

MINUTES OF PUBLIC MEETING  
State Board of Elections

The State Board of Elections convened a public meeting at 10:10 AM CST on June 30<sup>th</sup>, 2026, in LRC Committee Room #362, at 500 E. Capitol Avenue, Pierre, SD 57501. The meeting was also hosted online via Microsoft Teams.

**Hearing Officer:** Tom Deadrick, Deputy Secretary of State.

**Members of the Board in Attendance (In-Person):** Kent Alberty, Jamalia Franzen, Kristin Matsuda, Lindley Howard.

**Others in Attendance (In-Person):** Grant Flynn, Assistant Attorney General; Christine Lehrkamp, Director of the Division of Elections; Casey Kahler, State Elections Administrator; Ellie Bailey, SD Advocacy Network for Women; Melissa Neal, League of Women Voters of SD; Samantha Chapman, ACLU of South Dakota; Amy Scott-Stoltz, League of Women Voters; Angie Cleberg, Self; Thomas Oliva, Self; Amanda Martin, Disability Rights SD; Nicole Hanson, League of Women Voters SD; Cody Russell, Vice Chairman of Lower Brule Sioux Tribe; Melissa McCaulley, The Network; Rick Weible, Self; Bob Mercer, Keloland.

**Others in Attendance (Call-In Option):** Approximately 15 people were present online.

**Call to Order:** Deputy Secretary of State Tom Deadrick called the State Board of Elections meeting to order at 10:10 AM CST.

**Approval of Draft Minutes:** Kent Alberty moved that the draft minutes from February 13, 2026, meeting of the State Board of Elections be approved. The motion was seconded by Jamalia Franzen. A roll call vote was taken, and the motion carried with four ayes.

**Deadrick:** Before we go to the approval of the amended meeting agenda, we are here today because of the petition by the League of Women Voters as to certain rules that they are asking to go to the rulemaking process. Statue talks about giving them a decision within 30 days. What I'm proposing that we do for today though, is to have all the testimony on all the rules. And then we will recess rather than adjourn. We'll get everybody back, probably on an online or telephone call meeting next week. You, as the BOE, can do your discussions of the proposals at that time and vote on each rule separately as to whether you want to decline the rulemaking process for that rule, or put it into the rulemaking process. I'm trying to get this lined up as quickly as I can by July 10<sup>th</sup>.

I am going to ask right now for a representative from the League of Women Voters to come forward identify themselves.

**Melissa Neal:** Good morning. My name is Melissa Neal. I'm an attorney representing the League of Women Voters of South Dakota. We just spoke with Mr. Deadrick about waiving the 30-day requirement for the board to respond to the League's petition. It is our understanding that it would be best if the vote took place later when there was a greater number of board members available. We will waive the 30-day requirement with the ask that the board please schedule a vote by July 10<sup>th</sup> so that we can get this in motion before the upcoming November election. Thank you.

**Explanation of Public Meeting Laws:** Assistant Attorney General Grant Flynn presented the required annual review of open meetings laws pursuant to South Dakota Codified Law 1-25-13.

**Approval of Meeting Agenda:** Kent Alberty moved that the agenda for the June 30, 2026, meeting of the State Board of Elections be approved. The motion was seconded by Jamalia Franzen. A roll call vote was taken, and the motion carried with four ayes.

**Agenda item E.**

Melissa Neal: The League of Women Voter's wants to help ensure compliance with state law and federal law and promote uniform statewide implementation. We recognize that the board and the Secretary of State's office did not have control over the emergency clause and the effective date of SB175, but it's important to have uniformity and clarity for election administrators alike before the November election. We prepared testimony today with respect to each of the proposed rules. We're more than happy to answer any additional questions that arise during today's hearing and to remain a resource during the rulemaking process.

**a. 5:02:03:01 Voter Registration Form:**

Melissa Neal testified in support of the league's petition for rulemaking regarding Senate Bill 175. Neil stated that current regulations for documentary proof of citizenship are insufficient and requested the board adopt uniform rules ahead of the November election to ensure compliance and minimize liability.

As folks know, the current voter registration form and its instructions failed to inform applicants of the documentary proof of citizenship requirement. But South Dakota law requires that the voter registration form inform applicants of voter eligibility requirements. This is because the legislature has incorporated the federal requirements of the national Voter Registration Act into state law.

The solution is that the voter registration forms instructions must inform voters about the documentary proof of citizenship requirement and provide examples of acceptable documentary proof of citizenship. And it also must meaningfully define and explain the limitations of a federal voter that the federal voter cannot participate in state and local elections or ballot questions. The LWV's are requesting the form be updated to explain proof of citizenship requirements, provide acceptable examples, and explicitly define "federal voter" limitations. Alien Registration Number: formally withdrew the

league's previous recommendation to include this option on the application due to a recent federal court injunction against the SAVE database. Neal stated that LWV's objects to the current Secretary of State's guidance prohibiting photocopied driver's licenses and tribal IDs, stating it creates an unfair disparity for mail-in registrations. Requested the board adopt proposed language to explicitly allow legible photocopies of these IDs.

Tribal ID or non-driver ID. The practical effect of this requirement is that applicants with those forms of documented proof of citizenship must register to vote in person and cannot register by mail, while other forms of documented proof of citizenship, like a birth certificate, naturalization document or other forms of ID are acceptable by mail.

So, as explained in the petition, the current guidance is inconsistent with the text of the law and gives rise to a potential violation of the materiality provision of the federal Civil Rights Act, and it abridges the fundamental right to vote under the South Dakota and Federal Constitutions. This continued guidance has also resulted in inconsistent implementation by auditors across the state because the secretary's guidance contradicts the law it is designed to implement. We are here to correct the misunderstanding and to provide uniform interpretation of the law. So, we ask that the board adopt the league's proposed rule language, which makes clear that legible photocopies of driver's license, tribal ID and non-driver ID are acceptable in photocopy format. Thank you.

Testimony of Cody Russell, Vice Chairman of Lower Brule Sioux Tribe: Vice Chairman Russell spoke in support of Agenda Item E, specifically focusing on Section 2 regarding acceptable formats for documentary proof of citizenship. He supports the League's proposal to allow photocopies of driver's licenses, state IDs, and tribal IDs. He testified that requiring voters to present physical cards in person creates a severe barrier for tribal members due to long travel distances to county seats, high poverty rates, and lack of reliable transportation, mail, or internet access. He also objected to current guidance restricting acceptable tribal IDs to only the nine federally recognized tribes located within South Dakota. He argued that the statute applies to any federally recognized tribal ID, regardless of which state the tribe is located in.

He explained that many of the members rely on voter registration drives or on friends and family who are already traveling to the county seat to deliver voter registration applications and supporting documents on their behalf. Allowing voters to submit a photocopy or photograph of a tribal identification card makes that process possible and removes an unnecessary barrier for eligible voters who could not easily make the trip themselves. Internet access is also limited in parts of our communities, making it difficult to obtain or replace official documents.

Mail is another challenge. Post offices boxes rather than home delivery and mail service can be slower, as you all know, in rural communities that affects

how quickly election information is received and returned. Our tribal ID's cards are recognized and used every day in interactions with tribal, federal, state and local governments. Voters and election officials alike need clear guidance about how these ID should be treated under SB175.

Vice Chairman Russell gave a little bit of a background to explain how the rules matter. The Lower Brule Sioux tribe has approximately 4,340 enrolled members and our reservation is located along the Missouri River in Lyman and Stanley counties. Native people make up nearly 47% of Lyman County's population, and that share has grown substantially over the last decade. In 2022, we, the tribe filed a federal lawsuit and that was entitled Lower Brule Sioux Tribe versus Lyman County because the county delayed implementing its own redistricting plan in a way that prevented native voters from electing candidates of their choice. That case demonstrated how election rules matter and how their implementation can have real consequences for native voters.

Vice Chairman Russell highlighted that the Lower Brule Reservation spans two counties (Lyman and Stanley), resulting in conflicting instructions for tribal members. He requested clear, uniform statewide rules to eliminate county-by-county inconsistencies and to strengthen confidence in our elections.

#### Testimony of Amy Scott-Stoltz:

Amy Scott Stoltz, board member and former president of the League of Women Voters of South Dakota, testified regarding the inconsistent and rushed implementation of Senate Bill 175, stating it threatens the fundamental right to vote. Highlighted that contradictory policies exist across different counties. She provided an example from Minnehaha County where an already registered voter was incorrectly told she needed to show proof of citizenship simply to change her party affiliation, a requirement that explicitly only applies to first-time registrants. Testified that the current guidance has forced the League to suspend or significantly curtail its nonpartisan voter registration drives. The Black Hills chapter canceled its drives due to the state and Pennington County's interpretation of the photocopy rule, which prohibits registering voters using a photocopy of a driver's license. The Sioux Falls chapter ceased drives at naturalization ceremonies due to the logistical burden of photocopying naturalization certificates on-site. Urged the board to adopt the proposed rule changes to clarify the voter registration process. She specifically requested updates to the voter registration form to clearly outline the circumstances requiring proof of citizenship, and corrections to the photocopy guidance to ensure uniform application and protect auditors from legal liability.

#### Testimony of Ellie Bailey

Ellie Bailey testified in full support of the League of Women Voters' petition. She emphasized the imperative need to amend the voter registration form requirements to reflect the new documented proof of citizenship mandates

established by SDCL 12-4-1.4. Pointed out that the current form is misleading because it simply asks if the applicant is a U.S. citizen and instructs them to "mail or hand deliver the form." Bailey argued that this fails to alert voters that simply being a citizen is no longer sufficient and that they must include documented proof to participate in state and local elections. Noted that while the current rule warns that failing to provide a residential address results in a "federal voter" designation, it lacks parity by remaining silent on the consequences of failing to provide proof of citizenship. Requested the board update the administrative rules to apply common sense and uniformity.

#### Testimony of Melissa McCauley

Melissa McCauley urged the board to provide clear rulemaking and guidance on Senate Bill 175. Testified that the new documentary requirements create significant obstacles for survivors, who frequently flee abusive relationships without essential personal documents (e.g., birth certificates, passports) because abusers often destroy or withhold them as a means of control. Explained that financial abuse, coupled with housing instability (frequent moves to emergency shelters or transitional housing), makes it exceptionally difficult and burdensome for survivors to replace these documents quickly. Emphasized that voting is a powerful step toward reclaiming independence for survivors. She requested the board carefully craft uniform rules and guidelines, so auditors consistently interpret SB 175 and ensure eligible survivors are not unintentionally disenfranchised.

#### Testimony of Angie Cleberg

Angie Cleberg testified regarding the proposed rules for name change verification (Agenda Item D). Drawing on her professional experience partnering with the Salvation Army, homeless coalitions, and domestic violence shelters (including Safe Harbor and Jenny's Safe House in Redfield), she highlighted the extreme paperwork barriers faced by citizens starting over. Cleberg read a statement on behalf of a domestic violence and stalking survivor who requested anonymity for safety reasons. The survivor expressed deep concern over the lack of guidance for individuals whose current last name does not match the name on the identification used for citizenship verification. The letter noted that abusers routinely use coercive control by withholding or hiding essential documents like marriage licenses and Social Security cards. Replacing documents is incredibly difficult for survivors staying in temporary housing or shelters because they cannot reliably receive mail. Additionally, updating voter registration or utilizing standard USPS address forwarding can expose a survivor's new location to their abuser, creating legitimate safety risks. The survivor urged the board to recognize the realities of domestic violence, stalking, and housing insecurity, and to ensure that any identification requirements include reasonable accommodations that protect both voter access and physical safety.

#### Testimony of Amanda Martin

Amanda Martin testified in support of the League of Women Voters' petition. Martin emphasized that the insufficient guidance regarding Senate Bill 175 has caused significant confusion for people with disabilities and the aging population. She noted that these groups often face additional challenges in gathering the resources and documentation required by the new law. She joined other advocates in urging the board to provide clear guidance to voters, auditors, and those who assist with the registration process. Martin requested that the board prioritize the rights of individuals with disabilities and refrain from creating new barriers that could lead to disenfranchisement, instead focusing on building structures that ensure all citizens can exercise their right to vote.

#### Testimony of Rick Weible

Rick Weible testified that the Secretary of State must prioritize uniformity in election law to ensure equitable treatment for all voters. He expressed strong support for the concerns raised by other advocacy groups, noting that providing clearer information to the public regarding the consequences of failing to provide the correct identification or documentation is essential to prevent the harmful bifurcation between federal-only voter status and full-rights state voter status. Weible pointed out that South Dakota already offers free birth certificates for residents who have lost their documents, as established by 2025 legislation in House Bills 1074 and 1075. Regarding the protection of survivors of domestic violence, he suggested that South Dakota should look to Minnesota's "Safe at Home" program, which utilizes a confidential address system managed by the Secretary of State and county auditors to ensure survivors can cast absentee ballots without exposing their locations to abusers. Finally, he compared voter registration forms to the detailed instructions found on IRS W-4 and I-9 forms, arguing that while additional pages or explanations might make the forms longer, the increased clarity is necessary to save the state from potential legal complications and to ensure a uniform, accessible process for all.

#### Board Member Remarks

A member of the Board of Elections thanked all the participants for their advocacy. The member acknowledged that the underlying legislation (SB 175) may have been passed too quickly but noted that a supermajority vote in the state legislature is not a valid reason to leave the implementation issues unaddressed. The member concluded by affirming that the current situation requires rule changes and that the board must give the requested petition serious consideration. Asked for further public comment.

#### Testimony of Erin Rudner

Erin Rudner testified in her personal capacity regarding the detrimental impact of Senate Bill 175 on youth voter registration. Reflecting on her decades of experience in the classroom, she explained that historically, high school teachers in Aberdeen consistently facilitated voter registration for seniors as a significant rite of passage, with students registering in record

numbers annually. However, in the three months since the enactment of SB 175, the number of new voter registrations submitted by high schools in Brown County has dropped to zero. She noted that the new law forces young people to navigate the process alone, often requiring them to locate birth certificates and travel to the auditor's office, which serves as a significant barrier to their participation. Rudner criticized the "lazy legislating" behind SB 175, noting that the author of the bill had reportedly told auditors that the responsibility for figuring out the law's implementation rested with them. She characterized the current situation as a form of voter disenfranchisement that risks further suppressing voter turnout, which in South Dakota was already only 37% during the 2024 election. Referencing a recent Supreme Court opinion, she underscored that while states hold the primary authority to set the "time, manner, and place" of elections, this power must be used to ensure broad participation rather than to discourage civic engagement. She urged the Board of Elections to adopt the proposed rule changes to remove unnecessary roadblocks, concluding that it is imperative to make the registration process simple and accessible to ensure all eligible citizens can exercise their right to vote.

#### Testimony of Thomas Oliva

Thomas Oliva provided testimony from the perspective of a county auditor regarding the implementation of Senate Bill 175. He highlighted the significant challenges posed by the bill's emergency clause, noting that auditors were forced to make split-second, high-stakes decisions on voter registration immediately upon the bill's signing without adequate time for preparation or uniform guidance. Addressing specific points in the petition, Oliva questioned the practicality of the proposed "personal knowledge" standard for name change verifications (Point D), asking how such a subjective determination could be consistently documented. Regarding Point E, he expressed concern over the requirement to notify "federal-only" voters via email or telephone, noting that this creates an additional, disparate notification burden not required for any other category of voters. Finally, in response to Point G, he argued for greater uniformity in the "cure" process; he suggested that while voters should be allowed to provide proof of citizenship before the registration deadline to attain full ballot eligibility, they should be held to the same standard as all other voters and not be permitted to present documentation at the polls on Election Day to cast a regular ballot. He concluded by expressing his appreciation for the board's efforts, characterizing the hearing as a positive step toward addressing the necessary administrative corrections.

#### **b. 5:02:03:13 Voter Registration Instruction:**

#### Testimony of Melissa Neal

She addressed the administrative rules concerning voter registration forms and the interpretation of Senate Bill 175 regarding documentary proof of

citizenship (DPOC). Neal emphasized that the current guidance, which prohibits auditors from accepting photocopies of driver's licenses, tribal IDs, and non-driver IDs, is inconsistent with the text of the law itself. She argued that because the statute incorporates documents listed under the federal regulation 42 CFR § 436.407—which explicitly lists driver's licenses indicating U.S. citizenship—a photocopy of such a document should be considered acceptable DPOC. Neal further contended that the Secretary of State's interpretation, which assumes that the absence of the word "photocopy" before "driver's license" or "tribal ID" mandates an original document, poses a significant risk of legal liability for the state. She warned that this interpretation may be incompatible with federal law and risks violating the materiality provision of the federal Civil Rights Act. Additionally, Neal highlighted that the current lack of uniformity—where some county auditors accept photocopies while others demand originals—creates a differential treatment of voters that threatens due process and burdens the fundamental right to vote. Consequently, she urged the board to adopt the League's proposed language to explicitly authorize the use of legible photocopies, thereby promoting statewide uniformity and ensuring compliance with federal standards.

**c. 5:02:03: Proof of Citizenship:**

Testimony of Melissa Neal

She argued that the board must explicitly authorize the use of legible photocopies to avoid legal liability under the federal Civil Rights Act, citing the recent 8th Circuit Court of Appeals decision in *Get Loud Arkansas v. Thurston* as support for the argument that in-person presentation is not "material" to determining voter qualifications. Furthermore, Neal echoed the recommendation of Vice Chairman Cody Russell regarding the scope of tribal identification. She criticized the restrictive flyers circulated by some auditors that limit acceptable tribal IDs to only the nine tribes within South Dakota, arguing that the rules should explicitly recognize tribal IDs from any federally recognized tribe. To support this, she submitted testimony on behalf of Rosebud Sioux Tribe President Kathleen Wooden Knife, which detailed the hardships caused by the photocopy requirement and the inconsistencies faced by tribal members whose reservation land spans multiple counties.

**d. 5:02:03: Name change:**

Testimony of Nicole Hansen

Nicole Hansen, representing the League of Women Voters of South Dakota, testified regarding the difficulties faced by applicants whose legal names do not match the names on their documentary proof of citizenship (DPOC). She explained that since many common documents—such as birth certificates, naturalization papers, and adoption certificates—reflect a person's name at the time of issuance, they fail to account for subsequent name changes due to marriage, adoption, or safety concerns, such as fleeing an abuser. Hansen highlighted that the lack of clear guidance from the Secretary of State

regarding this issue has resulted in inconsistent and arbitrary application of the law across counties. While some auditors require additional proof of marriage or legal name changes, others permit registration if only the first name matches, and some rely on personal familiarity with the applicant to vouch for the change. She argued that this inconsistency creates significant legal liability and risks the improper disenfranchisement of otherwise eligible voters. To resolve these issues, Hansen recommended that the board adopt a clear, uniform affidavit process for applicants whose DPOC does not reflect their current legal name. She noted that this would mirror existing practices for voters who lack ID at the polls and would align with provisions discussed in federal legislation like the SAVE Act. She argued that an affidavit process balances the need for voter access with election security, as individuals would be subject to penalties for perjury if they provide false information. She concluded by urging the board to initiate rulemaking to formalize this process and ensure consistent treatment for all voters across South Dakota.

#### Testimony of Amy Scott Stoltz

Amy Scott Stoltz, representing the League of Women Voters of South Dakota, testified regarding the critical need for uniform guidance for voter registration applicants who have changed their names. She explained that the lack of centralized instructions has forced county auditors to create an inconsistent patchwork of local policies, making it highly difficult for both the League and individual voters to navigate registration requirements. Stoltz emphasized that this administrative confusion disproportionately impacts women who have taken their spouse's last name but possess citizenship documentation reflecting their former name, as well as survivors of domestic violence who cannot safely obtain or access name-change documents. She characterized the time and financial burden of procuring these records—such as out-of-state marriage certificates that can take weeks to arrive and cost upwards of \$50—as an unfair tax carried primarily by new female voters. To resolve these inequities, she urged the board to exercise its authority to implement a uniform process, specifically recommending a secure affidavit option under penalty of perjury, similar to existing state ID exemptions and proposals in the federal SAVE Act, to preserve ballot access while maintaining election security.

#### **e. 5:02:03: Acknowledgment notice for federal voter registrations:**

##### Testimony of Melissa Neal

Melissa Neal, representing the League of Women Voters, testified regarding the constitutionally inadequate notice provided to individuals registered as federal-only voters due to a lack of documentary proof of citizenship (DPOC). She explained that the statewide voter registration system, Total Vote, automatically generates an inaccurate form letter stating the federal-only status is due to a non-residential address issue—a holdover from the implementation of previous legislation, HB 1208—which severely confuses voters whose status is actually due to missing DPOC under Senate Bill 175. While some county auditors have created custom letters to correct this,

voters still receive the inaccurate, automated system letter, leading to conflicting or entirely incorrect information. Neal pushed back against the Secretary of State's claims that a revised form would be too unwieldy and expensive, arguing that updating the existing Total Vote digital template imposes minimal administrative burden and is far less costly than potential litigation over procedural due process violations. She urged the board to establish a uniform notice letter under existing administrative rule structures that explicitly inform registrants of their federal voter status due to missing DPOC, clarifies that they cannot participate in state and local races until it is provided, lists acceptable forms of documentation, and outlines the appeals process. She concluded that dynamically tailoring the system letter to show the exact reason for a voter's status would protect constitutional due process rights while reducing the administrative workload caused by voter confusion and frustration.

**f. 5:02:03:16 Confirmation mailing notice:**

Testimony of Melissa Neal

Melissa Neal, representing the League of Women Voters, testified regarding the confirmation mailing notice, reiterating the ongoing procedural due process concerns. She argued that the board must update the confirmation mailing notice regulation and form letter to explicitly indicate whether a registrant is classified as a federal-only voter or a full ballot voter. Acknowledging the Secretary of State's expressed preference for the term "state voter," Neal pointed out that "federal voter" is the term currently defined in South Dakota law. She noted that if the board or the Secretary chooses to utilize "state voter" instead, the term must be clearly defined within this notice and all other public-facing voter materials to prevent confusion. Additionally, she requested that the Secretary of State update the online voter information portal so that citizens can easily verify their status as either a federal or full ballot voter online.

**g. 5:02:03: Opportunity to cure federal voter status:**

Testimony of Nicole Hansen

Nicole Hansen, representing the League of Women Voters of South Dakota, testified in support of a proposed rule to create an opportunity for voter registration applicants to cure their federal-only voter status. Under the current implementation of Senate Bill 175, there is no formal mechanism for an individual registered as a federal-only voter to update their status unless they submit an entirely new application with documentary proof of citizenship (DPOC) before the registration deadline. Hansen argued that this lack of a remedy creates a severe issue for individuals who register close to the deadline and are not notified of their incomplete status in time, effectively disenfranchising them from state and local elections without constitutional due process. To address this concern, she urged the board to establish a cure process allowing applicants to provide valid DPOC via mail, in person, or at the polling place during early voting or on Election Day, which could be

accommodated through a fully counted provisional ballot. She emphasized that this notice and cure process mirrors standard election administration practices already utilized by auditors for missing application info, resembles absentee ballot signature verification cures, and aligns with a similar framework recently adopted under Utah's proof of citizenship law.

**h. 5:02:03: Right to appeal denial of voter registration:**

Testimony of Nicole Hansen

Nicole Hansen, testifying on behalf of the League of Women Voters of South Dakota, addressed the constitutional protections for procedural due process and emphasized the necessity of a formal appeal mechanism for individuals designated as federal-only voters. She explained that under both state and federal constitutional principles, individuals must be given an opportunity to remedy any administrative action that leads to the denial of a fundamental right, which includes the right to appeal if their citizenship documentation is improperly rejected. Hansen noted that while this formal appeal process would likely be utilized by very few individuals, primarily those who register close to the voter registration deadline and have their applications rejected without sufficient time to submit a new one—it remains an essential constitutional safeguard. She recommended that the board initiate rulemaking to establish a procedure allowing applicants to appeal a federal voter designation to either the County Commission or a county court after navigating the process with the county auditor. She concluded by stating that this framework mirrors standard election administration practices across the country, such as the appeal processes available to voters who have been removed from the rolls via voter challenges and urged the board to adopt the rule proposed in the League's petition.

**i. 5:02:03:14 Acknowledgement notice for invalid of incomplete voter registration applications**

Testimony of Nicole Hansen

Nicole Hansen, testifying on behalf of the League of Women Voters of South Dakota, spoke in support of a proposed rule to require that acknowledgment notices for invalid or incomplete voter registration applications explicitly inform recipients of the available appeals process. She argued that for the right to appeal to be truly meaningful, applicants must first be made aware that the mechanism exists. To achieve this with minimal administrative friction, Hansen recommended simply adding a notification regarding the right to appeal onto the standard notices that applicants already receive when their registrations are deemed invalid or incomplete. She concluded by urging the Board of Elections to initiate rulemaking and adopt this final proposed rule from the League's petition to ensure a transparent, fair, and constitutionally sound registration process.

### Testimony of Thomas Oliva

Thomas Oliva raised a point of clarification regarding the proposal to add appeal information to the acknowledgment notice for invalid or incomplete voter registrations. Oliva pointed out an administrative contradiction: under the current system, individuals who fail to provide documentary proof of citizenship are successfully registered as federal-only voters and are permitted to vote in federal elections, meaning their applications are not technically classified as invalid or incomplete. While he noted that using the invalid or incomplete notice for these active registrations did not make sense under the current definitions, he expressed his personal opinion that any application lacking the necessary documentation to secure a regular state ballot should be marked as invalid or incomplete. He concluded by noting that federal-only voters occupy a highly unusual and confusing administrative middle ground under the new law.

### **Board Exchange with Melissa Neal**

A board member requested clarification regarding federal regulation 42 CFR Section 436.407, which had been distributed to the board as guidance for proof of citizenship. Melissa Neal, representing the League of Women Voters, explained that this specific federal regulation is explicitly cross-referenced in Section 3, subsection 4(e) of Senate Bill 175 as a source of acceptable documents for proof of citizenship. She reiterated that the highlighted portion of the regulation permits a driver's license verifying U.S. citizenship to be accepted in a photocopy format, meaning the state's current administrative ban on photocopies contradicts the very federal rule the statute relies upon. The board member countered by clarifying that this federal regulation actually dictates eligibility for medical assistance programs and covers both citizens and non-citizen nationals, questioning whether a rule with those specific parameters should be used to guide voter registration citizenship thresholds. Neal agreed with the characterization of the regulation's origin but emphasized that the choice to incorporate it belonged entirely to the state legislature when drafting Senate Bill 175, rather than the League of Women Voters.

### **Remarks of Board Member Kristen Matsuda**

Board Member Kristen Matsuda thanked the testifiers and expressed general agreement on the need for **uniformity and consistency** in election administration, though she clarified that her silence should not be misconstrued as agreement with every legal interpretation presented during the hearing. Turning to the board's internal procedures, Matsuda raised concerns regarding the lack of a formalized standard for calling Board of Elections meetings. She explained that this issue became clear following a previous certification process decision, which generated subsequent requests for action and meetings that ultimately were not scheduled. She pointed out that meetings are currently handled on an ambiguous "as needed" basis, with no clear parameters governing who receives a special meeting or when. When asked by the chair if she had a formal proposal to address this, Matsuda stated she had spent her time reviewing the extensive

documentation for the day's first agenda item and had not yet drafted a detailed rule. However, she suggested a baseline framework: requiring a meeting to be scheduled if a majority of the board members request it. She concluded by stating she would return with a formal, structured proposal during the board's next rulemaking session, which will also include a deferred discussion on improving the election certification process.

### **Board Discussion on Meeting Protocols**

Following Board Member Kristen Matsuda's initial comments, the Chair raised a procedural concern regarding how the board could legally poll its members to call a special meeting without violating state open meetings laws or creating an improper rolling quorum. Matsuda countered that navigating this issue is relatively straightforward and standard practice for state agencies. She suggested utilizing an objective intermediary—such as a representative from the Secretary of State's office or the Attorney General's office—to receive independent communications from board members. This would allow the board to determine if a majority desires a meeting without triggering a collective, un-noticed discussion. Matsuda also noted that individual board members should not unilaterally decide how to handle incoming correspondence or complaints, reiterating that "uniformity and clarity" should govern scheduling and administrative procedures.

### **Public Comments:**

#### **Public Comment of Rick Weible**

Rick Weible provided public testimony addressing both the board's internal procedures and the broader context of Senate Bill 175:

**HAVA Complaints and Venue:** Weible noted that South Dakota currently lacks an officially documented, public-facing process for handling Help America Vote Act (HAVA) complaints. He argued that this lack of a formal administrative venue left the public with no choice but to take recent election system certification disputes to the courts path he stated should be avoided through better board rules. **Open Meetings Compliance:** Drawing from his experience on the Elkton City Council, Weible clarified that coordinating a public meeting does not violate open meeting statutes, provided the communications are funneled through a clerk and focus strictly on scheduling (time, place, and manner) rather than debating the merits of the underlying project or policy. **SB 175 and Federal Alignment:** Addressing the debate surrounding SB 175, Weible argued that the statute's inclusion of federal regulatory lists is not inherently contradictory. Instead, he maintained that the law was designed to remain uniform with federal standards. He noted this catch-all approach allows state registration guidelines to dynamically adapt to evolving Department of Homeland Security, Real ID, and federal regulations, particularly as the presidential administration and Congress evaluate new worker visa programs and pathways to citizenship.

## **General Remarks:**

### Board Exchange Regarding Testimony Deadlines

Board Member's Concern: A board member raised a procedural concern regarding the uniform enforcement of deadlines for submitting written testimony. They noted that while written testimony from Rosebud Sioux Tribe President Kathleen Wooden Knife (via the Native American Rights Fund) was submitted well in advance on June 29, counter-testimony from the author of Senate Bill 175, John Carley, was submitted at 4:30 PM MDT the afternoon just prior to the hearing. Because the member was in transit, they were unable to print the late submission and had requested that staff provide copies. The member emphasized that failing to strictly honor deadlines creates an inequitable process where accommodations are made "for some and not for others." They added that it would have been highly beneficial to have the legislation's sponsor present in person to explain the overarching legislative intent.

Response from the Secretary of State's Office: Christine Lehrkamp, representing the Secretary of State's office, explained that she was not provided with the late-filed documentation until immediately before the meeting commenced. Because the session was already underway, it was logistically impossible for her to leave the room to print and distribute physical copies to the board. However, Lehrkamp assured the meeting attendees that the testimony had already been successfully uploaded and posted publicly online via the state's Boards and Commissions portal, concluding that the public notice requirements for entering comments into the record had been fully met.

## **RECESS:**

The Chair called for any final comments from the board before officially placing the meeting into recess. In closing, the Chair outlined the notification procedures for when the board reconvenes:

Notice Timeline: The next meeting will adhere to standard public meeting laws, requiring a minimum 72-hour public notice prior to gathering.

Public Notifications: The board will make an effort to directly notify any interested parties who wish to receive updates, instructing attendees to submit their contact information to staff to be added to the notification list.

The Chair concluded by thanking everyone in attendance for their participation, and the board stood in recess.