



## 2024 South Dakota Legislature

# Senate Bill 76

Introduced by: **Senator Wheeler**

1 **An Act to modify provisions pertaining to the appointment of vacant positions on a**  
 2 **board or commission.**

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

4 **Section 1. That a NEW SECTION be added to chapter 3-4:**

5 If any position on a board or commission whose members are appointed by the  
 6 governor without the consent of the Senate becomes vacant pursuant to § 3-4-1, the  
 7 Governor must appoint a person to fill the vacancy within one hundred twenty days of the  
 8 occurrence of the vacancy. If the vacancy is the result of a resignation, the person who  
 9 has resigned remains on the board or commission until the Governor appoints a person to  
 10 fill the vacancy or until a date set in writing by the person who resigned, whichever is  
 11 sooner.

12 Except as provided below, if a person's term on the board or commission has  
 13 expired, the person remains on the board or commission until the Governor appoints a  
 14 person to the new term, and if the Governor has not appointed a person to the new term  
 15 within one hundred twenty days after the term expired, the person is deemed to be  
 16 reappointed for another term. If a person is unable to serve an additional term due to a  
 17 term limit, the person may not remain on the board or commission after the person's term  
 18 has expired and may not be deemed reappointed under this section.

19 This section applies to any board or commission whose members are appointed by  
 20 the Governor without the consent of the Senate unless the board or commission is  
 21 specifically exempted from this section by law.

22 **Section 2. That chapter 3-4 be amended with a NEW SECTION:**

23 If any position on a board or commission whose members are appointed by the  
 24 Governor with the consent of the Senate becomes vacant pursuant to § 3-4-1, the  
 25 Governor may make an interim appointment to fill the vacancy, but any interim

1 appointment expires when the Senate acts upon the appointee's nomination. If the  
 2 vacancy is the result of a resignation, the person who has resigned remains on the board  
 3 or commission until the Governor appoints a person with the consent of the Senate or  
 4 makes an interim appointment to fill the vacancy or until a date set in writing by the  
 5 person who resigned, whichever is sooner.

6 If a person's term on the board or commission has expired, the person remains on  
 7 the board or commission until the Senate consents to the appointment of the Governor's  
 8 nominee or until the Senate acts upon the renomination of the person whose term has  
 9 expired. If the Governor does not nominate a person for the new term by the tenth  
 10 legislative day after the Legislature convenes, the person whose term has expired is  
 11 deemed to be renominated for the new term and the Senate may act on the nomination  
 12 accordingly. If a person is unable to serve an additional term due to a term limit, the  
 13 person is not deemed renominated pursuant to this section and may not remain on the  
 14 board or commission pursuant to this section after the adjournment of the next legislative  
 15 session after the person's term expires.

16 This section applies to any board or commission whose members are appointed by  
 17 the Governor with the consent of the Senate unless the board or commission is specifically  
 18 exempted from this section by law.

19 **Section 3. That § 13-49-3 be AMENDED:**

20 **13-49-3.** ~~Each regent, except the student regent, shall be~~ is appointed for a term  
 21 of six years. The term ~~shall expire~~ expires on the last day of March ~~or when a successor~~  
 22 ~~is appointed and qualified~~, unless removed as provided in § 3-17-1. No regent appointed  
 23 after July 1, 2018, and without any previous service on the board, may serve more than  
 24 two consecutive terms. ~~However, after serving two consecutive terms, a~~ A regent who has  
 25 served two consecutive terms may be reappointed ~~after~~ if at least two years have passed  
 26 since the expiration of the regent's last term. Any partial term to fill a vacancy on the  
 27 board may not count against the two-term limit. This section does not apply to the student  
 28 regent.

29 **Section 4. That § 13-49-6.1 be AMENDED:**

30 **13-49-6.1.** The Governor shall appoint a student regent, with the consent of the  
 31 Senate, who shall participate in all board meetings, open and closed, and be compensated  
 32 in the same manner as board members. The student regent ~~shall~~ must be a student of  
 33 one of the public postsecondary educational institutions under the control of the board.

1       The student regent ~~shall be~~ is appointed for a term of two years ~~which term shall expire,~~  
2       The term of the student regent expires on the first day of July of every even-numbered  
3       year, unless the student regent is removed under the provisions of § 3-17-1 or ~~unless~~  
4       ~~such~~ the student does not remain enrolled in a postsecondary institution controlled by the  
5       board. The student regent is a formal member of the board and may vote.

6               If the term of the student regent expires, the Governor may make an interim  
7       appointment for the new term. If the position of student regent becomes vacant pursuant  
8       to § 3-4-1, the Governor may make an interim appointment for the balance of the  
9       unexpired term. Any interim appointment expires when the Senate acts upon the  
10       appointment unless the Senate consents to the appointment.

11               The student regent is exempt from the provisions of section 2 of this Act.

12       **Section 5. That § 1-7-1.1 be REPEALED.**

13               ~~On any board or commission whose members are appointed by the Governor, the~~  
14       ~~Governor shall appoint a person to fill any vacancy within one hundred twenty days of the~~  
15       ~~occurrence of the vacancy. The person who has resigned or whose term has expired shall~~  
16       ~~remain on the board or commission until the Governor appoints a person to fill the~~  
17       ~~vacancy. For any person whose term on the board or commission has expired, if the~~  
18       ~~Governor has not appointed a person to fill the vacancy within one hundred twenty days~~  
19       ~~after the vacancy occurs, the person shall be deemed to be reappointed for another term.~~

20       **Section 6. That § 13-49-4 be REPEALED.**

21               ~~If a vacancy occurs as provided in § 3-4-1, the Governor shall fill the vacancy by~~  
22       ~~appointment, and the appointee shall serve for the balance of the unexpired term.~~  
23       ~~However, if the Senate, at the next legislative session, fails to confirm the appointee, the~~  
24       ~~appointee shall only serve until the last day of March. Then a new appointee shall be~~  
25       ~~named by the Governor. The subsequent appointee is subject to the same conditions as~~  
26       ~~set forth in this section.~~