

SOUTH DAKOTA HAND COUNT STATUTES

AND

ADMINISTRATIVE RULES

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

To fill a vacancy for a party candidate to a:

- (1) State office or as a presidential elector, the party State Central Committee chairman shall call a central committee meeting to fill the vacancy, and designate the time and place where the meeting shall be held;
- (2) Multi-county legislative district, the party State Central Committee chairman shall call a meeting of affected county party central committee members to fill the vacancy, designate the time and place where the meeting shall be held, designate the person who will conduct the meeting, and notify all affected central committee members of this information;
- (3) Single-county legislative district or county office, the county party central committee chairman shall call a meeting of the county party central committee to fill the vacancy and designate the time and place where the meeting shall be held.

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 affected committee members present.

12-15-9. Oath of precinct officials--Entry in pollbook--Violation of oath as misdemeanor.

Before performing election day duties, each precinct superintendent, precinct deputy, and precinct assistant 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 precinct superintendent (or precinct deputy or precinct assistant) according to law and the best of my ability and that I will studiously endeavor to prevent fraud, deceit, and abuse and that I will act in an impartial manner in conducting the election about to be held.

The members of the precinct election board may administer the oath to each other. The person administering the oaths shall cause an entry thereof to be made and signed by the person and prefixed to the pollbook. A violation of this oath is a Class 1 misdemeanor.

Source: SDC 1939, §§ 16.0221, 16.1004; SDCL, § 12-6-22; SL 1975, ch 119, § 5; SL 1993, ch 118, § 4; SL 1999, ch 69, § 8; SL 2004, ch 108, § 1; SL 2006, ch 70, § 6.

12-15-10. Replacement of precinct superintendent or precinct deputy failing to take oath or to serve.

If any person appointed as precinct superintendent or precinct deputy 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.

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

In each election precinct in which 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 to be composed of five precinct deputies, one of whom shall be superintendent, who shall count the ballots cast in the general election under the direction of the superintendent of the counting board.

Source: SL 1963, ch 117, §§ 1, 2; SDCL, § [12-15-15](#); SL 1970, ch 90; SL 1972, ch 86; SL 1974, ch 118, § 68; SL 1975, ch 119, § 7; SL 1976, ch 105, § 40; SL 1993, ch 118, § 8; SL 1999, ch 69, § 12.

[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 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.

Source: SL 1975, ch 119, § 8; SL 1976, ch 105, § 41; SL 1993, ch 118, § 9.

12-15-14.2. Repealed by SL 1996, ch 94, § 5.

[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.

Source: SL 1991, ch 120; SL 1993, ch 118, § 11.

12-15-15, 12-15-16. 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.

Source: SDC 1939, § 16.1109 as added by SL 1961, ch 101, § 1; SL 1974, ch 118, § 87.

12-16-33. Repealed by SL 1974, ch 118, § 200.

[12-16-34](#). Rules and columns on tally sheets.

The 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 the ruling to be red, so that five squares for tally marks are 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 the election, in the same order that they are arranged upon the official ballots used in such election. At the extreme right margin of the tally sheet there shall be a perpendicular column labeled as follows: "Total Votes."

Source: SDC 1939, § 16.1109; SL 1961, ch 101, § 1; SL 1997, ch 81, § 3.

[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](#).

Source: SDC 1939, § 16.1109 as added by SL 1961, ch 101, § 1.

[12-16-36](#). Space for tally marks and vote totals on tally sheets.

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 the 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 the tally sheet so that a member of the precinct election board may write out the total number of votes tallied for the candidate or question.

Source: SDC 1939, § 16.1109; SL 1961, ch 101, § 1; SL 1997, ch 81, § 4; SL 1999, ch 69, § 19.

[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.

Source: SL 1893, ch 82, § 1; RPolC 1903, § 1896; RC 1919, § 7245; SDC 1939, § 16.1109; SL 1961, ch 101, § 1.

[12-16-38](#). Tallying and marking of votes--Entry of total votes.

After the tallying and marking in the tally sheet of the votes for each candidate, the number of votes so tallied for each candidate shall be counted, and the numerical result shall be placed in the column opposite the candidate's name.

Source: SDC 1939, § 16.1109 as added by SL 1961, ch 101, § 1; SL 1997, ch 81, § 5.

[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.

Source: SL 1893, ch 82, § 3; RPolC 1903, § 1898; RC 1919, § 7246; SDC 1939, § 16.1109; SL 1961, ch 101, § 1; SL 1976, ch 105, § 48.

12-16-40. Repealed by SL 1976, ch 105, § 84.

[12-16-41](#). Tally lists govern over certificate.

In any case in which the certificate of the members of the precinct election board as to the number of votes cast for any candidate or in favor of or against any question submitted to the voters may not agree with the votes as shown by the tally list, the canvassing board to which the returns are made shall take as correct the number of votes shown by the tally list rather than the certificate.

Source: SDC 1939, § 16.1109; SL 1961, ch 101, § 1; SL 1974, ch 118, § 88; SL 1999, ch 69, § 20.

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.

12-19-41. 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.

12-19-46. 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. Processing of absentee ballots.

The absentee ballot counting board, during the time prescribed in § 12-19-46, shall process each absentee ballot as required by § 12-19-10.

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 § 12-19-52, the tally shall be recorded according to the precincts in which the voters are registered and then added to those individual precinct totals.

12-20-1. Delivery of supplies to counting board--Certificate of transmittal and receipt--Commencement of count--Continuation without adjournment--Comparison and correction of poll lists--Penalty.

As soon as the polls are closed, the precinct superintendent and precinct deputies shall audit the ballot count as prescribed in §§ 12-20-2 and 12-20-3. The precinct superintendent and precinct deputies shall then 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 a certificate of transmittal and receipt as prescribed by the State Board of Elections. The members of the precinct election board 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 leaving the site of the count until the count is completed. A person charged with implementing this section may not delay the counting of ballots other than to authorize short recesses for the health and wellbeing of those employed to implement this section. In counting the votes, the members of the precinct election board or counting board shall use the tally sheets provided.

Source: SDC 1939, § 16.1701; SL 1975, ch 119, § 11; SL 1976, ch 105, § 68; SL 1993, ch 113, § 13; SL 1993, ch 118, § 20; SL 1999, ch 69, § 39; SL 2002, ch 76; § 7; SL 2021, ch 68, § 1.

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 members of the precinct election board unopened, except to ascertain if each ballot is single. If two or more ballots are found folded together and present the appearance of a

single ballot, the ballots 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 the members of the precinct election board are of the opinion that the ballots folded together were voted by one voter, the ballot shall be endorsed, 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 shall be made.

Source: SDC 1939, § 16.1701; SL 1974, ch 118, § 150; SL 1978, ch 102, § 1; SL 1993, ch 113, § 14; SL 1999, ch 69, § 40.

12-20-2.1. Return of provisional ballot envelopes and unopened absentee ballots.

If the ballot box is opened for ballot counting at the precinct, each provisional ballot envelope and each unopened absentee ballot shall be removed, placed, and sealed in the provisional or unopened absentee ballot return envelope and returned to the person in charge of the election with the other election supplies.

Source: SL 2003, ch 83, § 3; SL 2010, ch 74, § 20.

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, the ballots shall be replaced in the box, after any of the ballots folded together are canceled, and one of the precinct deputies shall publicly draw therefrom as many ballots, unopened, as equal to the excess.

Source: SDC 1939, § 16.1701; SL 1993, ch 113, § 15; SL 1999, ch 69, § 41.

12-20-8. Precinct superintendent and precinct deputies to record intention of voter.

The precinct superintendent and precinct deputies, in counting the votes, shall endeavor to record the intention of the voter. The precinct superintendent and precinct deputies shall then hold the intention of the voter to be to vote for the candidate or candidates before whose name the voter has placed a mark.

Source: SDC 1939, § 16.1205; SL 1974, ch 118, § 153; SL 1976, ch 105, § 70; SL 1997, ch 81, § 10; SL 1999, ch 69, § 43.

12-20-9. 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 plain letters, "Immediate--Unofficial Return--Do not put this in ballot box."

Source: SL 1911, ch 258, § 1; RC 1919, § 7303; SDC 1939, § 16.1723; SL 1974, ch 118, § 154.

12-20-11. Entry of precinct vote on unofficial return list--Return with election returns.

When the vote count is complete, the members of the precinct election board shall enter upon the 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 completed list in the envelope described in § [12-20-10](#). The precinct superintendent or precinct deputy chosen to deliver the election returns to the officer in charge of the election shall return the completed list separate from any other envelopes or wrappers returned at the time the election returns are delivered.

Source: SDC 1939, § 16.1723; SL 1974, ch 118, § 155; SL 1993, ch 118, § 23; SL 1999, ch 69, § 44.

12-20-12. 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 the information into the central election reporting system by using any computer located in a county office which is properly configured and linked to the central state computer immediately following the tabulation of each precinct.

Source: SDC 1939, § 16.1723; SL 1978, ch 103; SL 1990, ch 108; SL 2003, ch 84, § 1.

[12-20-13.1](#). Means of counting provisional ballots--Appointment of officials.

The person in charge of the election shall decide if the provisional ballots are to be counted by hand or by automated tabulating equipment. If a decision is made to count the ballots by hand, a provisional ballot counting board shall be appointed as provided in § [12-15-1](#). If the provisional ballots are to be counted by automated tabulating equipment, a resolution board and tabulation machine operators shall be appointed as provided in chapter [12-17B](#).

Source: SL 2003, ch 83, § 5; SL 2006, ch 28, § 3.

[12-20-13.2](#). Counting provisional ballots--Certification.

The provisional ballot counting board or resolution board and tabulation machine operators shall convene one hour prior to the convening of the canvassing board. The provisional ballots, which the person in charge of the election has determined are not invalid according to § [12-20-5.1](#), shall be counted. Upon completion of the count, the provisional ballot counting board or resolution board shall complete a certification of provisional ballot count and give the certification to the canvassing board. The certification form shall be prescribed by the State Board of Elections.

Source: SL 2003, ch 83, § 6.

[12-20-13.3](#). Counting provisional ballots--Alternate time.

The person in charge of the election may establish an alternative time prior to the official canvass for provisional ballot counting provided that notice of the time and location is given to the county party chairperson of each political party for primary, secondary, and general elections and to each candidate for any other election.

Source: SL 2003, ch 83, § 7; SL 2006, ch 28, § 4.

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. The precinct superintendent and precinct deputies, after the counting of ballots and deposit of the ballots counted in the ballot box, 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 each place where a ballot box may be opened before turning the ballot box over to the person deputed to deliver it. A violation of this section is a Class 1 misdemeanor.

Source: SDC 1939, § 16.1706; SL 1974, ch 118, § 159; SL 1979, ch 106, § 1; SL 1982, ch 86, § 91; SL 1999, ch 69, § 46.

12-20-21. Return of ballot boxes, returns, records and supplies to officer in charge--Tampering prohibited--Violation as felony.

The sealed ballot box, 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 precinct superintendent or a precinct deputy designated by the precinct superintendent, to the officer in charge of the election immediately after completion of the vote count. No person may deface, destroy, or tamper with the ballot box, envelope, pollbook, duplicate tally sheet, or registration lists or remove any seals. A violation of this section is a Class 6 felony.

Source: SDC 1939, §§ 16.0206, 16.0230, 16.0706, 16.1707, 16.1708, 16.9925; SL 1961, ch 92, §§ 10, 23; SL 1963, ch 109, §§ 1 to 3; SDCL, §§ 12-4-27, 12-6-44, [12-20-22](#) to 12-20-24, 12-20-26; SL 1974, ch 118, § 160; SL 1982, ch 86, § 92; SL 1993, ch 113, § 17; SL 1993, ch 118, § 27; SL 1999, ch 69, § 47.

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.

Source: SL 1993, ch 117.

5:02:05:02. Instructions to the voters using hand-counted paper ballots. The instructions to be posted in two locations in the polling place in at least 48 point type for paper ballots must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

- Use a cross (X) or a check mark (✓) for each vote.
- Do not make any marks other than a cross (X) or check mark (✓).
- Do not erase anything on your ballot.
- Do not rip your ballot or make holes in it.
- Do not write in a name.

IF YOU MAKE A MISTAKE

If you make a mistake, give the ballot back and get a new one.

If you cast more votes than allowed in a race, give the ballot back and get a new one.

TO RETURN THE BALLOT(S) AFTER VOTING

Fold each ballot so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

PROVISIONAL BALLOT

You may vote a provisional ballot if your name is not on the voter list but you registered in this precinct by the deadline. You must complete both the envelope and ballot.

VOTING RIGHTS

Any voter who can't mark a ballot because the voter has a physical disability or can't read, may ask any person they choose to help them vote.

Any voter may ask for instruction in the proper procedure for voting.

Any voter at the polling place prior to 7:00 p.m. is allowed to cast a ballot.

ELECTION CRIMES

Anyone who makes a false statement when they vote, tries to vote knowing they are not a qualified voter, or tries to vote more than once has committed an election crime.

OTHER INFORMATION

The polls are open from 7:00 a.m. to 7:00 p.m. If your voting rights have been violated, you may call the person in charge of the election at _____, the Secretary of State at 888-703-5328, or your state's attorney.

The instructions to be posted in each voting booth for paper ballots must be in the following form:

INSTRUCTIONS TO THE VOTERS

TO MARK THE BALLOT

Use a cross (X) or a check mark (✓) for each vote.

Do not make any marks other than a cross (X) or check mark (✓).

Do not erase anything on your ballot.

Do not rip your ballot or make holes in it.

Do not write in a name.

IF YOU MAKE A MISTAKE

If you make a mistake, give the ballot back and get a new one.

If you cast more votes than allowed in a race, give the ballot back and get a new one.

TO RETURN THE BALLOT(S) AFTER VOTING

Fold each ballot so the ballot stamp shows and take to the ballot box.

IF YOU NEED HELP, ASK.

The instructions to be published with the facsimile ballot for primary and general elections must be in the following form:

INSTRUCTIONS TO THE VOTERS

VOTING RIGHTS

Any voter who can't mark a ballot because the voter has a physical disability or can't read, may ask any person he or she chooses to help the voter vote.

Any voter may ask for instruction in the proper procedure for voting.

Any voter at the polling place prior to 7:00 p.m. is allowed to cast a ballot.

If your voting rights have been violated, you may call the person in charge of the election at _____, the Secretary of State at 888-703-5328, or your state's attorney at _____.

Any person who is convicted of a felony on or after July 1, 2012, loses the right to vote. However, any such person may register to vote following the completion of the person's felony sentence.

Any person who is convicted of a felony on or before June 30, 2012, and who receives a sentence of imprisonment to the adult penitentiary system, including a suspended execution of sentence, loses the right to vote. Any such person so sentenced may register to vote following completion of the person's sentence. Further information is available at www.sdsos.gov.

ELECTION CRIMES

Anyone who makes a false statement when voting, tries to vote knowing he or she is not a qualified voter, or tries to vote more than once has committed an election crime.

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; 23 SDR 236, effective July 17, 1997; 25 SDR 8, effective August 3, 1998; 25 SDR 167, effective July 6, 1999; 27 SDR 146, effective July 9, 2001; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003; 30 SDR 171, effective May 10, 2004; 32 SDR 225, effective July 3, 2006; 36 SDR 209, effective June 30, 2010; 39 SDR 123, effective January 16, 2013.

General Authority: SDCL [12-1-9\(3\)](#), [12-1-9\(9\)](#).

Law Implemented: SDCL [12-4-18](#), [12-16-23](#), [12-16-25](#), [23A-27-35](#), USC 1973gg-6(g).

5:02:16:00. Definitions. Terms used in this chapter mean:

- (1) "Counted ballot," **a voted ballot counted by the election or counting board in at least one race;**
- (2) "Duplicate ballots," two or more identical ballots stuck together given to one voter;
- (3) "Metal seal," a device to seal ballot boxes, such as a metal closure designed to be broken or a padlock;
- (4) "Over vote," a race in which more votes were cast on a ballot than allowed for that race;
- (5) "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;
- (6) "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;
- (7) "Unused ballot," a ballot never stamped or marked by a voter;

- (8) "Unvoted ballot," a ballot never placed in the ballot box;
- (9) "Voted ballot," a ballot placed in the ballot box at any time;
- (10) "Write-in vote," a name written on a ballot in an attempt to indicate a vote for that person.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993; 25 SDR 167, effective July 6, 1999; 26 SDR 168, effective June 25, 2000; 36 SDR 112, effective January 11, 2010.

General Authority: SDCL [12-1-9\(4\)](#), [12-20-52](#).

Law Implemented: SDCL [12-20-1](#), [12-15-14](#), [12-15-14.1](#).

5:02:16:01. Delivery of supplies to counting board -- Signing of certificate. If a counting board has been appointed, the precinct election board 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; 25 SDR 167, effective July 6, 1999.

General Authority: SDCL [12-1-9\(4\)](#), [12-20-52](#).

Law Implemented: SDCL [12-20-1](#), [12-15-14](#), [12-15-14.1](#).

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](#).

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 precinct election board or 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 precinct 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; 25 SDR 167, effective July 6, 1999.

General Authority: SDCL [12-1-9\(4\)](#), [12-20-52](#).

Law Implemented: SDCL [12-15-14](#), [12-15-14.1](#), [12-20-1](#), [12-26-22](#).

5:02:16:04. Use of tally sheets. The precinct election board 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; 25 SDR 167, effective July 6, 1999.

General Authority: SDCL [12-1-9\(4\)](#), [12-20-52](#).

Law Implemented: SDCL [12-15-14](#), [12-15-14.1](#), [12-20-1](#).

5:02:17:07. Tally sheets. The tally sheets must 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. Each fifth perpendicular line in the ruling must be red, so that five squares for tally marks are contained between each two red lines. In a perpendicular column at the left margin of each tally sheet sufficient space must be left to legibly print or write in ink the names of all candidates and all questions submitted to the electors at the election, in the same order as on the official ballots used in the election. At the extreme right margin of the tally sheet there must be a perpendicular column with sufficient space to label the column at the top of the tally sheet as follows: "Total Votes."

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 23 SDR 236, effective July 17, 1997; 25 SDR 8, effective August 3, 1998.

General Authority:SDCL [12-1-9\(4\)](#).

Law Implemented:SDCL [12-16-28](#), [12-16-34](#), [12-16-39](#).

5:02:17:08. Official vote count. The official **vote count** must 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; 25 SDR 8, effective August 3, 1998.

General Authority:SDCL [12-1-9\(4\)](#).

Law Implemented:SDCL [12-16-28](#).

5:02:17:09. Certification by precinct election board. The members of the precinct election board 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 individuals voting at the election.

If an electronic pollbook is used, the members of the precinct election board shall sign the following certification which is a separate form:

We hereby certify that the data entered into the electronic pollbook is a true and correct list of the individuals voting at the election.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 20 SDR 4, effective July 19, 1993; 25 SDR 8, effective August 3, 1998; 25 SDR 167, effective July 6, 1999; 35 SDR 306, effective July 1, 2009.

General Authority: SDCL [12-1-9\(4\)](#).

Law Implemented: SDCL 12-8-5, [12-16-28](#).

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 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; 25 SDR 8, effective August 3, 1998.

General Authority:SDCL [12-1-9\(4\)](#).

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						
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Names of Candidates or "Yes" and "No"											
Precincts											
Precinct 1											
Precinct 2											
Precinct 3											
Precinct 4											
Precinct 5											
Precinct 6											
Totals											

STATE OF SOUTH DAKOTA)

) SS

COUNTY OF _____)

We, _____ (list names) _____, appointed as the Board of Canvassers because of our positions on the governing board in the jurisdiction of _____ for the _____ election held on the _____ day of _____, 20____, hereby certify that the foregoing is a true abstract of the votes cast in the jurisdiction of _____ at the election as shown by the returns certified to the person in charge of the election.

Sworn to before me this _____ day of _____, 20____.

 Person in Charge of the Election

Source: 16 SDR 20, effective August 10, 1989.

General Authority: SDCL [12-1-9](#).

Law Implemented: SDCL [9-13-24](#), [13-7-18](#).

5:02:17:12. Duties of official board of canvassers for local jurisdiction. The duties of the official board of canvassers for a local jurisdiction are as follows:

- (1) Open the returns from each precinct which are found in each poll book;

(2) Satisfy itself that the returns are genuine and not forged;

(3) **Tabulate the returns from the precincts and the certification of provisional ballot count;**

(4) **Declare the result;** and

(5) Make an abstract of the results of the votes cast for each of the candidates and each of the issues. The abstract must be signed and certified by the canvassers under the seal of the business manager or finance officer of the local jurisdiction.

Source: 16 SDR 203, effective May 28, 1990; 30 SDR 171, effective May 10, 2004.

General Authority:SDCL [12-1-9\(4\)](#).

Law Implemented:SDCL [9-13-24](#), [13-7-18](#), [12-20-13.2](#).

5:02:17:13. Certification of provisional ballot count. The certification of provisional ballot count shall be a table containing the following elements:

(1) Precinct Name;

(2) Name of candidate or ballot question;

(3) Number of votes received in figures; and

(4) Number of votes received in words.

The certification shall also contain the following:

STATE OF SOUTH DAKOTA)

) SS

COUNTY OF _____)

We (list names), appointed as the provisional ballot counting board or provisional ballot resolution board in the jurisdiction of _____ for the _____ election held on the ____ day of _____, 20 ____, hereby certify that the foregoing is a true abstract of the provisional votes which were counted for this jurisdiction.

Sworn to before me this _____ day of _____, 20____.

Person in Charge of the Election

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

General Authority:SDCL [12-20-13.1](#).

Law Implemented:SDCL [12-20-13.1](#).
