



2026 South Dakota Legislature

House Bill 1315

Introduced by: **Representative Ismay**

1 **An Act to authorize the recall of certain elected officials or individuals appointed to**
 2 **fill vacancies in certain offices.**

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

4 **Section 1. That a NEW SECTION be added to chapter 3-17:**

5 A petition for the removal of an elected official or an individual appointed to fill a
 6 vacant office in this state, and the election of a successor, must be signed by fifteen
 7 percent of the registered voters of the jurisdiction in which the voters who elected the
 8 official are located, based upon the total number of registered voters at the last preceding
 9 general election. A signature on the petition is not valid if signed more than sixty days
 10 before the petition is filed with the secretary of state pursuant to section 2 of this Act.

11 This section does not apply to officers subject to impeachment pursuant to S.D.
 12 Const., Art. XVI, § 3.

13 **Section 2. That a NEW SECTION be added to chapter 3-17:**

14 A petition under this chapter must contain:

- 15 (1) The place of residence of the petition's signer;
 16 (2) The date of signing the petition; and
 17 (3) A statement alleging, as a ground for the removal:
 18 (a) Crime or misdemeanor in office;
 19 (b) Drunkenness;
 20 (c) Gross incompetency;
 21 (d) Malfeasance; or
 22 (e) Misconduct.

23 The State Board of Elections shall, pursuant to § 12-1-9, promulgate rules
 24 prescribing the form of the petition.

1 **Section 3. That a NEW SECTION be added to chapter 3-17:**

2 A petition under this chapter must be filed in the jurisdiction provided for in § 12-
3 6-4. If the secretary of state determines that the petition satisfies the requirements of
4 sections 1 and 2 of this Act, the secretary must certify the petition and order an election
5 pursuant to section 6 of this Act.

6 **Section 4. That a NEW SECTION be added to chapter 3-17:**

7 The procedure for challenging a petition established in §§ 12-1-13 to 12-1-16,
8 inclusive, is applicable to a petition under this chapter, provided that only the petition
9 signatures may be so challenged. A failure to challenge petition signatures pursuant to
10 §§ 12-1-13 to 12-1-16, inclusive, does not prohibit an interested person from challenging
11 the filing of the petition or the sufficiency of the specific statement of the grounds of the
12 petition.

13 **Section 5. That a NEW SECTION be added to chapter 3-17:**

14 Any interested person may challenge the filing of a petition under this chapter or
15 the sufficiency of the specific statement of the grounds, as set forth in section 2 of this
16 Act, in the petition. The challenge must be brought in the circuit court for the jurisdiction
17 served by the elected or appointed official sought to be removed, within five business days
18 after the petition is presented pursuant to section 3 of this Act. The circuit court shall
19 conduct an expedited declaratory judgment hearing, with no right to trial by jury, on any
20 challenge brought pursuant to this section.

21 **Section 6. That a NEW SECTION be added to chapter 3-17:**

22 Except as otherwise provided in this section, a special election on the question of
23 the removal of an elected or appointed official, and the election of a successor, must be
24 held within sixty days after a petition under this chapter is filed pursuant to section 3 of
25 this Act.

26 The elected or appointed official sought to be removed may be a candidate and,
27 unless the elected or appointed official requests otherwise in writing, the secretary of state
28 shall place the elected or appointed official's name on the official ballot without
29 nomination. The secretary of state shall place on the official ballot the name of any other
30 candidate nominated. The candidate having the highest number of votes must be declared

1 elected. If no other candidate is nominated for the position, the special election may not
2 be held, and the elected or appointed official must remain in office.

3 If the petition is filed within ninety days prior to a primary, general, or statewide
4 special election, the question must be submitted at that election.

5 If a declaratory judgment is issued, pursuant to section 5 of this Act, which is in
6 favor of the elected or appointed official, the special election may not be held, and the
7 elected or appointed official must remain in office.

8 **Section 7. That a NEW SECTION be added to chapter 3-17:**

9 If an elected or appointed official sought to be removed by a petition under this
10 chapter is elected in a special election pursuant to section 6 of this Act, the official must
11 continue in office. If a successor is elected, the official is deemed removed from office
12 upon or at the expiration of the time for qualification of the successor. The successor shall
13 qualify within ten days after receiving notification of election, and in case of a failure to
14 qualify, the office is deemed vacant. The qualified successor of any removed official shall
15 hold office during the remainder of the removed official's unexpired term.