



2023 South Dakota Legislature

Senate Bill 40

Introduced by: **Senator David Johnson**

1 **An Act to revise the process for nominating candidates for the offices of lieutenant**
 2 **governor, attorney general, and secretary of state.**

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

4 **Section 1. That chapter 12-5 be amended with a NEW SECTION:**

5 A candidate for Governor shall select a candidate for lieutenant governor and certify
 6 the selection to the secretary of state no later than five p.m. central time on the second
 7 Tuesday in August of the year of the election. The candidate for Governor and the
 8 candidate's selection for lieutenant governor shall sign the certification. The State Board
 9 of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe the form for
 10 certification of a candidate for lieutenant governor under this section.

11 A candidate for lieutenant governor may withdraw by filing a request under oath
 12 with the secretary of state. If a candidate for lieutenant governor withdraws, the candidate
 13 for Governor shall select a replacement and certify the selection to the secretary of state
 14 no later than five p.m. central time on the second Tuesday in August of the year of the
 15 election. The candidate for Governor and the candidate's replacement selection for
 16 lieutenant governor shall sign the certification. The secretary of state may not place the
 17 name of the candidate for Governor on the general election ballot until a replacement
 18 candidate has been certified.

19 **Section 2. That § 12-5-17 be AMENDED:**

20 **12-5-17.** Each political party shall hold a state convention ~~in each even-numbered~~
 21 ~~year for the purposes stated in § 12-5-21~~ for the purpose of nominating candidates for:
 22 (1) State auditor;
 23 (2) State treasurer;
 24 (3) Commissioner of school and public lands;
 25 (4) Public utilities commissioner; and

1 (5) In the years the President of the United States is to be elected:

2 (a) Presidential elector;

3 (b) National committeeman; and

4 (c) National committeewoman.

5 A political party may only hold a state convention for the purposes in this section
 6 in an even-numbered year. The state central committee of each political party shall
 7 determine the date, time, and place of the convention. The chair of the committee shall
 8 notify the secretary of state of the date and place of the convention at least ~~fifteen~~
 9 ~~business~~ thirty days ~~prior to~~ before the date chosen.

10 **Section 3. That § 12-5-25 be AMENDED:**

11 **12-5-25.** A political party with alternative political status may nominate a
 12 candidate for United States Senate, United States House of Representatives, Governor,
 13 attorney general, secretary of state, and any legislative seat by convention, if the
 14 nomination is submitted with the proper documentation to the Office of the Secretary of
 15 State no later than ~~5:00~~ five p.m. central time on the second Tuesday in August, of the
 16 year of the election.

17 A candidate registered with a political party with an alternative political status may
 18 choose, if allowed by the party bylaws, to participate in a primary election by submitting
 19 a candidate petition ~~no later than the last Tuesday of March~~ in accordance with § 12-5-
 20 1.4.

21 **Section 4. That § 12-5-26 be AMENDED:**

22 **12-5-26.** A new political party may nominate a candidate for United States Senate,
 23 United States House of Representatives, Governor, attorney general, secretary of state,
 24 and any legislative seat by convention, if the nomination is submitted with the proper
 25 documentation to the Office of the Secretary of State no later than ~~5:00~~ five p.m. central
 26 time on the second Tuesday in August, of the year of the election.

27 **Section 5. That § 12-6-7 be AMENDED:**

28 **12-6-7.** A nominating petition may be composed of several sheets, ~~each.~~ Each
 29 sheet ~~shall~~ must have identical headings printed at the top and ~~shall~~ must be a self-
 30 contained sheet of paper. The petition for a candidate for the Legislature ~~shall designate~~

1 ~~must specify the senatorial or representative legislative~~ district number and ~~house~~
2 ~~chamber~~ for which the person is a candidate.

3 The petition for ~~party office or political public office for a state~~ a party's
4 gubernatorial or federal candidate ~~shall~~ must be signed by not less than one percent of
5 the voters who voted for that party's gubernatorial candidate at the last gubernatorial
6 election ~~in the state~~. The petition for a party's candidate for attorney general or secretary
7 of state must be signed by not less than one-half percent of the voters who voted for that
8 party's gubernatorial candidate at the last gubernatorial election. A petition for the
9 Legislature, county party office, or county political public office ~~shall~~ must be signed by
10 not less than one percent of the voters who voted for that party's gubernatorial candidate
11 at the last gubernatorial election, or fifty voters, in the county, part of the county, or
12 district electing a candidate to fill the office, whichever is less.

13 If the party meets the requirement for alternative political status as defined in
14 § 12-1-3.1, the petition for party office or political public office for a state or federal
15 candidate ~~shall~~ must be signed by not less than one percent of the voters who voted for
16 that party's statewide candidate receiving the highest votes at the last gubernatorial
17 election in the state. A petition for the Legislature, county party office, or county political
18 public office ~~shall~~ must be signed by not less than one percent of the voters who voted for
19 that party's statewide candidate receiving the highest votes at the last gubernatorial
20 election in the county, part of the county, or district electing a candidate to fill the office,
21 whichever is less.

22 If a county uses vote centers and does not print ballots by precinct, signature
23 requirements are:

- 24 (1) For both partisan and independent candidates, fifty signatures for a legislative
25 candidate whose district either in whole or in part includes that county;
- 26 (2) For a county candidate:
- 27 (a) Partisan candidate petitions ~~shall~~ must be signed by the lesser of fifty
28 signatures or signatures from one percent of the voters who voted for that
29 party's gubernatorial candidate, or the party's statewide candidate receiving
30 the highest votes if the party meets the requirement for alternative party
31 status as defined in § 12-1-3.1, at the last gubernatorial election in the
32 county electing a candidate to fill the office; or
- 33 (b) Independent candidate petitions ~~shall~~ must be signed by not less than one
34 percent of the total combined vote for Governor at the last certified election
35 within the county electing a candidate to fill the office;

- 1 (3) Half the number of signatures required under subdivision (2), for county
 2 commissioner district candidates;
- 3 (4) Five signatures for a new party legislative candidate whose district either in whole
 4 or in part includes that county;
- 5 (5) Five signatures for a new party county candidate; or
- 6 (6) Three signatures for a new party county commissioner district candidate.

7 **Section 6. That § 12-7-1 be AMENDED:**

8 **12-7-1.** Any candidate for ~~nonjudicial~~ public office, except judicial office, the office
 9 of lieutenant governor, and as provided in § 12-7-7, who is not nominated by a primary
 10 election, may be nominated by filing a certificate of nomination with the secretary of state
 11 or county auditor as prescribed by in the manner of nominating petitions as described in
 12 § 12-6-4, after December thirty-first and by but no later than five p.m. local time on the
 13 last Tuesday of in April at 5:00 p.m. local time before the election. A certificate of
 14 nomination ~~shall~~ must be executed as provided in chapter 12-6. If the certificate of
 15 nomination is mailed by registered mail ~~by~~ no later than five p.m. local time on the last
 16 Tuesday of in April at 5:00 p.m. local time before the election, it is timely submitted. The
 17 certificate of nomination ~~shall~~ must be signed by registered voters within the district or
 18 political subdivision in and for which the officers are to be elected. The number of
 19 signatures required may not be less than one percent of the total combined vote cast for
 20 Governor at the last certified gubernatorial election within the district or political
 21 subdivision. The State Board of Elections shall promulgate rules, pursuant to chapter 1-
 22 26, prescribing the forms for the certificate of nomination.

23 **Section 7. That § 12-7-1.2 be AMENDED:**

24 **12-7-1.2.** An independent candidate for Governor shall ~~certify the candidate's~~
 25 selection, select a candidate for lieutenant governor and certify the selection to the
 26 secretary of state ~~with the candidate's nominating petition~~ no later than five p.m. central
 27 time on the second Tuesday in August of the year of the election. The candidate and the
 28 candidate's selection for lieutenant governor shall sign the certification ~~before the~~
 29 ~~nominating petitions are circulated.~~

30 ~~If an~~ An independent candidate for lieutenant governor ~~withdraws, no~~ may
 31 withdraw by filing a request under oath with the secretary of state. If an independent
 32 candidate for lieutenant Governor withdraws, the independent candidate for Governor ~~may~~
 33 ~~have the candidate's name printed upon a ballot unless a~~ shall select a replacement and

1 ~~certify the selection for lieutenant governor is certified~~ to the secretary of state ~~by the no~~
 2 ~~later than five p.m. central time on the~~ second Tuesday in August ~~of the year of the~~
 3 ~~election. The candidate for Governor and the candidate's replacement selection for~~
 4 ~~lieutenant governor shall sign the certification. The secretary of state may not place the~~
 5 ~~name of the candidate for Governor on the general election ballot until a replacement~~
 6 ~~candidate has been certified.~~

7 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,
 8 prescribing the ~~forms~~ form for the certification for lieutenant governor.

9 **Section 8. That § 12-25-28 be AMENDED:**

10 **12-25-28.** Any candidate for the ~~United States Senate, the United States House~~
 11 ~~of Representatives, Governor, circuit court judge, or the Legislature~~ following offices shall
 12 file a statement of financial interest with the secretary of state not more than fifteen days
 13 after filing the candidate's nominating petitions:

- 14 (1) United States Senate;
 15 (2) United States House of Representatives;
 16 (3) Governor;
 17 (4) Attorney general;
 18 (5) Secretary of state;
 19 (6) Circuit court judge; and
 20 (7) Legislature.

21 Any Supreme Court justice shall file a statement of financial interest with the
 22 secretary of state not more than fifteen days following notice to the secretary of state of
 23 the justice's intention to place the justice's name on the retention ballot.

24 A violation of this section is a petty offense. Any intentional violation of this section
 25 is a Class 2 misdemeanor.

26 **Section 9. That § 12-25-29 be AMENDED:**

27 **12-25-29.** Any candidate for ~~lieutenant governor, state treasurer, attorney~~
 28 ~~general, secretary of state, state auditor, public utilities commissioner, or commissioner~~
 29 ~~of school and public lands~~ the following offices shall file a statement of financial interest
 30 with the secretary of state not more than fifteen days after the candidate's nomination is
 31 certified:

- 32 (1) Lieutenant governor;
 33 (2) State treasurer;

- 1 (3) State auditor;
 2 (4) Public utilities commissioner; and
 3 (5) Commissioner of school and public lands.

4 A violation of this section is a petty offense. Any intentional violation of this section
 5 is a Class 2 misdemeanor.

6 **Section 10. That § 12-25-29.1 be AMENDED:**

7 **12-25-29.1.** Any candidate for ~~United States Senate, United States House of~~
 8 ~~Representatives, Governor, lieutenant governor, state treasurer, attorney general,~~
 9 ~~secretary of state, state auditor, public utilities commissioner, commissioner of school and~~
 10 ~~public lands, or state legislator~~ the following offices who has been nominated at the
 11 convention of a party with alternative political status shall file a statement of financial
 12 interest with the secretary of state not more than fifteen days after the candidate's
 13 nomination is certified;

- 14 (1) United States Senate;
 15 (2) United States House of Representatives;
 16 (3) Governor;
 17 (4) Attorney general;
 18 (5) State auditor;
 19 (6) State treasurer;
 20 (7) Secretary of state;
 21 (8) Public utilities commissioner;
 22 (9) Commissioner of school and public lands; and
 23 (10) Legislature.

24 A violation of this section is a petty offense. Any intentional violation of this section
 25 is a Class 2 misdemeanor.

26 **Section 11. That § 3-1A-2 be AMENDED:**

27 **3-1A-2.** Any person who assumes the Office of Governor, lieutenant governor,
 28 state treasurer, attorney general, secretary of state, state auditor, commissioner of school
 29 and public lands, ~~Public Utilities Commissioner~~ public utilities commissioner, Supreme
 30 Court justice, circuit court judge, or state legislator shall, within fifteen days after the
 31 person assumes office, file a statement of financial interest setting forth any additions or
 32 corrections to any previous statement of financial interest filed pursuant to § 12-25-28 ~~or~~
 33 ~~12-25-29~~ to § 12-25-29.1, inclusive.

1 **Section 12. That § 12-5-21 be REPEALED:**

2 ~~The state convention shall nominate candidates for lieutenant governor, attorney~~
3 ~~general, secretary of state, state auditor, state treasurer, commissioner of school and~~
4 ~~public lands, and public utilities commissioner and in the years when a President of the~~
5 ~~United States is to be elected, presidential electors and national committeeman and~~
6 ~~national committeewoman of the party.~~