

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA

LEAGUE OF WOMEN VOTERS OF SOUTH
DAKOTA and JAYSEN HILL,

Plaintiffs,

v.

MONAE JOHNSON, in her official capacity as
Secretary of State of the State of South Dakota, and
SCOTT D. MCGREGOR, LINDLEY HOWARD,
KENT ALBERTY, JAMALIA FRANZEN, KRISTIN
MATSUDA, and AUSTIN HOFFMAN, in their
official capacities as members of the State Board of
Elections of South Dakota,

Defendants.

Civil No. 4:26-cv-04162-ECS

DECLARATION OF ATTORNEY MELISSA NEAL IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION

Pursuant to 28 U.S.C. § 1746, I, Melissa Neal, declare that:

1. I am over the age of 18 and am competent to make this declaration. I am an attorney with Campaign Legal Center. I am admitted to practice law in the District of Columbia and before multiple federal district courts and courts of appeal. I am seeking *pro hac vice* admission in the above-captioned matter and am an attorney for Plaintiffs in this matter.
2. I submit this declaration to provide the Court with true and correct copies of certain documents submitted in connection with Plaintiffs' Motion for Preliminary Injunction.
3. Exhibit 1 is a true and correct copy of the letter created and maintained by the Secretary of State in the statewide voter registration system, TotalVote, and sent by the Office of

the Hughes County Finance Officer to a voter notifying them of their registration as a federal voter, dated April 8, 2026. I received this letter on April 16, 2026, in response to a public records request to the Hughes County Finance Officer, Thomas Oliva, who serves as the county's auditor. The voter's personally identifying information (*i.e.* name and address) was redacted when I received it.

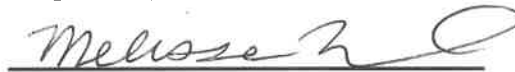
4. Exhibit 2 is a true and correct copy of the Secretary of State's Memorandum titled "Implementation Guidance for Senate Bill 175 (Voter Registration US Citizenship Requirements)," dated March 26, 2026, which Plaintiffs refer to as "SOS Memorandum on S.B. 175 Implementation."
5. Exhibit 3 is a true and correct copy of the Secretary of State's "Voter Registration US Citizenship Documentation Checklist," which was distributed to county auditors in March 2026.
6. Exhibit 4 is a true and correct copy of the Declaration of Kathryn Johnson, the President of the League of Women Voters of South Dakota, dated August 24, 2026.
7. Exhibit 5 is a true and correct copy of the League of Women Voters of South Dakota Rulemaking Petition regarding the implementation S.B. 175, dated June 2, 2026.
8. Exhibit 6 is a true and correct copy of the Declaration of Jaysen Hill, dated August 24, 2026.
9. Exhibit 7 is a compilation of true and correct copies of email correspondence and documents exchanged between me and the Meade County Auditor's office on August 19, 2026, regarding a public records request. The third and fourth pages are the attachments I received from the Meade County Auditor's office on August 19. The third page attachment is a letter created and maintained by the Secretary of State in the

statewide voter registration system, TotalVote, sent by the Meade County Auditor's office to a federal voter notifying her of her registration as a federal voter, dated April 16, 2026. I have redacted the voter's personally identifying information (i.e. name and address).

10. Exhibit 8 is a compilation of true and correct copies of email correspondence and documents exchanged between me and the Hutchinson County Auditor's office on August 19, 2026, regarding a public records request. The third page is the attachment I sent with the August 19 email correspondence. The fourth page is the attachment I received from the Hutchinson County Auditor's office on August 19. That attachment is a letter created and maintained by the Secretary of State in the statewide voter registration system, TotalVote, sent by the Hutchinson County Auditor's office to a federal voter notifying him of his registration as a federal voter, and dated July 13, 2026. I have redacted the voter's personally identifying information (i.e. name and address).

Dated: August 24, 2026.

Respectfully submitted,



Melissa Neal*
CAMPAIGN LEGAL CENTER
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Washington, D.C. 20005
(202) 736-2200
mneal@campaignlegalcenter.org

**pro hac vice* application forthcoming

EXHIBIT 1

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

EXHIBIT 2



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
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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 3



South Dakota Secretary of State

Monae L. Johnson
Secretary of State

Thomas J. Deadrick
Deputy Secretary of State

Voter Registration US Citizenship Documentation Checklist

Auditor Employee Name: _____ Date: _____

County: _____

Voter Name: _____ Voter ID #: _____

Reminder: If someone is currently registered to vote, they *do not* need to provide proof of citizenship. If they are updating an address or name, they *do not* need to provide proof citizenship. ***Proof of US citizenship applies to individuals that are registering to vote for the first time.***

1. If the individual provides proof of citizenship, indicate below which document was presented by putting a checkmark in the appropriate box.

- ☐ A South Dakota driver license or ID Card that was issued after July 1, 2025, with citizenship status on the back of the document. (Must show physical card)
- ☐ A valid out of state license or identification card issued by any other state or territory of the United States, provided that the license or identification card indicates that the individual is a United States Citizen (Must show physical card)
- ☐ A tribal identification card from one of the 9 federally recognized tribes of this state. (Must show physical card); or

Legible **photocopies** are acceptable for the following documents:

- ☐ Birth Certificate
- ☐ U.S Passport which identifies the applicant and shows the individuals passport number
- ☐ Consular Report of Birth Abroad issued by the United States Department of State
- ☐ Certificate of Naturalization; or
- ☐ Other documentation in 42 CFR 436.407 as provided by applicant See Appendix A and check appropriate box.

2. It is up to the Auditor to determine if a photocopy of supporting documents is scanned and saved in the voter's record.
3. Check this box ☐ **If *no* documents are provided that prove citizenship status, inform the individual that they will receive a federal only ballot.** If, prior to the voter registration deadline for an upcoming election, an individual provides valid documentation of citizenship, the individual may receive a complete ballot.



South Dakota Secretary of State

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Thomas J. Deadrick
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Check	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 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA**

LEAGUE OF WOMEN VOTERS OF SOUTH
DAKOTA and JAYSEN HILL,

Plaintiffs,

v.

Civil No. 4:26-cv-04162-ECS

MONAE JOHNSON, in her official capacity as
Secretary of State of the State of South Dakota, and
SCOTT D. MCGREGOR, LINDLEY HOWARD,
KENT ALBERTY, JAMALIA FRANZEN,
KRISTIN MATSUDA, and AUSTIN HOFFMAN,
in their official capacities as members of the State
Board of Elections of South Dakota,

Defendants.

**DECLARATION OF KATHRYN JOHNSON IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Kathryn Johnson, declare that:

1. I am over the age of 18 and am competent to testify.
2. I am a resident of Pennington County, South Dakota.
3. I have personal knowledge of the facts stated herein.
4. I am a member and currently serve as president of the League of Women Voters of South Dakota, which I will refer to as “LWVSD” or “the League” in this declaration.

5. I am deeply concerned on behalf of LWVSD about how certain parts of Senate Bill 175 (“S.B. 175”) and the State’s administration of this new law have impeded our voter registration work and prevented our members and the eligible South Dakota voters we assist from being able to register to vote and vote.

The League

6. LWVSD is a nonprofit, nonpartisan membership and advocacy organization that has operated in South Dakota since 1919. LWVSD is the South Dakota affiliate of the League of Women Voters of the United States (“LWV”).

7. As an organization, LWVSD is true to our roots in the movement that secured the right to vote for women and assisted women to become active members of the electorate. LWVSD’s mission is to empower and inform voters, defend democracy, and encourage active participation in the political process to achieve a more representative government.

8. The centerpiece of the League’s efforts is to expand participation in our electoral process and give a voice to South Dakotans advocating for voting rights. We do this at all three levels of government, local, state, and national, engaging in both broad educational efforts as well as individualized advocacy to encourage and assist eligible South Dakotans to increase their civic involvement.

9. LWVSD is an adamantly nonpartisan organization. We support and assist all South Dakotans so they can successfully navigate voter registration, have the tools to vote, and ensure their vote is counted; we do so without regard to political identity. Consistent with our nonpartisan commitments, we never endorse or oppose political parties or candidates.

LWVSD’s Voter Registration and Education Work

10. LWVSD has approximately 150 dues-paying members in South Dakota.

11. LWVSD has six chapters in South Dakota: LWV of Sioux Falls, LWV of Aberdeen, LWV of Brookings Area, LWV of Southeast South Dakota, LWV of Pierre, and LWV of Black Hills Area. Each local League is a member of LWVSD, and all individual members of the local Leagues are members of LWVSD. These local Leagues serve various regions of the state.

12. Our members are active participants in the electoral process. They are frequent voters. LWVSD's members are deeply involved and committed to assisting other South Dakotans to become registered and to vote.

13. Voter registration activities are core to LWVSD's mission. The League works to register voters of all backgrounds and across the political spectrum throughout South Dakota. LWVSD also expends considerable resources educating voters about voter registration requirements.

14. We rely on our volunteer membership base to conduct our voter registration drives and other programs, recruit volunteers to assist in our efforts, and support us in building partnerships with other organizations as well as fostering trust with the voters we assist.

15. The League also does other forms of voter engagement after voters are registered. For example, to further our goal to encourage an informed electorate, LWVSD regularly produces voter guides with information on candidates and holds candidate, legislative, and issue forums to provide voters with reliable, nonpartisan perspectives and opportunities to engage on issues.

16. Our work likewise includes providing information to members and others about requesting absentee ballots, providing information to the community about upcoming elections and voting options, and assisting and educating our members and other eligible voters on how to participate in the next election.

17. LWVSD works with LWV to produce educational materials and resources, including by maintaining a web resource, Vote411.org, which provides detailed state-specific information about the registration and voting processes as well as candidate responses to questions. We seek to ensure that the website has current information on relevant South Dakota election laws, including those affecting voter registration.

18. In addition to its voter registration activities, LWVSD is also an important source for public education about upcoming elections and the election process more broadly. The League's face-to-face voter registration efforts fill a critical need in the state for direct and in-person public outreach and education on what South Dakota's election laws require. Most elections offices at the county and state level in South Dakota do not do this type of face-to-face voter outreach. Because county auditors and other election officials are often too under-resourced to do outreach, it falls on the League and other voter registration organizations to ensure the public is well-informed about registration requirements and to assist voters to comply with those requirements.

S.B. 175's Impact on the League's Voter Registration Work

19. Before 2026, LWVSD assisted hundreds of eligible South Dakotans with registering to vote each year, including applicants who were not previously registered in South Dakota. Since the enactment of S.B. 175, we have registered very few, if any, new eligible South Dakotans—a considerable decrease from prior years when the DPOC requirement was not in effect.

20. Prior to S.B. 175, the primary way LWVSD educated and interacted with prospective voters was through voter registration drives. At these drives, LWVSD volunteers typically guided applicants through the voter registration process, answered questions, and ensured that applications are completed correctly. LWVSD volunteers then took possession of the completed form and timely submitted the applications to county auditors in accordance with South Dakota law.

21. Our voter registration drives normally occur at summer festivals, farmers markets, naturalization ceremonies, public libraries, college campuses, candidate forums, our community partners' events, and other events we run.

22. The League's voter registration drives largely rely on spontaneous interactions with members of our community, meaning that they are only successful if eligible voters can complete an application with the documentation they would carry with them on a normal day.

23. S.B. 175 has made it highly impractical for LWVSD to run a voter registration drive, substantially reducing the number of voters that LWVSD is able to register. We expect that this will persist if the State continues to administer the law as it is currently being done.

24. The state's arbitrary prohibition on the use of photocopies of certain forms of the DPOC, including a driver's license, state nondriver ID (with a U.S. citizen marker), and Tribal ID, is particularly problematic.

25. In our experience, registrants do not typically carry photocopies of their birth certificates or passports.

26. They similarly cannot be expected to hand over an original driver's license, non-driver ID, or Tribal ID to one of our volunteers to deliver to an auditor, and LWVSD lacks the resources to arrange for applicants themselves to present these forms of DPOC in-person at auditors' offices.

27. Moreover, many of the voters LWVSD seeks to register possess only a driver's license, nondriver state ID card, or a Tribal ID card. LWVSD likewise expects that these individuals would face significant financial and logistical hurdles in attempting to obtain another form of proof of citizenship or in appearing in person at their county auditor's office to provide a physical copy of these forms of DPOC, and some may not be able to do so at all.

28. These barriers are not hypothetical. Since S.B. 175 became law, many eligible voters we interact with have declined to take our printed voter registration information after we explain the in-person physical ID card requirement for the most common forms of DPOC because of the logistical difficulty of presenting those forms of DPOC in person.

29. For example, at the Brookings Pride event in June 2026, a prospective voter stopped at the Brookings local League's table to ask about voter registration. After League members explained the DPOC requirement, the prospective voter left without taking a voter registration form because the DPOC requirement was too difficult for her to meet.

30. The League has also observed that the requirement that certain forms of DPOC must be presented in person has prevented prospective voters from registering to vote as full-ballot voters. In many parts of the state, it can take an hour or more to get to the county auditor's office to register to vote. Even in less rural areas, it can still be difficult and time consuming to get to a county auditor's office in person. For example, the Lincoln County auditor's office in Canton, South Dakota is about a 30-minute drive from the Sioux Falls area of Lincoln County. In Pennington County, there is no public transportation for voters trying to reach the auditor's office.

31. S.B. 175 has made it nearly impossible for LWVSD to assist applicants with becoming registered as full ballot voters in the state. In particular, S.B. 175's in-person presentation requirement for the most commonly-possessed forms of DPOC has largely forced us to stop assisting new voter registration applicants statewide. Instead, the League and our volunteers are encouraging new applicants to review a printed copy of the Secretary of State's webpage and contact their county auditor's office about how to register under the new DPOC requirement.

32. Regrettably, we have made this decision because S.B. 175's in-person physical ID card requirement has made our voter registration drives deeply impractical where our goal is to get voters registered to vote to participate in *all* elections for which they are eligible.

33. For example, the Black Hills Area local League has been forced to cancel all voter registration drives because the in-person physical ID card requirement for DPOC, as implemented by the Pennington County auditor under the Secretary of State's guidance, would result in federal voter status for all Pennington County residents registering at a Black Hills Area League event.

34. Some local Leagues still hold events to reach eligible voters, but our work has changed drastically because of S.B. 175. Statewide, League volunteers no longer assist new applicants with registering to vote. Some local Leagues continue to assist already-registered voters with updating the registrations, such as an address change. But others have completely stopped voter registration assistance. For example, the Black Hills Area League only provides printed information to new applicants about how to comply with new law and blank voter registration forms.

35. LWVSD's training of other organizations to do voter registration work has stopped due to S.B. 175.

36. The only way we have conceived of being able to register voters in person is through voter registration at a naturalization ceremony where a county auditor has agreed to be physically present to verify new citizens' naturalization certificates. The Sioux Falls local League currently has plans in September 2026 to conduct in-person registration at a naturalization ceremony because the Minnehaha County auditor's office has agreed to come in person to the ceremony where an election official can complete a checklist signing off that the official has seen the applicant's new naturalization certificate as their form of DPOC for voter registration.

37. While some new voters may be able to register as full-ballot voters under this process at naturalization ceremonies, we have no guarantee that auditors from other counties will accept the Minnehaha County auditor's checklist as proof of the applicant's DPOC—nor does Secretary of State guidance or any state law or rule require other auditors to accept it. This solution has taken months of coordination with local county auditors and is a deeply impracticable solution for registering the volume of voters we previously assisted at our other voter registration events.

38. If the in-person physical ID card requirement for driver's licenses, non-driver ID, or Tribal ID were no longer in effect, the League would be able to register more voters as full-ballot voters. Absent the prohibition on photocopies, we would invest in scanners and other technology to assist eligible voters with photocopying their DPOC to accompany their voter registration application. We would also rework our voter registration practices and training so that eligible voters could photocopy their DPOC at our voter registration events with the goal of registering as full-ballot voters.

The State's Inaccurate Notice Letter

39. The League is also harmed by the lack of notice and opportunity to cure federal voter status resulting from S.B. 175 and the State's current implementation.

40. If an applicant is not carrying DPOC when they encounter one of LWVSD's voter registration events and submits their application through a LWVSD volunteer without it, the chances of the applicant becoming a full-ballot voter without a formal process for them to amend their application significantly declines.

41. The League is aware that the Secretary of State created a form notice letter for federal voters that is mailed by the voter's county auditor. The letter states that the applicant was registered as a federal voter because they provided a commercial or other non-residential mailing

address without providing a description of their residential address. This form letter comes from the state's voter registration system TotalVote.

42. While the TotalVote letter describes one way that a person can become a federal voter, it is plainly inaccurate for people who become federal voters because they did not provide DPOC or there was a problem with their DPOC.

43. In speaking with county auditors, we have learned that some county auditors have created their own notice letters to inform applicants that they were registered as a federal voter because they did not provide DPOC, but voters still receive the inaccurate TotalVote letter, which is confusing. Other auditors appear to just send the TotalVote letter without following up with accurate information or context.

44. For example, before the June 2026 primary, the Pennington County auditor's office told me they would not follow up with registrants with DPOC problems to provide them with accurate notice or to assist them in curing their application unless the Secretary of State issues guidance requiring they do so. In August 2026, the Pennington County auditor's office told me that federal voters registered in Pennington County now receive a county-supplemented version of the SOS-generated TotalVote notice letter but confirmed that the notice still contains inaccurate information for voters that registered without fulfilling the DPOC requirement.

45. At best, under this system, some federal voters receive conflicting information about why they were registered as a federal voter. At worst, they receive completely inaccurate information.

46. When the League initially identified this issue to the Secretary of State and State Board of Elections through the League's rulemaking petition, the Secretary of State's written

response to us was that developing an accurate notice would become unwieldy and expensive to print.

47. To our knowledge, except for limited information on her website, the Secretary of State has not undertaken meaningful public education efforts about S.B. 175's documentary proof of citizenship requirement or the in-person requirement for certain forms of DPOC. In fact, the voter registration application still does not inform voters of the DPOC requirement, even though the law has been in effect for nearly five months.

48. The Secretary of State's Office told the League that they do not intend to take any action on the notice letter until after the November 2026 election. Likewise, the State Board of Elections have cancelled their previously scheduled August 2026 meeting and seems unlikely to issue any rulemaking on the inaccurate notice letter or to establish a cure process.

49. The lack of notice for federal voters is particularly concerning when it comes to eligible South Dakota voters who seek to register in the critical last days leading up to the voter registration deadline. This is a time when the League normally receives the greatest volume of voter registration applications through our drives because many voters are motivated to register as the election nears.

50. Without accurate notice and until the State updates the voter registration application instructions to notify voters about the DPOC requirement, an average South Dakotan who tries to register in the last days leading up to the voter registration deadline will likely be unfamiliar with the DPOC requirement and could submit their application with insufficient DPOC. Because there is no formal process for auditors to notify them of the requirement, or a process for them to cure their application by providing valid DPOC after the registration deadline, those applicants would likely be denied the right to register and vote in state and local elections.

51. Voters who do find out that their application has been held up or rejected due to lack of or issues with their DPOC will have to spend additional time and effort following up with election officials—possibly in person at their county office—to investigate and resubmit or correct their registration application.

52. Without accurate notice, many applicants who submit their application in the few days leading up to the voter registration deadline would struggle to become full-ballot voters by the voter registration deadline and, as a result, would be unable to vote in state and local races in the election that immediately followed their application.

53. Based on LWVSD's experience, we feel confident that absent a formal cure process, some voters who we would have otherwise assisted may never have their registration accepted for full-ballot status. These eligible voters would therefore not be able to vote in state and local elections.

54. Another reason LWVSD has decided to stop assisting new voter registration applicants is that the State's lack of notice and cure process is likely to harm our relationship with prospective voters whose registrations are not accepted for full-ballot status.

55. Following the June 2026 primary, we learned new federal voters arrived to vote at the polls unaware of their federal voter status. These voters were often confused and angry. For example, one League member who was volunteering at the polls observed at least one federal voter come to the polls expressing frustration that they had been registered as a federal voter and had not been able to fix the problem, even after they believed they had resolved it because they sent the required identification documents to the auditor by mail. The member reported that the federal voter ultimately left the polls at the primary unable to immediately resolve the problem and unable to cast a ballot for the non-federal runoff election.

56. We are worried that if a voter we assist has their registration rejected for full-ballot status without being given accurate notice or an opportunity to cure their application, the federal voter will assume the rejection was caused by the League's error. This will significantly deteriorate the critical trust LWVSD has with the public and it would make volunteers and voters disinclined to engage with our voter registration drives and other engagement work. This would be very damaging for LWVSD.

57. We are also unable to train our volunteers, answer voters' questions, or give voters guidance on how to register to vote as long as key questions about the process remain unanswered. For example, in the absence of a statutory provision or the State's guidance, the League cannot tell voters how and by what deadline to cure federal voter status. We also have had difficulty explaining to the public what it practically means to be a federal voter because the State has not created an official term for a voter who can participate in state and local elections. I refer to these voters as a full-ballot voter in this declaration.

Impact of S.B. 175 on LWVSD Members' Ability to Register to Vote and Vote

58. Based on past experience, LWVSD anticipates that some new members will move to South Dakota from another State and join the League before the next election.

59. It is not uncommon for people moving from out of state to become a member of LWVSD when they move to South Dakota, and we encourage new members to register to vote in the state as soon as practicable when they become residents. Under S.B. 175, these new members would be required to provide DPOC in order to become a fully registered, full-ballot voter in South Dakota.

60. S.B. 175 has also impacted League members who are long-term registered voters of South Dakota.

61. Prior to the June 2, 2026, primary election, at least one League member who has been an active South Dakota voter was unlawfully required by a county auditor's office to provide DPOC while updating her voter registration in person. The voter was told that her registration would be moved to federal voter status if she attempted to update it without providing DPOC. This occurred even though S.B. 175 makes clear that the DPOC requirement does not apply to an individual "already registered as a voter of this state." SDCL § 12-4-1.3(2).

62. Ahead of the November 2026 election, the League expects more of its members and the public to experience similar issues when updating a registration or registering for the first time.

63. Until there is a notice and cure process for DPOC issues, any South Dakota voter updating their registration—including a League member—is at risk of an erroneous deprivation of her right to vote in state and local elections.

64. Because voter registration work has been so critical to our mission, the inability of LWVSD to assist and register voters under S.B. 175 has been severely demoralizing to our membership and has resulted in a decrease in member engagement and interest.

Resource Diversion

65. For LWVSD to attempt to address the lack of a notice and cure process and the in-person physical ID card requirement for certain forms of DPOC, we have had to expend greater resources in cost, time, and effort. We have had to divert our limited resources away from our other programs, both in our voting engagement work and in other areas.

66. The drain and diversion of LWVSD's resources has been primarily the time setting up and implementing trainings and procedures to deal with S.B. 175 and the State's implementation.

67. Our new procedures since S.B. 175 was enacted include creating additional training materials and procedures to instruct our members and volunteers to explain the new requirements to prospective voters and then hand over printed information about S.B. 175. For example, five members of the Sioux Falls League spent four hours creating an internal guidance document on the DPOC requirement, including the in-person physical ID card requirement.

68. League members have also spent many hours speaking with and coordinating meetings with county auditors to understand their county's implementation of S.B. 175, the in-person physical ID card requirement, and the guidance counties have received from the Secretary of State.

69. The resource drain from S.B. 175 and its implementation are also in financial costs to LWVSD. For instance, the Sioux Falls League had to print and distribute new flyers for our volunteers with specifics about S.B. 175. I have personally paid to print information sheets about S.B. 175 to distribute to prospective voters for tabling events with the Black Hills Area League.

70. Furthermore, the League has expended time and resources to contact federal voters to assist them with curing their voter registrations so that they can become full-ballot voters. Because of the State's implementation of S.B. 175, the League will have to spend more time with voters to submit more voter registration forms until their registrations for state and local elections are accepted.

71. S.B. 175 has also complicated the implementation of LWVSD's trainings for our voter registration drive volunteers and other procedures by making them more time- and resource-intensive. The League has had to create, print, and distribute instructions about S.B. 175 and has had to spend additional time explaining the physical ID card requirement for DPOC to volunteers.

72. To accomplish all of this, LWVSD has had to and will continue to divert resources from our other programs. For example, rather than focusing our resources and efforts on how we can more efficiently spread our message and register more voters, or how we can better provide our voter education services, we will need to limit the number of voters we can assist and the outreach we do so that we can focus on addressing S.B. 175.

73. The negative effects of S.B. 175 bleed into our other types of programs as well. For example, redirecting membership and volunteer time and resources to working on S.B. 175 means we have lessened ability to work on our programs related to other subjects, such as our efforts in voter education and outreach to South Dakotans. This includes our non-partisan civic education event series with South Dakota News Watch and local universities, get out the vote (“GOTV”) work, and our candidate, legislative, and issue forums.

74. The reality is that LWVSD, as a nonprofit run by volunteers, is limited in our resources and ability to assist voters with becoming full-ballot voters while there is a lack of a notice and cure process and an in-person physical ID card requirement for certain forms of DPOC.

The League’s attempts to address issues within S.B. 175 and its implementation

75. The League attempted to address and resolve the issues with S.B. 175 and its implementation through administrative advocacy by submitting a petition for rulemaking to the State Board of Elections through the process outlined in SDCL § 1-26-13. The petition was submitted in my name on June 2, 2026. Among many suggestions, the petition proposed rules that would have created a uniform notice and cure procedure for applicants registered as federal voters because of a problem with their DPOC and would have permitted the use of photocopies of driver’s licenses, nondriver state ID, and Tribal ID as an individual’s DPOC.

76. Our petition explained that the sudden and incorrect implementation of S.B. 175 had led to a series of problems with the June 2, 2026, primary and the state's implementation of S.B. 175 risked continued violations of state and federal law.

77. On June 16, 2026, the Secretary of State's office emailed the League to tell us that the State Board of Elections would hold a meeting on the League's petition at the state capitol in Pierre on June 30, 2026. His email stated that the only opportunity to provide public comment on the petition would be in person at this meeting. Representatives from the League, including past president Amy Scott-Stoltz and other members, attended that hearing and provided public comment along with other individuals and organizations. I attended the hearing remotely.

78. Because several State Board of Elections members, including Secretary Johnson, were absent from the June 30, 2026 hearing, the League's representatives agreed to waive the League's right to a vote on the petition within 30 days of filing so that the Board could reconvene remotely when all members were present to vote on the League's petition for rulemaking.

79. I was disappointed to see that the Secretary of State's written comments submitted into the record for the June 30, 2026 meeting pushed back against every recommendation in the League's petition.

80. On July 8, 2026, the State Board of Elections reconvened to vote on the League's petition for rulemaking, which I attended remotely. During that meeting, Board member Scott McGregor moved to dismiss the League's petition on the basis that the definition of "person" in the South Dakota Administrative Procedure Act, SDCL § 1-26-1, only included "political subdivisions and agencies of the state" and not actual people. Under Mr. McGregor's interpretation of the law, I was not an "interested person" who could petition the agency for rulemaking within the meaning of SDCL § 1-26-13.

81. During that meeting, I learned that Scott McGregor's basis for dismissing the petition was raised for the first time earlier that day to the other board members via email. Ultimately, the State Board of Elections dismissed our petition on a vote of 5-2.

82. I have been told anecdotally that other state boards do not interpret "interested person" in SDCL § 1-26-13 to exclude actual people and have recently held hearings on rulemaking petitions submitted by South Dakotans like myself.

83. After the petition was denied, the Secretary of State's Office emailed the League to invite our representatives to join a working group to update the voter registration application to improve alignment with the new requirements of S.B. 175. To better understand the scope of the working group, I and other representatives of the League met with the Secretary of State's staff on July 27, 2026. During that meeting, we discussed the League's concerns with the State's implementation of S.B. 175 and ongoing violations of federal law. In particular, we discussed the physical ID card requirement for certain forms of DPOC and the inaccurate notice letter that federal voters lacking DPOC receive.

84. At that meeting, the Secretary of State's Office confirmed that they would not reconsider the Secretary's March 26, 2026 guidance instructing new applicants that they must provide driver's licenses, state ID, or Tribal ID cards in person to register to vote.

85. At that meeting, the Secretary of State's Office also agreed that the TotalVote notice letter needed to be updated to provide accurate information for voters registered as federal voters due to issues with DPOC. However, the Secretary of State's Office confirmed that they would not do this until some point after the November 3, 2026 election because they want to wait until a planned post-election update to the state voter registration system. The Secretary of State's

Office also confirmed that they would not update the Voter Information Portal (V.I.P.) to tell voters about their federal voter status until after the November election.

86. The League decided to participate in the Secretary of State's working group to update the voter registration form and have since participated in the first scheduled meeting.

Dated: August 24, 2026.

Pennington County, South Dakota

Signed:

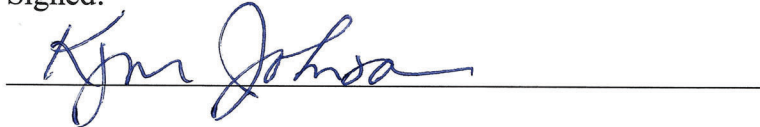
A handwritten signature in blue ink, appearing to read "Kym Johnson", is written over a horizontal line.

EXHIBIT 5



June 2, 2026

South Dakota State Board of Elections
500 East Capitol Ave
Pierre, South Dakota 57501-5070
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

League of Women Voters of South Dakota
PO Box 1572
Sioux Falls, SD 57101
lwvsouthdakota@gmail.com

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.

###

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.

###

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.

###

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.

###

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.

###

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 _____

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 (Postage Prepaid)
card. Your voter registration will be changed

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**
CountyUse 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**

Email Address

Phone Number

**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

EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA

LEAGUE OF WOMEN VOTERS OF SOUTH
DAKOTA, and JAYSEN HILL,

Plaintiffs,

v.

MONAE JOHNSON, in her official capacity as
Secretary of State of the State of South Dakota, and
SCOTT D. MCGREGOR, LINDLEY HOWARD,
KENT ALBERTY, JAMALIA FRANZEN, KRISTIN
MATSUDA, and AUSTIN HOFFMAN, in their
official capacities as members of the State Board of
Elections of South Dakota,

Defendants.

Civil No. 4:26-cv-04162-ECS

DECLARATION OF JAYSEN HILL

Pursuant to 28 U.S.C. § 1746, I, Jaysen Hill, declare that:

1. I am over the age of 18 and am competent to testify.
2. I have personal knowledge of the facts stated herein.
3. Everything in this declaration is truthful and presented to the best of my recollection, but I have had three strokes that can impair my memory at times.
4. I am a U.S. citizen and a nearly 30-year South Dakota resident. I live in Sioux Falls in Minnehaha County, South Dakota.
5. I registered to vote in May of this year. To the best of my recollection, I filled out a paper voter registration application and mailed it into the Minnehaha County auditor's office. I also recall including a photocopy of my South Dakota state identification card with my voter registration application. But I do not otherwise recall exact details of my registration process.

6. My South Dakota state identification card was issued to me on January 23, 2025 and does not include a U.S. citizenship marker on the back of the card. I wanted to register to vote because I felt it was important to participate in state and local elections and have a voice in how my community runs. I registered to vote in May 2026 specifically because I was interested in voting in the upcoming local elections in Sioux Falls in June 2026. To my knowledge, this was the first time I had registered to vote.

7. After submitting my registration application, I received at least one letter from the Minnehaha County auditor informing me that I was registered as a federal-only voter because I registered to vote using a commercial address.

8. I did not understand why this letter was sent to me. I live in an apartment, and I registered to vote using the address where I live. I was confused, and I thought the letter must have been sent to me in error. I threw the letter away and no longer have it in my possession.

9. To the best of my recollection, I did not receive any information on how to fix the registration error to participate in state and local elections. I also never received any information regarding how to vote in the June 2 election or June 23 runoff election and was unable to vote in those elections.

10. I have since learned that under South Dakota's new documentary proof of citizenship law, my state ID is not considered sufficient to prove my citizenship to register to vote in state elections and, even if it were, I needed to present it to the auditor in person rather than sending a photocopy.

11. I understand now I was registered as a federal voter who can only cast a ballot in races for federal office (e.g., president, Congress) because I did not properly provide documentation to prove my U.S. citizenship.

12. But this has not been made clear to me by any state or local officials.

13. As far as I know, I did not receive notice of the fact that my registration to vote in state and local elections was rejected because I failed to submit documentation of my U.S. citizenship with my voter registration application.

14. I do not know what I must specifically do to fix my application to become a voter who can participate in local and state races and ballot questions ahead of the November 2026 election.

15. As a disabled individual who has had three strokes and has diabetes, my disability requires regular doctor appointments, trips to government benefits offices, and a significant amount of my time and attention. I also have a 16-year-old daughter, which likewise requires a significant amount of my time and attention. As a result, I have limited time and energy to figure out how to fix my federal voter status on my own.

16. Voting is very important to me, and I would like to participate in the November 3, 2026 election and future South Dakota elections.

17. I would like to vote for state and local offices. I believe there are important state and local issues at stake in this upcoming election, and I would like to have my voice heard.

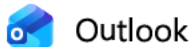
18. I affirm under penalty of perjury under the laws of the State of South Dakota that the above statement is true and correct to the best of my recollection.

ated: 8/24/2026

Sioux Falls, South Dakota

igned: 

EXHIBIT 7



RE: Public Records Request to Meade County

From Dawn Christenson <dawn.christenson@meade.sdcounty.gov>

Date Wed 8/19/2026 5:46 PM

To Mel Neal <mneal@campaignlegalcenter.org>; Meade County Auditor <auditor@meade.sdcounty.gov>

 2 attachments (525 KB)

Acknowledgement.pdf; Voter Registration Federal Only Voter.pdf;

Mel,

Please see attached. We would have sent the notification created in TotalVote along with the Federal Only Voter notice attached.

Dawn Christenson

Auditor

Meade County

1300 Sherman St, Ste 126

Sturgis, SD 57785

(605)347-2360 Ext: 3211



From: Mel Neal <mneal@campaignlegalcenter.org>

Sent: Wednesday, August 19, 2026 2:45 PM

To: audit@meade.sdcounty.gov; Meade County Auditor <auditor@meade.sdcounty.gov>

Subject: Public Records Request to Meade County

Some people who received this message don't often get email from mneal@campaignlegalcenter.org. [Learn why this is important](#)

CAUTION: This email originated from outside Meade County. Verify links, attachments, and unexpected requests before responding. Report suspicious emails if needed.

Hello, Auditor Christenson,

We just spoke on the phone a few minutes ago. I'd like to submit a public records request pursuant to the South Dakota Open Records Law (SDORL), S.D. Codified Laws § 1-27-1 et. seq.

I am requesting all notice letters your office sent to voter [REDACTED] (voter ID: 978307) since April 1, 2026.

Please let me know if you have any clarifying questions about this public records request.

Respectfully,



Mel Neal (she/her)

Legal Counsel, Voting Rights

Campaign Legal Center

Phone: (202) 266-5154

URL: CampaignLegal.org

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DAWN CHRISTENSON, AUDITOR
1300 SHERMAN ST STE 126
STURGIS, SD 57785



OFFICIAL VOTER REGISTRATION MATERIAL

RETURN SERVICE REQUESTED

[REDACTED]
[REDACTED]
STURGIS, SD 57785

VOTER REGISTRATION FEDERAL ONLY VOTER

4/16/2026

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	CENTRAL STURGIS #3
Municipal	Sturgis
Commissioner	2
School	Meade School District 46-1
State Senate	29
State House	29
Ward	Sturgis Ward-W2

PARTY: NPA

RESIDENCE ADDRESS: [REDACTED] STURGIS, SD 57785

DATE OF REGISTRATION OR DATE OF CHANGE: 04/13/2026

As of today, your polling place is Sturgis Community Center, 1401 Lazelle Street, Sturgis.

For additional information, please MEADE County Auditor at (605) 347-2360

NOTE-2601321





Meade County Auditor

1300 Sherman St, Ste 126
Sturgis, SD 57785
(605)347-2360
auditor@meade.sdcounty.gov

Voter Registration Federal Only Voter

**You have been registered as a Federal Only Voter.
You may provide citizenship documentation to our office to change
your registration at any time.**

The voter registration deadline for the July 13, 2026 Primary Runoff Election is July 28, 2026.

Senate Bill 175 was signed into law March 26, 2026. Due to an emergency clause, SB 175 takes effect immediately.

Under the new law, individuals registering to vote in South Dakota must provide documentary proof of citizenship. The law only applies to individuals registering to vote for the first time or who have been removed from the state's voter rolls.

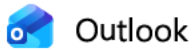
SB 175 requires that an individual registering to vote for the first time or who has been removed from the state's voter rolls provide documentary proof of citizenship. Proof of citizenship can be any one of the following documents:

- A South Dakota driver license or nondriver identification card that was issued after July 1, 2025, and indicates citizenship status on the back of the card;
- Another state's driver license or nondriver identification card that indicates the person has provided sufficient documentation to demonstrate citizenship;
- A tribal identification card; or
- A legible photocopy of:
 - A birth certificate;
 - A United States passport;
 - A consular report of birth abroad issued by the United States Department of State
 - A certificate of naturalization; or
 - Any other type of acceptable documentary evidence permitted under 42 C.F.R. § 436.407.

Please call our office at 605-347-2360 if you have any questions or concerns.

Dawn Christenson, Auditor

EXHIBIT 8



Re: Public Records Request Form

From Jalyne Streyle <jstreyle@hutchinsoncounty.org>

Date Wed 8/19/2026 2:04 PM

To Mel Neal <mneal@campaignlegalcenter.org>

 1 attachment (167 KB)

.pdf;

Please see the attachment for the letter that was sent.

Thanks,

Jalyne Streyle
Hutchinson County Auditor Clerk
201 W Mentor St RM 164
Olivet, SD 57052
605-387-4212

From: Mel Neal <mneal@campaignlegalcenter.org>

Sent: Wednesday, August 19, 2026 11:40 AM

To: Jalyne Streyle <jstreyle@hutchinsoncounty.org>

Subject: Re: Public Records Request Form

Thank you, Jalyne.

Please see attached.

Best,
Mel



Mel Neal (she/her)
Legal Counsel, Voting Rights
Campaign Legal Center

Phone: (202) 266-5154

URL: [CampaignLegal.org](https://www.CampaignLegal.org)

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From: Jalyne Streyle <jstreyle@hutchinsoncounty.org>

Sent: Wednesday, August 19, 2026 12:28 PM

To: Mel Neal <mneal@campaignlegalcenter.org>

Subject: Public Records Request Form

Attached is the public records request form. Please complete and you can return to this email.

Thanks!

Jalynne Streyle
Hutchinson County Auditor Clerk
201 W Mentor St RM 164
Olivet, SD 57052
605-387-4212

Public Records Request Form (SDCL 1-27)

Hutchinson County Auditor's Office
201 W Mentor St. Room 164
Phone: 605-387-4212

Date of Request: 8/19/26

Contact Information

Name: Mel Neal
Mailing Address: 1101 14th St NW Suite 400
City: Washington.
State: DC
Zip Code: 20005
Email Address: mneal@campaignlegalcenter.org
Phone Number: 202-266-5154

Records Requested (Be as Specific as Possible)

Notice letters sent to [REDACTED]
(Voter ID 985289)

Inclusive Date of Records Requested

July 1, 2026 to present

You may be contacted for additional questions and fees.

Requestor's Signature: Mel Neal

Requestor's Printed Name: Mel Neal

Signature Date: 8-19-26

For Hutchinson County Use Only

- ☐ Print
- ☐ Mail
- ☐ Pick Up
- ☐ Digital

Fee: _____

Postage: _____

Total Payment Due: _____

Date Paid in Full: _____

DIANE HOFFMAN, AUDITOR
201 W MENTOR ST
OLIVET, SD 57052-2103



OFFICIAL VOTER REGISTRATION MATERIAL

RETURN SERVICE REQUESTED

[REDACTED]
[REDACTED]
OLIVET, SD 57052

VOTER REGISTRATION FEDERAL ONLY VOTER

7/13/2026

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-06
Municipal	Wittenberg Township
Commissioner	5
School	Freeman School District 33-1
State Senate	19
State House	19
Water	9

PARTY: REP

RESIDENCE ADDRESS: [REDACTED], OLIVET, SD 57052

DATE OF REGISTRATION OR DATE OF CHANGE: 07/10/2026

As of today, your polling place is Courthouse Commissioner Room, 201 W Mentor St, Olivet.

For additional information, please HUTCHINSON County Auditor at (605) 387-4212

NOTE-2635793

