

AN ACT

ENTITLED, An Act to revise certain provisions regarding elections and election petitions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 12-6-4 be amended to read as follows:

12-6-4. Except as provided by § 12-5-4 and as may be otherwise provided in chapter 12-9, no candidate for any office to be filled, or nomination to be made, at the primary election, other than a presidential election, may have that person's name printed upon the official primary election ballot of that person's party, unless a petition has been received in the office of the person in charge of that election on that person's behalf not prior to December first of the year preceding the election, and not later than the first Tuesday of March at five p.m. prior to the date of the primary election. A nominating petition for national convention delegates and alternates as provided in § 12-5-3.11 shall be filed in accordance with the provisions of this section. Nominating petitions for all party and public offices except legislative and judicial offices shall be received in the office of the county auditor of the county in which the person is a candidate. Nominating petitions for legislative and judicial office whether elected in one or more counties, and all other party and public offices to be voted on in more than one county shall be received in the Office of the Secretary of State.

Section 2. That § 46A-3B-4 be amended to read as follows:

46A-3B-4. A director candidate may be nominated by a petition signed by at least twenty-five registered voters in the director area to be represented by the candidate. Nominating petitions shall be made available at the water development district office, the secretary of state's office, and the respective county auditors' offices on forms prescribed by the state election board and received in the Office of the Secretary of State not prior to December first of the year preceding the election, and not later than five p.m., the first Tuesday of March prior to the date of the primary election. For the initial election, director nominating petitions shall be made available by the Department of

Environment and Natural Resources and shall be received by the department not later than five p.m., the first Tuesday of August before the general election or in the case of a special election pursuant to § 46A-3B-1, not later than thirty days before the date set for the special election.

Section 3. That § 12-11-3 be amended to read as follows:

12-11-3. Each party nomination and independent petition shall be received in the Office of the Secretary of State not less than sixty-five days preceding any election that is not combined with a primary or general election. If the election is conducted with a primary election, each party nomination and independent petition shall be received by the first Tuesday in March. Each nomination shall be certified in a like manner as any other nomination for the purpose of a general election. The election shall be conducted, canvassed, and the results certified as in a general election. If the election is conducted with a general election, each party nomination and independent petition shall be received by the second Tuesday in August.

Section 4. That § 12-6-4.1 be amended to read as follows:

12-6-4.1. No petition or certificate of nomination subject to the provisions of this chapter may be circulated prior to the first day of December of the year preceding the election.

Section 5. That § 12-6-7 be amended to read as follows:

12-6-7. A nominating petition may be composed of several sheets, which shall have identical headings printed at the head of each sheet. The petition for party office or political public office shall be signed by not less than one percent of the voters registered for the candidate's political party at the last general election in the county, part of the county, district, or state electing a candidate to fill the office.

Section 6. That § 12-6-7.1 be amended to read as follows:

12-6-7.1. Notwithstanding the provisions of § 12-6-7 a nominating petition for a candidate for office in the State Legislature, county political public office, and county party office shall be signed

by not less than fifty voters or not less than one percent of the voters registered for the candidate's political party at the last general election, whichever is less. The petition shall clearly designate the senatorial or representative district for which the person is a candidate.

Section 7. That § 12-6-8 be amended to read as follows:

12-6-8. No person may sign the nominating petition of a candidate before December first of the year preceding the election, nor for whom the person is not entitled to vote, nor for a political candidate of a party of which the person is not a member, nor of more than the number of candidates required to be nominated for the same office. There shall be added by either the signer or the circulator, the signer's place of residence, and the date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. A formal declaration of the candidate shall be signed by the circulator prior to the circulation of petitions. The signed declaration of the candidate, or a facsimile thereof, may accompany and be a part of the petition. The original signed declaration shall accompany the group of petitions upon being received by the office of the person in charge of that election. The petition shall be verified under oath by the persons circulating the petition. The verification by the person circulating the petition may not be notarized by the candidate whom the petition is nominating. The provisions of this section prohibit a person registered with a recognized political party from signing a petition nominating an independent candidate for office. The provisions of this section do not prohibit a person registered with a recognized political party from signing a petition nominating a nonpolitical candidate for office.

Section 8. That § 12-7-1 be amended to read as follows:

12-7-1. Any candidate for nonjudicial public office, except as provided in § 12-7-7, who is not nominated by a primary election may be nominated by submitting with the secretary of state or county auditor pursuant to § 12-6-4, not prior to December first of the year preceding the election

and not later than the last Tuesday of April at 5:00 p.m. prior to the election, a certificate of nomination which shall be executed as provided in chapter 12-6. The certificate of nomination shall be signed by registered voters within the district or political subdivision in and for which the officers are to be elected. The number of signatures required may not be less than one percent of the number of registered voters having no party affiliation or voters registered as other, at the last general election within the district or political subdivision. An independent candidate for Governor shall certify the candidate's selection for lieutenant governor to the secretary of state prior to circulation of the candidate's nominating petition. The candidate and the candidate's selection for lieutenant governor or vice president shall sign the certification prior to it being received by the Office of the Secretary of State. If the independent candidate for lieutenant governor declares that he or she is not running, then the independent candidate for lieutenant governor shall withdraw pursuant to § 12-6-55. If an independent candidate for lieutenant governor withdraws, no independent candidate for governor may have his or her name printed upon a ballot unless a replacement selection for lieutenant governor is certified to the secretary of state by the second Tuesday in August. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the forms for the certificate of nomination and the certification for lieutenant governor.

Section 9. That § 12-5-3.8 be amended to read as follows:

12-5-3.8. If a political party chooses to have a primary for selection of the party's delegates and alternates to the national convention, the party shall certify the candidate names or the delegate and alternate slates which are to be listed on the primary ballot to the secretary of state by the first Tuesday in March preceding the primary by five p.m. Only candidates or slates certified may be placed on the ballot by the secretary of state and the position of the candidates or slates on the primary ballot shall be chosen by lot by the secretary of state.

Section 10. That § 12-5-3.14 be amended to read as follows:

12-5-3.14. Any candidate, committee, or group supporting a candidate in any presidential primary, shall, by five p.m. on the first Tuesday in March prior to the presidential primary election, notify the secretary of state of an intention to have the name of the candidate placed on the presidential primary election ballot or submit a slate of candidates or both.

Section 11. That § 23-3-43.1 be amended to read as follows:

23-3-43.1. Any candidate for election to the office of county sheriff shall submit to the county auditor by the first Tuesday of March of the election year a certification of qualification issued by the law enforcement officers standards commission that the candidate meets the qualifications provided in § 23-3-43. However, any candidate appointed to fill a vacancy by a party central committee pursuant to § 12-6-56 shall submit to the county auditor a certification of qualification by the second Tuesday in August. Any candidate who submits an independent nominating petition shall submit to the county auditor a certification of qualification by the last Tuesday in April. A sheriff appointed to fill a vacancy by the county commission shall submit to the county auditor a certification of qualification within thirty days of the appointment. Failure to submit a certification shall prevent the candidate's name from being placed on the ballot.

Section 12. That § 12-5-1 be amended to read as follows:

12-5-1. A new political party may be organized and participate in the primary election by submitting to the secretary of state not later than the first Tuesday of March at five p.m. prior to the date of the primary election, a written declaration signed by at least two and one-half percent of the voters of the state as shown by the total vote cast for Governor at the last preceding gubernatorial election, which declaration shall contain:

- (1) The name of the proposed party; and
- (2) A brief statement of the principles thereof;

whereupon the party shall, under the party name chosen, have all the rights of a political party whose

ticket was on the ballot at the preceding general election. No signature on a declaration is valid if the declaration was signed more than one year prior to filing of the declaration.

A political party loses the right to participate in the primary election for failure to meet the definition of political party as defined in § 12-1-3.

The national and state chairperson of a recognized political party may request in writing, subscribed and sworn to by each chairperson before any officer qualified to administer oaths and take acknowledgments, to no longer be recognized as a political party. The political party shall also comply with the requirements for dissolution pursuant to chapter 12-27.

Section 13. That § 12-6-8.1 be amended to read as follows:

12-6-8.1. Any person may have his or her name withdrawn from the primary election by making a written request under oath. The request shall be submitted to the officer with whom the nominating petition was submitted pursuant to § 12-6-4, not later than two days after the first Tuesday in March at five p.m. No name that is withdrawn pursuant to this section may be printed on the ballots to be used at the election.

Section 14. That § 12-5-4 be amended to read as follows:

12-5-4. A candidate for party precinct committeeman or committeewoman shall submit a statement in writing, with the county auditor of the county in which he or she is a candidate, not later than the first Tuesday in March before the primary election. The statement shall state that the candidate:

- (1) Is a resident of the precinct;
- (2) Is registered as a member of the political party named in the statement;
- (3) Is a candidate for precinct committeeman or committeewoman, as the case may be;
- (4) Is desirous of serving in that position; and
- (5) If elected, will qualify and serve in the office.

The statement, when properly submitted, shall operate as a nominating petition for that office.

Section 15. That § 9-13-7 be amended to read as follows:

9-13-7. No candidate for elective municipal office may be nominated unless a nominating petition is submitted to the finance officer no later than five p.m. on the last Friday in February preceding the day of election. The petition shall contain the name, residence address, and mailing address of the candidate and the office for which the candidate is nominated and shall be on the form prescribed by the State Board of Elections. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. The finance officer may only accept nominating petitions that are on the prescribed form and were circulated and submitted pursuant to the provisions in chapters 9-13 and 12-6. If the nominating petition meets the statutory requirements, the filing of the petition constitutes nomination.

Section 16. That § 13-7-6 be amended to read as follows:

13-7-6. No candidate for elective school board membership may be nominated unless such person is a resident voter of the school district and unless a nominating petition has been submitted on such person's behalf with the business manager of the school district. The nominating petition shall be submitted no later than five p.m. on the Friday thirty-nine days before the date of the election. A formal declaration of a candidate shall be signed by the candidate before the circulation of the petition. The petition shall be signed by not less than twenty voters of the school district or if the school district is divided into school board representation areas, the petition shall be signed by not less than twenty voters who reside within the school board representation area. No petition may be circulated until ten weeks prior to the election. There shall be added by either the signer or the circulator the signer's place of residence and date of signing. The petition shall be verified under oath by the person circulating it. The filing of the nominating petition shall constitute nomination and will entitle the candidate to have the candidate's name placed on the ballot for the term the candidate

specifies on the petition only upon verification signed by the business manager that the nominating petition contains the minimum number of signatures and that the candidate is a resident voter.

Section 17. That § 13-7-10.2 be amended to read as follows:

13-7-10.2. If the joint election provided for in § 13-7-10.1 is held on the second Tuesday in April, no candidate for elective school board membership may be nominated unless the candidate is a resident voter of the school district and unless a nominating petition has been submitted on the candidate's behalf with the business manager of the school district no later than the last Friday in February at five p.m. prior to the date of the election. A formal declaration of a candidate shall be signed by the candidate before the circulation of the petition. The petition shall be signed by not less than twenty voters of the school district. No petition may be circulated until the last Friday in January before the election. There shall be added by either the signer or the circulator the signer's place of residence and date of signing. The petition shall be verified under oath by the person circulating the petition. The filing of the nominating petition shall constitute nomination and will entitle the candidate to have the candidate's name placed on the ballot for the term the candidate specifies on the petition only upon verification signed by the business manager that the nominating petition contains the minimum number of signatures and that the candidate is a resident voter.

Publication of the notice of the election provided for in § 13-7-10.1 shall be in accordance with § 13-7-8.

Section 18. That § 46A-3B-4 be amended to read as follows:

46A-3B-4. A director candidate may be nominated by a petition signed by at least twenty-five registered voters in the director area to be represented by the candidate. Nominating petitions shall be made available at the water development district office, the secretary of state's office, and the respective county auditors' offices on forms prescribed by the state election board and submitted with the secretary of state not prior to December first of the year preceding the election, and not later than

five p.m., the first Tuesday of March prior to the date of the primary election. For the initial election, director nominating petitions shall be made available by the Department of Environment and Natural Resources and shall be received by the department not later than five p.m., the first Tuesday of August before the general election or in the case of a special election under § 46A-3B-1, not later than thirty days before the date set for the special election.

Section 19. That § 12-7-7 be amended to read as follows:

12-7-7. Any candidate for President or Vice President of the United States who is not nominated by a primary election may be nominated by submitting with the secretary of state, not prior to December first and not later than the first Tuesday in August at 5:00 p.m. prior to the election, a certificate of nomination which shall be executed as provided in chapter 12-6. The number of signatures required may not be less than one percent of the number of registered voters having no party affiliation and voters registered as other, the day following the official state canvass at the last general election within the state. An independent candidate for President shall submit a declaration of candidacy and a certification of the candidate's selection for Vice President with the secretary of state prior to circulation of the candidate's nominating petitions. The candidate and the candidate's selection for Vice President shall sign the certification before it is submitted. The State Board of Elections shall promulgate rules pursuant to chapter 1-26 prescribing the forms for the certificate of nomination and the certification for Vice President.

Section 20. That § 12-6-56 be amended to read as follows:

12-6-56. If a vacancy occurs by reason of a death or a withdrawal as authorized by section 21 of this Act after a primary election, a party candidate for public office may be replaced by a new nominee if a meeting of the appropriate party central committee is held and the results are certified to the appropriate official within the times prescribed by § 12-8-6. If the vacancy is a party candidate for presidential elector or statewide office, the vacancy shall be filled by the State Party Central

Committee. If the vacancy is a party candidate for public office other than presidential elector or statewide office, the vacancy shall be filled by a vote of county party central committee members in attendance who reside in the affected district.

Section 21. That chapter 12-6 be amended by adding thereto a NEW SECTION to read as follows:

If a party candidate for public office withdraws after filing petitions with the secretary of state, the appropriate party central committee may make a replacement nominee only if:

- (1) The party candidate:
 - (a) Withdraws because of personal illness or illness of an immediate family member and the illness prevents the candidate from performing the duties of the office sought; and
 - (b) Submits with the withdrawal request a form signed by a licensed physician verifying that the provisions of subsection (a) apply to the candidate;
- (2) There is no other nominee for the office sought by the withdrawing candidate as of the time of the withdrawal;
- (3) The party candidate has been elected or appointed to fill a vacancy in another elective office which duties conflict by law with the duties of the office sought, has become the nominee for another elective office, it has been determined that the party candidate's employment conflicts by law with the duties of the office sought, or is deceased; or
- (4) The party candidate permanently moves from his or her physical address stated in the nominating petition filed with the secretary of state, and requests in writing, subscribed and sworn to by the candidate before any officer qualified to administer oaths and take acknowledgments that the candidate has not resided in the district for a period of thirty consecutive calendar days and has no intention of resuming residency in the district.

Section 22. That § 12-1-3 be amended by adding thereto NEW SUBDIVISIONS to read as follows:

"Independent" or "no party affiliation," 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;

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

"Other," any voter who writes any other nonrecognized political party in the Choice of Party field on the voter registration form.

Section 23. That § 12-8-6 be amended to read as follows:

12-8-6. A party committee may fill a vacancy created by a nomination made in a primary election. The party committee shall certify the nomination to the secretary of state or the county auditor not later than the second Tuesday in August at five p.m.

Section 24. That § 12-5-1.4 be amended to read as follows:

12-5-1.4. If a political party qualifies for the primary ballot under § 12-5-1, each candidate intending to participate in a primary election shall file a nominating petition pursuant to § 12-6-4. In each primary election following the qualification of a political party and prior to the next gubernatorial election, each:

- (1) State and federal candidate for that party shall file a petition bearing signatures of not less than two hundred fifty registered voters in that party or not less than one percent of the registered voters having no party affiliation including any registered voters of the new political party and voters registered as other in the state at the last general election; and
- (2) Legislative and county candidate for that party shall file a petition bearing signatures of not less than fifty voters in that party or not less than one percent of the registered voters

having no party affiliation including any registered voters of the new political party and voters registered as other in that county or district.

An Act to revise certain provisions regarding elections and election petitions.

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I certify that the attached Act
originated in the

SENATE as Bill No. 69

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 69
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____,

20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State