



June 2, 2026

South Dakota State Board of Elections
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sdsos@state.sd.us

Dear State Board of Elections:

Introduction

The League of Women Voters of South Dakota submits this petition for rulemaking to the South Dakota State Board of Election (“the Board”) pursuant to Section 1-26-13 of the South Dakota Codified Laws (“SDCL”) to urge the Board to promulgate rules to implement Senate Bill 175 (“S.B. 175”), codified at SDCL §§ 12-4-1; 12-4-1.3; 12-4-1.4. S.B. 175, which was signed by the Governor on March 26, 2026, and took immediate effect. S.B. 175 revised South Dakota’s voter registration laws in the middle of an election year to require documentary proof of citizenship (“DPOC”) to register to vote in state and local elections but provided insufficient guidance or rules regarding its implementation. As of May 5, 2026, S.B. 175 had already led to more than 150 federal voter registrations for lack of DPOC and this number is expected to increase.¹ The sudden and inconsistent implementation has led to a series of problems that risk continued violations of state and federal law.

The League of Women Voters of South Dakota is a nonpartisan political organization encouraging informed and active participation in government at all levels. The League works to increase understanding of major public policy issues and influences public policy through education and advocacy. Membership is open to people of all genders and ages. With over 700 affiliates in all 50 states, the League of Women Voters is one of the nation’s most trusted civic engagement organizations.

¹ Makenzie Huber, *New Laws Result in 1,500 Federal-Only Voter Registrations Ahead of South Dakota Primary Election*, South Dakota Searchlight (May 12, 2026), <https://southdakotasearchlight.com/2026/05/12/new-laws-result-in-1500-federal-only-voter-registrations-ahead-of-south-dakota-primary-election/>.

Recommended Changes to Resolve Ongoing Legal Violations

South Dakota's existing regulations are insufficient to implement the new DPOC requirement. Auditors lack necessary guidance to allow them to implement S.B. 175 lawfully, which leaves election administrators vulnerable to violating their other obligations under state and federal law. In the sections that follow, we draw your attention to several areas where existing regulations fall short. In the Appendix to this petition, we propose rule text that, if adopted, would minimize South Dakota's ongoing risk of liability, help ensure compliance with state and federal law, and promote uniform statewide implementation.

I. The Board must include the DPOC requirement and instructions on the State Voter Registration Form.

South Dakota's current voter registration application and instructions risk running afoul of state and federal law because they fail to notify registrants of the requirement to provide DPOC to register to vote in state and local elections. The National Voter Registration Act ("NVRA") requires that state voter registration forms "inform applicants" of "voter eligibility requirements," 52 U.S.C. § 20507(a)(5), and that they "specif[y] each eligibility requirement" for applicants, 52 U.S.C. § 20508(b)(2)(A). The South Dakota Legislature has incorporated the requirements of the NVRA into state law. SDCL § 12-4-32 ("[The NVRA] appl[ies] to all elections in South Dakota which require voter registration."). The NVRA's requirement to inform applicants of voter eligibility thus applies not just to federal but also to state elections. Presently, South Dakota's voter registration application says nothing about the DPOC requirement. *See* Ex. 1 (South Dakota voter registration application). Accordingly, the current form fails to "inform applicants . . . of voter eligibility requirements" as required by the NVRA and South Dakota law. 52 U.S.C. § 20508(b)(2)(A); *see* SDCL § 12-4-32. To resolve this problem, the Board must promulgate rules to update the state voter registration form and instructions. The new form and instructions must indicate that DPOC is required to register to vote in state and local elections and provide examples of acceptable DPOC.

To further improve implementation of S.B. 175, we also recommend that the voter registration form be updated to contain a field where naturalized citizens can satisfy the DPOC requirement by optionally providing their Alien Registration Number (A-Number) to allow an auditor to verify their U.S. citizenship through the federal SAVE database.² This update to the voter registration form would allow newly

² SDCL § 12-4-1.4(4)(e) provides that verification of a voter's citizenship through the federal SAVE database is acceptable DPOC because it is listed as an option under 42 C.F.R. §

naturalized citizens to comply with S.B. 175’s DPOC requirement without having to provide a photocopy of their naturalization certificate. In addition to easing the registration process for naturalized voters and election officials alike, it would also streamline voter registration events run by the League and other civic engagement organizations.

In the attached Appendix, we propose the Board adopt the suggested amendments to Rule 5:02:03:01 (Voter registration form) and Rule 5:02:03:13 (Voter registration instructions) to reduce voter confusion and unnecessary disenfranchisement from state and local elections. These changes will also reduce the burden on county auditors and address potential liability for election officials.

II. Photocopies of DPOC must be accepted.

Under current guidance, issued on March 26, 2026, the Secretary of State (“SOS”) has incorrectly interpreted SDCL § 12-4-1.4 to require that certain forms of DPOC be presented as an original and not a photocopy. These include the forms listed in SDCL § 12-4-1.4(1)-(3): (1) a South Dakota driver license or nondriver identification card issued after July 1, 2025; (2) another state’s driver license or nondriver identification card that indicates the holder’s citizenship has been verified; and (3) a Tribal identification card. This guidance is inconsistent with the text of SDCL § 12-4-1.4, gives rise to a potential violation of the Materiality Provision of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B), and abridges the fundamental right to vote under the South Dakota and federal Constitution. Additionally, this contradictory guidance has resulted in inconsistent implementation by auditors across the state, running the risk of due process violations. Regulatory action is required to ensure auditors implement SDCL § 12-4-1.4 consistent with state and federal law.

With respect to driver licenses, the plain text of SDCL § 12-4-1.4 states that any DPOC that is acceptable under 42 C.F.R. § 436.407 is also acceptable in photocopy form. SDCL § 12-4-1.4(4) (“A legible photocopy of ... (e) Any other type of acceptable documentary evidence of citizenship permitted under 42 C.F.R. § 436.407 (January 1, 2026).”). Under 42 C.F.R. § 436.407, a driver license that indicates U.S. citizenship is acceptable proof of citizenship. 42 C.F.R. § 436.407(a)(4). Therefore, a state-issued driver license that indicates U.S. citizenship must also be acceptable if presented as a photocopy. Current SOS guidance, however, provides that anyone using their driver license as their form of DPOC must present the original document,

436.407(b)(11). SDCL §12-4-1.4(4)(e); *see also* Ex. 2 (March 26, 2026 SOS Guidance: “Documents to provide as Proof of US Citizenship for voter registration purposes”).

rather than a photocopy. Ex. 3 (March 26, 2026 SOS Memorandum Re Implementation Guidance for Senate Bill 175).

The SOS's current interpretation of SDCL § 12-4-1.4 also violates the Civil Rights Act's Materiality Provision, which "prohibits denial of an individual's right to vote based on 'an error or omission' in a registration document if such error or omission is 'not material in determining whether such individual is qualified under State law to vote.'" *Get Loud Arkansas v. Jester*, 171 F.4th 1058, 1065 (8th Cir. 2026) (quoting 52 U.S.C. § 10101(a)(2)(B)). In-person presentation of driver licenses, state identification cards, and Tribal identification cards is not material for county auditors to determine whether voter registration applicants are qualified to vote in South Dakota. Indeed, the SOS's own guidance for voter registration at offices of public assistance requires that employees of those offices make a photocopy of the applicant's DPOC which is then sent to county auditors for review, along with their voter registration application. Ex. 3 (March 26, 2026 SOS Memorandum Re Implementation Guidance for Senate Bill 175). If photocopies of DPOC are sufficient for auditors to determine eligibility in that context, the in-person requirement cannot be said to be material to determine eligibility for a voter who mails in their voter registration form.

Because of the contradiction between the SOS's guidance and the text of SDCL § 12-4-1.4, the law is being inconsistently implemented by auditors across the state, with some accepting photocopies of these forms of DPOC while others require physical copies. This lack of uniformity and differential treatment of voters between counties risks violations of due process. Because the Secretary's guidance contradicts the law it is designed to implement, the Board's rulemaking is necessary to correct this misinterpretation and provide for uniform implementation of state law.

Moreover, the lack of uniform statewide implementation particularly burdens Native voters, rural voters, and voters residing on Tribal lands, many of whom may lack immediate access to underlying citizenship documents, home mail delivery, transportation, internet access, or nearby issuing agencies. Additionally, the absence of clear statewide standards creates a substantial risk that similarly situated voters will receive materially different treatment depending on the county in which they attempt to register or vote. These burdens on the right to vote raise serious concerns under the South Dakota and federal Constitutions. *See* S.D. Const. art. VII, § 1; S.D. Const. art. VI, § 19; U.S. Const. amend. I; U.S. Const. amend. XIV, § 1.

To remedy these problems, the Board must promulgate rules that clarify that driver licenses, state identification cards, and Tribal identification cards are acceptable in photocopy form. In the attached Appendix, we propose that the Board

adopt the suggested amendments to Rule 5:02:03:01 (Voter registration form) and Rule 5:02:03:13 (Voter registration instructions). We also propose that the Board promulgate a new rule, such as the suggested draft Rule 5:02:03:XX (Proof of citizenship). These changes would reduce potential liability for county auditors and state election officials administering the DPOC requirement.

III. The Board must provide clarity for applicants who have changed their name.

The State has yet to issue guidance explaining how auditors should process the applications of people who are not already registered to vote in South Dakota, whose current names do not match the names on their DPOC. This may occur, for example, if an applicant's only form of DPOC is her birth certificate, but she has since married and changed her last name. With no guidance from the State, county auditors have adopted varying positions on how to process the voter registration applications of new voters whose current legal names do not match the name on their DPOC. The State's failure to issue guidance explaining how auditors should process the DPOC and applications of new voters with name changes risks burdening South Dakotans' fundamental right to vote and due process rights.

The South Dakota Constitution and U.S. Constitution safeguard citizens' right to vote. S.D. Const. art. VII, § 1; S.D. Const. art. VI, § 19; U.S. Const. amend. I; U.S. Const. amend. XIV. The total absence of guidance for auditors and the public about the process for people whose current names do not match their DPOC burdens this right. People in this situation have no way to know how to comply with the DPOC requirement, and depending on their county, they may be required to take additional steps—such as providing evidence of their name change—to register to vote. The lack of uniformity and differential treatment of voters between counties also risks violations of due process.

To address this problem, the Board must promulgate rules for how to process the applications of new voters with name changes. Specifically, we recommend rules that specify that auditors can accept affidavits as sufficient proof of name change to accompany DPOC that does not match a person's current name. In the attached Appendix, we propose the Board promulgate a new rule, such as the suggested draft Rule 5:02:03:XX (Name change). Additionally, the Board should create a standard name change affidavit form for voters' use. This approach has been used and

contemplated elsewhere, including the SAVE America Act.³ These changes would reduce the burden on county auditors and address potential liability for election officials administering the DPOC requirement.

IV. Applicants must receive notice and an opportunity to be heard on their federal voter status.

The State’s failure to provide any notice or opportunity to appeal or cure a rejected state voter registration based on lack of DPOC poses a procedural due process problem. The Due Process Clause of the Fourteenth Amendment provides that “[n]o state shall ... deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1, cl. 3. Procedural due process prevents the state from depriving a person of a liberty or property interest—including the right to vote—without procedural safeguards in place. *Self Advocacy Solutions N.D. v. Jaeger*, 464 F.Supp.3d 1039, 1052 (D.N.D. 2020). “The fundamental requirement of due process is the opportunity to be heard.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

Under the State’s current implementation of S.B. 175, a person who is registered as a federal voter, because they have not provided DPOC or because their DPOC was rejected, receives constitutionally inadequate notice. When someone is registered as a federal voter, the statewide voter registration system, TotalVote, creates a form notice letter from the county auditor stating that the applicant was registered as a federal voter because they provided a commercial or other nonresidential mailing address without providing a description of their residential address. *See* Ex. 4 (TotalVote Federal Only Voter letter). While this letter describes *one* way that a person can become a federal voter, it is plainly inaccurate as to people who become federal voters because they did not provide DPOC. Yet auditors are directed to send this notice to all voters, even those voters to whom the notice provides inaccurate information.

This letter provides inadequate notice because it gives registrants who applied without DPOC or with insufficient DPOC the wrong reason for the rejection of their state registration. While some auditors are attempting to supplement this letter and provide further notice on their own initiative, these efforts are inconsistent and not enough to guarantee procedural due process for every South Dakota voter. Accordingly, the Board must promulgate and develop a statewide, standardized

³ *9 Things to Know About the Proposed SAVE America Act*, National Conference of State Legislatures (Mar. 23, 2026), <https://www.ncsl.org/state-legislatures-news/details/9-things-to-know-about-the-proposed-save-america-act>.

notice form that provides adequate information to the federal voter about their status and accurate grounds for their designation.

Moreover, the State's implementation of S.B. 175 provides applicants whose state registrations are rejected with no opportunity to be heard or otherwise contest the denial. First, there is no appeal process for a voter whose DPOC is rejected by the county auditor. Because S.B. 175 sets forth no appeals process if a voter's DPOC is not accepted by the auditor and there is no general appeals process in state law or South Dakota administrative code for appealing a federal voter designation, the Board must use its general authority over implementing the Election Code to provide constitutionally-minimal due process. *See* SDCL § 12-1-9(1), (4), (9). Second, the State's implementation of S.B. 175 provides no opportunity to cure the loss of voting rights in non-federal elections. Though some county auditors have indicated that they will later accept DPOC from already-registered federal voters and will update those registrations to standard registrations, there is no guidance set forth by the State that guarantees an opportunity to cure applications lacking DPOC—before or after the voter registration deadline. Accordingly, the Board must promulgate and develop a cure process that provides voters an opportunity to update their federal voter status so they can participate in all elections for which they are lawfully eligible.

In sum, federal voters' lack of notice and opportunity to be heard is a clear violation of procedural due process. The risk that an eligible "full ballot" voter will be deprived of their right to vote in state and local elections is high. The only guaranteed notice—the TotalVote-produced letter—fails to inform federal voters why their state voter registration application was rejected or how they can cure the rejection and vote in non-federal elections. Additional or substitute procedural safeguards, such as a State-led mandatory notice and cure process and an appeal process, would ensure that every voter whose state registration is rejected for lack of DPOC receives adequate notice and an opportunity to be heard. Moreover, the following suggested changes would reduce the burden on county auditors and address potential liability for election officials.

To ensure that these safeguards are in place, the Board must promulgate rules that establish a uniform notice letter notifying registrants who do not provide DPOC: 1) that the individual has not provided DPOC and has been registered as a federal voter, 2) that until the individual provides DPOC, they will be unable to vote in state and local elections, 3) the methods by which the individual may provide DPOC, and 4) the appeals process should the individual believe they have been registered as a federal voter in error. This can be accomplished through a new acknowledgement letter, similar to the acknowledgment notices for incomplete and invalid voter

registration applications (Rule 5:02:03:14) and valid voter registrations (Rule 5:02:03:15). In the attached Appendix, we propose that the Board promulgate a new rule, such as the suggested draft Rule 5:02:03:XX (Acknowledgement notice for federal voter registrations) and adopt our proposed amendments to Rule 5:02:03:16 (Confirmation mailing notice).

To ensure that voters have minimal procedural due process guarantees to cure or contest their designation as a federal voter, the Board must promulgate rules that establish an opportunity for voters to appeal their federal voter status and to allow voters an opportunity to meaningfully cure their status to vote in state and local elections before casting their ballot. In the attached Appendix, we propose that the Board promulgate a new rule, such as the suggested draft Rule 5:02:03:XX (Opportunity to cure federal voter status) and draft Rule 5:02:03:XX (Right to appeal denial of voter registration), and adopt our corresponding proposed amendments to Rule 5:02:03:14 (Acknowledgement notice for invalid or incomplete voter registration applications).

V. Federal voters must be provided with an opportunity to cast a provisional ballot.

The lack of process by which federal voters can provide DPOC after the voter registration deadline or vote by provisional ballot runs afoul of the Help America Vote Act (“HAVA”). HAVA requires states to allow voters whose eligibility is contested to vote by provisional ballot. 52 U.S.C. § 21082. Here, however, the State has provided no opportunity for voters whose DPOC has been rejected or not yet provided to vote by provisional ballot.

To comply with HAVA, the Board should promulgate a rule that allows a voter who has not provided DPOC at the time of registration or before voting to cast a standard ballot as a provisional ballot and allows the voter to provide DPOC by the regular ballot cure deadline. In the attached Appendix, we propose the Board promulgate a new rule, such as the suggested draft Rule 5:02:03:XX (Opportunity to cure federal voter status). These changes would reduce potential liability for election officials and make Election Day run smoother for county and municipal election administrators.

Conclusion

In this petition, we have called the Board’s attention to several places where new or amended regulations are necessary to ensure that S.B. 175, codified at SDCL §§ 12-4-1; 12-4-1.3; 12-4-1.4, is implemented consistent with state and federal law. In

the Appendix that follows, we provide proposed text for each new or amended rule we have suggested.

Pursuant to SDCL § 1-26-13, we request that the Board issue its written decision for this petition and initiate rule-making proceedings within thirty days, if not sooner. We therefore look forward to hearing from you by July 2, 2026. Thank you for your consideration, and please do not hesitate to reach out with questions.

Respectfully,

Kathryn Johnson

President

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APPENDIX

5:02:03:01. Voter registration form. The voter registration form must be legibly printed on one or more pages that are eight-and-a-half-inch-wide by eleven-inch-tall paper and contain:

- (1) The deadline for voter registration;
- (2) Whether the applicant is a U.S. citizen;
- (3) Whether the applicant has had, in this state, an actual fixed permanent dwelling, establishment, or any other abode where the applicant lives and usually sleeps for at least thirty consecutive days at the time of the election;
- (4) Whether the applicant is a resident of only one place;
- (5) Whether the applicant will be at least eighteen years of age at the time of the next election;
- (6) The applicant's name;
- (7) The applicant's residence or voting address in South Dakota;
- (8) The applicant's mailing address if different than the applicant's residence or voting address;
- (9) "If you are not currently registered to vote in South Dakota and do not provide documentary proof of citizenship at the time of registration but otherwise meet all registration requirements, you will be registered as a federal voter. A federal voter cannot participate in state or local elections or ballot questions. To be eligible to vote a "full ballot," you must provide documentation to demonstrate U.S. citizenship. A "full ballot" includes all federal, state, county, and local races and ballot questions for which you are eligible to vote. Acceptable proof of citizenship to vote a "full ballot" includes either a legible photocopy or in-person presentation of any of the following:**

- **A South Dakota driver license or nondriver identification card that indicates U.S. citizenship, issued after July 1, 2025. Photocopies must include the front and back;**
- **A driver license or nondriver ID card from another state indicating the holder's citizenship has been verified. Photocopies must include the front and back;**
- **A tribal identification card;**
- **Birth certificate;**
- **United States passport. Photocopies must include the biographic data page with the applicant's name, photograph, and passport number;**
- **Consular Report of Birth Abroad issued by the U.S. Department of State;**
- **Certificate of naturalization;**
- **Any other documentation permitted under 42 C.F.R. § 436.407";**

~~(9)~~**(10)** "If you live in a rural area and do not have a street address; if your residence address is a PO Box, rural box, or general delivery; or if you have no address, please describe the physical location of your residence in writing in the space provided, which may include writing the names of the streets or intersections nearest to where you live and listing any landmarks (e.g., schools, churches, stores) near where you live. If you run out of room, or if you want to draw a map to pinpoint your residence and you do not have enough room in the space provided, use the back of this form";

~~(10)~~**(11)** "If you use a commercial mail receiving agency, mail forwarding service, or other post office box as your residence or voting address without a description of the location of your habitation, you may be registered only as a federal voter";

~~(11)~~**(12)** The applicant's date of birth;

~~(12)~~**(13)** The applicant's telephone number (optional);

~~(13)~~**(14)** The applicant's email address (optional);

~~(14)~~**(15)** The applicant's current South Dakota driver license number or South Dakota nondriver identification card number;

~~(15)~~**(16)** If the applicant does not have a current South Dakota driver license number or South Dakota nondriver identification card number, the last four numbers of the applicant's SSN;

~~(16)~~**(17)** The applicant's choice of party (optional);

(18) The applicant's Tribal Identification Number or Alien Registration Number (optional);

~~(17)~~**(19)** The following as depicted on the applicant's previous voter registration if the applicant seeks to cancel the applicant's prior voter registration:

(a) Name;

(b) Address;

(c) Driver license or nondriver identification card number and state, or last four numbers of SSN; and

(d) County; and

~~(18)~~**(20)** A signed statement declaring under the penalty of perjury that the applicant:

(a) Is a citizen of the United States of America;

(b) Will be at least eighteen years of age at the time of the next election;

(c) Is a resident of the state of South Dakota;

(d) Has not been judged mentally incompetent;

(e) Is not currently serving a sentence for a felony conviction;

(f) Has complied with South Dakota law regarding registration of voters, pursuant to SDCL chapter 12-4; and

(g) Authorizes the cancellation of a previous registration, if applicable.

The Secretary of State's Office shall produce a voter registration form containing the above information and distribute the form to the county auditors. A county auditor may create a large print version of the voter registration form.

General Authority: SDCL 12-1-9(1).

Law Implemented: SDCL 12-3-1, 12-4-1.2, 12-4-1.3, **12-4-1.4**, 12-4-3, 12-4-5.4, 12-4-6, 12-4-8, 12-4-15, 12-20-1.1.

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5:02:03:13. Voter registration instructions. The instructions attached to each voter registration form other than those used in the county auditor's office, the alternative form provided in § 5:02:03:01, or those used by agencies listed in § 5:02:03:12 must be in the following form:

South Dakota Voter Registration Form

Please follow these instructions carefully to ensure that your voter registration is properly completed.

You can use this form to:

- * Register to vote in South Dakota
- * Change your registration name or address
- * Change your party affiliation

To register to vote in South Dakota, you must:

- * Be a United States citizen**
- * Reside in South Dakota
- * Be at least 18 years old on or before the next election
- * Not be currently serving a sentence for a felony conviction
- * Not be judged mentally incompetent by a court of law

****If you are not currently registered to vote in South Dakota and do not provide documentary proof of citizenship at the time of registration but otherwise meet all registration requirements, you will be registered as a federal voter. A federal voter cannot participate in state or local elections or ballot questions. To be eligible to vote a “full ballot,” you must provide documentation to demonstrate U.S. citizenship. A “full ballot” includes all federal, state, county, and local races and ballot questions for which you are eligible to vote. Acceptable proof of citizenship to vote a “full ballot” includes either a legible photocopy or in-person presentation of any of the following:**

- **A South Dakota driver license or nondriver identification card that indicates U.S. citizenship, issued after July 1, 2025. Photocopies must include the front and back;**
- **A driver license or nondriver ID card from another state indicating the holder’s citizenship has been verified. Photocopies must include the front and back;**
- **A tribal identification card;**
- **A birth certificate;**
- **A United States passport. Photocopies must include the biographic data page with the applicant’s name, photograph, and passport number;**
- **A Consular Report of Birth Abroad issued by the U.S. Department of State;**
- **A certificate of naturalization;**

- **Any other documentation permitted under 42 C.F.R. § 436.407.**

To register, please complete the entire registration form by printing the requested information **and providing the required documentation**. If you are currently registered to vote, please also fill out the attached cancellation form. Return the registration/cancellation form to the county auditor in your county of residence. Any private person or entity registering voters is required to provide you with their contact information. (bold) **The deadline for registration is 15 days before any election. Your form must be received by the auditor by this deadline if you are to vote in the next election.** (unbold)

Within 15 days you will receive a notice of your registration. If you do not, contact your county auditor.

General Authority: SDCL **12-1-9(9)**, 12-4-35.

Law Implemented: SDCL **12-4-1.3, 12-4-1.4**, 12-4-2, 12-4-3.

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5:02:03:XX. Proof of citizenship.

(1) Acceptable proof of citizenship to satisfy the requirements of SDCL § 12-4-1.4 includes either a legible photocopy or in-person presentation of any of the following:

- **A South Dakota driver license or nondriver identification card that indicates U.S. citizenship, issued after July 1, 2025;**
- **A driver license or nondriver ID card from another state indicating the holder's citizenship has been verified;**
- **A tribal identification card issued by a federally recognized Indian Tribe;**
- **A birth certificate;**
- **A United States passport;**
- **A Consular Report of Birth Abroad issued by the U.S. Department of State;**
- **A certificate of naturalization;**
- **Any other documentation permitted under 42 C.F.R. § 436.407.**

(2) Legible photocopies may be submitted by mail, email, or other electronic means.

General Authority: SDCL 12-1-9(4), (9).

Law Implemented: SDCL 12-4-1.3, 12-4-1.4.

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5:02:03:XX. Name change.

A voter registration applicant whose current legal name does not match the name on their documentary proof of citizenship because they have changed their name may satisfy the requirements of SDCL § 12-4-1.4 by providing proof of citizenship containing a prior name as well as any of the following:

- Documentary proof of name change, together with the applicant's documentary proof of citizenship;
- A county auditor's personal knowledge of the applicant's name change;
- A court order;
- A government-issued marriage certificate or civil union certificate;
- A certified copy of a divorce decree or final judgment or dissolution record;
- An affidavit from the applicant attesting that the applicant has legally changed their name and that the name on the applicant's documentary proof of citizenship is their previous name. The affidavit must be signed under penalty of perjury and need not be notarized;
- Any other documentation or information a county auditor deems sufficient to establish the applicant's identity.

A legible photocopy of any of the above documents is sufficient.

General Authority: SDCL 12-1-9(4), (9).

Law Implemented: SDCL 12-4-1.3, 12-4-1.4.

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5:02:03:XX. Acknowledgement notice for federal voter registrations.

(1) The acknowledgement notice sent by nonforwardable mail to each person who submits a valid voter registration application to the county auditor, which results in a federal voter status, shall contain the following heading:

VOTER REGISTRATION ACKNOWLEDGEMENT NOTICE (FEDERAL VOTER)

and the following instructions, depending on the reason the voter was registered as a federal voter pursuant to SDCL 12-4-1.3(1) or 12-4-1.3(2):

“You have been registered as a federal voter because you have used a commercial mailing receiving agency, mail forwarding service or post office (P.O.) box as your residence address without providing a description of the location of your residence on either your voter registration application or absentee ballot application (SDCL 12-4-1.3(1)). Federal voters may only vote in federal elections for presidential electors, United States senator, or United States representative at a primary, runoff, special, or general election (SDCL 12-4-1.3).

To be eligible to vote a ‘full ballot,’ you must contact your county auditor to update your residence address or provide a description of the location of your residence on your voter registration application or absentee ballot application. A ‘full ballot’ includes all federal, state, county, and local races and ballot questions for which you are eligible to vote.”

OR

“You have been registered as a federal voter because you have not provided documentary proof of U.S. citizenship with your voter registration application (SDCL 12-4-1.3(2)). Federal voters may only vote in federal elections for presidential electors, United States senator, or United States representative at a primary, runoff, special, or general election (SDCL 12-4-1.3).

To be eligible to vote a ‘full ballot,’ you must provide documentation to demonstrate U.S. citizenship. A ‘full ballot’ includes all federal, state, county, and local races and ballot questions for which you are eligible to vote. Acceptable proof of citizenship to vote a “full ballot” includes either a legible photocopy or in-person presentation of any of the following:

- A South Dakota driver license or nondriver identification card that indicates U.S. citizenship, issued after July 1, 2025;
- A driver license or nondriver ID card from another state indicating the holder’s citizenship has been verified;
- A tribal identification card;
- A birth certificate;
- A United States passport;
- A Consular Report of Birth Abroad issued by the U.S. Department of State;
- A certificate of naturalization;
- Any other documentation permitted under 42 C.F.R. § 436.407.”

and the following information:

Voter's name, complete mailing address, political party, ward, precinct, school district, county commission district, legislative district, water district, township, and date of registration.

The postal endorsement shall be: Return Service Requested.

(2) A county auditor that sends an acknowledgement notice to a federal voter under Subsection (1) by mail shall additionally notify the federal voter of their status by email or by phone call, if the federal voter provided a telephone number or email address on the voter registration application.

General Authority: SDCL 12-4-35, 12-1-9(9).

Law Implemented: SDCL 12-4-5.3, 12-4-1.3.

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5:02:03:16. Confirmation mailing notice. The mailing notice sent by forwardable mail to confirm voter registration information must contain the following information:

Voter Registration Information

(List voter's name, complete mailing address, complete residence address, political party, ward, precinct, school district, county commission district, legislative district, water district, township, and location of precinct polling place, status as a federal or full-ballot voter)

_____ County Auditor

_____, SD _____

(postage)

If this information is correct and you wish to remain registered to vote, please check the first box, sign below, tear off this

Forwarding Service Requested
or Address Service Requested

preaddressed and prepaid card and mail.

If this is not correct, please see reverse side for instructions.

(bold) You must check one: (unbold)

I certify that the above information is correct or has been corrected; or

I certify that I have registered elsewhere (Voter's Name)
and/or please cancel my registration. (Voter's Address)
(Voter's City, State, Zip)

Date _____ Voter Signature _____

The reverse side shall be in the following form:

Voter Registration Confirmation

1. If the information on the reverse side is correct and you wish to remain registered to vote, please check the first box, sign, tear off, and return the attached card.

2. If any of this information is not correct, please check the first box, make the appropriate changes, sign, tear off, and return the attached card. Your voter registration will be changed (Postage Prepaid)

to reflect the information which you provide.

If you indicate a residence address outside of your registration county, your voter registration will be canceled; and we encourage you to register to vote in your new county or state.

(County Auditor's Address)

3. If this card is not returned within 30 days, your voter registration will become inactive. With an inactive registration you will be able to vote by signing an affirmation of current address at your polling place.

4. If this card is not returned within 30 days and you do not vote by the second general election from today, your registration will be canceled.

5. If you have registered to vote elsewhere, please check the second box, sign, and return.

General Authority: SDCL 12-1-9(1), 12-1-9(9), 12-4-35.

Law Implemented: SDCL 12-4-19, 12-4-19.1, 12-4-1.3.

###

5:02:03:XX. Opportunity to cure federal voter status.

(1) Before voting, an individual who is designated as a federal voter shall have an opportunity to provide documentary proof of citizenship to their county auditor to become a standard

voter who may vote in all federal, state, county, and local races and ballot questions for which that voter is eligible.

(2) A federal voter may provide documentary proof of citizenship after the voter registration deadline to their county auditor and become registered as a standard voter including on election day, so long as the voter was registered as a federal voter in that county before the voter registration deadline. If the precinct poll book has been printed or cannot be updated on election day, a federal voter who has provided sufficient documentary proof of citizenship to the county auditor may cast a standard ballot as a provisional ballot. The person in charge of the election shall determine if the federal voter casting a standard ballot by provisional ballot was legally qualified to vote in any non-federal election contests in which the provisional ballot was cast pursuant to SDCL 12-20-5.1.

General Authority: SDCL 12-20-52.

Law Implemented: SDCL 12-20-5.1, 12-4-1.3.

###

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

A person denied voter registration shall have the right to appeal. A person registered as a federal voter may appeal the rejection of their state voter registration. If an applicant's registration is rejected, the county auditor must inform the rejected applicant that the applicant may appeal the decision to either the board of county commissioners or the circuit court using the notice form identified in Rule 5:02:03:14. If the appeal is made to the county commission, the appeal must be filed with the state's attorney of the county. The commission shall consider the appeal as a contested case, pursuant to SDCL chapter 1-26, within thirty days.

General Authority: SDCL 12-1-9(1), (4), (9).

Law Implemented: SDCL 12-4-1, 12-4-1.3, 12-4-1.4, 12-4-2, 12-4-5.3.

###

5:02:03:14. Acknowledgement notice for invalid or incomplete voter registration applications. If a person submits to the county auditor a voter registration application that cannot

be filed because it is invalid or incomplete, the auditor must send, by nonforwardable mail, the following acknowledgement notice:

Invalid or Incomplete Voter Registration Acknowledgement Notice

_____ Your voter registration is not valid because you are not eligible to be a registered voter.
Reason:

_____.

You have the right to appeal the denial of your voter registration. You may appeal the decision to either the board of county commissioners or the circuit court. If the appeal is made to the county commission, the appeal must be filed with the state's attorney of the county. The commission shall consider the appeal as a contested case, pursuant to SDCL chapter 1-26, within thirty days.

_____ Your voter registration has not been processed because your application is incomplete. Please call our office if you have questions or visit our office to complete your registration. You will not be able to vote in accordance with the voter registration submitted unless you provide the needed information before _____.

To complete your voter registration or if you have questions, please visit our office at _____.

Thank You,

_____ County Auditor

General Authority: SDCL 12-1-9(3), 12-4-5.3, 12-4-35.
Law Implemented: SDCL 12-4-5.3.

EXHIBIT 1



South Dakota Voter Registration Form County

Use this form to register to vote or update your name, address, or party affiliation. (2025)

Eligibility

Required

1

Are you a citizen of the United States? Yes No
I will be 18 years or older by the next election. Yes No

If you answer "No", in response to either of these questions do not complete this form.

Birthdate

Required

2

Birthdate (Not today's date)
Month Day Year

Name

Required

3

Last Name First Name Middle Name Suffix

Identification

Required

4

SD Driver's License (DL) # or SD Non-Driver ID # OR Last 4 digits of your SSN
X X X - X X -

If you do not have a current SD DL # or SD Non-Driver ID #, provide the last 4 digits of Social Security Number.

The Address Where You Live in South Dakota

Required

Write your address or describe or draw where you live.

No PO Boxes.

5

Residence Address Apt # or Lot #
City or Town State Zip Code

OR

If you live in a rural area and do not have a street address; if your residence address is a PO Box, rural box, or general delivery; or if you have no address, please describe the physical location of your residence in writing in the space provided which may include writing the names of the streets or intersections nearest to where you live and listing any landmarks (e.g., schools, churches, stores) near where you live. If you run out of room or if you want to draw a map to pinpoint your residence and you do not have enough room in the space provided, use the back of this form.

The Address Where You Receive Mail

If different from your address in section 5.

6

Mailing Address Apt # or Lot #
City or Town State Zip Code

Party Affiliation

7

- If you're currently registered in South Dakota and you don't choose a party on this form, you'll keep your current party affiliation.
- If you are not currently registered in South Dakota and you don't choose a party on this form, you'll be registered with no party affiliation.

Write in Your Party Affiliation

See the SD Voter Registration Instructions for recognized party information.

Declaration

Required

If you can't sign your name, you may make a mark instead. Someone else must write your name near the mark and sign as a witness.

(SDCL 2-14-2)

8

I declare, under penalty of perjury (2 years imprisonment and \$4,000 fine), that:

- I am a citizen of the United States of America;
- I will be 18 years of age at the time of the next election;
- I am a resident of South Dakota (residency laws are on the back of this form);
- I have not been judged mentally incompetent;
- I am not currently serving a sentence for a felony conviction;
- I authorize cancellation of my previous registration, if applicable; and
- I have complied with all voter registration requirements in [SDCL chapter 12-4](#).

Voter, sign here (power of attorney not allowed)

X Today's Date
Month Day Year

Read instructions and enter additional information on the back of the form.



Sign Up to Be an Election Worker

9

I would like to be an election worker on election day.

Contact Information

(Optional)

10

Previous Information

Use this section to cancel your previous voter registration information. Please complete this section if you have moved to South Dakota from a different state, moved within South Dakota, or changed your last name.

11

Last Name	First Name	Middle Name	Suffix
-----------	------------	-------------	--------

Address			Apt # or Lot #
City or Town		State	Zip Code

Previous Drivers License Number and State	Previous County
---	-----------------

Need more space to describe where you live or draw a map?

Use the space below to write more details about your location or draw a map.

South Dakota Voter Registration Instructions

How Do I Register to Vote?

Use this form to register to vote in elections in South Dakota or update your name, address, or political party.

Am I eligible to vote?

To register to vote in South Dakota, you must:

- Be a U.S. Citizen
- Live in South Dakota for at least 30 days before the next election
- Be 18 years old on or before the next election

How do I return this form?

- Mail or hand-deliver the form to your County Auditor's Office
- Make sure it's received at least 15 days before the next election
- If your registration is accepted, you'll get an Acknowledgment Notice in the mail

Didn't get your notice?

- Check online: Voter Information Portal
- Or contact your County Auditor: County Auditor Contact Info

What Are the Recognized Political Parties in South Dakota?

In South Dakota, the recognized political parties are:

- Democratic Party
- Libertarian Party
- Republican Party

What does "Independent" or "No Party Affiliation" mean?

Independent (IND) or No Party Affiliation (NPA) means you are not registered with any recognized party.

You are considered IND/NPA if:

- You write Independent, I, Ind, no party affiliation, no party, no choice, nonpartisan, or cross off the party choice on your voter registration form.
- You leave the party choice blank on your voter registration form and are not currently registered to vote.

EXHIBIT 2

Documents to provide as Proof of US Citizenship for voter registration purposes

	Document	Issuer	Notes
	Certificate of Naturalization (N-550/N-570)	DHS/USCIS	Issued upon naturalization.
	Certificate of Citizenship (N-560/N-561)	DHS/USCIS	Derivation of citizenship through a parent.
	Certification of Report of Birth (DS-1350)	Dept. of State	U.S. issued summary of Consular Report of Birth.
	Report of Birth Abroad (FS-240)	U.S. Consulate	Prepared overseas before age 18.
	Certification of Birth (FS-545/DS-1350)	Dept. of State	FS-545 issued before 1990; equivalent to DS-1350.
	U.S. Citizen ID Card (I-179/I-197)	INS (legacy)	Issued 1960–1983; still valid.
	Northern Mariana ID Card (I-873)	DHS/INS	For collectively naturalized NMI citizens.
	Final Adoption Decree	Courts/Agencies	Must show child's name and U.S. place of birth.
	U.S. Civil Service Employment (pre 6/1/1976)	Federal Agency	Civil Service required U.S. citizenship at the time.
	U.S. Military Record (DD-214)	DoD	Must show U.S. place of birth.
	SAVE Verification	DHS	Used to confirm naturalized citizenship per DHS MOU.
	Child Citizenship Act Evidence	Various	Automatic citizenship if CCA criteria met after 2/27/2001.
	Hospital Birth Record	Hospital	≥5 years old; souvenir certificates not acceptable.
	Insurance Record	Insurer	≥5 years old; must list U.S. place of birth.
	Religious Record	Religious Org.	Recorded within 3 months of birth; must show U.S. place of birth.
	Early School Record	School	Shows U.S. place of birth and parent info.
	Census Record (1900–1950)	Census Bureau	Shows U.S. birth or citizenship; Form BC-600 needed.
	Tribal/BIA/Vital Delayed Birth Records	Tribal/BIA/Vital Records	≥5 years old; must show U.S. place of birth.
	Institutional Admission Papers	Facilities	≥5 years old; shows U.S. place of birth.
	Medical Records (non-immunization)	Healthcare Providers	≥5 years old; shows U.S. place of birth.
	Affidavits (rare)	Affiants	Two affidavits; one non-relative; persons must prove own citizenship.

EXHIBIT 3



South Dakota Secretary of State

Monae L. Johnson
Secretary of State

Thomas J. Deadrick
Deputy Secretary of State

MEMORANDUM

To: County Auditors
CC: DPS, DSS, DLR, DOH, DHS
From: Office of the Secretary of State
Date: March 26, 2026
Re: Implementation Guidance for Senate Bill 175 (Voter Registration US Citizenship Requirements)

I. Purpose

On March 26, 2026, Governor Larry Rhoden signed [Senate Bill 175](#) into law. The Act contains an emergency clause and was therefore effective immediately.

As the state's chief elections officer, the Secretary of State is responsible for the uniform and lawful administration of voter registration. This memorandum provides guidance on

- The requirements SB 175 imposes on individuals seeking to register to vote, and
- Expectations for state agencies to ensure consistent implementation in compliance with applicable state and federal law.

II. Overview of Senate Bill 175

The Act establishes new requirements related to documentary proof of United States citizenship for certain voter registrations and clarifies the distinction between full voter registration and federal-only voter registration.

III. Federal-Only vs. Complete Voter Registration

South Dakota law recognizes a bifurcated voter registration system under SDCL § 12-4-1.3:

- **Complete Registration:** Allows participation in all federal, state, and local elections.
- **Federal-Only Registration:** Limits participation to federal offices (President, Vice President, U.S. Senate, and U.S. House of Representatives).

SB 175 expands the circumstances under which an individual may be designated a federal-only voter. In addition to existing law (e.g., failure to meet residency requirements), an individual who does not provide documentary proof of citizenship at the time of registration must be registered as a federal-only voter.

This framework is intended to remain consistent with the National Voter Registration Act (NVRA) by not imposing documentary proof of citizenship requirements for *federal* elections, while requiring such proof for full voter registration in *state* elections.



South Dakota Secretary of State

Monae L. Johnson
Secretary of State

Thomas J. Deadrick
Deputy Secretary of State

IV. Applicability

SB 175 is not retroactive and **does not** affect currently registered voters.

The requirements apply only to

- Individuals registering to vote for the first time or
- Individuals registering to vote after having previously been removed from the voter registration list.

The following individuals are **not subject** to the new proof of citizenship requirement:

- Currently registered voters and
- Inactive voters who remain on the voter rolls.

V. Acceptable Documentary Proof of Citizenship For Voter Registration Only

Under SB 175 Section 3, or at SDCL § 12-4-1.4, acceptable proof of citizenship for voter registration includes:

1. A South Dakota driver license or nondriver identification card issued after July 1, 2025;
2. A driver license or nondriver ID card from another state indicating citizenship has been verified;
3. A tribal identification card; or
4. A photocopy of one of the following:
 - Birth certificate;
 - United States passport;
 - Consular Report of Birth Abroad issued by the U.S. Department of State;
 - The individual's certificate of naturalization; or
 - Any other documentation permitted under 42 C.F.R. § 436.407.

VI. Agency Coordination and Verification

Existing verification practices used by state agencies may satisfy SB 175 requirements, including:

- **Department of Public Safety (DPS):**
Beginning in 2010, South Dakota began issuing REAL ID-compliant driver's licenses and identification cards. To obtain a REAL ID, applicants demonstrated lawful status. U.S. citizens were therefore required to provide documentation verifying their citizenship to the Division of Driver Licensing (DL), where the documentation was scanned and retained in an electronic database.

When an individual registers to vote through the DL, citizenship status is electronically transmitted to the Secretary of State. In addition, as of July 1, 2025, REAL ID-compliant driver's licenses and identification cards for individuals whose citizenship has been verified include a citizenship designation



South Dakota Secretary of State

Monae L. Johnson
Secretary of State

Thomas J. Deadrick
Deputy Secretary of State

on the back of the ID card. Electronic confirmation of citizenship status is sufficient for voter registration purposes.

- **Other Agencies (DOH, DHS, DLR):**

The divisions within these public assistance agencies will transmit the original voter registration form (current version found [here](#)), the SOS Citizenship Documentation Checklist, and a copy of the proof of documentation to county auditor. Agencies should rely on existing verification systems and data-sharing practices to the greatest extent possible to minimize duplication and ensure consistency.

VII. Citizenship Documentation

SB 175 **does not** require that copies of documentary proof of citizenship be retained, transmitted, or filed with the Secretary of State. However, it is recommended for best practices to send a copy of proof of citizenship status along with the voter registration form. Each agency may determine its own document retention policies, subject to applicable law.

The Secretary of State's Office will rely on driver licensing system's electronic data fields indicating citizenship verification status, consistent with current practice.

VIII. Implementation Considerations

Agencies should review internal policies to ensure alignment with SB 175. In particular:

- **Photocopies of Documents:**

SB 175 permits the use of photocopies for certain voter registration documents. Agencies should consult Section V, subsection (4) for specific examples of when a photocopy is acceptable. By contrast, the documents listed in Section V, subsections (1) through (3) must be presented as original, physical documents to establish proof of citizenship. Once the physical copy has been presented, a photocopy may be made to send along with the voter registration form.

- **Federal Regulatory Alignment:**

Agencies should ensure that any reliance on 42 C.F.R. § 436.407 is consistent with federal law, particularly regarding verification methods used during renewals or ongoing eligibility determinations.

IX. Conclusion

The Secretary of State's Office will continue to work with all relevant agencies to ensure uniform, lawful, and efficient implementation of SB 175.

Questions regarding implementation should be directed to the Office of the Secretary of State.

EXHIBIT 4

Office of the HUGHES COUNTY FINANCE OFFICER

THOMAS OLIVA, FINANCE OFFICER
104 E. CAPITOL AVENUE
PIERRE, SD 57501



OFFICIAL VOTER REGISTRATION MATERIAL

RETURN SERVICE REQUESTED

PIERRE, SD 57501

VOTER REGISTRATION FEDERAL ONLY VOTER

4/8/2026

You have used a commercial mail receiving agency, mail forwarding service or post office box as your residence address without providing a description of the location of your residence.

You do not meet the requirements to be a South Dakota resident for voting in all elections. You may still vote in federal elections and will be registered to vote only in the statewide primary, runoff, special or general elections for the following contests: U.S. President, U.S. Senate for the State of South Dakota, and U.S. House of Representatives for the State of South Dakota. (SDCL 12-4-1.3)

Voting Precinct	Precinct-04
Municipal	Pierre City
School	Pierre School District 32-2
State Senate	24
State House	24
Water	

PARTY: REP

RESIDENCE ADDRESS: , PIERRE, SD 57501

DATE OF REGISTRATION OR DATE OF CHANGE:

As of today, your polling place is New Life Assembly of God Church, 1120 N Harrison Ave, Pierre or Faith Lutheran Church, 714 N Grand Ave., Pierre or Capitol Lake Visitors Center, 650 E Capitol Ave., Pierre or Blunt City Hall, 202 W Butte Ave., Blunt or Harrold Auditorium, 202 S Nixon Ave. , Harrold.

For additional information, please HUGHES County Auditor at (605) 773-7451

NOTE-2597501