

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

294C0658

## HOUSE BILL NO. 1202

Introduced by: Representative Volesky

1 FOR AN ACT ENTITLED, An Act to provide for the election of the secretary of agriculture.

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

3 Section 1. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 At the general election held in 2002 and every four years thereafter, there shall be chosen,  
6 by the qualified voters of the state, a secretary of agriculture having the qualifications prescribed  
7 by law, who shall hold office for a term of four years from the first Tuesday after the first  
8 Monday in January following the election and until a successor is elected and qualified.

9 Section 2. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 No person is eligible to the office of secretary of agriculture except a citizen of the United  
12 States, a qualified voter of this state, and who is at least twenty-five years old and has resided  
13 within this state for at least two years.

14 Section 3. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 The secretary of agriculture during the term of office shall reside at the state capitol and  
17 devote the secretary's entire time and attention to the duties of the office.

1       Section 4. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3       If a vacancy occurs in the office of secretary of agriculture from death, resignation, or  
4 otherwise, the Governor shall make a temporary appointment to fill the vacancy. The person  
5 appointed shall hold the office until the next general election and a successor is elected and  
6 qualified.

7       Section 5. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9       The secretary of agriculture shall take and subscribe the same oath as required of other state  
10 officers, and shall be included in the state employee's blanket bond in the penal sum of five  
11 thousand dollars conditioned for the faithful performance of the secretary's duties.

12       Section 6. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14       The annual salary of the secretary of agriculture is seventy thousand dollars.

15       Section 7. That § 3-8-2.1 be amended to read as follows:

16       3-8-2.1. The annual salaries of the Governor, the lieutenant governor, the secretary of state,  
17 the state auditor, the state treasurer, the attorney general, the secretary of agriculture, the  
18 commissioner of school and public lands, each justice of the Supreme Court, and each circuit  
19 judge shall be adjusted annually by the same rate appropriated as the across-the-board increase  
20 to base salaries of state employees under the general appropriations act in each corresponding  
21 year.

22       Section 8. That § 12-5-21 be amended to read as follows:

23       12-5-21. The state convention shall nominate candidates for lieutenant governor, attorney  
24 general, secretary of state, state auditor, state treasurer, secretary of agriculture, commissioner  
25 of school and public lands, and public utilities commissioner and in the years when a President

1 of the United States is to be elected, presidential electors and national committeeman and  
2 national committeewoman of the party.

3 Section 9. That § 12-25-1 be amended to read as follows:

4 12-25-1. Terms used in §§ 12-25-1 to 12-25-26, inclusive, mean:

5 (1) "Ballot question committee," any two or more people who cooperate for the purpose  
6 of raising, collecting, or disbursing money for the adoption or defeat of any question  
7 submitted to the voters at any election;

8 (2) "Candidate for election," any person who has qualified through nomination in a  
9 primary election, nomination at a party convention, or by filing a petition as an  
10 independent candidate for the general election;

11 (3) "Candidate for nomination," any person who has filed a nominating petition for office  
12 at any primary election;

13 (4) "Candidate's committee," any two or more people who cooperate for the purpose of  
14 raising, collecting, or disbursing money to secure the nomination or election of a  
15 person to public office;

16 (5) "Contributions," any valuable consideration in whatever form received by any  
17 candidate, candidate's committee, political party committee, ballot question  
18 committee, or political action committee;

19 (6) "Contributions in behalf of an individual candidate," do not include costs incurred  
20 without the request or consent of the candidate or his agent;

21 (7) "Election expenses," all expenditures of money or other valuable thing in furtherance  
22 of the nomination of any person as a candidate for public office, or in furtherance of  
23 the election of any person to public office, or to defeat the nomination or election to  
24 public office of any person, or in furtherance of or to defeat any constitutional  
25 amendment, initiated measure, referred law, or other question submitted to the voters

1 of the whole state;

2 (8) "Political action committee," any two or more people who cooperate for the purpose  
3 of raising, collecting, or disbursing money to influence the outcome of an election and  
4 who are not candidates for nomination, candidates for election, a political party or a  
5 candidate's committee;

6 (9) "Political party committee," the state and county central committees of any political  
7 party qualified to participate in a primary election, and any auxiliary organizations of  
8 such political party committees;

9 (10) "Public office," every public office to which a person can be elected by vote of the  
10 people under the laws of this state; and

11 (11) "State office," the offices of Governor, lieutenant governor, secretary of state,  
12 attorney general, state auditor, state treasurer, secretary of agriculture, commissioner  
13 of school and public lands, and public utilities commissioner.

14 Section 10. That § 1-32-3 be amended to read as follows:

15 1-32-3. Except as provided by § 5-17-2 and section 1 of this Act, the head of each principal  
16 department shall be appointed by the Governor with the consent of the senate and shall serve at  
17 the pleasure of the Governor pursuant to section 9, article IV of the state Constitution.

18 Section 11. That § 38-1-2 be amended to read as follows:

19 38-1-2. The head of the Department of Agriculture shall be known as the secretary of  
20 agriculture of the State of South Dakota, and wherever the word "secretary" appears in this title,  
21 it ~~shall mean~~ means the "secretary of agriculture of the State of South Dakota" unless the context  
22 indicates otherwise. ~~He shall be appointed by the Governor pursuant to S.D. Const., Art. IV, §~~  
23 ~~9 and to § 1-32-3.~~

24 Section 12. That § 38-1-3 be repealed.

25 ~~38-1-3. The secretary of agriculture shall qualify by taking and filing with the secretary of~~

1 ~~state, the constitutional oath of office and likewise filing a bond for faithful discharge of the~~  
2 ~~duties of his office in such penal sum as may be fixed by the Governor, but in no event less than~~  
3 ~~ten thousand dollars.~~

4 Section 13. That § 38-1-4 be amended to read as follows:

5 38-1-4. The secretary of agriculture, ~~under the general direction and control of the Governor,~~  
6 shall execute the powers and discharge the duties vested by law in the Department of  
7 Agriculture.

8 Section 14. That § 38-1-11 be amended to read as follows:

9 38-1-11. The secretary of agriculture ~~shall, with the advice and consent of the Governor, may~~  
10 ~~appoint such~~ executive assistants as may be authorized by law or as may be necessary to the  
11 efficient administration of the duties of the office, ~~and which executives shall qualify in like~~  
12 ~~manner as the secretary except that their.~~ The executive assistant's bonds shall be ~~in such sum~~  
13 ~~as may be fixed by the Governor~~ secretary of agriculture, but in no event less than five thousand  
14 dollars.

15 Section 15. That § 38-1-12 be amended to read as follows:

16 38-1-12. The secretary of agriculture ~~shall have power, with the advice and consent of the~~  
17 ~~Governor, to may~~ employ ~~such~~ inspectors, deputies, clerical assistants, and other necessary  
18 employees ~~as shall be necessary~~ for the efficient and economical administration of ~~his~~ the  
19 department and not inconsistent with the rules and regulations of the Bureau of Personnel.

20 Section 16. That § 38-1-13 be amended to read as follows:

21 38-1-13. The terms of office or employment of executives, directors, inspectors, and other  
22 employees appointed or employed pursuant to § 38-1-11 or 38-1-12 shall be as prescribed by  
23 the secretary of agriculture, ~~and any of them.~~ Any employee may be discharged at any time  
24 without cause ~~upon recommendation of by the secretary and the approval of the Governor.~~  
25 ~~Their.~~ The employees salaries shall be as prescribed by law or, in the absence of such

1 prescription, then as fixed by the secretary ~~and approved by the Governor~~ and subject to  
2 regulations of the Bureau of Personnel.

3 Section 17. That § 38-1-15 be amended to read as follows:

4 38-1-15. ~~The secretary of agriculture and all executive assistants and directors shall devote~~  
5 ~~their entire time to the duties of the office and shall hold no~~ No executive assistant or director  
6 may hold any other office or position of profit under the state government, ~~but any of them may~~  
7 ~~hold and administer any other office to which they may be appointed by the Governor, or head~~  
8 ~~of their department with the consent of the Governor, but without additional compensation.~~

9 Section 18. That § 38-1-38 be amended to read as follows:

10 38-1-38. The secretary of agriculture ~~shall have power to~~ may arrange, ~~subject to approval~~  
11 ~~of the Governor~~, for representation before legislative and administrative agencies of the federal  
12 government, at such times as it seems advisable and in the manner deemed most advantageous  
13 to the state, for the purpose of obtaining federal legislation or administrative rulings helpful to  
14 the agricultural interests of the country, either individually or cooperatively with another state  
15 or other states with like interests, or in cooperation with agricultural organizations.