01:03. Special meetings of the board

A special meeting of the board may be set upon call of the chairperson or upon written request by a majority of the board.

Source: 2 SDR 5, effective July 30, 1975.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-1-5, 12-1-9.

5:02:01:04. Quorum and presiding officer

Four of the seven members shall constitute a quorum for the conduct of business. In the absence of the chairperson specified in SDCL 12-1-5, members present shall appoint one of their number as chairperson for that meeting.

Source: 2 SDR 5, effective July 30, 1975; 10 SDR 27, effective September 26, 1983.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-1-5, 12-1-9.

CHAPTER 5:02:02
DECLARATORY RULINGS

- Sec.
5:02:02:01. Petition for declaratory ruling.
5:02:02:02. Board action on petition.

5:02:02:01. Petition for declaratory ruling

The form of a petition to the board for a declaratory ruling shall be substantially as follows:

State of South Dakota State Board of Elections Petition for Declaratory Rulings

Pursuant to the provisions of SDCL 1-26-15, I (name of petitioner) of (address of petitioner), am (title or capacity of petitioner), and do hereby petition the South Dakota State Board of Elections for its declaratory ruling in regard to the following:

1. The state statute or state board of elections rule or order or form in question is: (identify and quote the pertinent statute, rule or order or form)
2. The facts and circumstances which give rise to the issue to be answered by the board's declaratory ruling are:
3. The precise issue to be answered by the board's declaratory ruling is:

Dated at (city and state), this _____ day of _____, 19

(Signature of petitioner)

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 1-26-15.

5:02:02:02. Board action on petition

Upon receipt of the petition the board may request from the petitioner such other or further information as may be required by it for the issuance of its ruling. Within 30 days following the receipt of the petition, or within 30 days following receipt of such further requested information, the board shall issue its declaratory ruling and serve a copy of the same by mail upon the petitioner.

Source: 2 SDR 5, effective July 30, 1975.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 1-26-15.

CHAPTER 5:02:03
FORMS FOR REGISTRATION

- Sec.
5:02:03:00. Binder for master registration list.
5:02:03:01. Voter registration card.
5:02:03:01.01. Voter registration information requirements.
5:02:03:02. Authorization for removal of name from voter registration list.
5:02:03:03. Authorization to return registration card.
5:02:03:04. Receipt.
5:02:03:05. Voter change of name or address, or both, card.

Forms for Registration

5:02:03:06. Party designation card.
5:02:03:07. Voter registration instructions.
5:02:03:08. Authorization to register voters.
5:02:03:08. AUTHORIZATION TO REGISTER VOTERS.
5:02:03:09. Auditor's record of voter registration cards.
5:02:03:10. Record of registered voters.
5:02:03:11. Notice of change of voter registration information and voter registration cancellation card.

5:02:03:00. Binder for master registration list

The binder for the master registration list shall be sturdy with an alphabetical index.

Source: 4 SDR 26, effective October 27, 1977; transferred from 5:02:07:03, 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9, 12-4-9.

Law Implemented: SDCL 12-4-9.

5:02:03:01. Voter registration card

The voter registration card shall be printed on 7 1/2 point white tag with a coated front 3 1/2 inches by 8 1/2 inches in total size, perforated to the left with the NOTIFICATION OF COMPLETED VOTER REGISTRATION stub 3 1/2 inches by 3 1/2 inches in size. A voter's receipt printed on 15 pound carbonless paper with a coated back shall be bonded to the left of the stub and printed to assure that information printed on the voter's receipt will appear on the appropriate lines on the stub. The voter registration card shall be in the following form:

VOTER REGISTRATION CARD

_____ County, South Dakota Social Security # _____

Name _____ Birth date _____
(Last) (First) (Middle)

Residence _____
Address _____ Zip _____
(Town)

Mailing Address (if different) _____

Phone Number _____ Ward _____ Precinct _____ Township _____

School District _____ Water District _____ Legislative District _____

Please register me as a member of the _____ Party.
I declare, under oath, that I am a citizen of the United States, that I maintain my home at the above address, that my eighteenth birthday will have passed and I will be legally qualified to vote by the date of the next election, and I authorize cancellation of any previous registration.

Signed _____

Sworn before me this _____ day of _____, 19 _____
(Seal) Signature of Registration Official, Title

My Commission Expires _____ Authorized in _____ County to register voters.

If you use a rubber stamp seal, please do not obliterate any of the required information.

On the stub to the left of the registration card shall be the following:

Forms for Registration

NOTIFICATION OF COMPLETED VOTER REGISTRATION

_____ County, South Dakota

Name _____

Address _____

Ward _____ Precinct _____ Twp. _____

School Dist. _____ Water Dist. _____ Legis. Dist. _____

Political Party _____

I declare, under oath, that I am a citizen of the United States.

Voter Signature

Sworn before me this _____ day of _____, 19____.

Registration Official, Title

On the reverse of the notification of completed voter registration shall be the following:

THE INFORMATION SET OUT ON THE CARD APPLIES ONLY SO LONG AS YOU CONTINUE TO RESIDE AT THE ADDRESS INDICATED.

YOU MUST RE-REGISTER

- *if you move to another county.
- *if you fail to vote for four years

Contact the county auditor if you change your name or move within the county.

The registration of the above named voter was completed on _____

_____ County Auditor

The voter's receipt shall be the same size as the notification of completed registration and shall be in the following form:

VOTER'S RECEIPT

_____ County, South Dakota

Name _____

Address _____

Ward _____ Precinct _____ Twp. _____

School Dist. _____ Water Dist. _____ Legis. Dist. _____

Political Party _____

I declare, under oath, that I am a citizen of the United States.

Voter Signature

I agree to deliver this voter's registration card to the _____

_____ County Auditor.

Sworn before me this _____ day of _____, 19____.

Registration Official, Title

Forms for Registration

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.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-6, 12-4-7.4, 12-4-8.

5:02:03:01.01. Voter registration information requirements

No person may be denied the right to register to vote for failure to provide a social security number, birth date, or telephone number.

Source: 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-6, 12-4-7.4, 12-4-8.

5:02:03:02. Authorization for removal of name from voter registration list Repealed.

5:02:03:03. Authorization to return registration card Repealed.

5:02:03:04. Receipt

The receipts issued by the county auditor to persons delivering registration cards at the request of another shall be in the following form:

RECEIPT
(Date) _____ 19 ____ .

I hereby acknowledge receipt of voter registration cards of:

Name	Street Address	City/Town
Name	Street Address	City/Town
Name	Street Address	City/Town

Received from _____
Name

Street Address	City/Town	State
----------------	-----------	-------

(County Auditor)
County of _____

Source: 2 SDR 5, effective July 30, 1975.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-7, 12-4-8.

5:02:03:05. Voter change of name or address, or both, card Repealed.

5:02:03:06. Party designation card Repealed.

5:02:03:07. Voter registration instructions

On or before January first of each even numbered year, the board shall provide each

Forms for Registration

county auditor with a list of instructions for persons requesting to register voters.

Source: 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-2.3.

5:02:03:08. Authorization to register voters

The county auditor's written authorization allowing persons to register voters may be of wallet size and shall be in the following form:

AUTHORIZATION TO REGISTER VOTERS

I, _____ the Auditor of _____ County, do hereby authorize _____ to register voters in this county. (He) (She) has completed the instructions as required by law.

Signed this _____ day of _____, 19 _____, by _____ County Auditor.

_____ (Signature)

I, _____, agree to abide by state law and the rules of the State Board of Elections.

My commission expires on _____.

Sample of Seal:

(Signature of Authorized Registration Official)

Address

Telephone Number

Source: 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-2.3.

5:02:03:09. Auditor's record of voter registration cards

The county auditor's record of the number of voter registration cards supplied to persons requesting to register voters shall be in card file or ledger form and contain the following information:

AUDITOR'S RECORD OF VOTER REGISTRATION CARDS

NAME & ADDRESS OF PERSON TO WHOM CARDS SUPPLIED	DATE	# OF CARDS SUPPLIED	DATE	# OF CARDS RETURNED COMPLETED UNUSED
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____

Source: 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-3.1, 12-4-7.3.

5:02:03:10. Record of registered voters

The record of voters registered by the person authorized to do so shall contain the following information and be in substantially the following form:

Forms for Registration

RECORD OF REGISTERED VOTERS

NAME	ADDRESS	DATE OF REGISTRATION
1. _____	_____	_____
2. _____	_____	_____

Source: 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-4-7.3.

5:02:03:11. Notice of change of voter registration information and voter registration cancellation card.

The notice of change of voter registration information and voter registration cancellation card shall be in postcard form, printed on light blue index bristol of 110 pound weight, 3 1/2 inches by 5 inches in size, and shall be in the following form:

NOTICE OF CHANGE OF VOTER REGISTRATION INFORMATION WITHIN THE COUNTY (NAME, ADDRESS, OR PARTY DESIGNATION)

PRESENT Name _____ Social Security # _____

Birth Date _____ Residence Address _____

City _____ Zip _____ Phone _____

Ward _____ Precinct _____ Twnshp _____

School _____ Legislative _____ Water _____

Political Party Designation _____

FORMER Name _____

Address _____

City _____ Zip _____ Phone _____

You are hereby authorized to change my voter registration information as I have indicated above.

Date _____ Signature _____

On the reverse of the card shall be the following:

VOTER REGISTRATION CANCELLATION

Name _____
(Former Last) (Present Last) (First) (M) (Birthdate)

I hereby authorize the official in charge of Voter Registration in _____ County in the State of _____ to cancel my voter registration.

Forms for Registration

My former address was:

Street City Zip

Date _____ Signature _____

Source: 16 SDR 203, effective May 28, 1990; 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-7.2, 12-4-8, 12-4-13, 12-4-15.

CHAPTER 5:02:04 FORMS OF NOTICES

Sec.

- 5:02:04:01. First notice of proposed cancellation of voter registration.
- 5:02:04:02. Final notice of proposed cancellation of voter registration.
- 5:02:04:03. Authorization to update registration records.
- 5:02:04:04. Notice of voter registration.
- 5:02:04:05. Notice of general election.
- 5:02:04:06. Notice of vacancy for municipal election.
- 5:02:04:07. Notice of filing of nominating petitions.
- 5:02:04:08. Notice of municipal election.
- 5:02:04:09. Notice of special election.
- 5:02:04:10. Notice of vacancy which may occur due to filing of recall petitions.
- 5:02:04:11. Notice of special recall election and of filing of nominating petitions for special recall election.
- 5:02:04:12. Notice of special recall election.
- 5:02:04:13. Notice of secondary (runoff) election.
- 5:02:04:14. Notice of vacancy on school board.
- 5:02:04:15. Notice of school board election.
- 5:02:04:16. Notice of primary election.
- 5:02:04:17. Notice of deadline for filing primary nominating petitions.
- 5:02:04:18. Notice of statewide secondary election.
- 5:02:04:19. Publication of ballot for secondary election.
- 5:02:04:20. Notice of presidential primary election.
- 5:02:04:21. Notice of cancellation of municipal election.

5:02:04:01. First notice of proposed cancellation of voter registration

When a registration is to be purged, notice of the proposed purging shall be sent to the registrant at the last known address shown on the registration records. The notice shall be in the form of a double postcard printed on white 110 pound weight index bristol. The notice shall be 3 1/2 inches wide by 5 inches long when folded and shall be in the following form:

NOTICE OF PROPOSED CANCELLATION OF VOTER REGISTRATION
According to the records of the _____ County Auditor, you have not voted in any election in this county during the last four years. YOU MUST SIGN AND RETURN THE ATTACHED POSTCARD WITHIN THIRTY DAYS OR YOUR PRESENT REGISTRATION WILL BE CANCELLED AND YOU WILL NOT BE ABLE TO VOTE IN THE NEXT ELECTION IN THIS COUNTY. If the information on the card is not correct, make the proper corrections and return the card within thirty days.

Forms of Notices

ATTENTION: IF YOU HAVE REGISTERED TO VOTE ELSEWHERE, DO NOT RETURN THIS CARD.
_____ County Auditor

RETURN POSTCARD
Please Print

Name _____
Last First Initial

Address _____ Birth Date _____

City or Town _____

Party Affiliation _____

Ward _____ Precinct _____

Township _____ School District _____

My signature on this card authorizes the county auditor to use this information to update my voter registration including voting precinct within the county.

Date _____ Signature _____

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-19.3.

5:02:04:02. Final notice of proposed cancellation of voter registration

The final notice of proposed cancellation of registration shall be published in all the official county newspapers. Such notice shall be in the following form:

FINAL NOTICE OF PROPOSED CANCELLATION OF VOTER REGISTRATION

The _____ County Auditor's Office has not received a reply from the following people regarding the voter registration inquiry sent thirty days ago. According to law, unless any person listed below appears in person or notifies the County Auditor in writing within thirty days after the date of this publication and makes proper proof of his eligibility as a registered elector, his name will be removed from the voter registration list.

Source: 2 SDR 5, effective July 30, 1975; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-19.3.

5:02:04:03. Authorization to update registration records

Any new or different information on the return postcard referred to in 5:02:04:01 may be used by the county auditor to update the original registration cards.

Source: 2 SDR 5, effective July 30, 1975.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-19.3.

5:02:04:04. Notice of voter registration

The notice of voter registration shall be in the following form:

Forms of Notices

NOTICE OF VOTER REGISTRATION

Voter registration for the _____ Election to be held on the _____ day of _____, 19____, will close on the _____ day of _____, 19____. Failure to register by this date will cause forfeiture of voting rights for this election. If you are in doubt about whether you are registered, call the county auditor at (telephone number) .

Registration may be completed at the following places and times:

Registration may also be completed before a notary public authorized by the county auditor to register voters.

Handicapped and elderly voters 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.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-4-3, 12-4-5.2, 12-4-7.2, Pub L No 98-435.

5:02:04:05. Notice of general election

The notice of general election shall be in the following form:

NOTICE OF GENERAL ELECTION

A General Election will be held on Tuesday, November , 19 , in all the voting precincts in _____ County.

The election polls will be open from (seven o'clock a.m. to seven o'clock p.m. mountain standard time) (eight o'clock a.m. to eight o'clock p.m. central standard time) on the day of the election.

The polling place in each precinct of the county is as follows:

(Here list precincts and polling places. A map showing the precincts and location of the polling places within the county may be inserted. A map showing the voting precincts and polling places of a city may also be inserted.)

Handicapped and elderly voters may contact the county auditor for information and special assistance in absentee voting or polling place accessibility.

County Auditor

County

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Forms of Notices

Law Implemented: SDCL 12-2-3, 12-12-1.

5:02:04:06. Notice of vacancy for municipal election

The notice of vacancy for a municipal election shall be in the following form:

NOTICE OF VACANCY

MUNICIPALITY OF _____

The following offices will become vacant due to the expiration of the present term of office of the elective officer:

Circulation of nominating petitions may begin on _____ and petitions may be filed in the office of the finance officer located at _____ between the hours of _____ a.m. and _____ p.m., (mountain or central standard or mountain or central daylight) time not later than the _____ day of _____, 19 _____.

Finance Officer

Source: 4 SDR 26, effective October 27, 1977; 8 SDR 24, effective September 16, 1981; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-6, 9-13-9.

5:02:04:07. Notice of filing of nominating petitions Repealed.

5:02:04:08. Notice of municipal election

The notice of municipal election shall be in the following form:

NOTICE OF MUNICIPAL ELECTION

MUNICIPALITY OF _____

A Municipal Election will be held on the _____ day of _____, 19 _____, in _____, South Dakota.

The election polls will be open from eight o'clock a.m. to seven o'clock p.m. _____ (mountain or central standard or mountain or central daylight) time on the day of the election.

At the election, the following questions will be voted upon or offices will be filled:

(HERE LIST QUESTIONS TO BE VOTED UPON AND OFFICES TO BE FILLED, WITH TERM LENGTHS AND CANDIDATES' NAMES)

(FURTHERMORE, THE FOLLOWING ARE UNOPPOSED)

The polling place in each precinct of this municipality is as follows:

(Here list the precincts and polling places. Here also may be inserted a map showing the precincts and location of the polling places within the municipality. Include a facsimile ballot in the first notice.)

Forms of Notices

Handicapped and elderly voters may contact the city finance officer for information and special assistance in absentee voting or polling place accessibility.

Finance Officer

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-13.

5:02:04:09. Notice of special election

The notice of special election shall be in the following form:

NOTICE OF SPECIAL ELECTION
MUNICIPALITY OF _____
A Special Election will be held on the _____ day of _____, 19 _____, in _____ South Dakota.

The election polls will be open from eight o'clock a.m. to seven o'clock p.m. _____ (mountain or central standard or mountain or central daylight savings) time on the day of the election.

At the election, the following questions will be voted upon:

(HERE LIST THE QUESTIONS TO BE VOTED UPON)

The polling place in each precinct of this municipality is as follows:

(Here list precincts and polling places. Here also may be inserted a map showing the precincts and location of the polling places within the municipality.)

Handicapped and elderly voters may contact the finance officer for information and special assistance in absentee voting or polling place accessibility.

Finance Officer

Source: 4 SDR 26, effective October 27, 1977; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-14.

5:02:04:10. Notice of vacancy which may occur due to filing of recall petitions

The notice of vacancy which may occur due to filing of recall petitions shall be in the following form:

NOTICE OF VACANCY WHICH MAY OCCUR DUE TO FILING OF RECALL
PETITIONS
MUNICIPALITY OF _____
The following office(s) may become vacant due to the filing of recall petitions:

Forms of Notices

[HERE LIST THE OFFICE(S) TO BE FILLED]

Nominating petitions may be filed in the office of the Finance Officer located at _____ between the hours of _____ a.m. and _____ p.m., _____ (mountain or central standard or mountain or central daylight savings) time, not earlier than the _____ day of _____, 19 _____, and not later than the _____ day of _____, 19 _____.

Finance Officer

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-6, 9-13-31.

5:02:04:11. Notice of special recall election and of filing of nominating petitions for special recall election

The notice of special recall election and the filing of nominating petitions for the special recall election shall be in the following form:

NOTICE OF SPECIAL RECALL ELECTION

MUNICIPALITY OF _____

A Special Recall Election will be held on the _____ day of _____, 19 _____, in all the voting precincts in _____, South Dakota.

The following individual(s) (has or have) filed petitions in the office of the Finance Officer for the position(s) to be filled in the Special Recall Election:

(HERE LIST THE INDIVIDUAL(S) WHO (HAS OR HAVE) FILED NOMINATING PETITIONS)

The incumbent, _____, (will also or will not) appear on the ballot.

The election polls will be open from eight o'clock a.m. to seven o'clock p.m. _____, (mountain or central standard or mountain or central daylight savings) time, on the day of the election.

At the election the following office(s) will be filled:

[HERE LIST THE OFFICE(S) TO BE FILLED]

The polling place in each precinct of this municipality is as follows:

(Here list the precincts and polling places. Here also may be inserted a map showing the precincts and location of the polling places within the municipality.)

Handicapped and elderly voters may contact the finance officer for information and special assistance in absentee voting or polling place accessibility.

Finance Officer

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 8

Forms of Notices

SDR 24, effective September 16, 1981; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-12, 9-13-31, 9-13-32.

5:02:04:12. Notice of special recall election Repealed.

5:02:04:13. Notice of secondary (runoff) election

The notice of secondary (runoff) election shall be in the following form:

NOTICE OF SECONDARY (RUNOFF) ELECTION
MUNICIPALITY OF _____

The following candidates will appear on the ballot for the secondary (runoff) election to be held on the _____ day of _____, 19 _____.

(HERE LIST CANDIDATES APPEARING ON THE BALLOT AND POSITION FOR WHICH THEY ARE RUNNING.)

The election will be held during the same hours and at the same polling places as the annual municipal election held on _____.

Handicapped and elderly voters may contact the city finance officer for information and special assistance in absentee voting or polling place accessibility.

Finance Officer

Source: 4 SDR 26, effective October 27, 1977; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-27.1.

5:02:04:14. Notice of vacancy on school board

The notice of vacancy on a school board shall be in the following form:

NOTICE OF VACANCY ON SCHOOL BOARD

_____ SCHOOL DISTRICT NO. _____

The following school board position(s) will become vacant due to the expiration of the present term(s) of office of the following school board member(s).

(HERE LIST THE BOARD POSITION(S) AND TERM(S) TO BE FILLED)

Nominating petitions may be filed in the office of the business manager located at _____ between the hours of _____ a.m. and _____ p.m., _____ (mountain or central standard or mountain or central daylight savings) time not later than the _____ day of May, 19 _____, at 5:00 p.m., or mailed by registered mail not later than the _____ day of May, 19 _____, at 5:00 p.m.

Business Manager

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 8

Forms of Notices

SDR 24, effective September 16, 1981; 14 SDR 19, effective August 9, 1987.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-1.1, 13-7-5, 13-7-6, 13-7-10.1.

5:02:04:15. Notice of school board election

The notice of school board election shall be in the following form:

NOTICE OF SCHOOL BOARD ELECTION
SCHOOL DISTRICT NO. _____

A School District Election will be held on the _____ day of _____, 19 _____, in all the voting precincts in School District No. _____, _____, South Dakota.

The election polls will be open from eight o'clock a.m. to seven o'clock p.m. (mountain or central standard or mountain or central daylight) time on the day of the election.

At the election, the following questions or offices will be voted upon:

(HERE LIST QUESTIONS AND OFFICES TO BE VOTED UPON, WITH TERM LENGTHS AND CANDIDATES WHO HAVE FILED)

The polling place in each precinct of this district is as follows:

(Here list precincts and polling places. Here also may be inserted a map showing the precincts and location of the polling places within the district.)

Handicapped and elderly voters may contact the business manager for information and special assistance in absentee voting or polling place accessibility.

Business Manager

Source: 4 SDR 26, effective October 27, 1977; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 13-7-8.

5:02:04:16. Notice of primary election

The notice of primary election shall be in the following form:

NOTICE OF PRIMARY ELECTION

A Primary Election will be held on Tuesday, June _____, 19 _____, in all the voting precincts in _____ County.

The election polls will be open from eight o'clock a.m. to seven o'clock p.m. _____ (mountain or central standard or mountain or central daylight savings) time on the day of the election.

The polling place in each precinct of this county is as follows:

(Here list precincts and polling places. Here also may be inserted a map

Forms of Notices

showing the precincts and location of the polling places within the county. A map may also be inserted showing the voting precincts and polling places of a city.)

Handicapped and elderly voters may contact the county auditor for information and special assistance in absentee voting or polling place accessibility.

County Auditor

County

Source: 4 SDR 26, effective October 27, 1977; 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-12-1.

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

Nominating petitions for the offices of (here list county offices) may be filed in the office of the county auditor located in the county courthouse between the hours of 8:00 a.m. and 5:00 p.m., local time. Nominating petitions for the offices of (here list legislative, state, and federal offices) may be filed in the office of the Secretary of State, State Capitol Building, Pierre, SD 57501, between the hours of 8:00 a.m. and 5:00 p.m. The deadline for filing nominating petitions is _____, 19 _____, at 5:00 p.m. If a petition is mailed by registered mail by _____, 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.

Law Implemented: SDCL 12-12-1.

5:02:04:18. Notice of statewide secondary election

The notice of the statewide secondary election shall be in the following form:

NOTICE OF SECONDARY ELECTION STATE OF SOUTH DAKOTA

Because no candidate for _____ received the required thirty-five percent of the vote in the _____ primary election held on June _____, 19 _____, a secondary election will be held on Tuesday, June _____, 19 _____, in each county in the state. The polling places will be the same as those used in the primary election, and the polls will be open from 8:00 a.m. to 7:00 p.m. local time.

The candidates for nomination for _____, as determined by the official state canvass, are

Forms of Notices

Secretary of State, South Dakota

Source: 12 SDR 43, effective September 23, 1985.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-12-1.

5:02:04:19. Publication of ballot for secondary election

A copy of the secondary election ballot as prescribed in 5:02:06:17 shall be printed with the notice prescribed in 5:02:04:18.

Source: 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-12-1.

5:02:04:20. Notice of presidential primary election

The notice of the presidential primary election shall be in the following form:

NOTICE OF PRESIDENTIAL PRIMARY ELECTION

A Presidential Primary Election will be held on Tuesday, February _____, 19 ____, in all the voting precincts in _____ County.

The election polls will be open from eight o'clock a.m. to seven o'clock p.m. _____ (mountain or central standard) time on the day of the election.

The polling place in each precinct of this county is as follows:

(Here list precincts and polling places. Here also may be inserted a map showing the precincts and location of the polling places within the county. A map may also be inserted showing the voting precincts and polling places of a city.)

Handicapped and elderly voters may contact the county auditor for information and special assistance in absentee voting or polling place accessibility.

County Auditor

County

Source: 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-12-1.

5:02:04:21. Notice of cancellation of municipal election

The notice of the cancellation of a municipal election shall be in the following form:

NOTICE OF CANCELLATION OF MUNICIPAL ELECTION MUNICIPALITY OF _____

Notice is hereby given that no Municipal Election will be held on the _____ day of _____, 19 _____, in _____, South Dakota.

The election for which public notice was given has been cancelled because

Forms of Notices

(a) no certificates of nomination were filed for (any of) the following position(s) to be filled:

(HERE LIST POSITIONS TO BE FILLED)

(b) the following individual(s) has (have) filed certificates of nomination in the office of the Finance Officer for the position(s) to be filled:

(HERE LIST CANDIDATES FILING CERTIFICATES OF NOMINATION AND POSITIONS FOR WHICH THEY HAVE FILED)

Because (each of) the candidate(s) is unopposed, certificates of election will be issued in the same manner as to successful candidates after election.

Dated this _____ day of _____, 19 _____.

Finance Officer

Source: 14 SDR 19, effective August 9, 1987.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-5.

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 judges and clerks.
- 5:02:05:02. Instructions to the voters - General election.
- 5:02:05:03. Instructions to the voters - Primary election.
- 5:02:05:04. Election expense bill.
- 5:02:05:05. Envelope for election expense bill.
- 5:02:05:06. Judges' 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. Ballot clerks' 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 precinct counting board.
- 5:02:05:14. Election supplies tag.
- 5:02:05:15. Auditor's ballot box seal.
- 5:02:05:16. Transferred to 5:02:10:06.
- 5:02:05:17. Transferred to 5:02:10:07.
- 5:02:05:18. Transferred to 5:02:10:08.
- 5:02:05:19. Ballot wrapper or envelope seals.
- 5:02:05:20. Emergency voting card.

5:02:05:00. Official stamp for ballots - All elections

Official ballots for all elections shall be stamped with an official stamp which shall be in the following form:

Forms for Conduct of Elections

OFFICIAL BALLOT

(date of election)

(NAME OF COUNTY, SCHOOL DISTRICT, MUNICIPALITY
OR OTHER POLITICAL SUBDIVISION)

(Precinct name or number or both)

(Name of County)

SOUTH DAKOTA

Source: 3 SDR 69, effective April 10, 1977; 4 SDR 26, effective October 27, 1977; transferred from 5:02:07:02, 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-1-9, 12-16-30.

5:02:05:01. Certificate and receipt executed by judges and clerks.

Election judges and clerks and counting judges and clerks shall complete and sign a certificate and receipt attesting to delivery and receipt of ballots and other election materials. Their certificate and receipt shall be placed with the pollbook and returned to the county auditor. The form of the certificate and receipt is as follows:

CERTIFICATE

At the election held at _____ precinct, in (town or city), _____ County, South Dakota, on the _____ day of _____, 19____, we, the undersigned election judges and clerks, had _____ voters cast their ballots at that precinct, completed comparison and reconciliation in accord with SDCL 12-20-2, and then delivered:

1. ballot boxes
2. seals
3. registration list
4. pollbook
5. other election supplies, including voided and unused ballots,

to the counting board, consisting of the following persons: _____, superintendent of counting board; _____ and _____, judges; and _____ and _____, clerks.

Dated at _____, South Dakota, this _____ day of _____, 19__.

Attest:

Certified by us:

Clerk of Election

Superintendent of Election

Clerk of Election

Judge of Election

Judge of Election

RECEIPT

The undersigned members of the counting board of the precinct acknowledge receipt of the items provided in the certificate above.

Forms for Conduct of Elections

Clerk of Counting Board

Superintendent of Counting Board

Clerk of Counting Board

Judge of Counting Board

Judge of Counting Board

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-15-14, 12-15-14.1, 12-15-14.2, 12-20-28.

5:02:05:02. Instructions to the voters - General election

Instructions for the guidance of voters in preparing their paper ballots shall be in the following form:

INSTRUCTIONS TO THE VOTERS GENERAL ELECTION

I. SPOILED BALLOT

DO NOT: Write on or make any marks other than a cross (X) or check mark (✓) on your ballot.

DO NOT: Make any erasures or obliterations on your ballot.

DO NOT: Make any tears or holes in your ballot.

DO NOT: Write in candidates' names.

Should any of the above appear on your ballot, your ballot is a SPOILED BALLOT AND WILL NOT BE COUNTED. Return this ballot to the judge and obtain another ballot.

II. MARKING THE BALLOT

Mark your ballot by using a cross (X) or a check mark (✓). You may either vote a PARTY TICKET or you may mark your ballot for each INDIVIDUAL CANDIDATE or issue.

TO VOTE A PARTY TICKET: Place your mark in the circle at the top of the column of the party you wish to support. You may still cross over into the other party's column and vote for an candidate.

(NOTE: IF YOU CROSS OVER IN RACES FOR STATE REPRESENTATIVE OR COUNTY COMMISSIONER WHERE THERE ARE TWO OR MORE TO BE ELECTED, YOU MUST MARK THE NAMES OF ALL CANDIDATES FOR THAT OFFICE FOR WHOM YOU WISH TO VOTE, INCLUDING THOSE IN THE PARTY TICKET VOTED.)

INDIVIDUAL BALLOTING: You need not mark the ballot in the circle at the head of the party column, but instead go through the ballot, candidate by candidate, and place your mark in the square to the left of each of the candidates for whom you wish to vote.

III. RETURNING THE BALLOT(S) AFTER VOTING

Fold each (of the) ballot(s) separately so that the official stamp shows and return all ballots to the judge.

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.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-23.

Forms for Conduct of Elections

5:02:05:03. Instructions to the voters - Primary election

Instructions for the guidance of voters in preparing their paper ballots shall be in the following form:

INSTRUCTIONS TO THE VOTERS PRIMARY ELECTION

I. SPOILED BALLOT

DO NOT: Write on or make any marks other than a cross (X) or check mark (√) on your ballot.

DO NOT: Make any erasures or obliterations on your ballot.

DO NOT: Make any tears or holes in your ballot.

DO NOT: Write in candidates' names.

Should any of the above appear on your ballot, your ballot is a SPOILED BALLOT AND WILL NOT BE COUNTED. Return this ballot to the judge and obtain another ballot.

II. MARKING THE BALLOT

Mark your ballot by using a cross (X) or check mark (√).

III. RETURNING THE BALLOT(S) AFTER VOTING

Fold each (of the) ballot(s) separately so that the official stamp shows and return all ballots to the judge.

Source: 2 SDR 82, effective June 13, 1976; 5 SDR 31, effective November 1, 1978.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-23.

5:02:05:04. Election expense bill.

The election expense bill must be in the following form:

ELECTION EXPENSE BILL

_____ COUNTY, STATE OF SOUTH DAKOTA

The following are expenses of conducting the _____ Election held in the _____ precinct in this county on the _____ day of _____, 19__:

- For performing the respective duties as specified by law;
- For attendance at the school of instruction;
- For mileage for delivery of the pollbook and ballots;
- For rent of a polling place;
- For services of an interpreter.

WARRANT #.	NAME AND ADDRESS	HOURS	RATE	TOTAL	SCHOOL	GRAND TOTAL
	_____ Address _____ Soc. Sec. # _____					
	_____ Address _____ Soc. Sec. # _____					
	_____ Address _____					

Forms for Conduct of Elections

	Soc. Sec. # _____				
	Address _____				
	Soc. Sec. # _____				
	Address _____				
	Soc. Sec. # _____				
	Address _____				
	Soc. Sec. # _____				
	To _____ Travel to and from poll Address _____ delivering pollbook and ballot boxes - mi @\$				
	To _____ Rental of polling place Address _____				
TOTAL ELECTION EXPENSE FOR THIS PRECINCT					

STATE OF SOUTH DAKOTA)
 COUNTY OF _____) SS CERTIFICATE OF SERVICE
 _____ PRECINCT)

We, the undersigned, Judges and Clerks of Election or Counting Board, certify that we served as Judges and Clerks of Election or Counting Board for the election held on the ____ day of _____, 19__.

 _____ Superintendent of Election or Counting Board
 _____ Judge of Election or Counting Board
 _____ Judge of Election or Counting Board
 _____ Judge of Election Board
 _____ Judge of Election Board
 _____ Clerk of Election or Counting Board
 _____ Clerk of Election or Counting Board

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 20 SDR 4, effective July 19, 1993.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-15-13, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:05:05. Envelope for election expense bill

The envelope for the election expense bill shall be in the following form:

 _____ Precinct
 City or Town of _____
 _____ County, South Dakota
 To County Auditor

Forms for Conduct of Elections

_____ County
_____, South Dakota

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-15-13.

5:02:05:06. Judges' receipt for official ballots

The judges' receipt for the official ballots shall be in the following form:

STATE OF SOUTH DAKOTA
_____ COUNTY
_____ PRECINCT

We, the Judges of Election, do hereby certify that on Tuesday the _____ day of _____, 19 ____, at the opening of the polls for the election held on that day, we received of _____, Judge of Election, a sealed package containing the following official ballots:
(Here list the official ballots received)

for the use of the voters at the election.

Dated this _____ day of _____, 19 _____.

-----)
-----)
-----) JUDGES OF ELECTION
-----)
-----)

Source: 4 SDR 85, effective June 14, 1978.
General Authority: SDCL 12-1-9
Law Implemented: SDCL 12-16-20.

5:02:05:07. Receipt for transmission of election supplies

The receipt for transmission of election supplies shall be in the following form:

RECEIPT FOR ELECTION SUPPLIES FOR TRANSMISSION

RECEIVED of the County Auditor of _____ County, South Dakota, a package said to contain _____ (Primary, General, Special) election supplies for use in election precinct _____ for transmission to _____, Superintendent of the election, whose postoffice address is _____.
Dated this _____ day of _____, 19 _____.

SHERIFF

Forms for Conduct of Elections

Source: 4 SDR 85, effective June 14, 1978.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-19.

5:02:05:08. Receipt of superintendent of election for ballots and supplies

The receipt of the superintendent of election for ballots and supplies shall be in the following form:

STATE OF SOUTH DAKOTA)

COUNTY OF _____)

I, _____, Superintendent of Election in and for the voting precinct of _____ in said County, do hereby certify that on the _____ day of _____, 19 _____, at the hands of _____ (Auditor, Sheriff), by _____, his deputy, of said County, I received a sealed package said to contain official ballots and necessary supplies for the use of the voters of said precinct at the _____ election to be held on Tuesday the _____ day of _____, 19 _____.

Dated this _____ day of _____, 19 _____.

SUPERINTENDENT OF ELECTION

Source: 4 SDR 85, effective June 14, 1978.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-19.

5:02:05:09. Ballot box metal seal envelope

The ballot box metal seal envelope shall be in the following form:

THIS ENVELOPE CONTAINS BALLOT BOX METAL SEALS

to be used at the _____ Election held on the _____ day of _____, 19 _____ for the _____ Precinct of _____ County, SD

These seals must be returned, in the envelope provided, to the Auditor. (All used seals must also be returned with unused seals.)

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9

Law Implemented: SDCL 12-16-26, 12-20-20.

5:02:05:10. Ballot clerks' record of spoiled ballots

The ballot clerks' record of spoiled ballots shall be in the following form:

STATE OF SOUTH DAKOTA

_____ COUNTY

_____ PRECINCT

We do hereby certify that at the election held on Tuesday the _____ day of _____, 19 _____, official ballots were spoiled, returned by

Forms for Conduct of Elections

voters and cancelled as follows:

NAME OF VOTER	Type & Number of Ballots	NAME OF VOTER	Type & Number of Ballots
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Dated this _____ day of _____, 19 _____.

_____)
 _____) **BALLOT CLERKS**
 _____)

Source: 4 SDR 85, effective June 14, 1978.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-18-24.

5:02:05:11. Notice of appointment of election officials

The notice of appointment of election officials shall be in the following form:

STATE OF SOUTH DAKOTA)
) SS NOTICE OF APPOINTMENT
 COUNTY OF _____)
 To _____ JUDGE _____ CLERK
 _____ JUDGE _____ CLERK
 _____ JUDGE

You are appointed Judges and Clerks of the _____ Election, for _____ Precinct or Ward _____, of _____. This election will be held at (polling place), from _____ a.m. to _____ p.m., local time, on the ____ day of _____, 19 _____. _____ has been designated Superintendent of this election.

If you are unable to serve, please contact the county auditor immediately.

The Election School of Instruction will be held at _____ on the ____ day of _____, 19 _____, at _____ m.

Witness my hand and seal, this ____ day of _____, 19 _____.

 Person in charge of election

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-15-1, 12-15-1.2, 12-15-7.

5:02:05:11.01. Notice of appointment of election officials for school or municipal election

Forms for Conduct of Elections

immediately.

The election school of instruction will be held at _____
on the ____ day of _____, 19____, at _____m.

Witness my hand and the seal of this county, this ____ day of
_____, 19____.

County Auditor

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR
24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 20 SDR 4,
effective July 19, 1993.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-15-7, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:05:14. Election supplies tag

The election supplies tag shall be in the following form:

FRONT SIDE

To _____
Supt. of Election

South Dakota

FROM COUNTY AUDITOR
or person in charge of election

South Dakota

BACK SIDE

This package contains Supplies and
Official Ballots for _____ Precinct
as follow: _____ Official Ballots
_____ Nonpolitical Ballots

Source: 4 SDR 85, effective June 14, 1978.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-19.

5:02:05:15. Auditor's ballot box seal

The auditor's ballot box seal shall be in the following form:

AUDITOR'S
BALLOT BOX SEAL

Forms for Conduct of Elections

THIS BALLOT BOX CONTAINS ELECTION SUPPLIES
FOR _____ PRECINCT

AUDITOR

DEPUTY

Source: 4 SDR 85, effective June 14, 1978.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-19.

5:02:05:16. Transferred to 5:02:10:06.

5:02:05:17. Transferred to 5:02:10:07.

5:02:05:18. Transferred to 5:02:10:08.

5:02:05:19. Ballot wrapper or envelope seals

Whenever a statute requires ballot wrappers or envelopes, those wrappers or envelopes shall be plain and sealed with a seal containing the following information:

BALLOT WRAPPER OR ENVELOPE _____ PRECINCT
OF BALLOTS _____

Source: 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-18, 12-17A-42.1, 12-18-32, 12-20-20.

5:02:05:20. Emergency voting card

The emergency voting card shall be printed on two-part NCR paper, 3 inches by 5 inches in size, and in the following form:

EMERGENCY VOTING CARD
FOR _____ COUNTY

_____ Ward _____ Precinct

Name _____

Residence _____

The undersigned judges hereby certify that the above-named voter was permitted to vote in this precinct at the election held _____, 19____, pursuant to instructions from the office of the county auditor.

Party

Signature of Voter

Judges of Election

Signature of Judge calling office

Authorized by

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-18-7.2.

CHAPTER 5:02:06

BALLOT FORMS AND COLOR

Sec.

- 5:02:06:01. General election.
- 5:02:06:01.01. Constitutional amendments.
- 5:02:06:02. Constitutional amendments proposed by Legislature - Title.
- 5:02:06:02.01. Constitutional amendments proposed by Legislature - Recitation of effect of yes or no vote.
- 5:02:06:02.02. Initiated constitutional amendment - Title.
- 5:02:06:02.03. Initiated constitutional amendment - Recitation of effect of yes or no vote.
- 5:02:06:03. Judiciary.
- 5:02:06:03.01. Supreme Court justice retention ballot.
- 5:02:06:03.02. Deadline for request to be on retention ballot.
- 5:02:06:04. Special district.
- 5:02:06:04.01. Initiated measures and referred laws.
- 5:02:06:05. Initiated measures - Title.
- 5:02:06:05.01. Initiated measures - Recitation of effect of yes or no vote.
- 5:02:06:06. Referred laws - Title.
- 5:02:06:06.01. Referred laws - Recitation of effect of yes or no vote.
- 5:02:06:07. Transferred to 5:02:06:02.02
- 5:02:06:07.01. Transferred to 5:02:06:02.03
- 5:02:06:08. Sample ballots.
- 5:02:06:09. Party precinct committeeman and committeewoman.
- 5:02:06:10. Primary.
- 5:02:06:10.01. Presidential preference primary.
- 5:02:06:10.02. Presidential primary'.
- 5:02:06:11. Primary ballot for highway board members.
- 5:02:06:12. Municipal election.
- 5:02:06:13. Municipal questions election.
- 5:02:06:14. Municipal bond election.
- 5:02:06:15. School board election.
- 5:02:06:16. Ballot for increasing or decreasing number of school board members.
- 5:02:06:17. Ballot for statewide secondary election.
- 5:02:06:18. Colors of ballots for combined elections.
- 5:02:06:19. Nonpolitical consumers power district election.

5:02:06:01. General election

The general election ballot shall be white and shall be in the following form, where applicable:

OFFICIAL GENERAL ELECTION BALLOT

_____ County, South Dakota

November _____, 19__

To vote a party ticket mark a cross (X) or check mark (✓) in the circle at the top of the party column. If you wish to vote for any candidate in another column, mark a cross (X) or check mark (✓) in the square before the name of the candidate. If you do not vote a party ticket be sure to mark a cross (X) or check mark (✓) in the square before the name of each candidate or group of presidential electors for whom you wish to vote.



REPUBLICAN PARTY



DEMOCRATIC PARTY

INDEPENDENT CANDIDATES

Ballot Forms and Color

For PRESIDENTIAL ELECTORS, you may vote for <u>one</u> slate			
<input type="checkbox"/> Doe & Roe Electors John Doe, Rapid City Jane Doe, Brookings John Doe, Mitchell Jane Doe, Platte	<input type="checkbox"/> Doe & Roe Electors John Doe, Rapid City Jane Doe, Brookings John Doe, Mitchell Jane Doe, Platte	<input type="checkbox"/> Doe & Roe Electors affiliated with the _____ Party John Doe, Rapid City Jane Doe, Brookings John Doe, Mitchell Jane Doe, Platte	<input type="checkbox"/> Doe & Roe Electors affiliated with no party John Doe, Rapid City Jane Doe, Brookings John Doe, Mitchell Jane Doe, Platte
For UNITED STATES SENATOR, you may vote for one			
<input type="checkbox"/> John Doe, Yankton	<input type="checkbox"/> John Doe, Yankton	<input type="checkbox"/> John Doe, Yankton affiliated with the _____ Party	<input type="checkbox"/> John Doe, Yankton affiliated with the _____ Party
For UNITED STATES REPRESENTATIVE, you may vote for one			
<input type="checkbox"/> Jane Doe, Sioux Falls	<input type="checkbox"/> Jane Doe, Sioux Falls	<input type="checkbox"/> Jane Doe, Sioux Falls, affiliated with the _____ Party	
For GOVERNOR AND LIEUTENANT GOVERNOR, TO BE ELECTED AS A TEAM, you may vote for one			
<input type="checkbox"/> John Doe, Kadoka for GOVERNOR and Jane Doe, Forestburg for LIEUTENANT GOVERNOR	<input type="checkbox"/> John Doe, Kadoka for GOVERNOR and Jane Doe, Forestburg for LIEUTENANT GOVERNOR	<input type="checkbox"/> John Doe, Kadoka, affiliated with the _____ Party for GOVERNOR and Jane Doe, Forestburg affiliated with the _____ Party for LIEUTENANT GOVERNOR	
For SECRETARY OF STATE, you may vote for one			
<input type="checkbox"/> John Doe, Ft. Pierre	<input type="checkbox"/> John Doe, Ft. Pierre	<input type="checkbox"/> John Doe, Ft. Pierre, affiliated with the _____ Party	
For ATTORNEY GENERAL, you may vote for one			
<input type="checkbox"/> Jane Doe, Britton	<input type="checkbox"/> Jane Doe, Britton	<input type="checkbox"/> Jane Doe, Britton, affiliated with the _____ Party	
For STATE AUDITOR, you may vote for one			
<input type="checkbox"/> John Doe, Canton	<input type="checkbox"/> John Doe, Canton	<input type="checkbox"/> John Doe, Canton affiliated with the _____ Party	
For STATE TREASURER, you may vote for one			
<input type="checkbox"/> Jane Doe, Lead	<input type="checkbox"/> Jane Doe, Lead	<input type="checkbox"/> Jane Doe, Lead, affiliated with the _____ Party	
For COMMISSIONER OF SCHOOL AND PUBLIC LANDS, you may vote for one			
<input type="checkbox"/> John Doe, Summit	<input type="checkbox"/> John Doe, Summit	<input type="checkbox"/> John Doe, Summit affiliated with the _____ Party	
For PUBLIC UTILITIES COMMISSIONER, you may vote for one			
<input type="checkbox"/> Jane Doe, Parker	<input type="checkbox"/> Jane Doe, Parker	<input type="checkbox"/> Jane Doe, Parker affiliated with the _____ Party	
For STATE SENATOR, you may vote for one			
<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe, affiliated with the _____ Party	
For STATE REPRESENTATIVES, you may vote for any two			
NOTE: If you are voting a party ticket and you cross over in this portion of the ballot, you must mark the names of all candidates for state representative for whom you wish to vote.			
<input type="checkbox"/> Jane Doe ----- -----	<input type="checkbox"/> Jane Doe ----- -----	<input type="checkbox"/> Jane Doe, affiliated with the _____ Party ----- -----	
<input type="checkbox"/> John Doe ----- -----	<input type="checkbox"/> John Doe ----- -----	<input type="checkbox"/> John Doe, affiliated with the _____ Party ----- -----	
For COUNTY TREASURER, you may vote for one			
<input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe, affiliated with the _____ Party	
For COUNTY AUDITOR, you may vote for one			
<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe, affiliated with the _____ Party	
For STATES ATTORNEY, you may vote for one			
<input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe, affiliated with the _____ Party	
For SHERIFF, you may vote for one			
<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe, affiliated with the _____ Party	
For REGISTER OF DEEDS, you may vote for one			
<input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe, affiliated with the _____ Party	

Ballot Forms and Color

<input type="checkbox"/> John Doe	For CORONER, you may vote for one <input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe, affiliated with the _____ Party
<input type="checkbox"/> Jane Doe	For COUNTY COMMISSIONER, _____ District, you may vote for one <input type="checkbox"/> Jane Doe	<input type="checkbox"/> Jane Doe, affiliated with the _____ Party

If two or more candidates for county commission are to be elected at large from a county, candidates' names on that portion of the ballot shall not be placed directly opposite each other, but shall be staggered as shown below (do not print the dotted lines on the ballot):

For COUNTY COMMISSIONER AT LARGE, you may vote for any		
Note: If you are voting a party ticket and you cross over in this portion of the ballot, you must mark the names of all candidates for county commissioners at large for whom you wish to vote:		
<input type="checkbox"/> John Doe ----- <input type="checkbox"/> Jane Doe ----- -----	<input type="checkbox"/> John Doe ----- <input type="checkbox"/> Jane Doe ----- -----	<input type="checkbox"/> John Doe, affiliated with the _____ Party ----- <input type="checkbox"/> Jane Doe, affiliated with the _____ Party ----- -----

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 12 SDR 43, effective September 23, 1985; 19 SDR 12, effective August 5, 1992.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-16-2.1, 12-16-9, 12-16-10.

5:02:06:01.01. Constitutional amendments

All constitutional amendments proposed by the Legislature or initiated by the people shall be printed on one pink ballot.

Source: 6 SDR 123, effective July 2, 1980.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-13-11, 12-16-2.1.

5:02:06:02. Constitutional amendments proposed by Legislature - Title

Constitutional amendments proposed by the Legislature shall be preceded by the following statement:

CONSTITUTIONAL AMENDMENTS

The following amendments to the Constitution are submitted to a vote of the people by the Legislature.

Immediately following this statement, there shall be set forth a title in the following form:

(1) For constitutional amendments proposed by the Legislature: A JOINT RESOLUTION, Proposing and agreeing to an amendment to (identify the section or sections and the article or articles proposed to be amended) of the Constitution of the state of South Dakota relating to (state the subject and related subjects of the objective); or

(2) For proposed repeal of a constitutional provision by the Legislature: A JOINT RESOLUTION, Proposing and agreeing to an amendment to the Constitution of the state of South Dakota by repealing (cite section or sections and article or articles to be repealed) relating to (state the subject and related subjects of the objective); or

(3) For proposed amendments accompanied by a repeal of related provisions of the Constitution: A JOINT RESOLUTION To amend (identify the section or sections to be amended) of the Constitution of the state of South Dakota and to repeal (cite the section or sections and article or articles to be repealed), all relating to (state the general subject matter).

Ballot Forms and Color

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 6 SDR 123, effective July 2, 1980.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-5, 12-13-8, 12-16-2.1.

5:02:06:02.01. Constitutional amendments proposed by Legislature - Recitation of effect of yes or no vote

The attorney general's explanatory statement shall immediately follow the title referred to in 5:02:06:02. The explanatory statement shall be followed by a recitation of the effect of a "Yes" or "No" vote and shall be in the following form, where appropriate:

(1) For a proposed constitutional amendment that would only amend existing provisions of the Constitution:

(a) A vote "Yes" by a majority will change the Constitution as explained above;

(b) A vote "No" by a majority will leave the Constitution as it exists;

(c) Followed by the words opposite the place for voting yes and no, "Shall the proposed change of the Constitution be approved?"

(2) For a referred amendment that would repeal a provision of the Constitution:

(a) A vote "Yes" by a majority will remove that provision of the Constitution above explained;

(b) A vote "No" by a majority will leave the Constitution as it exists;

(c) Followed by the words opposite the place for voting yes or no, "Shall the provision of the Constitution be repealed?"

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 123, effective July 2, 1980; 8 SDR 24, effective September 16, 1981.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-9.

5:02:06:02.02. Initiated constitutional amendment - Title

Initiated constitutional amendments shall be preceded by the following statement:

INITIATED CONSTITUTIONAL AMENDMENT

The following amendments to the Constitution are submitted to a vote of the people by initiative of the voters pursuant to the Constitution.

Immediately following this statement, there shall be set forth a title to the measure or question in the following form:

(1) For an initiated amendment to the Constitution proposed by the voters: AN INITIATED PROPOSAL to amend (identify the section or sections and article or articles proposed to be amended) of the Constitution of the state of South Dakota relating to (state the subject and related subjects of the proposed amendment); or

(2) For proposed repeal of a constitutional provision initiated by the voters: AN INITIATED PROPOSAL to amend the Constitution of the state of South Dakota by repealing (cite section or sections and article or articles to be repealed) relating to (state the subject and related subjects of the proposed amendment); or

(3) For proposed amendments accompanied by a repeal of related provisions of the Constitution: AN INITIATED PROPOSAL to amend (identify the section or sections to be amended) of the Constitution of the state of South Dakota and to repeal (cite the section or sections and article or articles to be repealed), all relating to (state the general subject matter).

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; transferred from 5:02:06:07, 6 SDR 123, effective July 2, 1980.

Ballot Forms and Color

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-5, 12-13-8, 12-16-2.1.

5:02:06:02.03. Initiated constitutional amendment - Recitation of effect of yes or no vote

The attorney general's explanatory statement shall immediately follow the title referred to in 5:02:06:02.02. The explanatory statement shall be followed by a recitation of the effect of a "Yes" or "No" vote and shall be in the following form, where appropriate:

(1) For an initiated constitutional amendment that would only amend existing provisions of the Constitution:

(a) A vote "Yes" by a majority will change the Constitution as explained above;

(b) A vote "No" by a majority will leave the Constitution as it exists;

(c) Followed by the words opposite the place for voting yes or no, "Shall the proposed change of the Constitution be approved?"

(2) For an initiated amendment that would repeal a provision of the Constitution:

(a) A vote "Yes" by a majority will remove that provision of the Constitution as explained above;

(b) A vote "No" by a majority will leave the Constitution as it exists;

(c) Followed by the words opposite the place for voting yes or no, "Shall the provision of the Constitution be repealed?"

Source: 2 SDR 46, effective December 30, 1975; transferred from 5:02:06:07.01, 6 SDR 123, effective July 2, 1980; 8 SDR 24, effective September 16, 1981.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-9.

5:02:06:03. Judiciary

The judiciary ballots shall be buff or tan and shall be in the following form:

OFFICIAL NONPOLITICAL JUDICIARY BALLOT

_____ County, South Dakota

_____, 19 ____

Place a cross (X) or check mark (✓) in the square in front of the name of each candidate voted for.

FOR JUDGE OF THE CIRCUIT COURT

_____ Circuit, Position _____

You may vote for one:

John Jones of Yankton

Joan Ray of Lake Andes

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 4 SDR 26, effective October 27, 1977; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-9-13, 12-16-2.1.

5:02:06:03.01. Supreme Court justice retention ballot

The retention ballot for a Supreme Court justice shall be gold and shall be in the following form:

OFFICIAL NONPOLITICAL SUPREME COURT JUSTICE RETENTION BALLOT

_____ COUNTY, SOUTH DAKOTA

Ballot Forms and Color

November _____, 19 _____

Shall the justice(s) of the Supreme Court named on this ballot, whose term(s) expire(s) (date) _____, be retained in office?

VOTE ON EACH JUSTICE

Justice John Doe, representing the Yes
_____ Supreme Court District No

Justice John Roe, representing the Yes
_____ Supreme Court District No

Source: 10 SDR 27, effective September 26, 1983; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 16-1-2, 16-1-2.2.

5:02:06:03.02. Deadline for request to be on retention ballot

By the first Tuesday in August, an incumbent justice of the Supreme Court shall request the secretary of state to place his name on the Supreme Court justice retention ballot.

Source: 10 SDR 27, effective September 26, 1983.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 16-1-2.

5:02:06:04. Special district

Special district ballots shall be green in color.

Source: 2 SDR 5, effective July 30, 1975.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-2.1.

5:02:06:04.01. Initiated measures and referred laws

All measures initiated or laws referred by the people shall be printed on one blue ballot.

Source: 6 SDR 123, effective July 2, 1980.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-11, 12-16-2.1.

5:02:06:05. Initiated measures - Title

Initiated measures shall be preceded by the following statement:

INITIATED MEASURES

The following measures have been placed upon the ballot by initiative petitions containing signatures of five percent of the voters and filed in accordance with the Constitution, and these proposed measures will not become laws unless approved by the people.

Immediately following this statement, the title of the measure or question shall be set forth in the following form:

(1) For an initiated measure to enact a law: AN ACT ENTITLED, An Act relating to (state the subject within the limitations of 21 of article III of the Constitution and the provisions of 2-1-7); or

(2) For an initiated measure to repeal an existing law: AN ACT ENTITLED, An Act to

Ballot Forms and Color

repeal (cite the statute) relating to (state the subject).

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 6 SDR 123, effective July 2, 1980; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-6, 12-13-8.1, 12-16-2.1.

5:02:06:05.01. Initiated measures - Recitation of effect of yes or no vote

The attorney general's explanatory statement shall immediately follow the title referred to in 5:02:06:05. The explanatory statement shall be followed by a recitation of the effect of a "Yes" or "No" vote and shall be in the following form, where appropriate:

- (1) For an initiated measure to amend existing law or to enact new law:
 - (a) A vote "Yes" is for enactment of the proposal into law;
 - (b) A vote "No" is against its becoming law;
 - (c) Followed by the words opposite the yes and no for voting, "Shall the initiated proposal become law?"
- (2) For an initiated measure to repeal an existing law:
 - (a) A vote "Yes" is for repeal of the existing provision explained above;
 - (b) A vote "No" is for leaving the law as it exists;
 - (c) Followed by the words opposite the yes and no for voting, "Shall the cited statute be repealed?"

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 123, effective July 2, 1980.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-9.

5:02:06:06. Referred laws - Title

Referred laws shall be preceded by the following statement:

The following laws have been passed by the Legislature and signed by the Governor, but did not go into effect because a referendum petition containing signatures of five percent of the voters of the state has been filed, in accordance with the Constitution, and these laws will not become effective until approved by the people.

Immediately following this statement, a title in the following form shall be set forth:

AN ACT ENTITLED, An Act (incorporate the title to the enactment or the portion of the title related to the referred subject.)

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 6 SDR 123, effective July 2, 1980; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-13-7, 12-13-8.2, 12-16-2.1.

5:02:06:06.01. Referred laws - Recitation of effect of yes or no vote

The attorney general's explanatory statement shall immediately follow the title referred to in 5:02:06:06. The explanatory statement shall be followed by a recitation of the effect of a "Yes" or "No" vote and shall be in the following form:

- (1) A vote "Yes" is for the legislative enactment and for the law taking effect;
- (2) A vote "No" is against the legislative enactment and against the law taking effect;
- (3) Followed by the words opposite the yes and no for voting, "Shall the legislative enactment cited become law?"

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 123, effective July 2, 1980.

General Authority: SDCL 12-1-9.

Ballot Forms and Color

Law Implemented: SDCL 12-13-9.

5:02:06:07. Transferred to 5:02:06:02.02

5:02:06:07.01. Transferred to 5:02:06:02.03

5:02:06:08. Sample ballots

All sample ballots shall be canary yellow in color.

Source: 2 SDR 5, effective July 30, 1975.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-2.1.

5:02:06:09. Party precinct committeeman and committeewoman

The official primary ballot for precinct committeeman and committeewoman shall be in the following form:

_____ PARTY
_____ Precinct, _____ County, South Dakota,
June _____, 19 _____
Vote for one precinct committeeman
 John Doe Richard Roe
Vote for one precinct committeewoman
 Jane Doe Mary Roe

Source: 2 SDR 46, effective December 30, 1975.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-5-8.

5:02:06:10. Primary

The color of the primary election ballot for offices other than president shall be blue for the democratic party and white for the republican party. The ballot shall be in the following form, as applicable:

_____ PARTY
OFFICIAL PRIMARY ELECTION BALLOT
_____ COUNTY, SOUTH DAKOTA
JUNE _____, 19 _____
To vote for a person whose name is printed on this ballot, mark a cross (X) or a check mark (✓) in the square at the left of the name.
For United States Senator, you may vote for one

For United States Representative, you may vote for one

For Governor, you may vote for one

For State Senator, you may vote for one

For State Representative, you may vote for two

Ballot Forms and Color

	<input type="checkbox"/>	
	<input type="checkbox"/>	
For County Treasurer, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For County Auditor, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For States Attorney, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For Sheriff, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For Register of Deeds, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For Coroner, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For County Commission, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	
For Delegates to State Convention, you may vote for _____	<input type="checkbox"/>	
	<input type="checkbox"/>	
For Alternates to State Convention, you may vote for <u>one</u>	<input type="checkbox"/>	
	<input type="checkbox"/>	

Source: 2 SDR 46, effective December 30, 1975; 4 SDR 85, effective June 14, 1978; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 31, effective October 1, 1981; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1987.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-5-3.8, 12-6-14, 12-16-2.1.

5:02:06:10.01. Presidential preference primary Repealed.

5:02:06:10.02. Presidential primary'

The secretary of state may determine the layout of ballots depending upon the number of slates of delegates certified by a political party or the number of qualified candidates for the presidential nomination. If there are three or fewer entries, they shall be in one horizontal line. If there are more than three entries, more than one line may be used. Ballots shall be in one of the following forms:

(1) The republican presidential primary ballot shall be white and in the following form:




REPUBLICAN PARTY
 OFFICIAL PRESIDENTIAL PRIMARY BALLOT
 _____ County, South Dakota
 February _____, 19 ____

PRESIDENTIAL DELEGATES AND ALTERNATES

Place a cross (X) or check mark (√) at the top of the slate of candidates for delegates and alternates for whom you wish to vote. You may vote for one

Ballot Forms and Color




slate of candidates.

 Candidates Preferring <hr style="border-top: 1px solid black;"/> for President ----- Delegates: ----- ----- Alternates: ----- -----	 Candidates Preferring <hr style="border-top: 1px solid black;"/> for President ----- Delegates: ----- ----- Alternates: ----- -----	 Candidates Preferring <hr style="border-top: 1px solid black;"/> for President ----- Delegates: ----- ----- Alternates: ----- -----
--	--	--

The democratic presidential primary ballot shall be blue and in the following form:

DEMOCRATIC PARTY
 OFFICIAL PRESIDENTIAL PRIMARY BALLOT
 _____ County, South Dakota
 February _____, 19 ____
 PRESIDENTIAL CANDIDATES

Place a cross (X) or check mark (✓) in the circle above the candidate for whom you wish to vote. You may vote for one candidate.

 ----- for President	 ----- for President	 ----- for President
--	--	--

Source: 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-5-3.6, 12-5-3.7, 12-5-3.8, 12-5-3.14.

5:02:06:11. Primary ballot for highway board members Repealed.

5:02:06:12. Municipal election

The municipal election ballot shall be white and shall be in the following form:

OFFICIAL MUNICIPAL ELECTION BALLOT
 _____, SOUTH DAKOTA
 _____, 19 ____

To vote for a person whose name is printed on this ballot, mark a cross (X) or a check mark (✓) in the square at the left of the name.

FOR MAYOR, YOU MAY VOTE FOR ONE

- _____ John Doe
- _____ Richard Roe

FOR CITY COMMISSION, _____ YEAR TERM, YOU MAY VOTE FOR _____ (No. to be elected)

- John Doe
- Richard Roe
- John Smith

Source: 2 SDR 46, effective December 30, 1975; 4 SDR 26, effective October 27, 1977; 14 SDR 19, effective August 9, 1987.

Ballot Forms and Color

General Authority: SDCL 12-1-9.
Law Implemented: SDCL 9-13-21.

5:02:06:13. Municipal questions election.

The municipal questions ballot must be white and must be in the following form:

OFFICIAL MUNICIPAL ELECTION BALLOT
_____, SOUTH DAKOTA
_____, 19____

The following question(s) (is, are) brought before the voters of the City of _____, South Dakota, for their acceptance or rejection:

(HERE LIST QUESTION TO BE VOTED ON)

(HERE LIST CITY ATTORNEY'S EXPLANATION)

INSTRUCTIONS TO VOTERS: Voters should mark a cross (X) or check mark (✓) in the square preceding their choice.

- For _____ (the question, whatever it may be)
- Against _____ (the question, whatever it may be)

Source: 4 SDR 26, effective October 27, 1977; 14 SDR 19, effective August 9, 1987; 16 DR 20, effective August 10, 1989; 20 SDR 4, effective July 19, 1993.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 9-13-22, 9-20-13.

5:02:06:14. Municipal bond election

The municipal bond election ballot shall be white and shall be in the following form:

OFFICIAL BALLOT
BOND ELECTION
CITY OF _____, SOUTH DAKOTA
_____, 19____

Shall the City of _____ South Dakota, issue bonds in an amount not exceeding \$ _____ for the purpose of (State the purpose for which the bonds will be issued and other information as the governing body may determine)

INSTRUCTIONS TO VOTERS: Place a cross (X) or check mark (✓) in the square preceding "Yes" or "No." A vote "yes" is in favor of issuing the bonds and a vote "no" is against the issuing of bonds.

- YES
Shall the above proposition be approved and the bonds issued?
- NO

Source: 4 SDR 26, effective October 27, 1977; 14 SDR 19, effective August 9, 1987.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 6-8B-5.

Ballot Forms and Color

5:02:06:15. School board election

The school board election ballot shall be white and shall be in one of the following forms:

OFFICIAL SCHOOL BOARD ELECTION BALLOT
_____ SCHOOL DISTRICT NO. _____, SOUTH DAKOTA
_____, 19 ____

To vote for a person whose name is printed on this ballot mark a cross (X) or a check mark (✓) in the square at the left of the name.

(Here the business manager may specify whether the position is for a member residing anywhere in the district or a member residing outside the incorporated municipality.)

School Board Member _____ YEAR TERM, YOU MAY VOTE FOR _____

- John Doe
- Richard Roe
- John Smith

OFFICIAL SCHOOL BOARD ELECTION BALLOT
_____ SCHOOL DISTRICT NO. _____, SOUTH DAKOTA
_____, 19 ____

To vote for a person whose name is printed on the ballot, mark a cross (X) or a check mark (✓) in the square at the left of the name.

You may vote for (No. elected) _____ School Board Member _____ Year Term
THIS TERM IS FOR A BOARD MEMBER RESIDING OUTSIDE AN INCORPORATED MUNICIPALITY

- John Doe
- Richard Roe

You may vote for (No. elected) _____ School Board Member _____ Year Term
THIS TERM IS FOR A BOARD MEMBER RESIDING ANYWHERE WITHIN THE DISTRICT

- John Doe
- Richard Roe
- John Smith

Source: 4 SDR 26, effective October 27, 1977; 14 SDR 19, effective August 9, 1987.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-7-13, 13-8-6.

5:02:06:16. Ballot for increasing or decreasing number of school board members

The ballot for increasing or decreasing the number of school board members shall be white and shall be in the following form:

OFFICIAL BALLOT
_____ SCHOOL DISTRICT NO. _____
_____, South Dakota
_____, 19 ____

The following question is brought before the voters for their acceptance or rejection. Place an (X) or (✓) in the square at the left of your choice.

Ballot Forms and Color

- For (increasing, decreasing) the number of school board members to _____
- Against (increasing, decreasing) the number of school board members to _____

Source: 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-8-3.

5:02:06:17. Ballot for statewide secondary election

The ballot for a statewide secondary election shall be blue for the democratic party and white for the republican party and shall be in the following form where applicable:

_____ PARTY
OFFICIAL SECONDARY ELECTION BALLOT
_____ COUNTY, SOUTH DAKOTA
June _____, 19 _____

To vote for a person whose name is printed on this ballot, mark a cross (X) or a check mark (✓) in the square to the left of the name.

For United States Senator, you may vote for one

- _____

For United States Representative, you may vote for one

- _____

For Governor, you may vote for one

- _____

Source: 12 SDR 43, effective September 23, 1985.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-6-51.1.

5:02:06:18. Colors of ballots for combined elections

When more than one ballot is voted in municipal, school district, or combined elections, white shall be used for municipal ballots and contrasting colors may be used for other ballots.

Source: 12 SDR 43, effective September 23, 1985.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 9-13-1.1, 13-7-10.1.

5:02:06:19. Nonpolitical consumers power district election

The nonpolitical consumers power district election ballot shall be green and shall be in the following form:

OFFICIAL NONPOLITICAL CONSUMERS POWER DISTRICT BALLOT
_____ County, South Dakota
_____, 19 _____

Place a cross (X) or check mark (✓) in the square in front of the name of each candidate voted for.

Ballot Forms and Color

For Director, District _____, _____
Consumers Power District, you may vote for _____ (one in the general
election or two in the primary election):

- George Watt
 Bill Ohm

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 49-36-1, 49-36-1.8.

CHAPTER 5:02:07 MISCELLANEOUS FORMS

Sec.

- 5:02:07:01. Precinct by precinct official returns.
5:02:07:02. Transferred to 5:02:05:00.
5:02:07:03. Transferred to 5:02:03:00.
5:02:07:04. Certificate of election returns - School districts.
5:02:07:05. Candidate's request to withdraw nomination.
5:02:07:06. Certificate of nomination to fill vacancy.

5:02:07:01. Precinct by precinct official returns

The precinct-by-precinct abstract of official returns shall consist of a copy of the official canvass of votes by the county canvassing board, certified by the county auditor, for the primary and general elections.

Source: 2 SDR 5, effective July 30, 1975; 5 SDR 31, effective November 1, 1978; 8 SDR 24, effective September 16, 1981.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-20-37, 12-20-38.1.

5:02:07:02. Transferred to 5:02:05:00.

5:02:07:03. Transferred to 5:02:03:00.

5:02:07:04. Certificate of election returns - School districts

Upon completion of the canvass by the school board and the issuing of certificates of election, the business manager shall certify the election results to the county auditor of the counties in which the school district is located. The certificate shall be in the following form:

CERTIFICATE OF ELECTION RETURNS

_____ SCHOOL DISTRICT NO. _____

This is to certify that the results of the School District Election held on the _____ day of _____, 19 _____, were as follows:

(Here the business manager shall list the votes tallied for each office, candidate and question.)

Business Manager

CHAPTER 5:02:08

PETITIONS

Sec.

- 5:02:08:00. Guidelines for acceptance of petitions.
- 5:02:08:00.01. Requirements for counting signatures on petitions.
- 5:02:08:00.02. Sections of petition.
- 5:02:08:00.03. Form of petition.
- 5:02:08:01. Form of nominating petition - Partisan election.
- 5:02:08:02. Form of petition for circuit court judge - Nonpartisan election.
- 5:02:08:03. Form of petition for Supreme Court justice - Nonpartisan election.
- 5:02:08:04. Form of petition for highway board of unorganized county - Nonpartisan election.
- 5:02:08:05. Certificate of nomination for independent candidate.
- 5:02:08:06. Form of declaration for new political party.
- 5:02:08:07. Form of initiative petition.
- 5:02:08:07.01. Affidavit to be filed with completed initiative, referendum, or initiated constitutional amendment petition.
- 5:02:08:08. Form of referendum petition.
- 5:02:08:09. Form of initiated constitutional amendment petition or initiated petition for repeal of constitutional provision.
- 5:02:08:10. Declaration of pledge by national convention delegates and alternates.
- 5:02:08:11. Nominating petition for school board member.
- 5:02:08:12. Reserved.
- 5:02:08:13. Nominating petition for municipal election.
- 5:02:08:14. Certificate of nomination for municipal election nominating more than one candidate.
- 5:02:08:15. Municipal initiative petition.
- 5:02:08:16. Municipal referendum petition.
- 5:02:08:17. Municipal petition for recall.
- 5:02:08:18. County initiative petition.
- 5:02:08:19. County referendum petition.
- 5:02:08:20. Certificate of nomination for independent presidential electors.
- 5:02:08:21. Form of petition to increase or decrease number of county commissioners.
- 5:02:08:22. Form of petition to increase or decrease number of members of school board.
- 5:02:08:23. Form of petition for change in municipal government.
- 5:02:08:24. Form of petition for water development district director.
- 5:02:08:25. Form of petition for irrigation district director by division.
- 5:02:08:26. Form of petition for irrigation district director at large.
- 5:02:08:27. Form of petition for water project district director by division.
- 5:02:08:28. Form of petition for water project district director at large.
- 5:02:08:29. Form of petition for school district reorganization through dissolution.
- 5:02:08:30. Form of petition for multiple school district reorganization to create a new district.
- 5:02:08:31. Form of petition for reconsideration of rejected school district reorganization plan.
- 5:02:08:32. Form of petition for combining county offices.
- 5:02:08:33. Form of petition for combining a county office with the same office in other counties.
- 5:02:08:34. Form of nominating petition for township election.
- 5:02:08:35. Form of nominating petition for road or sanitary district trustee.

5:02:08:00. Guidelines for acceptance of petitions

Petitions

When a petition is presented for filing, the person authorized to accept the petition for filing shall determine if it meets the following guidelines for acceptance:

- (1) The petition is in the form required by this chapter;
- (2) The petition contains the minimum number of valid signatures, counted according to 5:02:08:00.01. One or more invalid signatures on a petition section do not disallow other valid signatures on the section;
- (3) Each section of the petition contains an identical heading and is verified by the circulator. The circulator may add the addresses of the petitioners and the dates of signing before completing the verification. The circulator may also add the printed name of the signer and the county of voter registration. Residence addresses may be abbreviated. Dates may be in numbers, but must include month, day, and year. The verification was completed and signed before an officer authorized to administer oaths in South Dakota;
- (4) The declaration of candidacy contains the original signature of the candidate. Additional sections may have an original or photocopied signature of the candidate; and
- (5) If a petition is for a ballot question to be voted on statewide, the signatures were obtained after a copy of the text of the petition was filed with the secretary of state.

Except for petitions to nominate candidates for school boards, the person who is authorized to accept petitions for filing need not check for voter registration of the signers. Petitions containing signatures in excess of the minimum number may be filed, but the excess signatures will be disregarded.

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 2-1-2, 2-1-2.1, 2-1-4, 9-13-11, 12-1-1, 12-1-1.1, 12-1-2, 12-6-8, 13-7-6.

Cross-Reference Sections of petition, 5:02:08:00.02.

5:02:08:00.01. Requirements for counting signatures on petitions

Requirements for counting signatures on a petition sheet are as follows:

- (1) No signature on a petition sheet may be counted if one of the following conditions is present:
 - (a) The form of the petition does not meet the requirements of this chapter;
 - (b) The circulator's verification is not completed or is improperly completed, according to subdivision 5:02:08:00(3); or
 - (c) The declaration of candidacy has not been signed by the candidate and the signature witnessed by an official empowered to administer oaths in South Dakota;
- (2) An individual signature on a petition sheet may not be counted if one of the following conditions is present:
 - (a) It was signed prior to the signing of the candidate's declaration of candidacy or, if for a ballot question, it was signed before a copy of the text was filed with the secretary of state;
 - (b) It was signed after the circulator completed the verification;
 - (c) The residence address does not include a street and house number or a rural route and box number and the town. If the signer is a resident of a second or third class municipality, a post office box number may be used;
 - (d) The complete date of signing, including month, day, and year, is not indicated;
 - (e) Any information required by the petition form is incomplete or omitted.

Source: 10 SDR 27, effective September 26, 1983; 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.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 2-1-2, 2-1-2.1, 2-1-4, 9-13-11, 12-1-1, 12-1-1.1, 12-1-2, 12-6-8,

Petitions

13-7-6.

5:02:08:00.02. Sections of petition

A petition may contain more than one section. Each sheet is considered a section of a petition containing more than one sheet of paper.

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-1-3(14).

Cross-Reference Guidelines for acceptance of petitions, 5:02:08:00(3).

5:02:08:00.03. Form of petition

Each type of petition must contain the applicable heading as prescribed in this chapter and the following instructions to signers, signature blanks, and verification unless otherwise prescribed for a specific petition:

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
1 SIGN ----- PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER ----- CITY OR TOWN	DATE OF SIGNING ----- COUNTY OF REGISTRATION
2 SIGN ----- PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER ----- CITY OR TOWN	DATE OF SIGNING ----- COUNTY OF REGISTRATION
3 SIGN ----- PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER ----- CITY OR TOWN	DATE OF SIGNING ----- COUNTY OF REGISTRATION
4 SIGN ----- PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER ----- CITY OR TOWN	DATE OF SIGNING ----- COUNTY OF REGISTRATION
5 SIGN ----- PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER ----- CITY OR TOWN	DATE OF SIGNING ----- COUNTY OF REGISTRATION
6 SIGN ----- PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER ----- CITY OR TOWN	DATE OF SIGNING ----- COUNTY OF REGISTRATION

Petitions

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Sworn to before me this _____ day of _____, 19 ____ .
(Seal)

Signature of Circulator _____

Signature of Officer Administering Oath _____

My Commission Expires _____

Title of Officer Administering Oath _____

Source: 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990; 19 SDR 12, effective August 5, 1992.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-1-3(14).

5:02:08:01. Form of nominating petition - Partisan election

Nominating petitions for a partisan election shall be in the following form:

NOMINATING PETITION FOR PARTISAN ELECTION

_____ Party

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 _____ (here insert the jurisdiction in which the office is sought: name of county, number of legislative district, or "state") of South Dakota and members of the _____ Party, nominate _____ of _____ County, South Dakota, whose mailing address is _____, SD _____, as a candidate for the office of _____ at the primary election to be held June _____, 19 ____ .

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate and that if I am a legislative candidate I reside in the district from which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 ____ .
(Seal)

Signature of Officer Administering Oath _____

Petitions

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-6-5, 12-6-8.

5:02:08:02. Form of petition for circuit court judge - Nonpartisan election

The nominating petition for circuit court judge shall be in the following form:

NOMINATING PETITION FOR CIRCUIT COURT JUDGE NONPARTISAN 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 _____ Judicial Circuit, State of South Dakota, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____, SD _____, as a candidate for the office of Judge of the Circuit Court, position _____, in the (primary) (general) election to be held (June) (November) _____, 19 ____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this ____ day of _____, 19 ____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 2 SDR 46, effective December 30, 1975; 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-6-5, 12-6-8, 12-9-4.

5:02:08:03. Form of petition for Supreme Court justice - Nonpartisan election Repealed.

5:02:08:04. Form of petition for highway board of unorganized county - Nonpartisan election Repealed.

Petitions

5:02:08:05. Certificate of nomination for independent candidate

The certificate of nomination for an independent candidate shall be in the following form:

CERTIFICATE OF NOMINATION FOR INDEPENDENT CANDIDATE

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 _____ (here insert the jurisdiction in which the office is sought: name of county, number of legislative district or "state") of South Dakota, nominate _____ of _____ County, whose mailing address is _____, SD _____, as an Independent candidate affiliated with the _____ party for the office of _____ at the general election to be held November _____, 19 _____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate and that if I am a legislative candidate I reside in the district from which I am a candidate. If elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 _____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 2 SDR 46, effective December 30, 1975; 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-6-5, 12-6-8, 12-7-1.

5:02:08:06. Form of declaration for new political party

The declaration for new political party shall be in the following form:

DECLARATION FOR NEW POLITICAL PARTY

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, declare the organization of the _____ Party which subscribes to the following statement of principles:

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

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979;

Petitions

11 SDR 120, effective March 11, 1985; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-5-1.

5:02:08:07. Form of initiative petition

The initiative petition shall be in the following form:

INITIATIVE PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be submitted to the voters of the state of South Dakota for their approval or rejection pursuant to the Constitution of the State of South Dakota.

The substance of the proposed law is as follows:

Be it enacted by the people of South Dakota.

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

Source: 2 SDR 46, effective December 30, 1975; 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 2-1-1, 2-1-7, 2-1-10.

5:02:08:07.01. Affidavit to be filed with completed initiative, referendum, or initiated constitutional amendment petition

The affidavit to be filed with the completed petition for initiative, referendum, or initiated constitutional amendment shall be in the following form:

State of South Dakota)

) ss Affidavit of Completed Petition

County of _____)

I, under oath, state that the attached petition sheets constitute the entire petition to be filed and that to the best of my knowledge they contain a sufficient number of signatures to be certified to the ballot.

Signature of Sponsor

Print name and complete address of the sponsor

Sworn to before me this _____ day of _____, 19 ____ .

(Seal)

Signature of Officer Administering Oath

My Commission Expires: _____

Title of Officer Administering Oath

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 2-1-6.2.

5:02:08:08. Form of referendum petition

The petition of referendum shall be in the following form:

REFERENDUM PETITION

Petitions

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following law, as enacted by the Legislature of the state of South Dakota, be submitted to the voters of the state of South Dakota for their approval or rejection at the next general election pursuant to the Constitution of the state of South Dakota.

(Here insert the title of law to be submitted and date of its passage and approval.)

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

Source: 2 SDR 46, effective December 30, 1975; 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 2-1-3, 2-1-7, 2-1-10.

5:02:08:09. Form of initiated constitutional amendment petition or initiated petition for repeal of constitutional provision

The petition for initiated constitutional amendment or repeal shall be in the following form:

INITIATED CONSTITUTIONAL AMENDMENT PETITION

or

INITIATED PETITION FOR REPEAL OF CONSTITUTIONAL PROVISION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following section or sections and article or articles of the South Dakota Constitution be (repealed) (amended) and that this proposal be submitted to the voters of the state of South Dakota for their approval or rejection.

(Here identify the section or sections and article or articles proposed to be repealed or amended. State the exact text of the amendment.)

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

Source: 2 SDR 46, effective December 30, 1975; 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: S.D. Constitution, art XXIII, 1; SDCL 2-1-2.1.

5:02:08:10. Declaration of pledge by national convention delegates and alternates Repealed.

5:02:08:11. Nominating petition for school board member

The nominating petition for school board member shall be in the following form:

NOMINATING PETITION FOR SCHOOL BOARD MEMBER

_____ SCHOOL DISTRICT # _____

INSTRUCTIONS TO CANDIDATE: The heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures.

Petitions

WE, THE UNDERSIGNED qualified voters of _____ school district number _____, state of South Dakota, nominate _____ whose mailing address is _____ for a position on the school board as listed below at the school board election to be held on the ____ day of June, 19 ____.

A ____ year term for a board member residing outside an incorporated municipal area.

A ____ year term for a board member residing anywhere within the district.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I reside in _____ school district number _____, South Dakota; that I am a registered voter of the district; and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 ____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

(Insert here the instructions to signers and verification by the circulator portions of the petition form as prescribed in § 5:02:08:00.03.)

NOTE: In the proper sentence indicate the time of filing and the manner in which this petition was filed.

1. I certify that the above-named candidate has filed this nominating petition at _____ o'clock ____ m., this ____ day of _____, 19 ____.

2. I certify that the above-named candidate mailed this nominating petition by registered mail at _____ o'clock ____ m., the ____ day of _____, 19 ____.

3. I certify that the above-named candidate filed this nominating petition by mailing it by first class mail and that the nominating petition was received at _____ o'clock ____ m., this ____ day of _____, 19 ____.

Signature of Business Manager

Source: 2 SDR 82, effective June 13, 1976; 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-1-2, 13-7-6, 13-7-13.

5:02:08:12. Reserved.

5:02:08:13. Nominating petition for municipal election

The nominating petition for a municipal election shall be in the following form:

NOMINATING PETITION FOR MUNICIPAL ELECTION

Petitions

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 mailing
address is _____, South Dakota, and whose business address is
_____, South Dakota, as a candidate for a _____-year term for the
office of _____ at the Municipal Election to be held on the _____ day
of _____, 19 _____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the
election ballot) under oath, declare that I reside in the municipality of
_____, South Dakota, and that I am eligible to seek the office
for which I am a candidate. If nominated and elected, I will qualify and
serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 _____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

(Here insert instructions to voters and signature blanks as prescribed in §
5:02:08:00.03.)

STATE OF SOUTH DAKOTA)

) ss.

VERIFICATION BY PERSON CIRCULATING
NOMINATING PETITION

COUNTY OF _____)

I, under oath, state that I circulated the above nominating petition and I
attest the legality of the signatures and that I am and each person signing
this petition is a resident and qualified voter of the municipality of

(Signed) _____

(Address) _____

Sworn to before me this _____ day of _____, 19 _____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 8
SDR 24, effective September 16, 1981; 12 SDR 43, effective September 23, 1985; 16 SDR
20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-7, 9-13-11.

**5:02:08:14. Certificate of nomination for municipal election nominating more than one
candidate Repealed.**

5:02:08:15. Municipal initiative petition

The municipal initiative petition shall be in the following form:

Petitions

MUNICIPAL INITIATIVE PETITION IN THE MUNICIPALITY OF _____

WE, THE UNDERSIGNED qualified voters of the municipality of _____, the state of South Dakota, petition that the following (ordinance) (resolution) be submitted to the voters of that municipality for their approval or rejection pursuant to law.

The proposed (ordinance) (resolution) in proper form is as follows:

Here state verbatim the proposed (ordinance) (resolution).

(Here insert instructions to voters and signature blanks as prescribed in § 5:02:08:00.03.)

VERIFICATION BY PERSON CIRCULATING PETITION STATE OF SOUTH DAKOTA)

) ss.

COUNTY OF _____)

I, under oath, state that I circulated the above petition and attest the legality of the signatures and that I am and each person signing this petition is a resident and qualified voter of the municipality of _____.

(Signed) _____ (Address) _____
Sworn to before me this _____ day of _____, 19 ____ .
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 9-20-2, 9-20-9.

5:02:08:16. Municipal referendum petition

The municipal referendum petition shall be in the following form:

MUNICIPAL REFERENDUM PETITION IN THE MUNICIPALITY OF _____

WE, THE UNDERSIGNED qualified voters of the municipality of _____, the state of South Dakota, petition that the following (ordinance) (resolution), as passed by the governing board of the municipality, be submitted to the voters for their approval or rejection pursuant to law.

(Here insert the title of the (ordinance) (resolution) and date of its passage. However, if only a portion of the (ordinance) (resolution) is intended to be covered by the petition, that portion shall be set out at length.)

(Here insert the instructions to voters and signature blanks as prescribed in § 5:02:08:00.03.)

VERIFICATION BY PERSON CIRCULATING PETITION STATE OF SOUTH DAKOTA)

) ss.

Petitions

COUNTY OF _____)
I, under oath, state that I circulated the above petition and attest the
legality of the signatures and that I am and each person signing this
petition is a resident and qualified voter of the municipality of _____

(Signed) _____ (Address) _____

Sworn to before me this _____ day of _____, 19 _____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 16
SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-20-7, 9-20-8, 9-20-9.

5:02:08:17. Municipal petition for recall

The municipal petition for recall shall be in the following form:

PETITION FOR RECALL
IN THE MUNICIPALITY OF _____
WE, THE UNDERSIGNED qualified voters of the municipality of _____,
state of South Dakota, petition for the recall of _____
from the office of _____, based on the following grounds:

(Here list the grounds for recall.)

(Here insert the instructions to signers and signature blanks as prescribed
in § 5:02:08:00.03.)

VERIFICATION BY PERSON CIRCULATING RECALL PETITION

STATE OF SOUTH DAKOTA)

) ss.

COUNTY OF _____)

I, under oath, state that I circulated the above petition and attest the
legality of the signatures and that I am and each person signing this
petition is a resident and qualified voter of the municipality of _____

(Signed) _____ (Address) _____

Sworn to before me this _____ day of _____, 19 _____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 16
SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 9-13-30.

5:02:08:18. County initiative petition

The county initiative petition shall be in the following form:

Petitions

COUNTY INITIATIVE PETITION

WE, THE UNDERSIGNED qualified voters of _____ County in the state of South Dakota, petition that the following (ordinance) (resolution) be submitted to the voters of that county for their approval or rejection pursuant to law.

The proposed (ordinance) (resolution) in proper form is as follows:

Here list verbatim the proposed (ordinance) (resolution).

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

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 7-18A-11, 7-18A-12.

5:02:08:19. County referendum petition

The county referendum petition shall be in the following form:

COUNTY REFERENDUM PETITION

WE, THE UNDERSIGNED qualified voters of _____ County in the state of South Dakota, petition that the following (ordinance) (resolution), as passed by the County Commissioners of that county, be submitted to the voters of the county for their approval or rejection pursuant to law.

(Here insert the title of the (ordinance) (resolution) and the date of its passage. However, if only a portion of the (ordinance) (resolution) is intended to be covered by the petition, that portion shall be set out at length.)

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

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 7-18A-15, 7-18A-17, 7-18A-18.

5:02:08:20. Certificate of nomination for independent presidential electors

The certificate of nomination for independent presidential electors shall be in the following form:

CERTIFICATE OF NOMINATION FOR INDEPENDENT PRESIDENTIAL ELECTORS

AFFILIATED WITH THE _____ PARTY

INSTRUCTIONS TO CANDIDATES: The heading of this petition and the declarations of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, nominate _____ of _____ County, whose mailing address is _____ ; _____ of _____ County, whose mailing address is _____ ; _____ of _____ County, whose mailing

Petitions

address is _____, as independent candidates affiliated with the _____ Party for the office of Presidential Electors for _____ and _____ at the General Election to be held November _____, 19 _____.

DECLARATION OF CANDIDATES

We, under oath, declare that we reside in _____, _____, and _____ Counties, respectively, and that we are or will be eligible to seek the offices for which we are candidates. If elected, we will qualify and serve in those offices.

(Signed) _____

(Signed) _____

(Signed) _____

Sworn to before me this _____ day of _____, 19 _____.
(Seal)

Signature of Officer Administering Oaths

My Commission Expires _____

Title of Officer Administering Oaths

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

Source: 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-6-5, 12-6-8, 12-7-1.

5:02:08:21. Form of petition to increase or decrease number of county commissioners

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 election to be held on _____, 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.

Law Implemented: SDCL 7-8-3.

5:02:08:22. Form of petition to increase or decrease number of members of school board

The petition to increase or decrease the number of school board members shall be in the following form:

PETITION FOR CHANGE IN NUMBER OF SCHOOL BOARD MEMBERS

WE, THE UNDERSIGNED qualified voters of _____ School District No. _____, petition that the number of school board members be (increased, decreased) to (number of board members) and that the

Petitions

proposal be submitted to the voters of the _____ School District No. _____ for their approval or rejection pursuant to SDCL 13-8-3 and 13-8-4.

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.
Law Implemented: SDCL 13-8-3, 13-8-4.

5:02:08:23. Form of petition for change in municipal government

The form of a petition for proposing a change in the type of municipal government or for increasing or decreasing the number of commissioners or trustees, or both, shall be as follows:

PETITION FOR ELECTION TO CHANGE MUNICIPAL GOVERNMENT
WE, THE UNDERSIGNED qualified voters of the municipality of _____, petition that the municipal government of _____ be changed as follows and that the proposal be submitted to the voters for their approval or rejection pursuant to SDCL 9-11-5:

(Here describe the new form of government or the increase or decrease in the number of commissioners or trustees, or both.)

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.
Law Implemented: SDCL 9-11-5.

5:02:08:24. Form of petition for water development district director

The nominating petition for a director of a water development district shall be in the following form:

NOMINATING PETITION FOR WATER DEVELOPMENT DISTRICT DIRECTOR NONPARTISAN
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 registered voters of _____ (insert the director area the candidate is to represent) of the _____ Water Development District, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____, South Dakota, as a candidate for the office of director, representing _____ (insert the director area the candidate is to represent) of the _____ Water Development District, in the primary election to be held on June _____, 19 _____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I own real property and reside in the area that I will represent and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in

Petitions

that office.

Sworn to before me this _____ day of _____, 19 ____ .
(Seal)

(Signed) _____

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 10 SDR 27, effective September 26, 1983; 11 SDR 120, effective March 11, 1985;
16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 46A-3B-4.

5:02:08:25. Form of petition for irrigation district director by division

The nominating petition for a director of an irrigation district by division shall be in the following form:

NOMINATING PETITION FOR IRRIGATION DISTRICT DIRECTOR BY DIVISION NONPARTISAN ELECTION

Only owners of not less than thirty-five acres of land within the area to be represented by the candidate are eligible to sign this petition.

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 electors of Director Division _____, of the _____ Irrigation District, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____, South Dakota, as a candidate for the office of irrigation district director for Director Division _____, of the _____ Irrigation District in the annual election to be held on October ____, 19 ____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the ballot), under oath, declare that I am an elector in the area that I will represent and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 ____ .
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 11 SDR 120, effective March 11, 1985; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 46A-4-27.1, 46A-4-28.

5:02:08:26. Form of petition for irrigation district director at large

Petitions

The nominating petition for a director at large of an irrigation district shall be in the following form:

NOMINATING PETITION FOR IRRIGATION DISTRICT DIRECTOR AT LARGE NONPARTISAN ELECTION

Only owners of not less than thirty-five acres of land within the area to be represented by the candidate are eligible to sign this petition.

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 electors of the _____ Irrigation District, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____, South Dakota, as a candidate for the office of irrigation district director at large of the _____ Irrigation District in the annual election to be held on October ____, 19 ____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the ballot), under oath, declare that I am an elector in the area that I will represent and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this ____ day of _____, 19 ____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 11 SDR 120, effective March 11, 1985; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 46A-4-27.1, 46A-4-28.

5:02:08:27. Form of petition for water project district director by division

The nominating petition for a director of a water project district by division shall be in the following form:

NOMINATION PETITION FOR WATER PROJECT DISTRICT DIRECTOR BY DIVISION NONPARTISAN ELECTION

Only registered voters or owners of real property, or both, within the area to be represented by the candidate are eligible to sign this petition. (SDCL 46A-18-5)

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 Director Division _____, of the _____ Water Project District, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____

Petitions

_____, South Dakota, as a candidate for the office of water project district director for Director Division _____, of the _____ Water Project District in the annual election to be held on _____, 19 ____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the ballot), under oath, declare that I am a qualified voter as defined in SDCL 46A-18-5 in the area that I will represent and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 ____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 11 SDR 120, effective March 11, 1985; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 46A-18-25.

5:02:08:28. Form of petition for water project district director at large

The nominating petition for a director at large of a water project district shall be in the following form:

NOMINATING PETITION FOR WATER PROJECT DISTRICT DIRECTOR AT LARGE NONPARTISAN ELECTION

Only registered voters or owners of real property, or both, within the area to be represented by the candidate are eligible to sign this petition. (SDCL 46A-18-5)

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 _____ Water Project District, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____, South Dakota, as a candidate for the office of water project district director at large of the _____ Water Project District in the annual election to be held on _____, 19 ____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the ballot), under oath, declare that I am a qualified voter as defined in SDCL 46A-18-5 in the District that I will represent and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 ____.
(Seal)

Signature of Officer Administering Oath

Petitions

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 11 SDR 120, effective March 11, 1985; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 46A-18-25.

5:02:08:29. Form of petition for school district reorganization through dissolution

The petition for school district reorganization through dissolution shall be in the following form:

PETITION FOR SCHOOL DISTRICT REORGANIZATION THROUGH DISSOLUTION

WE, THE UNDERSIGNED qualified voters of the _____
School District No. _____, petition that the school board of the
_____ School District No. _____ develop
a reorganization plan dissolving the school district by attaching to another
district or districts pursuant to SDCL 13-6 and that an election be held on
the plan.

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

Source: 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-6-10.

5:02:08:30. Form of petition for multiple school district reorganization to create a new district

The petition for multiple school district reorganization to create a new district shall be in the following form:

PETITION FOR MULTIPLE SCHOOL DISTRICT REORGANIZATION TO CREATE A NEW DISTRICT

A separate petition must be submitted to each school board involved. Each petition may be signed only by residents of that district.

WE, THE UNDERSIGNED qualified voters of the _____
School District No. _____, petition that the school boards of the
following school districts:

develop a reorganization plan dissolving the school districts and creating a
new district pursuant to SDCL 13-6 and that an election be held on the plan.

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

Source: 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-6-10.

5:02:08:31. Form of petition for reconsideration of rejected school district reorganization

Petitions

plan

The petition for reconsideration of a rejected school district reorganization plan shall be in the following form:

PETITION FOR RECONSIDERATION OF REJECTED SCHOOL DISTRICT REORGANIZATION PLAN

WE, THE UNDERSIGNED qualified voters of the _____
School District No. _____, petition the school board of the
_____ School District No. _____ to
hold an election to reconsider the school district reorganization plan that
was rejected at the election held _____, 19 _____.

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

Source: 16 SDR 203, effective May 28, 1990.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-6-49.

5:02:08:32. Form of petition for combining county offices

The petition for combining county offices shall be in the following form:

PETITION FOR COMBINING COUNTY OFFICES

WE, THE UNDERSIGNED qualified voters of _____
County in the state of South Dakota, petition that the county offices of
_____, _____,
and _____ be combined, that one person be
elected to and perform the duties of the combined offices, and that the
proposed change be submitted to the voters of that county for their approval
or rejection pursuant to law.

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

Source: 16 SDR 203, effective May 28, 1990.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 7-7-1.5.

5:02:08:33. Form of petition for combining a county office with the same office in other counties

The petition for combining a county office with the same office in other counties shall be in the following form:

PETITION FOR COMBINING A COUNTY OFFICE WITH THE SAME OFFICE IN OTHER COUNTIES

WE, THE UNDERSIGNED qualified voters of _____
County in the state of South Dakota, petition that the county office of
_____ in _____
County be combined with the same county office in the (county) (counties) of
_____ and that the proposed change be
submitted to the voters of this county for their approval or rejection
pursuant to law.

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

Petitions

Source: 16 SDR 203, effective May 28, 1990.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 7-7-1.6.

5:02:08:34. Form of nominating petition for township election

The nominating petition for a township election shall be in the following form:

NOMINATING PETITION FOR TOWNSHIP 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 township of _____
in _____ County, South Dakota, nominate _____
whose mailing address is _____, SD _____, and whose
business address is _____, SD _____, as a candidate
for the office of _____ at the annual township meeting to
be held on the _____ day of _____, 19 _____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the
election ballot) under oath, declare that I reside in the township of
_____ in _____ County, South Dakota, and that I am
eligible to seek the office for which I am a candidate. If nominated and
elected, I will quality and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 _____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

Source: 16 SDR 203, effective May 28, 1990.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 8-3-1.2.

5:02:08:35. Form of nominating petition for road or sanitary district trustee

The petition for road or sanitary district trustees shall be in the following form:

NOMINATING PETITION FOR DISTRICT TRUSTEE

WE, THE UNDERSIGNED qualified voters of _____ District,
_____ County, South Dakota, nominate _____
whose mailing address is _____
_____, SD _____, and whose business address is
_____, SD _____, as a candidate for the
office of District Trustee of _____ District at the election to be
held on the _____ day of _____, 19 _____.

Petitions

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the ballot) under oath, declare that I am eligible for the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 ____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

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

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

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 31-12A-17, 34A-5-21.

5:02:08:36. Form of petition for taxpayer of real property conservation district supervisor -- Nonpartisan election.

The nominating petition for taxpayer of real property conservation district supervisor must be in the following form:

NONPOLITICAL CONSERVATION DISTRICT PETITION TAXPAYER OF REAL PROPERTY CONSERVATION DISTRICT SUPERVISOR

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 registered voters of _____
Conservation District in _____ County(ies), South Dakota,
nominate _____ of _____ County, State of
South Dakota, whose mailing address is _____,
_____, SD _____, as a candidate for the office
of Conservation District Supervisor, Taxpayer of Real Property, for a
_____ (write in 2 or 4) year term, within the _____
Conservation District at the general election to be held on November __, 19____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I reside in _____
County, that I am a taxpayer of real property, and that I am eligible to seek
the office for which I am a candidate. If nominated and elected, I will
qualify and serve as Conservation District Supervisor.

(Signed) _____

Sworn to before me this _____ day of _____, 19____.

(Seal)

Signature of Officer Administering Oath

Title of Officer Administering Oath

My Commission Expires _____

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

Petitions

Source: 20 SDR 4, effective July 19, 1993.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 38-8-39.

5:02:08:37. Form of petition for urban area conservation district supervisor -- Nonpartisan election.

The nominating petition for urban area conservation district supervisor must be in the following form:

NONPOLITICAL CONSERVATION DISTRICT PETITION
URBAN AREA CONSERVATION DISTRICT SUPERVISOR

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 registered voters of _____
Conservation District in _____ County(ies), South Dakota,
nominate _____ of _____ County, State of
South Dakota, whose mailing address is _____,
SD _____, as a candidate for the office
of Conservation District Supervisor, Urban Area, for a _____ (write
in 2 or 4) year term, within the _____
Conservation District at the general election be held on November __, 19__.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it
on the election ballot), under oath, declare that I reside in
_____ County, that I am a resident of an urban area, and that I
am eligible to seek the office for which I am a candidate. If nominated and
elected, I will qualify and serve as Conservation District Supervisor.

(Signed) _____

Sworn to before me this ____ day of _____, 19__.

(Seal)

Signature of Officer Administering Oath

Title of Officer Administering Oath

My Commission Expires _____.

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

Source: 20 SDR 4, effective July 19, 1993.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 38-8-39.

5:02:08:38. Form of petition for rural land owner or occupier conservation district supervisor -- Nonpartisan election.

The nominating petition for rural land owner or occupier conservation district supervisor must be in the following form:

NONPOLITICAL CONSERVATION DISTRICT PETITION
RURAL LANDOWNER OR OCCUPIER CONSERVATION DISTRICT SUPERVISOR

Petitions

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 registered voters of _____
Conservation District in _____ County(ies), South Dakota,
nominate _____ of _____ County, State of
South Dakota, whose mailing address is _____,
SD _____, as a candidate for the office of Conservation District Supervisor,
Rural Landowner or Occupier, for a _____ (write in 2 or 4) year term,
within the _____ Conservation District at the
general election to be held on November _____, 19____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it
on the election ballot), under oath, declare that I reside in
_____ County, that I am a rural landowner or occupier, and that I
am eligible to seek the office for which I am a candidate. If nominated and
elected, I will qualify and serve as Conservation District Supervisor.

(Signed) _____

Sworn to before me this _____ day of _____, 19____.

(Seal)

Signature of Officer Administering Oath

Title of Officer Administering Oath

My Commission Expires _____.

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

Source: 20 SDR 4, effective July 19, 1993.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 38-8-39.

CHAPTER 5:02:09

ELECTRONIC VOTING

Sec.

- 5:02:09:01. Notice of use of electronic voting systems.
- 5:02:09:01.01. Notice of testing automatic tabulating equipment.
- 5:02:09:01.02. Testing of tabulating equipment.
- 5:02:09:02. Approval of electronic voting systems.
- 5:02:09:02.01. Electronic voting system criteria.
- 5:02:09:03. Voting booths.
- 5:02:09:04. Test of preaudited ballots.
- 5:02:09:04.01. Instructions for voting.
- 5:02:09:04.02. Instructions for absentee voting.
- 5:02:09:05. Recount procedure.
- 5:02:09:06. Program requirements.
- 5:02:09:07. Slip for recording number of voters and discrepancies noted at time of counting - Primary election.
- 5:02:09:08. Slip for recording number of voters and discrepancies noted at time of counting - General election.
- 5:02:09:09. Unnecessary items in the pollbooks.
- 5:02:09:10. Immediate unofficial returns.

Electronic Voting

- 5:02:09:11. Official and unofficial election results.
- 5:02:09:11.01. Certification of the official returns.
- 5:02:09:11.02. Unofficial election returns.
- 5:02:09:12. Envelope for immediate unofficial return and pollbook.
- 5:02:09:13. Envelope for official returns.
- 5:02:09:14. Oath by tabulation center employees.
- 5:02:09:15. Colors of pages of ballot booklet.
- 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. Ballot comparison certification.

5:02:09:01. Notice of use of electronic voting systems

A public notice shall be given before the date of the first election in which an electronic voting system is to be used. The public notice shall be in the following form:

Notice is hereby given that an electronic voting system will be used at the _____ election to be held on the _____ day of _____, 19____, in _____ (municipality, school district, county).

A demonstration of the electronic voting system will be given on the _____ day of _____, 19____, at (location of demonstration) from (time) to (time).

Dated this _____ day of _____, 19____.

Person in charge of election

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-17A-6.

5:02:09:01.01. Notice of testing automatic tabulating equipment

The notice of testing the automatic tabulating equipment shall be in the following form:

Notice is hereby given that the automatic tabulating equipment will be tested to ascertain that it will correctly count the votes for all offices and measures that are to be cast at the _____ election held on the _____ day of _____, 19____, by the voters using the electronic voting devices.

The test will be conducted on the _____ day of _____, 19____, at _____ o'clock (a.m.) (p.m.) at the following location:

Dated this _____ day of _____, 19____.

Person in charge of election

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-17A-8.

5:02:09:01.02. Testing of tabulating equipment

Electronic Voting

The person conducting the test of the tabulating equipment shall date and sign the printout as verification that the testing was completed.

Source: 8 SDR 81, effective January 10, 1982.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-8, 12-17A-40.

5:02:09:02. Approval of electronic voting systems

Prior to distribution in South Dakota, a company or corporation dealing in electronic voting systems shall give written notice to the state board of elections and demonstrate that its system complies with SDCL 12-17A-5 and 5:02:09:02.01. If the state board of elections approves the system, it shall issue a certificate of approval.

Any changes or modifications in an approved electronic voting system shall be presented for approval to the state board of elections in the manner described in this section for initial approval.

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 16 sdr 203, effective May 28, 1990.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-2.

5:02:09:02.01. Electronic voting system criteria

Before the state board of elections grants a certificate of approval, the following automatic tabulating equipment capabilities of an electronic voting system must be demonstrated to the board or its designee. The board may deny a certificate of approval for automatic tabulating equipment which as demonstrated does not fulfill the following requirements:

- (1) Process 3,000 ballots at a rate of 15 ballots per minute for a central counting unit;
- (2) Process 750 ballots at a rate of 10 ballots per minute for a precinct counting unit;
- (3) Allow no more than one percent of ballots to be rejected by the machine due to ballot feeding errors during demonstration;
- (4) Accurately count every ballot for each position voted.

The ballots for testing must contain at least ten contests. The ballots for processing must be at least 90 percent fully voted with the remainder containing overvoted and undervoted ballots.

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-17A-4.

5:02:09:03. Voting booths

In counties where electronic voting systems are used, the county auditor shall provide at least one voting booth for each 100 votes cast at the last comparable election.

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-11.

5:02:09:04. Test of preaudited ballots

The county auditor may conduct a test of the preaudited group of ballots anytime during or after the counting.

Electronic Voting

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-17A-8, 12-17A-40.

5:02:09:04.01. Instructions for voting

Companies or corporations dealing in electronic voting systems or printers of election supplies shall submit to the state board of elections instructions for voting with their equipment. These instructions shall be approved by the state board of elections prior to any election in which the equipment is to be used. If the same instructions are to be used again for the same equipment, the companies, corporations, or printers need not re-submit their instructions.

Source: 5 SDR 31, effective November 1, 1978.
General Authority: SDCL 12-1-9; 12-17A-44.
Law Implemented: SDCL 12-16-23, 12-16-25.

5:02:09:04.02. Instructions for absentee voting.

The same groups listed in 5:02:09:04.01 shall submit to the state board of elections instructions for voting with their equipment by absentee ballot. These instructions must be approved by the state board of elections prior to the first election in which the equipment is to be used. If the same instructions are to be used again for the same equipment, the companies, corporations, or printers need not resubmit their instructions. The instructions shall include statements similiar to the following:

TO THE VOTER:

- (1) Mark your ballot privately.
- (2) If you are voting on a punch card, leave the ballot card attached to the styrofoam backing and insert it in the privacy envelope. Then place the privacy envelope in the return envelope and seal it.
- (3) If you are voting on an optical scan ballot, use only the marker or pencil provided and then place the ballot in the privacy envelope. Then place the privacy envelope in the return envelope and seal it.
- (4) Sign the statement on the return envelope.
- (5) Mail the ballot to the person in charge of the election, deliver it in person, or authorize someone to deliver it for you.
- (6) The ballot must be received by the person in charge of the election in time to transmit it to your precinct polling place on election day.

Source: 5 SDR 31, effective November 1, 1978; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987; 20 SDR 4, effective July 19, 1993.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-19-4, 12-19-7.

5:02:09:05. Recount procedure

The following procedure shall be used in recounting any election conducted by electronic

Electronic Voting

voting:

- (1) The recount board shall first examine every ballot to determine whether the official stamp has been placed thereon and shall remove any chits or chads that were not completely punched from the computer card to indicate the intent of the voter;
- (2) The ballots shall then be counted by the automatic tabulating equipment; and
- (3) Any ballots that are declared spoiled by the tabulating equipment shall then each be ruled on by the recount board and either counted or rejected.

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.
 General Authority: SDCL 12-1-9, 12-17A-44.
 Law Implemented: SDCL 12-17A-43.

5:02:09:06. Program requirements

Every computer program for an electronic voting system shall be designed so that in case of recount each spoiled ballot may be identified.

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.
 General Authority: SDCL 12-1-9, 12-17A-44.
 Law Implemented: SDCL 12-17A-43.

5:02:09:07. Slip for recording number of voters and discrepancies noted at time of counting - Primary election

The slip for recording the number of voters at a primary election and for noting discrepancies at the time of counting the ballots shall be in the following form:

Recap sheet - Electronic voting system - to be filled out and returned with the voted ballot cards and transported to central counting location

	DEMOCRATIC/ REPUBLICAN	REPUBLICAN/ DEMOCRATIC	OTHER
Total number of ballots voted	_____	_____	_____
Date _____			
Superintendent	Judge	Judge	
	DEMOCRATIC/ REPUBLICAN	REPUBLICAN/ DEMOCRATIC	OTHER
Discrepancies noted by tally judges (fill in only if there is a different total than above)	_____	_____	_____
Date _____			
Person Conducting the Count	Tally Judge	Tally Judge	

Source: 3 SDR 69, effective April 10, 1977; 5 SDR 31, effective November 1, 1978; 6 SDR 123, effective July 2, 1980; 8 SDR 81, effective January 10, 1982.
 General Authority: SDCL 12-1-9, 12-17A-44.
 Law Implemented: SDCL 12-17A-28, 12-17A-34, 12-17A-36.

5:02:09:08. Slip for recording number of voters and discrepancies noted at time of counting - General election

The slip for recording the number of voters at a general election and for noting discrepancies at the time of counting the ballots shall be in the following form:

Recap sheet - Electronic voting system - to be filled out and returned with the voted

Electronic Voting

ballot cards and transported to central counting location

Total number of ballots voted _____

Date _____

Superintendent

Judge

Judge

RETURN WITH VOTED BALLOT CARDS

Discrepancies noted by tally judges

(fill in only if there is a
different total than above -----

Date-----

Person Conducting the Count

Tally Judge

Tally Judge

Source: 5 SDR 31, effective November 1, 1978; 8 SDR 81, effective January 10, 1982.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-28, 12-17A-34, 12-17A-36.

5:02:09:09. Unnecessary items in the pollbook.

Electronic voting precincts do not need tally sheets, official vote count sheet, or the oath or certificate of the counting board in the pollbook.

Source: 5 SDR 31, effective November 1, 1978; 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-38.1, 12-17A-42.

5:02:09:10. Immediate unofficial returns Repealed.

5:02:09:11. Official and unofficial election results

The original computer printout shall be the official election results. The immediate unofficial election results shall be a photocopy or carbon copy of the official election results. The printout shall include identification of the precinct and county, names of candidates, offices sought, political parties, ballot issues, position numbers on the ballot cards, and votes counted.

Source: 5 SDR 31, effective November 1, 1978; 8 SDR 81, effective January 10, 1982.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-24, 12-17A-42, 12-20-10, 12-20-11.

5:02:09:11.01. Certification of the official returns

The computer printout used as the official returns shall be considered properly certified if it is signed by the person conducting the count and at least one witness.

Source: 8 SDR 81, effective January 10, 1982.

General Authority: SDCL 12-1-9, 12-17A-44.

Law Implemented: SDCL 12-17A-42.

5:02:09:11.02. Unofficial election returns

The person conducting the count shall certify a photocopy or carbon copy of the official

Electronic Voting

election returns as the immediate unofficial election returns.

Source: 8 SDR 81, effective January 10, 1982.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-20-10, 12-20-11.

5:02:09:12. Envelope for immediate unofficial return and pollbook Repealed.

5:02:09:13. Envelope for official returns.

The official returns shall be sealed in a manila envelope clearly labeled "Official Returns" and kept with the pollbook until the meeting of the county canvassing board.

Source: 5 SDR 31, effective November 1, 1978; 8 SDR 81, effective January 10, 1982; 20 SDR 4, effective July 19, 1993.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-17A-42.

5:02:09:14. Oath by tabulation center employees

The oath that the tabulation center employees take and subscribe to shall be in the following form:

OATH BY TABULATION CENTER EMPLOYEES

I, _____, do solemnly swear that I will perform the duty of tabulating the ballots according to law and the best of my ability and that I will studiously endeavor to prevent fraud, deceit, and abuse in tabulating the ballots I am about to count.

(Signed) _____
Subscribed and sworn to before me this ____ day of _____, 19 ____.

(Person in Charge of Election or Deputy)

Source: 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-17A-38.1.

5:02:09:15. Colors of pages of ballot booklet Repealed.

5:02:09:16. Recapitulation sheet

A recapitulation sheet in the following form shall be filled out for each color of ballot card used. The recapitulation sheet shall indicate the disposition of the ballot cards. The 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.

RECAPITULATION SHEET FOR PRECINCT USING ELECTRONIC VOTING DEVICES

Ballot cards received from auditor	-----
Ballot cards received after polls opened	-----
Absentee ballots received	-----
Total ballot cards received	-----
Voted ballot cards	-----
Unused ballot cards	-----
Spoiled ballot cards	-----

Electronic Voting

Total ballot cards returned -----

Total ballot cards received and total ballot cards returned should be the same number.

We, the members of the Election Board in _____ precinct,
_____ County, hereby certify that the ballot pages used in
the electronic voting devices in this precinct correspond to the sample
ballot.

_____, Judge
_____, Judge
_____, Judge

Source: 8 SDR 81, effective January 10, 1982; 12 SDR 43, effective September 23, 1985.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-17A-19, 12-17A-42.

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

Prior to the commencement of voting and periodically 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 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.
General Authority: SDCL 12-1-9, 12-17A-44.
Law Implemented: SDCL 12-18-3, 12-17A-19.

5:02:09:18. Ballot comparison certification

The ballot comparison certification to be signed by the election board judges in electronic voting system precincts shall be in the following form:

BALLOT COMPARISON CERTIFICATION

We hereby certify that prior to the commencement 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 thereon agree.

Election Board Judges

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-17A-19.

CHAPTER 5:02:10 ABSENTEE VOTING

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

Absentee Voting

- 5:02:10:01.01. Receipt for absentee ballot.
- 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. Instructions for voting service and overseas ballots.
- 5:02:10:08. Envelopes for use with voting service and overseas ballots.
- 5:02:10:08. ENVELOPE FOR VOTING SERVICE AND OVERSEAS BALLOTS.

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

The application for an absentee ballot shall 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 and general elections with one request. However, you must make a separate request for municipal elections, another for school elections, and another for special elections. Mark below beside the absentee ballots you are requesting

Check One:

- Presidential Primary (party ballot as shown on voter registration)
- Primary (party ballot as shown on voter registration)
- General
- Municipal
- School
- Special _____ (specify jurisdiction)

If a runoff election is necessary, I request an absentee ballot for that election. Check if Yes

My voter registration residence address and precinct is: _____

Following is the reason for my ballot request:

- I expect to be absent from the county on election day
- I am totally and permanently disabled
- I am confined by illness or temporary physical disability
- I am prohibited from voting on election day by my religious beliefs
- I am a resident student at _____
- The nature and hours of my employment will prevent me from voting at the polls
- I am a member of the Armed Forces stationed at _____

I hereby certify that these statements made by me are true and correct.

Type or print name as it appears on registration list Signature Date

COMPLETE THIS PORTION IF BALLOT IS TO BE MAILED

Mail my ballot to the following address: _____
(Street address or PO Box) (City) (Zip)

COMPLETE THIS PORTION IF REQUEST IS FOR AN AUTHORIZED MESSENGER TO PICK UP BALLOT (This application must be received by the person in charge of the

Absentee Voting

election before 3:00 p.m. on election day):

I authorize _____ to serve as my authorized messenger to pick up my absentee ballot. I further certify under penalty of law that I am sick and/or confined and for this reason alone am unable to vote at my polling place on election day.

Signature of voter

THE AUTHORIZED MESSENGER MUST COMPLETE THE FOLLOWING:

Name: _____ Phone: _____

Address: _____

Are you serving as an authorized messenger for any other voter? () Yes () No
I acknowledge receipt of the ballot for the above-named voter on ____ at ____ m.
(date) (time)

Signature of authorized messenger

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-2.

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

When anyone returns a voted ballot in person, the auditor's receipt for that absentee ballot shall be in the following form:

RECEIPT FOR ABSENTEE BALLOT

I acknowledge receipt of the absentee ballot voted by _____
whose voting precinct is _____ and whose permanent
residence is _____. I received this absentee ballot from

Signed on this ____ day of _____, 19 ____.

(Signature)

Person in Charge of the Election

Source: 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-9.

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

The signed application for official ballots may be sent in an envelope which conforms to the following specifications:

- (1) The envelope is the minimum practicable size and weight;
- (2) The words, "This Envelope must be sent by Registered Mail, Certified Mail or Personal Delivery," are printed in the upper right corner of the face of the envelope;
- (3) The return address of the person in charge of the election is printed in the upper left corner of the face of the envelope;
- (4) The words, "This envelope contains the application for the Official Ballot of _____ and the signature on the voter's application should be compared with the signature on the voter's statement which appears on the back of the return envelope," are printed in the lower left corner of the face of the envelope; and
- (5) The words, "To _____, Superintendent of the Election Board

Absentee Voting

of _____ Precinct, _____, South Dakota," are printed in the center of the face of the envelope.

Source: 2 SDR 46, effective December 30, 1975; 19 SDR 12, effective August 5, 1992.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-19-2.

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

All ballots mailed to any absentee voter shall be enclosed in an envelope securely sealed and addressed to the absentee voter as indicated on the application for ballots. The envelope shall conform to the following specifications:

- (1) It shall be of minimum practicable size and weight;
- (2) Across the face of the envelope shall be printed two parallel horizontal bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch. The top bar shall be one and one-quarter inch from the top of the envelope, and the words "ABSENTEE VOTING MATERIAL" shall be printed between the bars;
- (3) In the upper left corner of the face of the envelope shall be printed the return address of the person in charge of the election; and
- (4) In the lower left corner of the face of the envelope shall be printed the words, "This Envelope Contains the Official Ballots, Instructions, Return Envelope".

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-19-3.

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

All ballots mailed or delivered to absent voters shall include instructions that read as follows:

TO THE VOTER:

- (1) Mark your ballots privately. Fold each separately.
- (2) Place your ballots in the return envelope and seal it securely.
- (3) Complete the statement on the back of the return envelope and sign it.
- (4) Mail the ballot to the person in charge of the election, deliver it in person, or authorize someone to deliver it for you.
- (5) The ballot must be received by the person in charge of the election in time to transmit it to your precinct polling place on election day.

Source: 2 SDR 46, effective December 30, 1975; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 12 SDR 43, effective September 23, 1985; 19 SDR 12, effective August 5, 1992.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-19-4, 12-19-5.

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

The official return envelope for the absentee voter's ballot shall conform to the following specifications:

- (1) It is the minimum practicable size and weight;
- (2) Blanks for the return address of the voter are printed in the upper left corner of the face of the envelope;
- (3) The words, "OFFICIAL BALLOT TO BE VOTED AT _____ Precinct in _____ County, S.D., _____ Election to be held there on the _____ day

Absentee Voting

of _____, 19 _____, " are printed in the lower left corner of the face of the envelope;

(4) The words, "To be mailed or delivered personally by the voter or authorized messenger to the person in charge of the election," are printed in the upper right corner of the face of the envelope directly to the left of the postage stamp;

(5) The return envelope is addressed to the person in charge of the local election in which the home precinct of the absentee voter is situated;

(6) The return envelope has the following statement printed on its reverse:

STATEMENT OF ABSENTEE VOTER

I, _____, under penalty of impersonating a registered voter (5 years imprisonment and \$5,000 fine), state that I am a registered voter in the precinct, county, and state named on the front of this envelope, and that I have voted the enclosed ballot.

Signature of Voter

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 12 SDR 43, effective September 23, 1985; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-4.

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

The official record of absentee ballots delivered to voters shall be in card 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 or voted in office;
- (7) Name 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 _____
_____ Civilian
Voting Address _____ Military
Date of Election _____ Party designation if primary ballot _____

(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)

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.

Absentee Voting

5:02:10:07. Instructions for voting service and overseas ballots.

The instructions for voting service and overseas ballots are as found in 5:02:09:04.02 and 5:02:10:04.

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; transferred from 5:02:05:17, 12 SDR 43, effective September 23, 1985; 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-3, 12-19-7.

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

The envelopes used in connection with voting service and overseas ballots must be printed in red ink and must meet the following federal guidelines:

MAX

Height 6 1/8 inches

Length 11 1/2 inches

MIN

Height 3 1/2 inches

Length 5 1/2 inches

(Use red ink

Pantone 193U) or Darker

BALLOT TRANSMISSION ENVELOPE

(SAMPLE)

U.S. Postage Paid
39 USC 3406

PAR AVION

OFFICIAL ABSENTEE BALLOTING MATERIAL—FIRST-CLASS MAIL

NO POSTAGE NECESSARY IN THE U.S. MAI LS—DMM 137.3

TO:

MAX

Height 6 1/8 inches

Length 11 1/2 inches

MIN

Height 3 1/2 inches

Length 5 1/2 inches

(Use red ink

Pantone 193U) or Darker

BALLOT RETURN ENVELOPE

(SAMPLE)

If mailed in non U.S. Postal System — voter must pay postage.

NAME AND COMPLETE ADDRESS

U.S. Postage Paid
39 USC 3406

PAR AVION

OFFICIAL ABSENTEE BALLOTING MATERIAL—FIRST-CLASS MAIL

NO POSTAGE NECESSARY IN THE U.S. MAI LS—DMM 137.3

Absentee Voting

The following must be printed on the reverse of the return envelope to the county auditor:

I, _____, under penalty of impersonating a registered voter (five years imprisonment and \$5,000 fine), state that I am a registered voter, that my voting residence is _____, and that I have voted the enclosed ballot.

Dated this _____ day of _____, 19 ____.

Signature of Voter

Source: 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; transferred from 5:02:05:18, 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-3, 12-19-4, 12-19-5, 12-26-7.

CHAPTER 5:02:11 VOTING RIGHTS ACT

Sec.

- | | |
|-------------|----------------------------|
| 5:02:11:01. | Purpose. |
| 5:02:11:02. | Counties covered. |
| 5:02:11:03. | Language minority defined. |
| 5:02:11:04. | Exemption procedure. |
| 5:02:11:05. | Interpreter assistance. |

5:02:11:01. Purpose

The purpose of this chapter is to implement SDCL 12-3-6 to 12-3-13 and the Voting Rights Act Amendments of 1975, PL 94-73.

Source: 2 SDR 82, effective June 13, 1976.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-3-6 to 12-3-13.

5:02:11:02. Counties covered

If the proper federal authorities add any counties, these rules shall apply without amendments. If the proper federal authorities remove counties from coverage, such counties need not comply.

Source: 2 SDR 82, effective June 13, 1976.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-3-6 to 12-3-13.

5:02:11:03. Language minority defined

Language minority means persons who are American Indian, Asian American, Alaskan natives or of Spanish heritage.

Source: 2 SDR 82, effective June 13, 1976.

Voting Rights Act

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-3-6 to 12-3-13.

5:02:11:04. Exemption procedure

Pursuant to SDCL 12-3-6 to 12-3-13, inclusive, the county auditor and state's attorney of a county determined to be covered by the Voting Rights Act Amendments of 1975 may proceed as follows in order to be exempt:

(1) Certify that 1980 census figures show a precinct has less than five per cent Indian adult population;

(2) Certify that a precinct's illiteracy rate is below the national average.

These facts may be shown by actual count. The facts shall be certified to the secretary of state by affidavit of the county auditor and state's attorney.

Source: 2 SDR 82, effective June 13, 1976; 10 SDR 27, effective September 26, 1983.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-3-6 to 12-3-13.

5:02:11:05. Interpreter assistance

The county auditor shall appoint one interpreter for each precinct. This officially appointed interpreter shall subscribe to an oath which shall be in the same form as election precinct board members. Each political party or independent candidate or group proposing or opposing a measure may have interpreters present.

Source: 2 SDR 82, effective June 13, 1976.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-3-6 to 12-3-13.

CHAPTER 5:02:12 INTERPRETIVE RULES

Sec.

5:02:12:01. Poll watchers - Primary election.

5:02:12:02. Poll watchers - General election.

5:02:12:03. Additional poll watchers permitted.

5:02:12:01. Poll watchers - Primary election

At least one poll watcher for each candidate, one poll watcher for each slate of national convention delegates and alternates, and one poll watcher for each side of any ballot issue to be voted on may be present at each polling place for primary elections.

Source: 2 SDR 82, effective June 13, 1976; 6 SDR 123, effective July 2, 1980.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-18-8.1.

5:02:12:02. Poll watchers - General election

At least one poll watcher for each political party, one poll watcher for each independent candidate, one poll watcher for each slate of presidential electors, and one poll watcher for each side of any ballot issue to be voted on may be present at each polling place for general elections.

Interpretive Rules

Source: 2 SDR 82, effective June 13, 1976; 6 SDR 123, effective July 2, 1980.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-18-8.1.

5:02:12:03. Additional poll watchers permitted

Where there exists adequate space, these rules shall not preclude increasing the number of poll watchers.

Source: 2 SDR 82, effective June 13, 1976.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-18-8.1.

CHAPTER 5:02:13

RESERVED

CHAPTER 5:02:14

ABSENTEE BALLOT PRECINCTS

Sec.

- 5:02:14:01. Official stamp.
- 5:02:14:02. Ballot wrappers.
- 5:02:14:03. Pollbooks.
- 5:02:14:04. Tally sheets.
- 5:02:14:05. Ballot boxes.

5:02:14:01. Official stamp

The form of the official stamp shall read as follows:

OFFICIAL BALLOT
ABSENTEE BALLOT PRECINCT
_____ COUNTY
(Date of Election)

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-16-30.

5:02:14:02. Ballot wrappers

Ballot wrappers in the absentee ballot precinct shall read as follows:

Absentee Ballot Precinct Wrapper for _____ Precinct of
_____ County, State of South Dakota, _____
Election, _____ day of _____, 19 _____; Contains
_____ Ballots.

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-47.

Absentee Ballot Precincts

5:02:14:03. Pollbooks

Pollbooks for absentee ballot precincts may be in loose leaf form and in the general form and number as pollbooks in regular precincts except there shall be sufficient space in the pollbook for each election precinct which will be canvassed in the absentee ballot precinct.

Source: 3 SDR 69, effective April 10, 1977.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-50.

5:02:14:04. Tally sheets

The tally sheets for absentee ballot precincts shall be in the same form as tally sheets in regular precincts except there shall be provided enough space for all precincts which will be canvassed.

Source: 3 SDR 69, effective April 10, 1977.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-50.

5:02:14:05. Ballot boxes

One or more ballot boxes may be used in the absentee ballot precinct. Ballot boxes shall be constructed in the same manner as ballot boxes in regular precincts and the seals shall also be the same. After each precinct's ballots have been canvassed and the wrappers attached, all such ballots shall be sealed in the ballot boxes in the same manner as in regular precincts.

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-19-47.

CHAPTER 5:02:15

CERTIFICATES OF ELECTION, NOMINATION

Sec.

- 5:02:15:01. County candidates not on ballot.
- 5:02:15:02. County candidates on ballot.
- 5:02:15:03. State legislative candidates not on ballot.
- 5:02:15:04. State legislative candidates on ballot.
- 5:02:15:05. Statewide offices.
- 5:02:15:06. Circuit court judge.
- 5:02:15:07. Supreme Court justice.
- 5:02:15:08. Municipal candidate not on the ballot.
- 5:02:15:09. Municipal candidate on the ballot.
- 5:02:15:10. School board candidate not on the ballot.
- 5:02:15:11. School board candidate on the ballot.
- 5:02:15:12. Precinct committeeman, committeewoman, state delegate, or alternate not on the ballot.
- 5:02:15:13. Precinct committeeman, committeewoman, state delegate, or alternate on the ballot.
- 5:02:15:14. Certificate of nomination at county primary election.
- 5:02:15:15. Certificate of nomination at county primary election without opposition.
- 5:02:15:16. Certificate of nomination for legislative candidate with no primary opposition.

Certificates of Election, Nomination

5:02:15:01. County candidates not on ballot

The certificate of election for county candidates not appearing on the general election ballot shall be in the following form:

UNITED STATES OF AMERICA
STATE OF SOUTH DAKOTA
COUNTY OF _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY THAT

_____ was duly nominated and having no opposition at the General Election is hereby declared elected to the office of _____ for _____ County for the term of _____ years, beginning _____.

IN WITNESS WHEREOF I have hereunto set my hand and seal this ____ day of _____, 19 ____.

SEAL

COUNTY AUDITOR

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-1.1.

5:02:15:02. County candidates on ballot

The certificate of election for county candidates appearing on the general election ballot shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY that on the ____ day of November, 19 ____, at a general election,

_____ was elected by the qualified voters of _____ County of the State of South Dakota to the office of _____ for the term of _____ years, beginning _____.

IN WITNESS WHEREOF I have hereunto set my hand and seal this ____ day of November, 19 ____.

SEAL

COUNTY AUDITOR

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 19 SDR 12, effective August 5, 1992.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-20-40.

5:02:15:03. State legislative candidates not on ballot Repealed.

5:02:15:04. State legislative candidates on ballot

The certificate of election for state legislative candidates appearing on the general election ballot shall be in the following form:

UNITED STATES OF AMERICA STATE OF SOUTH DAKOTA CERTIFICATE OF ELECTION

Certificates of Election, Nomination

THIS IS TO CERTIFY that on the _____ day of November, 19 _____, at a general election held throughout the State,

_____ was duly elected by the qualified voters of the _____ Legislative District of the State of South Dakota to the office of State Senator (Representative) for the term of two years, beginning the _____ day of January, 19 _____.

IN WITNESS WHEREOF, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this _____ day of _____, 19_____.

Governor
Attested by:

(SEAL)

Secretary of State

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-20-49.

5:02:15:05. Statewide offices

The certificate of election for statewide offices shall be in the following form:

THIS IS TO CERTIFY that on the _____ day of November, 19 _____, at a general election,

_____ was elected by the qualified voters of the State of South Dakota to the office of _____ for the term of _____ years, beginning on the _____ day of January, 19 _____.

IN WITNESS we have signed this certificate and affixed the Seal of the State at Pierre, the capital, this _____ day of _____, 19 _____.

Governor
Attested by:

Secretary of State

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-20-49.

5:02:15:06. Circuit court judge

The certificate of election for circuit court judge shall be in the following form:

THIS IS TO CERTIFY that on the _____ day of November, 19 _____, at a general election held throughout the State,

_____ was duly elected by the qualified voters of the _____ Judicial Circuit of the State of South Dakota to the office of Circuit Court Judge for the term of eight years, beginning on the _____ day of January, 19 _____.

IN WITNESS WHEREOF, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this _____ day of _____, 19 _____.

Certificates of Election, Nomination

(SEAL)

Governor
Attested by:

Secretary of State

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-20-49.

5:02:15:07. Supreme Court justice

The certificate of retention for Supreme Court justice shall be in the following form:

THIS IS TO CERTIFY that on the ____ day of November, 19 ____, at a general election,

was retained by the qualified voters of the State of South Dakota in the office of Supreme Court Justice for the term of eight years beginning on the ____ day of January, 19 ____.

IN WITNESS WHEREOF, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this ____ day of _____, 19____.

Governor
Attested by:

Secretary of State

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-20-49.

5:02:15:08. Municipal candidate not on the ballot

The certificate of election for a municipal candidate not on the ballot shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
MUNICIPALITY OF _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY THAT

was duly nominated and having no opposition at the Municipal Election is hereby declared elected to the office of _____ for a term of ____ years, beginning _____.

Dated at _____, South Dakota, this ____ day of _____, 19____.

(Clerk, Auditor or Finance Officer)

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 9-13-5.

Certificates of Election, Nomination

5:02:15:09. Municipal candidate on the ballot

The certificate of election for a municipal candidate on the ballot shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
MUNICIPALITY OF _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY that on the _____ day of _____, 19____, at the municipal election held throughout the city of _____

was duly elected by the qualified voters of the city of _____ to the office of _____ for a term of _____ year(s) beginning _____.
Dated at _____, South Dakota, this _____ day of _____, 19____.

(Clerk, Auditor or Finance Officer)

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 9-13-28.

5:02:15:10. School board candidate not on the ballot

The certificate of election for a school board candidate not on the ballot shall be in the following form:

STATE OF SOUTH DAKOTA
_____ SCHOOL DISTRICT NO. _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY THAT

was duly nominated and having no opposition at the School Board Election is hereby declared elected to the School Board of _____ School District No. _____ for a term of _____ year(s), beginning _____.
Dated at _____, South Dakota, this _____ day of _____, 19____.

Business Manager

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-7-9.

5:02:15:11. School board candidate on the ballot

The certificate of election for a school board candidate on the ballot shall be as follows:

STATE OF SOUTH DAKOTA
_____ SCHOOL DISTRICT NO. _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY that on the _____ day of _____, 19____, at the school district election held throughout the _____ School District No. _____

was duly elected by the qualified voters of the district to the School Board for a term of _____ year(s) beginning _____.

Certificates of Election, Nomination

Dated at _____, South Dakota, this _____ day of _____, 19__.

Business Manager

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 13-7-18.

5:02:15:12. Precinct committeeman, committeewoman, state delegate, or alternate not on the ballot

The certificate of election for a precinct committeeman, committeewoman, state delegate, or alternate not on the ballot shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY THAT

_____ having no opposition at the primary election is hereby declared elected by the _____ political party to the office of _____.
IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the County of _____ to be affixed at _____, the county seat, on behalf of the _____ County canvassing board, this _____ day of _____, 19__.

SEAL

County Auditor

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-5-2, 12-6-9.

5:02:15:13. Precinct committeeman, committeewoman, state delegate, or alternate on the ballot

The certificate of election for a precinct committeeman, committeewoman, state delegate, or alternate on the ballot shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
CERTIFICATE OF ELECTION

THIS IS TO CERTIFY that on the _____ day of June, 19 ____, at the primary election held throughout the county

_____ was duly elected by the _____ political party to the office of _____.
IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the County of _____ to be affixed at _____, the county seat, on behalf of the _____ County canvassing board, this _____ day of _____, 19__.

SEAL

County Auditor

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.

Certificates of Election, Nomination

Law Implemented: SDCL 12-8-1.

5:02:15:14. Certificate of nomination at county primary election

The certificate of nomination at the county primary election shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
CERTIFICATE OF NOMINATION

THIS IS TO CERTIFY that on the ____ day of June, 19 ____, at a primary election held throughout the county,

_____ was duly chosen by the qualified voters as the nominee of the _____ party for the office of _____.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the County of _____ to be affixed at _____, the county seat, on behalf of the _____ County canvassing board, this ____ day of _____, 19 ____.

SEAL _____ County Auditor

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-8-1.

5:02:15:15. Certificate of nomination at county primary election without opposition

The certificate of nomination at the county primary election for a candidate without opposition shall be in the following form:

STATE OF SOUTH DAKOTA
COUNTY OF _____
CERTIFICATE OF NOMINATION

THIS IS TO CERTIFY THAT

_____ having no opposition at the primary election is hereby nominated by the _____ Party for the office of _____.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of _____, 19 ____.

(SEAL) _____ County Auditor

Source: 8 SDR 24, effective September 16, 1981.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-6-9.

5:02:15:16. Certificate of nomination for legislative candidate with no primary opposition

The certificate of nomination for a legislative candidate with no primary opposition shall be in the following form:

UNITED STATES OF AMERICA STATE OF SOUTH DAKOTA CERTIFICATE OF NOMINATION

THIS IS TO CERTIFY THAT

Certificates of Election, Nomination

having no opposition at the primary election is hereby nominated by the _____ Party to the office of _____.

IN WITNESS WHEREOF, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this ____ day of _____, 19__.

Governor

Attested by:

Secretary of State

Source: 11 SDR 120, effective March 11, 1985.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-20-49.

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. Scrutiny of ballots by judges.
- 5:02:16:14. Scrutiny of ballots by counting board.
- 5:02:16:15. Tally of ballots.
- 5:02:16:16. Duty of judges.
- 5:02:16:17. Identifying marks.
- 5:02:16:18. Marks to be construed as crosses or check marks.
- 5:02:16:19. Crossing out names.
- 5:02:16:20. Failure to touch box.
- 5:02:16:21. Voter's intent to be determined.
- 5:02:16:22. Abrogating of prior court decisions.
- 5:02:16:22.01. Use of prior court decision.
- 5:02:16:23. Automated tabulating system ballot markings.
- 5:02:16:24. Crossing party lines.
- 5:02:16:25. Unofficial returns of precinct vote.
- 5:02:16:26. Entry of precinct vote on unofficial return list.
- 5:02:16:27. Official return sheets for voting machine precincts.
- 5:02:16:28. Voting machine precinct printing and photographing of returns.
- 5:02:16:29. Official returns for voting machine precincts.
- 5:02:16:30. Official count of voting machine precincts.
- 5:02:16:31. Signing of certificates.
- 5:02:16:32. Deposit of counted ballots.

Counting and Canvassing of Ballots

- 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. Pollbook envelope seal.
- 5:02:16:41.01. Return of duplicate tally sheet.
- 5:02:16:42. Return of election material.
- 5:02:16:43. Purpose of this chapter.

5:02:16:00. Definitions.

Terms used in this chapter have the following meanings:

- (1) "Voted ballot," a ballot placed in the ballot box at any time;
- (2) "Unvoted ballot," a ballot never placed in the ballot box;
- (3) "Unused ballot," a ballot never stamped or marked by a voter;
- (4) "Spoiled ballot," a ballot marked by a voter but never placed in the ballot box at any time. A voted ballot not counted by the board is not a spoiled ballot;
- (5) "Counted ballot," a voted ballot counted by the judges of election or the counting board in at least one race;
- (6) "Rejected ballot," or "ballot voted but not counted," a voted ballot which was not counted for any reason, including an unstamped ballot or an excess ballot;
- (7) "Duplicate ballots," two or more identical ballots stuck together given to one voter;
- (8) "Metal seal," a device to seal ballot boxes, such as a metal closure designed to be broken or a padlock.

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, 12-20-52.

Law Implemented: SDCL 12-20-1, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:16:01. Delivery of supplies to counting board -- Signing of certificate.

If a counting board has been appointed, the judges of election shall immediately upon the close of the polls deliver the ballot boxes, registration books, pollbook, and other election supplies, including voided and unused ballots, to the counting board and sign the certificate required by 5:02:05:01.

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, 12-20-52.

Law Implemented: SDCL 12-20-1, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:16:02. Signing of oaths.

The counting board, before assuming its duties, shall execute the oath of office printed in the pollbook.

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, 12-20-52.

Counting and Canvassing of Ballots

Law Implemented: SDCL 12-20-1, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:16:03. Public vote count.

In the presence of all persons desiring to attend the vote counting, the judges and clerks of election or the counting board shall immediately proceed to publicly count the votes received at the polls and shall continue without adjournment until the count is completed. The judges and clerks of the election board or counting board may not exclude or prohibit any member of the public from witnessing any portion of the vote counting, so long as that person's conduct is not disruptive.

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, 12-20-52.

Law Implemented: SDCL 12-20-1, 12-15-14, 12-15-14.1, 12-15-14.2, 12-26-22.

5:02:16:04. Use of tally sheets.

The judges and clerks of election or the counting board shall use the tally sheets prescribed by 5:02:17:07 in the vote counting.

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, 12-20-52.

Law Implemented: SDCL 12-20-1, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:16:05. Comparison of registration list and pollbook.

The counting board shall begin the vote count by counting the ballots as prescribed in 5:02:16:06 to 5:02:16:08, inclusive. If the ballot count does not agree with the number of voters in the pollbook, a comparison of the voters in the pollbook and the registration list shall be made and any mistakes corrected. If a mistake is made otherwise, the board by majority vote shall decide.

Source: 4 SDR 26, effective October 27, 1977; 20 SDR 4, effective July 19, 1993

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

Law Implemented: SDCL 12-20-2.

5:02:16:06. Opening ballot box

The ballot box shall then be opened and the ballots therein taken out, sorted so that all ballots on certain candidacies and issues are separately identified, and counted by the judges unopened, except so far as to ascertain if each ballot is single.

Source: 4 SDR 26, effective October 27, 1977.

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

Law Implemented: SDCL 12-20-2.

5:02:16:07. Folded ballots separated.

If two or more ballots are found folded together so as to present the appearance of a single ballot, they shall be laid aside until the count of the ballots is completed. If, upon the comparison of the count of the pollbook or, in machine precincts, with the number of return envelopes from absentee voters and after considering the appearance of the ballots, a majority of the judges is of the opinion that the folded ballots were voted by one voter, the ballots shall be stapled together and endorsed as "duplicate ballot of one voter not counted."

Counting and Canvassing of Ballots

Source: 4 SDR 26, effective October 27, 1977; 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-2.

5:02:16:08. Duplicate ballots.

For the purpose of determining the proper number of ballots in the box, any ballots folded together determined to be duplicate ballots of one voter shall be counted as a single ballot. There are two types of duplicate ballots as follows:

- (1) If a voter was given two or more identical ballots stuck together and voted only one of them, the voted ballot shall be counted. The election or counting board will find the duplicate ballots folded together in the ballot box with the ballot stamp on the back copy and the votes marked on the top copy; and
- (2) If a voter was given two or more identical ballots stuck together and voted more than one of them, none of the voted ballots may be counted.

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, 12-20-52.
Law Implemented: SDCL 12-20-2.

5:02:16:09. Drawing of excess ballots

If the number of ballots in the ballot box shall be found to exceed in number the number of voters in the pollbook, as reconciled by 5:02:16:05 and 5:02:16:08, the ballots shall be replaced in the box, after any ballots folded together are stapled and endorsed, and one of the judges shall publicly draw from the ballot box, as many ballots, unopened, as shall be equal to the excess.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-3.

5:02:16:09.01. Endorsing of excess ballots

Any excess ballots drawn from the ballot box pursuant to 5:02:16:09 shall be endorsed "Excess Ballots Not Counted."

Source: 4 SDR 26, effective October 27, 1977.
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-3.

5:02:16:10. Unstamped ballots.

In the counting of the official vote, any ballot not covered by 5:02:16:07, 5:02:16:08, or 5:02:16:09.01, which is not endorsed by the official stamp is void and may not be counted. All such ballots shall be endorsed "unstamped ballot."

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, 12-20-52.
Law Implemented: SDCL 12-20-6.

Counting and Canvassing of Ballots

5:02:16:11. Separation of ballots.

The counting board or judges of election shall next proceed to further separate the ballots.

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, 12-20-52.
Law Implemented: SDCL 12-20-5.

5:02:16:12. Order of vote counting.

The counting of votes for each candidate shall be in the same order as the candidates appear on the ballot.

Source: 4 SDR 26, effective October 27, 1977; 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-5.

5:02:16:13. Scrutiny of ballots by judges.

If no special counting board is appointed, three judges shall, following the separation of ballots and further separation of straight party ballots, personally scrutinize each ballot as to the vote on that ballot.

Source: 4 SDR 26, effective October 27, 1977; 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-5.

5:02:16:14. Scrutiny of ballots by counting board.

If a special counting board is appointed, at least two judges of the counting board of opposite political parties shall scrutinize each ballot as to the vote on that ballot. The superintendent shall break any tie on a ballot.

Source: 4 SDR 26, effective October 27, 1977; 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-5, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:16:15. Tally of ballots.

As the vote is announced, one clerk shall make the required mark on the tally sheet in the pollbook and the other clerk shall make the required mark on the duplicate tally sheet.

Source: 4 SDR 26, effective October 27, 1977; 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-5.

5:02:16:16. Duty of judges

It shall be the duty of the judges to use their best efforts to determine the voter's intent in marking the ballot. This section shall be construed liberally by the judges to assure that each person's vote is counted.

Source: 4 SDR 26, effective October 27, 1977.
General Authority: SDCL 12-1-9, 12-20-52.

Counting and Canvassing of Ballots

Law Implemented: SDCL 12-20-8.

5:02:16:17. Identifying marks

No mark shall be construed as an identifying mark if in the opinion of the judges it could have appeared on the ballot in the normal course of voting through inadvertence or inability to make a precise cross or check mark on the ballot.

Any other mark which appears to have been deliberately placed on the ballot by the voter and which would easily identify the ballot is an identifying mark, and any ballot which in the opinion of the judges contains such a mark shall not be counted.

Source: 4 SDR 26, effective October 27, 1977; 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.

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

Law Implemented: SDCL 12-18-22, 12-20-7.

Court Decision: The fact that this section, which provides that erasures are not identifying marks, is in contrast to holding in *Jewett vs Miller*, 78 S.D. 632, 106 N.W. 2d 611 (Dec. 22, 1960) does not infringe on Supreme Court's constitutional function of defining and interpreting law. *Thorsness v. Daschle* 285 N.W. 2d 590 (Nov. 27, 1979).

5:02:16:18. Marks to be construed as crosses or check marks Repealed.

5:02:16:19. Crossing out names Repealed.

5:02:16:20. Failure to touch box Repealed.

5:02:16:21. Voter's intent to be determined

If in accordance with this chapter it is impossible to determine the voter's intent on any ballot or part of a ballot, that portion of the ballot shall be void and shall not be counted as to those races for which the voter's intent cannot be determined.

Source: 4 SDR 26, effective October 27, 1977.

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

Law Implemented: SDCL 12-20-7.

5:02:16:22. Abrogating of prior court decisions Repealed.

5:02:16:22.01. Use of prior court decision.

In using a court decision for construing a counting requirement, the election board or counting board shall determine which laws were in effect when the court decision was rendered and determine if these decisions are still applicable to present laws and rules.

Source: 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-20-52.

5:02:16:23. Automated tabulating system ballot markings.

A computer card, used in electronic voting, which contains extra holes, tears, or stains shall be counted and shall not be construed as a ballot having an identifying mark.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 20

Counting and Canvassing of Ballots

SDR 4, effective July 19, 1993

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

Law Implemented: SDCL 12-17A-44, 12-20-7.

5:02:16:24. Crossing party lines

If a voter has marked a straight party ticket and crossed over to another party column in certain races, the ballot shall be tallied as a mixed party vote. A ballot marked as follows would be counted as a vote for the republican candidate for United States senator, the democratic candidate for representative in Congress, the independent candidate for state senator, and Sally Johnson and Dorothy Jones for state representative.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	
REPUBLICAN PARTY	DEMOCRATIC PARTY	INDEPENDENT
For UNITED STATES SENATOR, you may vote for one		
<input type="checkbox"/> John Doe, Yankton	<input type="checkbox"/> John Doe, Yankton	
For UNITED STATES REPRESENTATIVE, you may vote for one		
<input type="checkbox"/> Jane Doe, Yankton	<input checked="" type="checkbox"/> Jane Doe, Yankton	
For STATE SENATOR, you may vote for one		
<input type="checkbox"/> John Doe	<input type="checkbox"/> John Doe	<input checked="" type="checkbox"/> John Doe, affiliated with the Whig Party
For STATE REPRESENTATIVE, you may vote for any two		
NOTE: If you're voting a party ticket and you cross over in this portion of the ballot, you must mark the names of all candidates for state representative for whom you wish to vote.		
<input checked="" type="checkbox"/> Sally Johnson	<input type="checkbox"/> Sue Brown	<input type="checkbox"/> John Doe, affiliated with the Wham Party
<input type="checkbox"/> Mary Smith	<input checked="" type="checkbox"/> Dorothy Jones	

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; 11 SDR 120, effective March 11, 1985.

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

Law Implemented: SDCL 12-18-20, 12-20-8.

5:02:16:25. Unofficial returns of precinct vote.

The election supplies provided to the counting board shall include a form for reporting the immediate unofficial returns of precinct vote, together with an envelope.

The form for reporting the immediate unofficial returns of precinct vote is as follows:

IMMEDIATE UNOFFICIAL RETURNS, _____ PARTY

Counting and Canvassing of Ballots

ELECTION HELD ON THE _____ DAY OF _____, 19____, _____ PRECINCT

TITLE OF OFFICE	NAME OF CANDIDATE	NUMBER OF VOTES
_____	_____	_____
_____	_____	_____
_____	_____	_____

The form of the envelope is as follows:

UNOFFICIAL RETURNS
TO: COUNTY AUDITOR

SOUTH DAKOTA

IMMEDIATE
DO NOT PUT THIS IN BALLOT 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, 12-20-52.
Law Implemented: SDCL 12-20-10.

5:02:16:26. Entry of precinct vote on unofficial return list

Upon the unofficial return as set forth in 5:02:16:25, the judges of election shall enter the vote cast in that precinct for each office or question which appears on the official ballot and shall enclose the unofficial returns in the envelope provided pursuant to 5:02:16:25. The superintendent of election may designate a judge of the election to deliver the unofficial election returns to the officer in charge of the election. The judge of election designated shall deliver to the officer in charge of the election the unofficial returns, separate from any other envelope or wrapper.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-11.

5:02:16:27. Official return sheets for voting machine precincts.

The official return sheets for the voting machine precincts shall contain the same information as provided in the official vote count contained in the pollbook. The official return sheet shall provide the count for each machine separately.

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, 12-20-52.
Law Implemented: SDCL 12-20-16.

5:02:16:28. Voting machine precinct printing and photographing of returns

If the voting machine is equipped with a device for printing or photographing returns, the election board shall obtain a printed or photographed record of the votes cast on the candidate and question counter.

Source: 4 SDR 26, effective October 27, 1977.
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-16.

Counting and Canvassing of Ballots

5:02:16:29. Official returns for voting machine precincts

The official returns sheets as provided in 5:02:16:28, together with any tally sheets or absentee ballots cast in a voting machine precinct, shall be considered to be the official returns for that precinct.

Source: 4 SDR 26, effective October 27, 1977.
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-16.

5:02:16:30. Official count of voting machine precincts.

In addition to filling out the official return sheets, the clerks shall tabulate in the pollbook and the duplicate tally sheet the official vote count on the form provided in the pollbook for all voting machine precincts.

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, 12-20-52.
Law Implemented: SDCL 12-20-18.

5:02:16:31. Signing of certificates.

The election judges, judges of the counting board, and clerks shall complete and sign the certificates following the list of voters in the pollbook, the tally sheets, and the official vote count sheets.

Source: 4 SDR 26, effective October 27, 1977; 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-28.

5:02:16:32. Deposit of counted ballots Repealed.

5:02:16:33. Procedure for placing voted ballots in the ballot box.

After the count has been completed, the election board or counting board shall place the voted ballots in the ballot box, keeping them separated in wrappers or envelopes and sealed as provided 5:02:16:34.

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, 12-20-52.
Law Implemented: SDCL 12-20-20, 12-15-14, 12-15-14.1, 12-15-14.2.

5:02:16:34. Return of unvoted ballots

All spoiled and unused ballots shall be returned to the person in charge of the election in plain wrappers or envelopes with the words "spoiled ballots" or "unused ballots" added to each wrapper or envelope. Each wrapper or envelope shall be sealed by a ballot seal containing the following information:

BALLOT WRAPPER OR ENVELOPE SEAL _____ PRECINCT _____
NUMBER OF BALLOTS _____

DO NOT PLACE THESE SPOILED AND UNUSED BALLOTS IN THE BALLOT BOX

Counting and Canvassing of Ballots

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983.

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

Law Implemented: SDCL 12-17A-42.1, 12-18-24, 12-18-32, 12-20-20.

5:02:16:34.01. Return of duplicate ballots of one voter not counted

Each type of duplicate ballots, as identified in 5:02:16:08, shall be returned to the ballot box in a plain wrapper or envelope and sealed as provided in 5:02:16:34. Those ballots which are described in subdivision (1) of 5:02:16:08 shall have the following words added to the wrapper or envelope: "stapled duplicate ballots counted." Those which are described in subdivision (2) shall have the following words added to the wrapper or envelope: "stapled duplicate ballots not counted."

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.

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

Law Implemented: SDCL 12-20-2, 12-20-20.

5:02:16:35. Ballots voted but not counted

Except as provided by 5:02:16:34.01, all ballots voted but not counted shall be returned to the ballot box in a plain wrapper or envelope and sealed as provided in 5:02:16:34 with the words "ballots voted but not counted" added to the wrapper or envelope.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.

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

Law Implemented: SDCL 12-20-20.

5:02:16:36. Recapitulation sheet

A recapitulation sheet in the following form shall be filled out indicating the disposition of the ballots:

Ballots received from auditor	_____	
Ballots received after polls open	_____	
Absentee ballots received	_____	
Total ballots received		_____
Voted ballots	_____	
Unused ballots	_____	
Spoiled ballots	_____	
Total ballots returned		_____

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, 12-20-52.

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

5:02:16:37. Sealing of ballot box

Following the deposit of all voted ballots except those in 5:02:16:34, the judges shall seal the ballot box with a metal seal where box and clasp connect.

Counting and Canvassing of Ballots

5:02:16:41. Pollbook envelope seal

The pollbook envelope seal shall be in the following form:

POLLBOOK ENVELOPE SEAL _____ PRECINCT

Source: 4 SDR 26, effective October 27, 1977; 5 SDR 31, effective November 1, 1978.
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-21.

5:02:16:41.01 Return of duplicate tally sheet

The duplicate tally sheet and official vote count shall be placed in a duplicate tally sheet envelope. The sealed envelope and its contents shall not be placed in the ballot box and shall be returned to the person in charge of the election.

The duplicate tally sheet envelope must be in the following form:

DUPLICATE TALLY SHEET AND OFFICIAL VOTE COUNT

PRECINCT
TO: COUNTY AUDITOR

SOUTH DAKOTA

DO NOT PUT THIS IN BALLOT BOX

Source: 20 SDR 4, effective July 19, 1993
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 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, registration lists, and envelopes containing the unofficial returns and all supplies and returns required shall be returned by the superintendent or a judge designated by him 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 pollbooks 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
General Authority: SDCL 12-1-9, 12-20-52.
Law Implemented: SDCL 12-20-21.

5:02:16:43. Purpose of this chapter.

This chapter is designed to assist in the counting of ballots and is not to be construed to encourage voters to mark their ballots in any way other than (X) or («) in the 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.
Law Implemented: SDCL 12-20-52.

CHAPTER 5:02:17
POLLBOOKS AND TALLY SHEETS

- Sec.
5:02:17:01. Size of pollbook.
5:02:17:02. Cover of pollbook.
5:02:17:03. Contents of cover.
5:02:17:03.01. Envelope for the pollbook.
5:02:17:04. Oath of clerk and judges of election.
5:02:17:05. Oath of counting board.
5:02:17:06. List of voters.
5:02:17:07. Tally sheets.
5:02:17:08. Official vote count.
5:02:17:09. Certification by judges and clerks of election.
5:02:17:10. Certification by counting board.
5:02:17:11. Official canvass sheet - Municipalities, school districts, and other local jurisdictions.
5:02:17:12. Duties of official board of canvassers for local jurisdiction.

5:02:17:01. Size of pollbook

The pollbook shall be 8 1/2 inches wide by 14 inches long in size.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-28.

5:02:17:02. Cover of pollbook

The cover of the pollbook shall be at least 125 pound manila tag paper.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-28.

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

The cover of the pollbook must be in the following form:

DO NOT PUT IN BALLOT BOX

ELECTION
POLLBOOK AND OFFICIAL VOTE COUNT WITH TALLY SHEETS

WARD _____ PRECINCT
CITY
TOWN _____, _____ COUNTY, SOUTH DAKOTA
TOWNSHIP
ELECTION HELD ON THE _____ DAY OF _____, 19____.

Pollbooks and Tally Sheets

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.
Law Implemented: SDCL 12-15-9, 12-16-28.

5:02:17:06. List of voters

The list of voters shall consist of three columns.

- (1) Column one shall be NUMBER OF PERSONS VOTING;
- (2) Column two shall be NAME OF VOTER; and
- (3) Column three shall be PARTY FOR PRIMARY (small column).

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-28.

5:02:17:07. Tally sheets

The tally sheets shall be ruled by horizontal and perpendicular lines to form squares of suitable size to contain five tally marks each, four of which may be upright and the fifth crossing the others at an oblique angle. Every fifth perpendicular line in the ruling shall be red, so that five squares for tally marks shall be contained between each two red lines. In a perpendicular column at the left margin of each tally sheet there shall be left sufficient space so that there may be legibly printed or written in ink the names of all candidates and all questions submitted to the electors at the election, in the same order that they were upon the official ballots used in the election. At the extreme right margin of the tally sheet there shall be three perpendicular columns with sufficient space to label each column at the top of the tally sheet, beginning at the extreme right margin and proceeding toward the left margin as follows: "Total All Votes", "Total Straight Party Votes", and "Total Mixed Votes Tallied (For General Election Only)."

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-16-28, 12-16-34, 12-16-39.

5:02:17:08. Official vote count.

The official vote count shall consist of the following four columns:

- (1) Column one, TITLE OF OFFICE;
- (2) Column two, NAME OF CANDIDATE;
- (3) Column three, NUMBER OF VOTES RECEIVED IN FIGURES; and
- (4) Column four, NUMBER OF VOTES RECEIVED (write number of votes in words).

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.
Law Implemented: SDCL 12-16-28.

5:02:17:09. Certification by judges and clerks of election.

The judges and clerks of election shall sign the following certification which is located in the pollbook following the list of voters:

We hereby certify that the above list is a true and correct list of the

Pollbooks and Tally Sheets

individuals voting at the election.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
 General Authority: SDCL 12-1-9.
 Law Implemented: SDCL 12-16-28, 12-20-28.

5:02:17:10. Certification by counting board.

The counting board shall sign the following certification which is located in the pollbook following the tally sheet and official vote count the pollbook and the duplicate tally sheet/official vote count:

We hereby certify that the tally sheet and official vote count contained herein are correct.

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.
 Law Implemented: SDCL 12-16-28, 12-20-28.

5:02:17:11. Official canvass sheet - Municipalities, school districts, and other local jurisdictions

The official canvass sheet used by the governing body of a municipality, school district, or other local jurisdiction to canvass an election shall be in the following form:

OFFICIAL CANVASS SHEET

Date of Election: _____
 Type of Election: _____
 Jurisdiction: _____

OFFICE OR QUESTION							
Names of Candidates or "Yes" and "No"							
Precincts							
Precinct 1							
Precinct 2							
Precinct 3							
Precinct 4							
Precinct 5							
Precinct 6							
Totals							

Circuit Court Elections

SECOND CIRCUIT

Position A Glen A. Severson
Position B William J. Srstka, Jr.
Position C Judith Meierhenry
Position D Gene Paul Kean
Position E Richard D. Hurd

SIXTH CIRCUIT

Position A Max A. Gors
Position B Steven L. Zinter
Position C Patrick J. McKeever
Position D James W. Anderson
Position E Donald L. Heck

THIRD CIRCUIT

Position A Robert L. Timm
Position B Rodney Steele
Position C Jon Erickson
Position D Eugene Martin
Position E Dale Bradshaw

SEVENTH CIRCUIT

Position A John Fitzgerald
Position B Merton B. Tice, Jr.
Position C John Konenkamp
Position D Jeff Davis
Position E Roland Grosshans

FOURTH CIRCUIT

Position A Ronald K. Miller
Position B Lee D. Anderson
Position C Boyd L. McMurchie
Position D Tim D. Tucker

EIGHTH CIRCUIT

Position A Scott Moses
Position B Robert L. Tschetter
Position C Warren G. Johnson
Position D Timothy Johns

The position that is assigned to an individual judge is assigned also to his successor in office. In case of transfer of a judicial position from one circuit to another, the abolition of a judicial position, or rearrangement of the circuit, the secretary of state shall renumber positions and reassign judges to their position on the ballot until the state board of elections amends the rules to provide for the changes.

A candidate for circuit court shall designate as set forth in this section the specific position for which the candidate is running.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983; 11 SDR 120, effective March 11, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990; 19 SDR 12, effective August 5, 1992; 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-9-3.1

CHAPTER 5:02:19

RECOUNTS

Sec.

- 5:02:19:01. Reconvening of a recount.
- 5:02:19:02. Staff for recount board.
- 5:02:19:03. Precautions to insure against tampering.
- 5:02:19:04. Counting rules to apply.
- 5:02:19:05. Candidate's petition for recount.
- 5:02:19:06. Precinct voters' petition for recount.
- 5:02:19:07. Voters' petition for recount on questions submitted to the entire state.
- 5:02:19:08. Certificate of recount.
- 5:02:19:09. Certificate of disputed ballots.

5:02:19:01. Reconvening of a recount

The recount board may recess from time to time, however, the recount shall not

Recounts

reconvene nor shall the ballots be handled until the appointed time for reconvening. Notice of time and place of meeting shall be given to all three members of the recount board.

Source: 5 SDR 31, effective November 1, 1978.
General Authority: SDCL 12-1-9, 12-21-6.1.
Law Implemented: SDCL 12-21-21, 12-21-25.

5:02:19:02. Staff for recount board

The county auditor shall be responsible for providing administrative support and staff for the recount board.

Source: 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979.
General Authority: SDCL 12-1-9, 12-21-6.1.
Law Implemented: SDCL 12-21-25.

5:02:19:03. Precautions to insure against tampering

The county auditor shall take precautions to insure against tampering with the ballots.

Source: 5 SDR 31, effective November 1, 1978.
General Authority: SDCL 12-1-9, 12-21-6.1.
Law Implemented: SDCL 12-21-24, 12-21-27, 12-21-28, 12-21-29, 12-21-30, 12-21-31, 12-21-33.

5:02:19:04. Counting rules to apply

The following specific rules regarding the counting of ballots also apply to recounts: 5:02:16:00, 5:02:16:10, 5:02:16:16, 5:02:16:17, 5:02:16:21, 5:02:16:22.01, 5:02:16:23, 5:02:16:24, and 5:02:16:43.

Source: 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 19 SDR 12, effective August 5, 1992.
General Authority: SDCL 12-1-9, 12-21-6.1.
Law Implemented: SDCL 12-21-1.

5:02:19:05. Candidate's petition for recount

Legislative and local candidates shall file the petition for recount with the applicable county auditors. All other candidates shall file the petition with the secretary of state. A candidate's petition for recount shall be in the following form:

CANDIDATE'S PETITION FOR RECOUNT

I, _____, candidate for the office of _____, believe that a recount will change the result of the election held on the ____ day of _____, 19 ____, and I petition for a recount of all votes cast for this office in every precinct which has not previously been recounted.

(Signed) _____

STATE OF SOUTH DAKOTA)

) ss.

VERIFICATION

COUNTY OF _____)

I, _____, under oath, state that I read and signed the foregoing petition and know its contents and that, to the best of my knowledge and belief, the statement is true.

(Signed) _____

Sworn to before me this ____ day of _____, 19 ____.

Recounts

(Seal)

My Commission Expires _____

Officer Administering Oath

Title of Officer Administering Oath

Source: 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-21-10, 12-21-11, 12-21-12.

5:02:19:06. Precinct voters' petition for recount

The precinct voters' petition for recount shall be filed with the person in charge of the election and shall be in the following form:

PRECINCT VOTERS' PETITION FOR RECOUNT

WE, THE UNDERSIGNED qualified voters of the _____ precinct in the County of _____, believe that the official returns from that precinct are erroneous for the following specified candidate or question, _____, and we petition for a recount of all votes cast in that precinct for the office or question for the election held on the _____ day of _____, 19 ____.

(Signed) _____
(Signed) _____
(Signed) _____

STATE OF SOUTH DAKOTA)

) ss.

VERIFICATION

COUNTY OF _____)

We, under oath, state that we read and signed the foregoing petition and know its contents and that, to the best of our knowledge and belief, the statement is true.

(Signed) _____
(Signed) _____
(Signed) _____

Sworn to before me this _____ day of _____, 19 ____.

(Seal)

Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

Source: 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-21-8.

5:02:19:07. Voters' petition for recount on questions submitted to the entire state

The voters' petition for recount on questions submitted to the entire state shall be filed with the secretary of state after being signed by not less than one thousand voters from at least five different counties and shall be in the following form:

VOTERS' PETITION FOR RECOUNT

ON QUESTIONS SUBMITTED TO THE ENTIRE STATE

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, believe that a recount will change the result of the General Election held on the _____ day of November, 19 _____, for the following question:

Recounts

and we petition for a recount of all votes cast for or against this question in every precinct which has not previously been recounted.

The balance of the petition form is as prescribed in 5:02:08:00.03.

Source: 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-21-14.

5:02:19:08. Certificate of recount

The certificate of recount shall be in the following form:

STATE OF SOUTH DAKOTA)
) ss. CERTIFICATE OF RECOUNT
 COUNTY OF _____)
 WE, THE UNDERSIGNED members of the _____ County recount board, do hereby certify the results of the recount for the following specified candidates or question _____ for the election held on the ____ day of _____, 19 ____ . We completed the recount on the ____ day of _____, 19 ____ .

PRECINCT NAME	CANDIDATE NAME OR YES VOTES		CANDIDATE NAME OR NO VOTES	
	OFFICIAL CANVASS	RECOUNT	OFFICIAL CANVASS	RECOUNT
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTALS	_____	_____	_____	_____

The following is a brief description of the proceedings of this recount board:

The following is a list of candidates or representatives present during this recount:

Signed by at least two members of the recount board:

 Referee of Recount Board

 Recount Board Member

 Recount Board Member

Attested under SEAL by the _____ County Auditor:

This certificate has been made in duplicate and either the original or duplicate will be filed with the county auditor and the other sent to the secretary of state by registered or certified mail or delivered by hand when the recount involves candidates or a question canvassed by the State Board of Canvassers.

Source: 6 SDR 25, effective September 24, 1979.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-21-32.

5:02:19:09. Certificate of disputed ballots

Revocation of Voter Registrar Authorization

Any person who alleges that a person authorized to register voters pursuant to SDCL 12-4-2.3 has violated any provision of SDCL 12-4 may notify the auditor's office in writing, stating his name and address, the name of the voter registrar alleged to be in violation, and full details of the alleged violation. Personnel in the auditor's office may act on a suspected violation by following the same procedure.

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-4-7.2.
Law Implemented: SDCL 12-4-7.2.

5:02:21:02. Dismissal of alleged violation

If an auditor determines that a notice of alleged violation is frivolous or that the alleged violation does not constitute grounds for permanent revocation, is outside his jurisdiction, or is otherwise inappropriate for action, the auditor shall advise the person giving notice of the violation and the affected voter registrar in writing that he is dismissing the matter, stating the grounds for his decision.

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-4-7.2.
Law Implemented: SDCL 12-4-7.2.

5:02:21:03. Investigation

An auditor may conduct an investigation of any alleged violation.

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-4-7.2.
Law Implemented: SDCL 12-4-7.2.

5:02:21:04. Date of hearing

If an auditor does not dismiss an alleged violation, he shall set a hearing to be held not less than 5 days nor more than 10 days after his receipt of the original allegation of violation.

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-4-7.2.
Law Implemented: SDCL 12-4-7.2.

5:02:21:05. Notice

An auditor who sets a hearing shall serve a formal complaint by mail on the voter registrar alleged to be in violation and on any other interested party within two days following receipt of the original allegation of violation, together with a notice of hearing as provided in SDCL 1-26-17.

Source: 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-4-7.2.
Law Implemented: SDCL 1-26-16, 1-26-17.

5:02:21:06. Answer

A voter registrar alleged to be in violation may submit prior to or at the time of the hearing an answer admitting, denying, qualifying, or explaining any allegation contained in

Revocation of Voter Registrar Authorization

the complaint.

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-4-7.2.

Law Implemented: SDCL 12-4-7.2.

5:02:21:07. Hearing

A contested case hearing shall be conducted pursuant to SDCL 1-26, with a representative of the secretary of state serving as the hearing officer.

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-4-7.2.

Law Implemented: SDCL 1-26-16 to 1-26-26.

5:02:21:08. Decision

The hearing officer shall make and enter his final decision for or against revocation of authority to register voters within 24 hours following the hearing. His decision and the record of the hearing shall be filed with the auditor's office and with the office of the secretary of state.

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL 12-4-7.2.

Law Implemented: SDCL 1-26-18.1, 1-26-25.

Cross-Reference Right to judicial review, SDCL 1-26-30.

(c) By The State Of South Dakota & The Michie Company

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 _____ (here insert the jurisdiction in which the office is sought: name of county, number of legislative district, or "state") of South Dakota and members of the _____ Party, nominate _____, of _____ County, South Dakota, whose mailing address is _____, SD _____, as a candidate for the office of _____ at the Primary Election to be held June _____, 19_____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate and that if I am a legislative candidate I reside in the district from which I am a candidate. If nominated and elected, I will qualify and serve in that office.

Sworn to before me this _____ day of _____, 19_____. (Signed) _____

(Seal) My Commission Expires _____ Signature of Officer Administering Oath _____ Title of Officer Administering Oath _____

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
SIGN 1 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 2 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 3 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 4 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 5 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 6 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 7 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 8 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 9 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 10 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 11 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 12 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 13 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

NAME		RESIDENCE	DATE/COUNTY
14	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
15	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
16	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
17	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
18	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
19	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
20	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
21	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
22	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
23	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
24	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
25	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
26	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
27	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
28	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
29	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
30	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator: _____

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this _____ day of _____, 19_____.
(Seal)

My Commission Expires _____

Signature of Officer Administering Oath

Title of Officer Administering Oath

CERTIFICATE OF NOMINATION FOR INDEPENDENT CANDIDATE

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 _____ (here insert the jurisdiction in which the office is sought: name of county, number of legislative district or "state") of South Dakota nominate _____, of _____ County, South Dakota, whose mailing address is _____, SD _____, as an Independent candidate affiliated with the _____ Party for the office of _____ at the General Election to be held November _____, 19____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate and that if I am a legislative candidate I reside in the district from which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19____.

Signature of Officer Administering Oath _____

Title of Officer Administering Oath _____

(Seal) _____
My Commission Expires _____

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
1 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
2 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
3 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
4 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
5 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
6 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
7 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
8 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
9 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
10 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
11 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
12 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
13 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

NAME	RESIDENCE	DATE/COUNTY
SIGN 14 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 15 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 16 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 17 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 18 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 19 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 20 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 21 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 22 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 23 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 24 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 25 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 26 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 27 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 28 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 29 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 30 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator: _____

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this _____ day of _____, 19 _____.

(Seal)

My Commission Expires _____

Signature of Officer Administering Oath

Title of Officer Administering Oath

**NOMINATING PETITION FOR WATER DEVELOPMENT DISTRICT DIRECTOR
NONPARTISAN 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 registered voters of _____ (insert the director area the candidate is to represent) of the _____ Water Development District, nominate _____ of _____ County, State of South Dakota, whose mailing address is _____, South Dakota, as a candidate for the office of director, representing _____ (insert the director area the candidate is to represent) of the _____ Water Development District, in the primary election to be held on June ____, 19__.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I own real property and reside in the area that I will represent and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this ____ day of _____, 19__.

(Seal) _____ Signature of Officer Administering Oath

My Commission Expires _____ Title of Officer Administering Oath _____

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
SIGN 1 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 2 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 3 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 4 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 5 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 6 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 7 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 8 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 9 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 10 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 11 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 12 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 13 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

NAME	RESIDENCE	DATE/COUNTY
14 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
15 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
16 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
17 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
18 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
19 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
20 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
21 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
22 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
23 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
24 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
25 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
26 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
27 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
28 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
29 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
30 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator: _____

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this _____ day of _____, 19____.

(Seal)

My Commission Expires _____

Signature of Officer Administering Oath

INITIATIVE PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be submitted to the voters of the state of South Dakota for their approval or rejection pursuant to the Constitution of the state of South Dakota.

The substance of the proposed law is as follows:

Be it enacted by the people of South Dakota.

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
1 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
2 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
3 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
4 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
5 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
6 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
7 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
8 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
9 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
10 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
11 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
12 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
13 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

NAME	RESIDENCE	DATE/COUNTY
SIGN 14 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 15 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 16 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 17 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 18 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 19 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 20 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 21 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 22 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 23 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 24 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 25 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 26 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 27 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 28 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 29 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 30 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator: _____

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this _____ day of _____, 19____.

(Seal)

My Commission Expires _____

Signature of Officer Administering Oath

REFERENDUM PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following law, as enacted by the Legislature of the state of South Dakota, be submitted to the voters of the state of South Dakota for their approval or rejection at the next general election pursuant to the Constitution of the state of South Dakota.

(Here insert the title of law to be submitted and date of its passage and approval.)

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested, may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
SIGN 1 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 2 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 3 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 4 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 5 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 6 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 7 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 8 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 9 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 10 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 11 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 12 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 13 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

NAME	RESIDENCE	DATE/COUNTY
SIGN 14 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 15 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 16 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 17 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 18 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 19 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 20 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 21 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 22 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 23 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 24 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 25 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 26 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 27 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 28 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 29 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 30 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator: _____

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this _____ day of _____, 19_____
(Seal)

My Commission Expires _____

Signature of Officer Administering Oath

INITIATED CONSTITUTIONAL AMENDMENT PETITION
or
INITIATED PETITION FOR REPEAL OF CONSTITUTIONAL PROVISION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following section or sections and article or articles of the South Dakota Constitution be (repealed) (amended) and that this proposal be submitted to the voters of the state of South Dakota for their approval or rejection.

(Here identify the section or sections and article or articles proposed to be repealed or amended. State the exact text of the amendment.)

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

	NAME	RESIDENCE	DATE/COUNTY
1	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
2	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
3	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
4	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
5	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
6	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
7	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
8	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
9	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
10	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
11	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
12	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
13	SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

NAME	RESIDENCE	DATE/COUNTY
14 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
15 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
16 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
17 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
18 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
19 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
20 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
21 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
22 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
23 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
24 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
25 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
26 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
27 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
28 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
29 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
30 SIGN PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name and complete address of the circulator: _____

I, under oath, state that I am a registered voter in _____ County, South Dakota, that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this _____ day of _____, 19_____.

(Seal)

My Commission Expires _____

Signature of Officer Administering Oath

