



2023 South Dakota Legislature

House Bill 1062

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 **An Act to clarify the convening of recount boards for primary elections.**

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

3 **Section 1. That § 12-21-20 be AMENDED:**

4 **12-21-20.** The county auditor, immediately on the due filing of any petition for a
 5 recount or upon receipt from the secretary of state of notice of ~~such~~the filing with the
 6 secretary of state, shall notify in writing, with the seal of the auditor's office, the presiding
 7 judge of the circuit court for the auditor's county. The presiding judge shall appoint a
 8 board, pursuant to § 12-21-2, for each county in the circuit in which a recount is to be
 9 conducted. The presiding judge may appoint the board anytime within thirty days prior to
 10 a primary or general election or upon the filing of the petition for recount. ~~The~~Except as
 11 provided in § 12-21-11, the board shall then~~then~~ convene in the office of the county auditor
 12 ~~on the second Monday at nine a.m. following the filing of the petition. However, if the~~
 13 ~~second Monday is a legal holiday, the board shall convene at nine a.m. of the day~~
 14 ~~following.;~~

15 (1) The second Monday following the filing of the petition at nine a.m.;

16 (2) The second Tuesday following the filing of the petition at nine a.m., if the second
 17 Monday is a legal holiday; or

18 (3) A date selected by the presiding judge when necessary to avoid undue conflict with
 19 the electoral process and ensure the timely facilitation of a recount. The date
 20 selected by the presiding judge must provide the opportunity for recount witnesses
 21 as required by § 12-21-26.

22 The county auditor shall provide the recount board with laws, rules, and forms to
 23 use in conducting the recount. The board shall then proceed with the recount.