

## 2023 South Dakota Legislature

**House Bill 1201****AMENDMENT 1201C  
FOR THE HOUSE AGRICULTURE AND NATURAL RESOURCES  
ENGROSSED BILL**

1 **An Act to provide for the election of State Brand Board members.**

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

3 **Section 1. That chapter 40-18 be amended with a NEW SECTION:**

4 The State Brand Board consists of five members until December 31, 2023, at which  
5 time the term of each such member expires.

6 Beginning January 1, 2024, the State Brand Board consists of seven members.  
7 Each member shall, in accordance with this Act, be elected from and represent a district  
8 as follows:

9 (1) Harding, and Perkins counties;

10 (2) Butte, Lawrence, and Meade counties;

11 (3) Haakon county, except as otherwise provided for in subdivision (7), and Stanley  
12 county;

13 (4) Custer, Fall River, and Pennington counties;

14 (5) Gregory, Jones, Mellette, and Tripp counties, and those portions of Jackson and  
15 Lyman counties that do not lie within the boundaries of an Indian reservation;

16 (6) All counties east of the Missouri River;

17 (7) Bennett, Corson, Dewey, Ogalala Lakota, Todd, and Ziebach counties, and those  
18 portions of Haakon, Jackson, and Lyman counties that lie within the boundaries of  
19 an Indian reservation.

20 **Section 2. That chapter 40-18 be amended with a NEW SECTION:**

21 No later than October first, prior to the expiration of a State Brand Board member's  
22 term of office, the board shall call for the nomination of qualified candidates to fill the  
23 office. The board shall disseminate information regarding the nomination process and the  
24 election by, at a minimum, posting the information on its website and social media, in  
25 livestock publications, and at livestock auction markets.

1 **Section 3. That chapter 40-18 be amended with a NEW SECTION:**

2 A person is deemed eligible to be nominated for membership on the State Brand  
3 Board if the person verifies, on a nominating petition, that the person:

- 4 (1) Is at least eighteen years of age;  
5 (2) Resides in the district that the person seeks to represent;  
6 (3) Holds at least one brand registered with the board; and  
7 (4) Derives the major portion of the person's income from the livestock business.

8 **Section 4. That chapter 40-18 be amended with a NEW SECTION:**

9 The State Brand Board shall, in consultation with the secretary of state, create  
10 nominating petitions for use in accordance with the board elections.

11 The board shall forward blank nominating petitions to any person, upon request,  
12 and shall make blank petitions available on its website.

13 Each nominating petition must be:

- 14 (1) Signed by the candidate;  
15 (2) Signed by five other persons who meet the qualifications set forth in section 3 of  
16 this Act; and  
17 (3) Submitted to the board before 5:00 p.m. on October twentieth.

18 **Section 5. That chapter 40-18 be amended with a NEW SECTION:**

19 No later than November first, the board shall prepare a ballot containing the names  
20 of all qualified candidates who were properly nominated and mail the ballot to each person,  
21 eighteen years of age or older, in whose name a brand is registered, at the address listed  
22 in the records of the board, together with:

- 23 (1) A stamped, self-addressed envelope, for the return of the completed ballot;  
24 (2) Information regarding the deadline for returning the ballot;  
25 (3) Information regarding the time and place at which ballots are to be tabulated; and  
26 (4) Information regarding opportunities to observe the tabulations.

27 Any person who has multiple brands registered in the person's name is entitled to  
28 only one ballot.

29 **Section 6. That chapter 40-18 be amended with a NEW SECTION:**

30 In order to be tabulated, the original ballot must be returned to the Department of  
31 Agriculture and Natural Resources, before 5:00 p.m. on the first Monday in December.

1 Beginning at 9:00 a.m., on the first Tuesday in December, the department shall open and  
2 tabulate all ballots received prior to the deadline and announce the outcome of the vote.  
3 Any interested person is permitted to be present and observe the tabulation.

4 **Section 7. That chapter 40-18 be amended with a NEW SECTION:**

5 All costs of holding a State Brand Board election are the responsibility of the board.

6 **Section 8. That § 40-18-3 be AMENDED:**

7 ~~40-18-3. Appointments to the board shall be made for terms of~~The term of office  
8 for each member of the State Brand Board is three years expiring and begins on the first  
9 Monday in day of January in each year. In case of vacancy prior to expiration of a term,  
10 appointment shall be made. The term of office for the initial seven members must be  
11 staggered by lot so that no more than three expire in any one year.

12 If at any time during a member's term the member ceases to possess any of the  
13 qualifications set forth in section 3 of this Act, or if the office becomes vacant for any other  
14 reason, the board, by majority vote, shall appoint another qualified individual to serve for  
15 the balance of the unexpired term only. However, the initial appointments to be made  
16 pursuant to SL 2004, ch 259 shall be made for staggered terms of one, two, two, three,  
17 and three years.

18 **Section 9. That chapter 40-18 be amended with a NEW SECTION:**

19 The State Brand Board shall, for the period beginning January 1, 2024, and ending  
20 December 31, 2025, appoint two persons to serve as nonvoting advisory members. Each  
21 person so appointed shall:

22 (1) Be a current resident of this state; and

23 (2) Be a former member of the board who served in that capacity for at least three  
24 years.

25 **Section 10. That § 40-18-5 be AMENDED:**

26 ~~40-18-5. Three~~Four members of the board shall constitute a quorum for the  
27 transaction of business,~~but the~~An affirmative vote of ~~three~~four members of the board  
28 is required to adopt any substantive motion or resolution.

29 **Section 11. That § 40-18-6 be AMENDED:**

1           **40-18-6.** The State Brand Board is attached to the Department of Agriculture and  
2           Natural Resources for reporting purposes. The board retains all of its prescribed functions,  
3           including administrative functions.

4           The board shall maintain an office in Pierre.

5           **Section 12. That § 40-18-8 be AMENDED:**

6           **40-18-8.** The State Brand Board shall appoint a staff director, who serves at the  
7           pleasure of the board.

8           The staff director shall keep:

9           (1) Keep a record of all proceedings, transactions, communications, and official acts of  
10           the board, shall be;

11           (2) Serve as the custodian of all records of the board and shall perform such other  
12           duties as the board may require. The staff director shall call a meeting;

13           (3) Call meetings of the board at the direction of the president, or upon the written  
14           request of three or more members of the board; and

15           (4) Perform other duties as assigned by the board.

16           **Section 13. That § 40-18-1 be REPEALED:**

17           ~~The State Brand Board shall consist of five members appointed by the Governor~~  
18           ~~and confirmed by the Senate. Statewide nonprofit agricultural organizations or other~~  
19           ~~interested persons, may submit nominations to the Governor.~~

20           **Section 14. That § 40-18-1.1 be REPEALED:**

21           ~~The board is attached to the Department of Agriculture and Natural Resources for~~  
22           ~~reporting purposes. It shall retain all its prescribed functions including administrative~~  
23           ~~functions. The board shall appoint a staff director to serve at its pleasure.~~

24           **Section 15. That § 40-18-2 be REPEALED:**

25           ~~At least three of the five members of the board shall be persons who derive the~~  
26           ~~major portion of their income from the livestock business and who are owners of brands~~  
27           ~~duly recorded with the board. At least three of the five members of the board shall reside~~  
28           ~~in the livestock ownership inspection areas. No appointed member may act as a member~~  
29           ~~of the board while holding an elective or appointive state or federal office. No more than~~  
30           ~~three of the members shall be of any one political party.~~

- 1 **Section 16.** ~~Sections 11~~ Section 40-18-5 and ~~§§ 13 and 15~~ of this Act are effective on  
2 December 31, 2023.

AMENDMENT