

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

400T0561

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 168** - 2/6/2012

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the terms and expiration dates of appointees to  
2 certain boards and commissions.

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

4 Section 1. That § 36-20B-4 be amended to read as follows:

5 36-20B-4. The South Dakota Board of Accountancy, which has responsibility for the  
6 administration and enforcement of this chapter, consists of six members, all of whom shall be  
7 residents of this state. Five members shall be appointed by the Governor for three-year terms.  
8 Four of the appointed members shall be holders of active certificates and three of these shall be  
9 in the practice of public accountancy. One appointed member shall be a lay member who is not  
10 a holder of a certificate under this chapter but shall have had professional or practical experience  
11 in the use of accounting services and financial statements, so as to be qualified to make  
12 judgments about the qualifications and conduct of persons and firms subject to regulation under  
13 this chapter. The auditor general shall serve as an ex officio member. The Governor shall, by  
14 appointment, fill any vacancy occurring during a term for the remainder of the unexpired term.  
15 Any member of the board whose certificate is revoked or suspended shall automatically cease



1 to be a member of the board. The Governor may remove any member of the board for cause.  
2 The Governor may stagger the terms to enable the board to have different terms expire each  
3 year. ~~Any member appointed to the board prior to July 1, 2005, shall serve the four-year term~~  
4 ~~to which the member was originally appointed. Any member appointed to the board after July 1,~~  
5 ~~2005, shall serve a three-year term.~~ No member may serve more than three consecutive full  
6 terms. However, appointment to fill an unexpired term is not considered a complete term for this  
7 purpose.

8 The terms of members shall begin on October thirty-first of the calendar year in which the  
9 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
10 term shall expire on October thirtieth in the third year of appointment. Members terms that end  
11 June 30, 2012, are extended to October 30, 2012.

12 Section 2. That § 51A-2-8 be amended to read as follows:

13 51A-2-8. The term of office of members of the commission as created by this chapter shall  
14 be three years each. However, the term of office of only one member who is a director or officer  
15 of a bank shall expire each year.

16 Vacancies arising other than from the natural expiration of a term shall be appointed for the  
17 remainder of the unexpired term only and such appointees shall meet the qualifications  
18 prescribed by law for the vacated position. All appointments to the commission shall be  
19 effective on the ~~first~~ thirty-first day of July October in which the Governor appoints the member,  
20 unless otherwise designated by the Governor. Members shall serve until their successors are  
21 appointed and qualified. Any member may be removed by the Governor for cause. The three-  
22 year terms shall expire on October thirtieth in the third year of appointment.

23 Members terms that end June 20, 2012, are extended to October 30, 2012.

24 Section 3. That § 62-2-10 be amended to read as follows:

1       62-2-10. The Governor shall appoint a State Workers' Compensation Advisory Council,  
2       composed of eight members, four representing employees, two of whom shall be from  
3       recommendations submitted by the South Dakota Federation of Labor. No employee  
4       representative may be a member of a personnel department. Four shall represent employers. The  
5       members may not be all of the same political party. Expenses of council members shall be paid  
6       by the Department of Labor and Regulation. The length of terms is three years with no more  
7       than three expiring each year. Members shall serve until a new appointment is made by the  
8       Governor. The secretary of labor and regulation is a nonvoting member. Five voting members  
9       of the council are a quorum for meetings. The lieutenant governor shall serve as the chair and  
10      has the right to vote. Any recommendations by the advisory council shall be by majority vote.

11      The terms of members shall begin on October thirty-first of the calendar year in which the  
12      Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
13      term shall expire on October thirtieth in the third year of appointment.

14      Members terms that end June 30, 2012, are extended to October 30, 2012.

15      The council shall aid the Department of Labor and Regulation in reviewing the workers'  
16      compensation program as to its content, adequacy, and effectiveness and make  
17      recommendations for its improvement. The council shall meet as frequently as necessary but  
18      not less than twice each year. The council shall make reports of its meetings that shall include  
19      a record of its discussions, including all issues voted upon and the vote count, and its  
20      recommendations. The council shall make an annual report to the Governor and Legislature by  
21      December thirty-first of each year. The department shall make the reports available to any  
22      interested persons or groups.

23      Section 4. That § 36-14-2 be amended to read as follows:

24      36-14-2. The Governor shall appoint a Board of Barber Examiners which shall include three

1 professional members. The term of each shall be three years commencing on the ~~first~~ thirty-first  
2 day of ~~July~~ October. The appointee's term shall expire on October thirtieth in the third year of  
3 appointment. Members terms that end June 30, 2012, are extended to October 30, 2012. No  
4 member may serve more than three consecutive full terms. However, appointment to fill an  
5 unexpired term is not considered a complete term for this purpose. Each of these members shall  
6 be a practical barber who has followed the occupation of barber in this state for at least five  
7 years immediately preceding the barber's appointment. The Governor may remove a member  
8 for cause and shall fill all vacancies. Any member appointed to fill a vacancy shall serve the  
9 remainder of the unexpired term. The Governor may stagger the terms to enable the board to  
10 have different terms expire each year.

11 Section 5. That § 36-32-4 be amended to read as follows:

12 36-32-4. Appointments to the board shall be for terms of three years and begin on ~~July first~~  
13 October thirty-first. The appointee's term shall expire on October thirtieth in the third year of  
14 appointment. No member of the board may serve for more than three successive full terms.  
15 Appointment to an unexpired term is not considered a full term.

16 Section 6. That § 36-34-3 be amended to read as follows:

17 36-34-3. The Governor shall appoint the members to the board for terms of three years  
18 which shall begin on the ~~first day of July. Any board member appointed prior to July 1, 2005,~~  
19 ~~shall complete the member's unexpired term. Thereafter, appointment shall be for a term of three~~  
20 ~~years beginning upon expiration of the term~~ thirty-first day of October. The appointee's term  
21 shall expire on October thirtieth in the third year of appointment.

22 Section 7. That § 36-27A-6 be amended to read as follows:

23 36-27A-6. Initial appointments to the Board of Examiners of Psychologists shall be for  
24 terms of one, two, and three years, respectively, with one member appointed for one year, two

1 members appointed for two years and two members appointed for three years. Thereafter,  
2 appointments shall be for terms of three years, beginning on the ~~first day of July~~ thirty-first day  
3 of October. The appointee's term shall expire on October thirtieth in the third year of  
4 appointment.

5 Section 8. That § 1-36-3 be amended to read as follows:

6 1-36-3. The Board of Social Services is hereby continued within the Department of Social  
7 Services and shall consist of seven members, not more than four of which shall be members of  
8 the same political party, appointed by the Governor and subject to removal for cause only. The  
9 term of office of each member shall be ~~four~~ three years. The terms of members shall begin on  
10 October thirty-first of the calendar year in which the Governor appoints the member, unless  
11 otherwise designated by the Governor. The appointee's term shall expire on October thirtieth  
12 in the third year of appointment.

13 Members terms that end June 30, 2012, are extended to October 30, 2012.

14 A member appointed to fill a vacancy occurring other than by expiration of a term shall be  
15 appointed for the unexpired term.

16 Section 9. That § 36-26-5 be amended to read as follows:

17 36-26-5. Appointments to the board shall be for terms of three years, beginning on ~~July first~~  
18 October thirty-first. The appointee's term shall expire on October thirtieth in the third year of  
19 appointment. No member of the board may serve for more than three successive full terms.  
20 However, appointment to an unexpired term is not considered as a full term.

21 Section 10. That § 23A-28B-5 be amended to read as follows:

22 23A-28B-5. The term of office of any member of the commission is three years or until the  
23 member's successor is appointed and qualified. However, initial appointments shall be as  
24 follows: one member shall be appointed by the Governor for one year, one member shall be

1 appointed by the Governor for two years, one member shall be appointed by the Governor for  
2 three years, one member shall be appointed by the Chief Justice of the Supreme Court for two  
3 years, and one member shall be appointed by the attorney general for three years.

4 Any vacancy arising from other than natural expiration of a term shall be filled for the  
5 remainder of the unexpired term only. Such appointee shall meet the qualifications prescribed  
6 by law for the vacated position. Any appointment to the commission becomes effective on the  
7 ~~first~~ thirty-first day of ~~July~~ October, unless an appointment is for an unexpired term. The  
8 appointee's term shall expire on October thirtieth in the third year of appointment. Any member  
9 may be removed by the Governor for cause. If any member is removed by the Governor for  
10 cause, the officer who appointed the member shall appoint the replacement. A chair of the  
11 commission shall be chosen annually from the membership of the commission by a majority of  
12 the members.

13 Section 11. That § 36-6A-4 be amended to read as follows:

14 36-6A-4. No member of the board may serve more than three consecutive full terms.  
15 However, appointment of a person to an unexpired term is not considered a full term for this  
16 purpose. The Governor shall make appointments to the board for terms of three years. Each  
17 member shall hold office until a successor is appointed and qualified. The Governor shall, by  
18 appointment, fill any vacancy for the balance of the unexpired term. The Governor may stagger  
19 terms to enable the board to have different terms expire each year. ~~Any member appointed to~~  
20 ~~the board prior to July 1, 2005, shall serve the five-year term to which the member was~~  
21 ~~originally appointed. Any member appointed to the board after July 1, 2005, shall serve a three-~~  
22 ~~year term.~~

23 The terms of members shall begin on October thirty-first of the calendar year in which the  
24 Governor appoints the member, unless otherwise designated by the Governor. The appointee's

1 term shall expire on October thirtieth in the third year of appointment.

2 Section 12. That § 36-19-2 be amended to read as follows:

3 36-19-2. The State Board of Funeral Service shall include the five professional members  
4 who shall be licensed to practice funeral service. The Governor shall appoint the professional  
5 members of the board. However, no person may be appointed as a professional member of the  
6 board who has not been licensed in this state, as an embalmer and funeral director, or to practice  
7 funeral service, for at least five years prior to appointment. The term of office of appointed  
8 members shall be three years. The Governor shall, by appointment, fill any vacancy.

9 ~~The State Board of Funeral Service~~ board shall also include two lay members who are users  
10 of the services regulated by the board. The term, lay member who is a user, refers to a person  
11 who is not licensed by the board but, where practical, uses the service licensed. The term shall  
12 be liberally construed to implement the purpose of this section. The Governor shall appoint the  
13 lay members. The lay members shall have the same term of office as other members of the  
14 board.

15 No board member may serve more than three consecutive full terms. However, appointment  
16 to fill an unexpired term is not considered a complete term for this purpose. The Governor may  
17 stagger the terms to enable the board to have different terms expire each year. ~~Any member~~  
18 ~~appointed to the board prior to July 1, 2005, shall serve the five-year term to which the member~~  
19 ~~was originally appointed. Any member appointed to the board after July 1, 2005, shall serve a~~  
20 ~~three-year term.~~

21 The terms of members shall begin on October thirty-first of the calendar year in which the  
22 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
23 term shall expire on October thirtieth in the third year of appointment.

24 Members terms that end June 30, 1012, are extended to October 30, 2012.

1       The ~~State Board of Funeral Services~~ board shall also include the secretary of health or the  
2       secretary's designee as a nonvoting member.

3       Section 13. That § 36-24-5 be amended to read as follows:

4       36-24-5. Board members shall be appointed for a term of three years. Each member shall  
5       serve until a successor has been appointed.

6       The terms of members shall begin on October thirty-first of the calendar year in which the  
7       Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
8       term shall expire on October thirtieth in the third year of appointment.

9       Members terms that end June 30, 2012, are extended to October 30, 2012.

10      Section 14. That § 36-35-2 be amended to read as follows:

11      36-35-2. The board consists of five members appointed by the Governor. The terms of the  
12      initial members of the board shall be staggered by the drawing of lots with three of the initial  
13      members serving a term of three years, two of the initial members serving a term of two years,  
14      and one of the initial members serving a term of one year. Any subsequent term on the board  
15      shall be three years. One member of the board shall be a person not licensed by the board. Four  
16      members of the board shall be persons licensed by the board. The Governor shall fill any  
17      vacancy by appointment to complete the unexpired portion of that member's term. No person  
18      may serve more than three consecutive full terms on the board. The appointment to an unexpired  
19      term is not considered a full term.

20      The terms of members shall begin on October thirty-first of the calendar year in which the  
21      Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
22      term shall expire on October thirtieth in the third year of appointment.

23      Members terms that end June 30, 2012, are extended to October 30, 2012.

24      Section 15. That § 36-4-1 be amended to read as follows:



1        36-4-1. The State Board of Medical and Osteopathic Examiners, hereinafter called the Board  
2 of Examiners, consists of nine members to be appointed by the Governor for terms of three  
3 years. No member may serve more than three consecutive full terms. However, appointment to  
4 an unexpired term is not considered a full term for this purpose. Each member shall hold office  
5 until a successor is appointed and qualified. Any vacancy on the board shall be filled by  
6 appointment by the Governor. The board shall at all times include six doctors of medicine and  
7 one doctor of osteopathy. The Governor may stagger terms to enable the board to have different  
8 terms expire each year. ~~Any member appointed to the board prior to July 1, 2005, shall serve~~  
9 ~~the five-year term to which the member was originally appointed. Any member appointed to the~~  
10 ~~board after July 1, 2005, shall serve a three-year term.~~

11        The terms of members shall begin on October thirty-first of the calendar year in which the  
12 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
13 term shall expire on October thirtieth in the third year of appointment.

14        Members terms that end June 30, 2012, are extended to October 30, 2012.

15        Section 16. That § 36-9-9 be amended to read as follows:

16        36-9-9. The term of office for the members of the Board of Nursing is three years and  
17 expires on ~~July first~~ October thirtieth. Each member shall serve until a successor has been  
18 appointed and qualified. No member may be appointed to more than three consecutive full  
19 terms. However, appointment of a person to an unexpired term is not considered a full term for  
20 this purpose.

21        At the expiration of a term, or if a vacancy occurs, the Governor shall appoint a new board  
22 member. The Governor may stagger terms to enable the board to have different terms expire  
23 each year. ~~Any member appointed to the board prior to July 1, 2005, shall serve the four-year~~  
24 ~~term to which the member was originally appointed. Any member appointed to the board after~~

1 ~~July 1, 2005, shall serve a three-year term.~~

2 The appointee's term shall expire on October thirtieth in the third year of appointment.

3 Members terms that end June 30, 2012, are extended to October 30, 2012.

4 Section 17. That § 36-28-2 be amended to read as follows:

5 36-28-2. The South Dakota State Board for Nursing Facility Administrators consists of  
6 eleven members. The members of the board shall be appointed by the Governor and shall  
7 include one licensed physician and one registered nurse, neither of whom may be an  
8 administrator or an employee of a nursing facility nor have any direct financial interest in  
9 nursing facilities; one practicing hospital administrator who is also licensed as a nursing facility  
10 administrator; two practicing administrators of proprietary nursing facilities; two practicing  
11 administrators of nonprofit nursing facilities; a designee of the secretary of health; a designee  
12 of the secretary of social services; and, two members of the general public who are not  
13 administrators or employees of a nursing facility and who have no direct financial interest in  
14 nursing facilities. The terms of all members shall be three years. No member may serve more  
15 than three consecutive full terms. The terms of members shall begin on October thirty-first of  
16 the calendar year in which the Governor appoints the member, unless otherwise designated by  
17 the Governor. The appointee's term shall expire on October thirtieth in the third year of  
18 appointment. The designees of the health and social services departments shall serve without  
19 compensation and reimbursement as provided in § 36-28-25, except that their travel expenses  
20 shall be paid by their respective agencies pursuant to § 3-9-2. The appointment to an unexpired  
21 term is not considered a full term.

22 Members terms that end June 30, 2012, are extended to October 30, 2012.

23 Section 18. That § 36-8-2 be amended to read as follows:

24 36-8-2. The State Board of Podiatry Examiners shall include four professional members

1 appointed by the Governor, each of whom shall be a resident podiatrist of this state. The term  
2 of each shall be three years, commencing on the ~~first~~ thirty-first day of ~~July~~ October. The  
3 appointee's term shall expire on October thirtieth in the third year of appointment. No member  
4 may serve more than three consecutive full terms. The Governor shall, by appointment, fill any  
5 vacancy. The appointment of a person to an unexpired term is not considered a full term.

6 Section 19. That § 40-3-2 be amended to read as follows:

7 40-3-2. The Animal Industry Board shall consist of seven members appointed by the  
8 Governor. Any interested farm, commodity, livestock auction or livestock commission, or  
9 veterinary organization may submit nominations to the Governor from which appointments may  
10 be made. Each term shall be for a period of ~~four~~ three years and until the successor is appointed  
11 and qualified. Vacancies may be filled by appointment of the Governor for the balance of the  
12 unexpired term.

13 The terms of members shall begin on October thirty-first of the calendar year in which the  
14 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
15 term shall expire on October thirtieth in the third year of appointment.

16 Members terms that end June 30, 2012, are extended to October 30, 2012.

17 Section 20. That § 40-31-3 be amended to read as follows:

18 40-31-3. The Governor shall appoint the producer members of the American Dairy  
19 Association from among a list of nominees supplied by any statewide nonprofit dairy  
20 organization incorporated under state law, for a period of three years, beginning on ~~July first~~  
21 October thirty-first with one producer member to be appointed each year as the terms of  
22 previous appointees expire. The appointee's term shall expire on October thirtieth in the third  
23 year of appointment. The list of nominees shall comprise at least twice the number of  
24 appointments to be made.

Section 21. That § 1-16E-4.1 be amended to read as follows:

1-16E-4.1. The Board of Directors of the Value Added Finance Authority consists of seven members appointed by the Governor. No more than four members may be of the same political party. For the initial board, the Governor shall appoint four members to four-year terms and three members to two-year terms. Thereafter, the term of each member is four years. A member appointed to fill a vacancy occurring other than by expiration of a term is appointed for the remainder of the unexpired term.

The terms of members shall begin on October thirty-first of the calendar year in which the Governor appoints the member, unless otherwise designated by the Governor. The appointee's term shall expire on October thirtieth in the third year of appointment.

Members terms that end June 30, 2012, are extended to October 30, 2012.

Section 22. That § 36-12-7 be amended to read as follows:

36-12-7. If any vacancy occurs among the veterinarians on the State Board of Veterinary Medical Examiners due to resignation, death, removal from the state, or suspension as provided in this chapter, or for any other reason, the Governor shall fill such vacancy from the roster of licensed veterinarians within the state until the next succeeding ~~July first~~ October thirty-first. The appointee's term shall expire on October thirtieth in the third year of appointment.

Members terms that end June 30, 2012, are extended to October 30, 2012.

Section 23. That § 38-10-3 be amended to read as follows:

38-10-3. There is hereby established a wheat commission for the utilization, research, and market development of wheat grown in South Dakota. The commission shall be composed of five members who shall be participating growers. The members of the commission shall be appointed by the Governor. Nominations for appointments shall be submitted to the Governor by wheat producers of the state.

1     The terms of members shall begin on October thirty-first of the calendar year in which the  
2     Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
3     term shall be for three years and expire on October thirtieth in the third year of appointment.

4     Members terms that end June 30, 2012, are extended to October 30, 2012.

5     Section 24. That § 50-2-1 be amended to read as follows:

6     50-2-1. The Aeronautics Commission consists of seven persons appointed by the Governor,  
7     who shall each receive the per diem set by § 4-7-10.4 for the time actually spent in the  
8     performance of their official duties, together with traveling expenses set by rule of the Board  
9     of Finance. At least four members of the commission shall be or have been actively engaged in  
10    and have had at least one year of practical experience in civil or military aeronautics.  
11    ~~Appointments shall be made for terms of five years beginning July first.~~

12    The terms of members shall begin on October thirty-first of the calendar year in which the  
13    Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
14    term shall be for three years and expire on October thirtieth in the third year of appointment.

15    Members terms that end June 30, 2012, are extended to October 30, 2012.

16    Section 25. That § 1-44-25 be amended to read as follows:

17    1-44-25. The South Dakota State Railroad Board ~~is created. The board~~ consists of seven  
18    members to be appointed by the Governor. Members shall serve a ~~four-year~~ three-year term. No  
19    more than five members may be of the same political party. Any member appointed to fill a  
20    vacancy arising from other than the natural expiration of a term shall serve only for the  
21    unexpired term, but may be reappointed to a full term. The board shall annually choose from  
22    its membership a chair, a vice chair, and a secretary-treasurer. No member may be removed  
23    from office except for cause.

24    The terms of members shall begin on October thirty-first of the calendar year. The

1 appointee's term shall expire on October thirtieth in the third year of appointment.

2 Members terms that end June 30, 2012, are extended to October 30, 2012.

3 Section 26. That § 14-1-55 be amended to read as follows:

4 14-1-55. The Governor shall appoint a State Library Board to perform all functions of the  
5 former State Library Commission. The board shall consist of six members appointed by the  
6 Governor for ~~four-year~~ three-year terms. The members may not be of all the same political party.  
7 The initial terms of the members of the board shall be set by the Governor in such a manner that  
8 no more than two members' terms expire in the same year. One member shall be the executive  
9 director of the Board of Regents or the executive director's designee. The members shall  
10 represent, as nearly as practical, all geographic areas of the state.

11 The terms of members shall begin on October thirty-first of the calendar year in which the  
12 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
13 term shall expire on October thirtieth in the third year of appointment.

14 Members terms that end June 30, 2012, are extended to October 30, 2012.

15 Section 27. That § 1-15-29 be amended to read as follows:

16 1-15-29. There is hereby established a twenty-member Council of Juvenile Services to be  
17 appointed by the Governor and shall be comprised of individuals who have training, experience,  
18 or special knowledge of juvenile delinquency prevention or treatment or of the administration  
19 of juvenile justice. The membership of the Council of Juvenile Services shall comply with  
20 Section 223(a)(3) of the Juvenile Justice and Delinquency Act. The initial members to be  
21 appointed shall draw lots to determine who will hold the eight three-year terms, the six two-year  
22 terms, and the six one-year terms. Thereafter, each member shall serve a term of three years.  
23 Members may be reappointed and may continue to serve an expired term until replaced by the  
24 Governor. A chairperson, who may not be a full-time federal, state, or local employee, for the

1 Council of Juvenile Services shall be chosen annually by a majority vote of its members at the  
2 first meeting each fiscal year.

3 The terms of members shall begin on October thirty-first of the calendar year in which the  
4 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
5 term shall expire on October thirtieth in the third year of appointment.

6 Members terms that end June 30, 2012, are extended to October 30, 2012.