

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

651R0433

## HOUSE BILL NO. 1218

Introduced by: Representatives Schrempp, Blake, Brunner, Burg, Elliott, Engels, Fargen, Frerichs, Gibson, Hunhoff (Bernie), Iron Cloud III, Jensen, Killer, Kirkeby, Kirschman, Kopp, Lucas, Nygaard, Olson (Betty), Russell, Solberg, Sorenson, Thompson, and Verchio and Senators Bradford, Adelstein, Bartling, Brown, Hanson (Gary), Jerstad, Kloucek, Maher, Peterson, and Schmidt

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 § 1-32-3 be amended to read as follows:

4 1-32-3. Except as provided by §§ 5-17-2 and 38-1-2, the head of each principal department  
5 shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure  
6 of the Governor pursuant to S.D. Const., Art. IV, § 9.

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

8 38-1-2. The head of the Department of Agriculture ~~shall be known as~~ is the secretary of  
9 agriculture ~~of the State of South Dakota, and wherever the word "secretary".~~ The term, secretary,  
10 wherever it appears in this title, it shall mean the "secretary of agriculture of the State of South  
11 ~~Dakota"~~ means the secretary of agriculture unless the context indicates otherwise. ~~He shall be~~  
12 ~~appointed by the Governor pursuant to S.D. Const., Art. IV, § 9 and to § 1-32-3.~~ The secretary  
13 shall be elected as provided in this Act.



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

3 At the general election held in 2012 and every four years thereafter, there shall be chosen  
4 by the qualified voters of the state a secretary of agriculture having the qualifications prescribed  
5 by law who shall hold office for a term of four years from the first Tuesday after the first  
6 Monday in January following the election and until a successor is elected and qualified.

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

9 No person is qualified to hold the office of secretary of agriculture except a citizen of the  
10 United States who is a qualified voter of this state, is at least twenty-five years old, and has  
11 resided in this state for at least two years immediately preceding the election.

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

14 The secretary of agriculture during the secretary's term of office shall reside at the state  
15 capital.

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

18 If a vacancy occurs in the office of secretary of agriculture by death, resignation, or  
19 otherwise, the Governor shall make a temporary appointment to fill the vacancy, but the person  
20 so appointed may hold the office only until the next general election and until a successor is  
21 elected and qualified.

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

23 3-8-2.1. The annual salaries of the Governor, the lieutenant governor, the secretary of state,  
24 the state auditor, the state treasurer, the attorney general, the commissioner of school and public

1 lands, the secretary of agriculture, each justice of the Supreme Court and each circuit judge shall  
2 be adjusted annually by the same rate appropriated as the across-the-board increase to base  
3 salaries of state employees under the General Appropriations Act in each corresponding year.

4 Section 8. That § 38-1-3 be amended to read as follows:

5 38-1-3. The secretary of agriculture shall ~~qualify by taking and filing with the secretary of~~  
6 ~~state, the constitutional oath of office and likewise filing a bond for faithful discharge of the~~  
7 ~~duties of his office in such penal sum as may be fixed by the Governor, but in no event less than~~  
8 ~~ten thousand dollars~~ take and subscribe the same oath as required of other state officers, and  
9 shall be included in the state employee's blanket bond conditioned for the faithful performance  
10 of the duties of the office.

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

13 Any candidate for the office of secretary of agriculture shall be nominated and voted for at  
14 the primary and general elections as provided in this Act. The office of secretary of agriculture  
15 is a nonpolitical office. It is a Class 2 misdemeanor for any political party to endorse or  
16 nominate by any convention, or other method, any candidate for the office of secretary of  
17 agriculture.

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

20 Nominating petitions for the office of secretary of agriculture filed pursuant to this chapter  
21 shall be filed in the Office of the Secretary of State within the time prescribed by § 12-6-4 and  
22 shall be signed by a number of registered voters not less than one percent of the total combined  
23 vote cast for Governor at the most recent certified gubernatorial election. To the extent it is  
24 consistent with this chapter, § 12-6-8 governs such petitions. In any petition filed by or on behalf

1 of any candidate for nomination to the office of secretary of agriculture at any primary election  
2 or any attachment to the petition, no reference may be made to any party ballot or to the party  
3 affiliation of such candidate. The order of names of candidates for the office of secretary of  
4 agriculture certified by the secretary of state to each of the county auditors shall be arranged by  
5 lot. Any candidate has the right to be present or represented when the arrangement is being  
6 determined. If no more than two nominating petitions are filed on behalf of candidates for the  
7 office of secretary of agriculture the names of such persons need not be placed upon the primary  
8 ballot but such persons are the nominees for the office.

9 Section 11. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 At all primary elections at which candidates for the office of secretary of agriculture are to  
12 be nominated and a primary is required there shall be prepared and furnished by the several  
13 county auditors, separate ballots upon which shall be placed the names of the candidates for the  
14 office. The ballots shall be entitled "nonpolitical ballot for the office of secretary of agriculture"  
15 and may contain no other designation. The names of all candidates shall be placed thereon  
16 without any party designation in the order designated by the secretary of state. The form of the  
17 nonpolitical ballot shall be prescribed by the State Board of Elections.

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

20 If after nominations have been made under the provisions of this chapter and the number of  
21 nominees for the office of secretary of agriculture is reduced through death, withdrawal, or  
22 disqualification of a nominee for the office, the registered voters of the state, may, if there is  
23 sufficient time for filing a nominating petition pursuant to § 12-8-6, nominate one or more  
24 candidates for the office by a petition otherwise complying with this Act.

1 Section 13. The nominees for the office of secretary of agriculture are the two persons  
2 receiving the highest number of votes in the primary election.

3 Section 14. That § 12-5-21 be amended to read as follows:

4 12-5-21. The state convention shall nominate candidates for lieutenant governor, attorney  
5 general, secretary of state, state auditor, state treasurer, secretary of agriculture, commissioner  
6 of school and public lands, and public utilities commissioner and in the years when a President  
7 of the United States is to be elected, presidential electors and national committeeman and  
8 national committeewoman of the party.

9 Section 15. That § 12-25-29 be amended to read as follows:

10 12-25-29. All candidates for lieutenant governor, state treasurer, attorney general, secretary  
11 of state, state auditor, secretary of agriculture, public utilities commissioner, and commissioner  
12 of school and public lands shall file a statement of financial interest with the secretary of state  
13 within fifteen days after their nominations have been certified. A violation of this section is a  
14 petty offense. An intentional violation of this section is a Class 2 misdemeanor.

15 Section 16. That subdivision (23) of § 12-27-1 be amended to read as follows:

16 (23) "Statewide office," the offices of Governor, lieutenant governor, secretary of state,  
17 attorney general, state auditor, state treasurer, secretary of agriculture, commissioner  
18 of school and public lands, and public utilities commissioner;

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