

**Draft 2016 Proposed Legislative Changes
State Board of Elections Meeting
October 19, 2015**

#1: 2-1-1.1. Petition to be circulated for initiated constitutional amendment--Time for signatures and filing. The petition as it is to be circulated for an initiated constitutional amendment shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated constitutional amendment;
- (2) Contain the date of the general election at which the initiated constitutional amendment is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by the petition sponsor(s) that includes the name(s) and addresses(s) of the petition sponsor(s); and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated constitutional amendment as prepared by the attorney general. The form shall be approved by the secretary of state prior to circulation.

For any initiated constitutional amendment petition, no signatures may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated constitutional amendment petition shall be filed with the secretary of state at least one year before the next general election. A ~~sworn~~ notarized affidavit form, signed by at least two-thirds of the petition sponsor(s), stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

#2: 2-1-1.2. Petition to be circulated for initiated measure--Time for signatures and filing. The petition as it is to be circulated for an initiated measure shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated measure;
- (2) Contain the date of the general election at which the initiated measure is to be submitted;

- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized sworn affidavit form signed by each person who is a petition sponsor that includes the names and addresses of the petition sponsors; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated measure as prepared by the attorney general. The form shall be approved by the secretary of state prior to circulation.

For any initiated measure petition, no signatures may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated measure petition shall be filed with the secretary of state at least one year before the next general election. A sworn notarized affidavit form, signed by at least two-thirds of the petition sponsor(s), stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

#3: 6-16-4. Notification of deadline. The county auditor shall publish the notice of the voter registration deadline at least once each week for two consecutive weeks, the last publication to be not less than twenty-four nor more than thirty days prior to the election. If the eligible voters are defined as landowners only for the special district to be formed, the notices of voter registration deadline do not need to be published. The auditor shall publish notices of election at least once each week for two consecutive weeks, the last publication to be not less than four nor more than ten days before the election in at least one legal newspaper of general circulation in the proposed district.

#4: 7-1-69. Petition to change county name--Election--Ballot--Costs of name change paid by county. Whenever not less than fifteen percent of the registered voters of any organized county in this state, based upon the total number of registered voters at the last preceding general election, shall on or before the first day of July in any general election year, file in the office of county auditor a petition requesting that the name of the county be changed and authorizing the county to appropriate and pay for all local government and state government costs associated with changing the name of the county, the

county auditor shall at the next ~~regular~~ general election, submit to the legal voters of the county on a separate printed ballot if using hand counted paper ballots or included on the ballot if using optical scan ballots the following question:

Shall the name of this county be changed to _____ and county funds be appropriated to pay for all local government and state government costs associated with the name change?

____ Yes

____ No

All voters in favor of changing the name of the county and paying for all the local government and state government costs associated with the name change shall place either a cross or check mark in the square before the word Yes on the ballot. All voters who do not favor changing the name of such county and paying for all the local government and state government costs associated with the name change shall place either a cross or check mark in the square before the word No on the ballot. All local government and state government costs associated with changing the name of the county shall be paid by the county from county funds appropriated for that purpose before the change of the name of the county shall be effective.

#5: 9-13-21. Preparation and form of ballots--Absentee ballots--Arrangement of names of candidates. The finance officer shall prepare and furnish, at the expense of the municipality, all official ballots. The quantity of ballots provided shall be at least ten percent more than the number of voters at the last comparable election. The ballots shall be ~~white in color,~~ prescribed by the board of elections, be of good quality of print paper, printed in black ink, and in the English language only.

The ballots for municipal elections shall be available for absentee voting no later than fifteen days prior to election day. If the ballots are for a secondary election, the ballots shall be available no later than seven days prior to the secondary election day. Absentee voting shall be conducted pursuant chapter 12-19.

The names of the candidates for each office to be voted for in the precinct shall be arranged without any other designation than that of the office for which they are candidates. If more than one member of the governing body is to be elected, the ballot shall contain instructions as to how many candidates for the

governing body are to be voted for. The finance officer shall determine, by lot, each candidate's position on the ballot. Each candidate may be present or represented when the position on the ballot is being determined.

No candidate's name may be printed upon the official ballot unless the candidate has been nominated as provided in this chapter.

#6: 12-1-3. Definition of terms used in title. Terms used in this title mean:

- (1) "Candidate," a person whose name is on the ballot or who is entitled to be on the ballot to be voted upon for nomination or election at any election;
- (2) "Election," any election held under the laws of this state;
- (3) "Election officials," state and local officials charged with the duty of conducting elections and the canvass of returns;
- (4) "Elector," a person qualified to register as a voter, whether or not the person is registered;
- (4A) "Electronic pollbook," an electronic system containing both the registration list and pollbook;
- (5) "General election," the vote required to be taken in each voting precinct of the state on the first Tuesday after the first Monday in November of each even-numbered year;
- (6) "Party office," an office of a political party organization as distinct from a public office;
- (7) "Person in charge of an election," or "person charged with the conduct of an election," the county auditor in all cases except local elections for a municipality, school district, township, or other political subdivision, in which case it is the officer having the position comparable to the auditor in that unit of government if not specifically designated by law;
- (8) "Petition," a form prescribed by the State Board of Elections, which contains the question or candidacy being petitioned, the declaration of candidacy if required and the verification of the circulator. If multiple sheets of paper are necessary to obtain the required number of signatures, each sheet shall be self-contained and separately verified by the circulator;

(9) "Petition circulator," a resident of the State of South Dakota who is at least eighteen years of age who circulates nominating petitions or other petitions for the purpose of placing candidates or issues on any election ballot;

(10) "Political party," a party whose candidate for Governor at the last preceding general election at which a Governor was elected received at least two and one-half percent of the total votes cast for Governor;

(10A) "Pollbook" or "poll list," a list containing in numerical order the names of all persons voting at the election and type of ballot voted;

(10B) "Polling place," a designated place voters may go to vote;

(11) "Primary" or "primary election," an election held at which candidates are nominated for public office;

(12) "Public office," an elected position in government;

(12A) "Registration list," a list of eligible voters;

(13) "Registered mail," does not include certified mail;

(14) "Registration officials," the county auditor and deputies and other persons authorized to assist in registration pursuant to chapter 12-4;

(14A) "Vote center," a polling place when the precinct has been defined as the entire jurisdiction and an electronic pollbook is utilized;

(15) "Voter," a person duly registered to vote or one who is performing the act of voting.

(16) "Independent (IND)," or "no party affiliation (NPA)," any voter who writes Independent, I, Ind, the field is blank, no party affiliation, no party, no choice, nonpartisan, or line crossed off in the Choice of Party field on the voter registration form;

(17) "Independent candidate," any registered voter who is not registered as a member of a recognized political party and who is a candidate for office;

(18) "Other," any voter who writes any non-recognized political party in the Choice of Party field on the voter registration form.

#7: 12-1-13. Challenge to petition signatures--Time for filing. Within five business days after a nominating, initiative, or referendum petition is filed with the person in charge of the election, any interested person who has researched the signatures contained on the petition may file an affidavit stating that the petition contains deficiencies as to the number of signatures from persons who are eligible to sign the petition. The affidavit shall include an itemized listing of the specific deficiencies in question. ~~Any challenge to the certification or rejection of a nominating petition for a primary election made in circuit court shall be commenced no later than the third Tuesday in March. This action takes precedence over other cases in circuit court. Any party appealing the circuit court order to the Supreme Court shall file a notice of appeal within ten five days of the date of the notice of the entry of the circuit court order.~~ Any statewide initiated measure or referendum petition may be challenged by any person pursuant to this section by submitting an affidavit as set forth above within thirty days after the petition is filed with the person in charge of the election.

#8: 12-4 4.11. ~~Registration of adult children of overseas citizens.~~ ~~If an overseas citizen who has never resided in South Dakota is eligible to register to vote pursuant to § 12-4 4.4 as the adult child of an overseas citizen and has not reached the age of twenty two, the voter registration of the adult child shall be accompanied by a photocopy of the adult child's United States passport identification page and an overseas registrant form indicating where the adult child's parent is registered to vote in South Dakota. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, concerning the overseas registrant form.~~

#9: 12-13-25.1. Submission of initiative to attorney general--Statement of attorney general--Title--Filing with secretary of state--Fiscal impact statement. Following receipt of the written comments of the director of the Legislative Research Council, the sponsors shall submit a copy of the initiative or initiated amendment to the Constitution in final form, to the attorney general. The attorney general shall prepare an attorney general's statement which consists of a title and explanation. The title shall be a concise statement of the subject of the proposed initiative or initiated amendment to the Constitution. The explanation shall be an objective, clear, and simple summary to educate the voters of the purpose and effect of the proposed initiated measure or initiated amendment to the Constitution. The attorney general shall include a description of the legal consequences of the proposed amendment or initiated measure, including the likely exposure of the state to liability if the proposed amendment or initiated measure is

adopted. The explanation may not exceed two hundred words in length. The attorney general shall file the title and explanation with the secretary of state and shall provide a copy to the sponsors within sixty days of receipt of the initiative or initiated amendment to the Constitution.

If the petition is filed as set forth in § ~~2-1-2-2-1-1.1~~ and ~~2-1-1.2~~, the attorney general shall deliver to the secretary of state before the third Tuesday in May a simple recitation of a "Yes" or "No" vote. On the printed ballots, the title shall be followed by the explanation and the explanation shall be followed, if applicable, by the fiscal impact statement prepared pursuant to § 2-1-20 and then followed by the recitation.

#10: 12-14-17. Vote centers. Notwithstanding any other provision of law, any jurisdiction may conduct an election using vote centers pursuant to the provisions of this section. The election shall be conducted in conformance with all applicable election laws and rules with the following exceptions:

(1) The jurisdiction may use vote centers that allow the voters in the jurisdiction to vote at any one of the vote centers in lieu of establishing precincts and wards for the election;

(2) Any person who is registered to vote and living in the jurisdiction may be appointed as a polling place superintendent or deputy to any of the vote centers;

(3) Secure, encrypted electronic pollbooks shall be used in lieu of paper registration books;
and

~~———— (4) ——— The secretary of state shall prescribe the form of the ballot to be used at vote centers until the State Board of Elections promulgates rules pursuant to subdivision 12-1-9(2);~~

~~(5) (4) The entire jurisdiction is designated as one voting precinct for this election; and,~~

~~(6) — The jurisdiction shall submit a plan for approval to the secretary of state. The Board of Elections shall promulgate rules pursuant to chapter 1-26 concerning the plan by July 1, 2013.~~

#11: ~~—12-18-41. Procedure for secretary of state to conduct election in emergency—~~ Reimbursement of expenses. ~~If the person charged with the conduct of an election and the governing board determine that an election cannot be conducted, the person charged with the conduct of an election shall sign a declaration of emergency and deliver it to the secretary of state prior to the election. The secretary of state may~~

~~conduct the election for that county or political subdivision until the election has been certified. Any reasonable and necessary expenses incurred by the secretary of state to conduct the election shall be reimbursed by the county or political subdivision within ninety days after the election has been certified.~~

#12: 12-27-6. Contents of statement of organization. The statement of organization shall include:

- (1) The name, street address, postal address, and daytime telephone number of the committee;
- (2) The name, street address, postal address, and daytime telephone number of the chair and the treasurer of the committee;
- (3) A statement of the type of political committee that has been or is being organized;
- (4) In the case of a candidate campaign committee, the committee name, street address, and name and postal address of the candidate;
- (5) In the case of a political action committee or ballot question committee, a concise statement of its purpose and goals, and the full name, street address, and postal address of the organization with which the committee is connected or affiliated, or if the committee is not connected or affiliated with any one organization, the trade, profession, or primary interest of the committee;
- ~~(6) If the committee is organized as a corporation under federal or state laws for liability purposes only as authorized by § 12-27-4, a statement affirming such organization; and~~
- ~~(7) The name, street address, postal address, and telephone number of each financial institution where an account or depository is maintained.~~

The statement shall be signed by the candidate and treasurer for a candidate campaign committee and by the chair and treasurer for other political committees or filed electronically pursuant to § 12-27-41. A political committee continues to exist until a termination statement is filed pursuant to §§ 12-27-25 and 12-27-26.

The treasurer of a political committee shall file an updated statement of organization not later than fifteen days after any change in the information contained on the most recently filed statement of organization.

All correspondence regarding reporting deadlines, delinquent reports, administrative penalties/hearings will only be sent to the treasurer listed on the most current statement of organization on file.

#13: 12-27-22. Persons and entities required to submit campaign finance disclosure statements--

Time for submission--Violation as misdemeanor. A campaign finance disclosure statement shall be submitted to the secretary of state by the treasurer of every:

- (1) Candidate or candidate campaign committee for any statewide or legislative office;
- (2) Statewide Ppolitical action committee;
- (3) Statewide, county, local, or auxiliary committee of any Ppolitical party;
- (4) Statewide Bballot question committee; and

(5) Candidate or candidate committee for any statewide or legislative office whose name appears on the primary ballot, but does not appear on the general election ballot, shall submit a campaign finance disclosure statement, or termination report, which shall be received by the secretary of state by 5:00 p.m. on the second Friday of August following that primary election.

(6) Statewide ballot question committees that did not meet the signature requirements for placement of the ballot issue on the general election ballot, shall submit a termination report to the secretary of state by 5:00 p.m. on the first Monday in February following the year the statement of organization was submitted to the secretary of state.

The statement shall be signed and submitted by the treasurer of the political committee or political party. The statement shall be received by the secretary of state and submitted by 5:00 p.m. on the first Monday of February and shall cover the contributions and expenditures for the preceding calendar year. The statement shall also be received by the secretary of state and submitted by 5:00 p.m. on the second Friday prior to each primary and general election complete through the fifteenth day prior to that election. All statewide ballot question committees must submit a termination report by 5:00 p.m. no later than the first Monday in February following the year the ballot question was on the ballot. Any statement submitted pursuant to this section shall be consecutive and shall cover contributions and expenditures since the last statement submitted.

The following are not required to submit a campaign finance disclosure statement:

- (1) A candidate campaign committee for legislative or county office on the first Monday in February ~~first~~ following a year in which there is not an election for the office;
- (2) A county, local, or auxiliary committee of any political party, qualified to participate in a primary or general election, prior to a statewide primary election;
- (3) A legislative or county candidate campaign committee without opposition in a primary election, prior to a primary election;
- (4) A candidate campaign committee whose name is not on the general election ballot, prior to the general election;
- (5) A political committee that regularly submits a campaign finance disclosure statement with another state or the Federal Election Commission or a report of contributions and expenditures with the Internal Revenue Service;
- (6) A statewide candidate who is publicly seeking a nomination by that candidate's party convention prior to a primary election; and
- (7) An independent statewide candidate prior to a primary election.

A violation of this section is a Class 1 misdemeanor.

#14: 12-27-24. Contents of campaign finance disclosure statement. A campaign finance disclosure statement shall include the following information:

- (1) Political committee or political party name, street address, postal address, city, state, zip code, daytime and evening telephone number, and e-mail address;
- (2) Type of campaign statement (pre-primary, pre-general, ~~mid-year~~ post-primary non-winner, year-end, amendment, supplement, or termination);
- (3) If a ballot question committee, the ballot question number and whether the committee is for or against the measure;
- (4) The balance of cash and cash equivalents on hand at the beginning of the reporting period;
- (5) The total amount of all contributions received during the reporting period;

- (6) The total amount of all in-kind contributions received during the reporting period;
- (7) The total of refunds, rebates, interest, or other income not previously identified during the reporting period;
- (8) The total of contributions, loans, and other receipts during the reporting period;
- (9) The total value of loans made to any person, political committee, or political party during the reporting period;
- (10) The total of expenditures made during the reporting period;
- (11) The total amount of all expenditures incurred but not yet paid. An expenditure incurred but not yet paid shall be reported on each report filed after the date of receipt of goods or services until payment is made to the vendor. A payment shall be listed as an expenditure when the payment is made;
- (12) The statement shall state the cash balance on hand as of the close of the reporting period;
- (13) The total amount of contributions of one hundred dollars or less in the aggregate from one source received during the reporting period;
- (14) The name, residence address, city, and state of each person contributing a contribution of more than one hundred dollars in the aggregate during the reporting period and the amount of the contribution. Any contribution from any political committee or political party shall be itemized. Any contribution from a federal political committee or political committee organized outside this state shall also include the name and internet website address of the filing office where campaign finance disclosure statements are regularly filed for the committee. If all of the information required is not on file, the political committee or political party may not deposit the contribution;
- (15) The statement shall contain the same information for in-kind contributions as for monetary contributions, and shall also include a description of the in-kind contribution;
- (16) Upon the request of the treasurer, a person making an in-kind contribution shall provide all necessary information to the treasurer, including the value of the contribution;
- (17) Any monetary or in-kind contribution made by the reporting political committee or political party to any political committee, political party, or nonprofit charitable organization shall be itemized;

(18) A categorical description and the amount of the refunds, rebates, interest, sale of property, or other receipts not previously identified during the reporting period;

(19) A categorical description and the amount of funds or donations by any organization to its political committee for establishing and administering the political committee and for any solicitation costs of the political committee;

(20) The total balance of loans owed by the political committee or political party;

(21) The balance of loans owed by the political committee or political party, itemized by lender's name, street address, city, and state, including the terms, interest rate, and repayment schedule of each loan;

(22) The total balance of loans owed to the political committee or political party;

(23) The amount of each loan made during the reporting period. The name, street address, city, and state of the recipient of the loan;

(24) The balance of each loan owed to the political committee or political party, itemized by name, street address, city, and state;

(25) The expenditures made during the reporting period shall be categorized. Disbursements to consultants, advertising agencies, credit card companies, and similar firms shall be itemized into expense categories. Any contribution made by the reporting political committee or political party that is not in exchange for any item of value or service shall be itemized;

(26) The expenditures incurred but not yet paid during the reporting period and to whom the expenditure is owed;

(27) The amount of each independent expenditure, as defined in this chapter, made during the reporting period, the name of the candidate, public office holder, or ballot question related to the expenditure and a description of the expenditure;

(28) The information contained in any statement provided under § 12-27-19; and

(29) The statement shall include a certification that the contents of the statement is true and correct signed by the treasurer of the political committee or political party.

#15: 12-27-29.2. Administrative order assessing administrative penalty-Hearing--Appeal. Any administrative penalty imposed pursuant to § 12-27-29.1 shall be assessed against the violator by an administrative order of the secretary of state. The order shall state the date and facts of each violation addressed under the penalty assessed and the citations to the provisions of each law alleged to be violated. The order shall contain a statement that the violator may request a contested case hearing on the violation and penalty pursuant to chapter 1-26, by filing a written request with the secretary of state no later than twenty days after the receipt of the order. The secretary of state shall serve the order and assessment by certified mail. If not contested within twenty days of receipt of the order, an administrative order assessing an administrative penalty constitutes a judgment and may be executed by delivery of a true and correct copy certified by the secretary of state in the manner provided for the execution of money judgments provided in chapter 15-18.

If a hearing is requested, the matter shall be scheduled for a hearing before the secretary of state within thirty days from the receipt of the request. The secretary of state shall provide notice of the hearing consistent with the provisions of § 1-26-17. A final determination by the secretary of state may be appealed to the circuit court or Supreme Court as provided in chapter 1-26.

If the time to take an appeal has lapsed after the final determination by the secretary of state, the administrative order assessing an administrative penalty constitutes a judgment and may be executed by delivery of a true and correct copy certified by the secretary of state in the manner provided for the execution of judgments in chapter 15-18.

If a committee hits the maximum penalty fee, does not submit the delinquent report and a judgment is executed, the secretary of state can terminate that committee. If a committee is terminated, the secretary of state will mail a termination letter to the last address on record for the treasurer.

#16: 12-27-42. Place of filing. Any statement, form, or filing required by this chapter shall be filed with the secretary of state in the case of a statewide office or legislative office election. Any statement, form, or filing required by this chapter shall be filed with the county auditor in the case of a county office election, with the municipal finance officer or clerk in the case of a municipal ballot question election, with the school business manager in the case of a school district office election, or with the person in charge of the election in the case of other political subdivisions or special purpose districts. ~~However, any county, municipality, school district, or other political subdivision may, by resolution, direct that any~~

~~statement, form, or filing required by this chapter be electronically filed with the secretary of state, rather than being filed with the county, municipality, school district, or other political subdivision.~~

#17: 13-7-13. Ballots and election supplies--Form and content of ballots--Absentee ballots. The business manager of the school district shall provide proper ballots, pollbooks, voting booths, and necessary supplies as required by law to the proper election officials on election day. The ballots shall be ~~similar in the form as prescribed by the board of elections to those authorized by law for municipal elections.~~ The quantity of ballots provided shall be at least ten percent more than the number of voters at the last comparable election. No party affiliation may appear on the ballot and the names of the candidates for the respective vacancies shall be printed on the ballot. Each candidate's position on the ballot shall be chosen by lot by the business manager and each candidate may be present or represented when the position on the ballot is being determined. The ballots for school elections shall be available for absentee voting no later than fifteen days prior to election day.