

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

168Z0852

SENATE STATE AFFAIRS  
ENGROSSED NO. **HB 1286** - 3/5/2018

Introduced by: Representatives Qualm, Bartling, Hawley, and Peterson (Kent) and Senators Greenfield (Brock), Curd, and Maher

1 FOR AN ACT ENTITLED, An Act to authorize certain political parties to be classified under  
2 alternative political status, to revise certain provisions regarding nominating petitions, and  
3 to declare an emergency.

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

5 Section 1. That chapter 12-1 be amended by adding a NEW SECTION to read:

6 For the purposes of this title, the term, alternative political status, means that a political party  
7 meets the requirements of this section commencing with the 2014 general election and each  
8 general or special statewide election thereafter. Any political party that meets the definition of  
9 political party as defined in § 12-1-3 and has a total party registration of less than two and a half  
10 percent of the total number of registered voters, as recorded at the Office of the Secretary of  
11 State on the date of the last general election, shall remain in alternative political status for the  
12 next two general election cycles. Any party that has a total party registration of two and a half  
13 per cent or more of the total number of registered voters, as recorded at the Office of the  
14 Secretary of State on the date of the last general election, shall lose its alternative political



1 status, but shall remain a political party for the next two general election cycles.

2 Section 2. That § 12-6-7 be amended to read:

3 12-6-7. A nominating petition may be composed of several sheets, each sheet shall have  
4 identical headings printed at the top and shall be a self-contained sheet of paper. The petition  
5 for party office or political public office shall be signed by ~~not less than one percent of the~~  
6 ~~voters who voted for that party's gubernatorial candidate at the last gubernatorial election~~ voters  
7 in the county, part of the county, district, or state electing a candidate to fill the office. ~~If a~~  
8 ~~county uses vote centers and does not print ballots by precinct, signature requirements for both~~  
9 ~~partisan and independent candidates are:~~

10 ~~—(1)— Fifty signatures for a legislative candidate whose district either in whole or in part~~  
11 ~~includes that county;~~

12 ~~—(2)— Thirty signatures for a county candidate;~~

13 ~~—(3)— Fifteen signatures for county commissioner district candidates;~~

14 ~~—(4)— Five signatures for a new party legislative candidate whose district either in whole~~  
15 ~~or in part includes that county;~~

16 ~~—(5)— Five signatures for a new party county candidate; or~~

17 ~~—(6)— Three signatures for a new party county commissioner district candidate~~

18 A statewide candidate shall submit signatures of not less than one percent of the voters who  
19 voted for that party's gubernatorial candidate at the last gubernatorial election in the state  
20 electing a candidate to fill the office or not less than one percent of the total votes cast at the last  
21 gubernatorial election.

22 Notwithstanding any other provision of law, a candidate may choose to collect signatures  
23 from:

24 (1) One percent of the voters who voted for that party's gubernatorial candidate at the last

1 gubernatorial election. The signatures shall be collected from registered voters who  
2 are of the same political party as the candidate; or

3 (2) One percent of the total votes cast at the last gubernatorial election. The signatures  
4 may be collected from any registered voter.

5 Section 3. That § 12-6-7.1 be amended to read:

6 12-6-7.1. Notwithstanding the provisions of § 12-6-7 a candidate may choose from two  
7 options for collecting signatures on a nominating petition for a candidate for office in the State  
8 Legislature, county political public office, and county party office ~~shall be signed by not less~~  
9 than fifty voters or not less than one percent of the voters who cast their vote for the party's  
10 gubernatorial candidate, whichever is less. ~~The.~~ If the nominating petition is for office in the  
11 State Legislature, the petition shall clearly designate the ~~senatorial or representative~~ legislative  
12 chamber and the senate or house district for which ~~said~~ the individual is a candidate. The form  
13 of the nominating petition shall be prescribed by the State Board of Elections.

14 Notwithstanding any other provision of law, a candidate may choose to collect signatures  
15 from:

16 (1) Not less than fifty voters or not less than one percent of the voters, but at least fifteen  
17 voters, who voted for that party's gubernatorial candidate at the last gubernatorial  
18 election in the county, part of the county, or district, whichever is less. The signatures  
19 shall be collected from registered voters who are of the same political party as the  
20 candidate; or

21 (2) One percent of the total votes cast at the last gubernatorial election in the county, part  
22 of the county, or district. The signatures may be collected from any registered voter.

23 Section 4. That chapter 12-6 be amended by adding a NEW SECTION to read:

24 If a county uses vote centers and does not print ballots by precinct and the candidate chooses

1 to collect signatures from only voters registered within the candidate's political party, the  
2 signature requirements for a partisan candidate are:

- 3 (1) Fifty signatures for a legislative candidate including an alternative political status  
4 candidate whose district either in whole or in part includes that county;
- 5 (2) Thirty signatures for a county candidate including an alternative political status  
6 candidate;
- 7 (3) Fifteen signatures for county commissioner district candidates including an  
8 alternative political status candidate;
- 9 (4) Five signatures for a new party legislative candidate whose district either in whole  
10 or in part includes that county;
- 11 (5) Five signatures for a new party county candidate; or
- 12 (6) Three signatures for a new party county commissioner district candidate.

13 Section 5. That chapter 12-6 be amended by adding a NEW SECTION to read:

14 If a county uses vote centers and does not print ballots by precinct and the candidate chooses  
15 to collect signatures from any registered voter, the signature requirements for a partisan or  
16 independent candidate are:

- 17 (1) One hundred signatures for a legislative candidate whose district either in whole or  
18 in part includes that county;
- 19 (2) Sixty signatures for a county candidate;
- 20 (3) Thirty signatures for a county commissioner district candidate;
- 21 (4) Ten signatures for a new party legislative candidate whose district either in whole or  
22 in part includes that county;
- 23 (5) Ten signatures for a new party county candidate; or
- 24 (6) Six signatures for a new party county commissioner district candidate.

1 Section 6. That § 12-6-4 be amended to read:

2 12-6-4. Except as provided by § 12-5-4 and as may be otherwise provided in chapter 12-9,  
3 no candidate for any office to be filled, or nomination to be made, at either or both the primary  
4 or general election, other than a presidential election, may have that person's name printed upon  
5 the official primary election ballot of that person's party; unless a petition has been filed on that  
6 person's behalf after December thirty-first and by the last Tuesday of March at five p.m. local  
7 time before the date of the primary election. If the petition is mailed by registered mail by the  
8 last Tuesday of March at five p.m. local time before the primary election, the petition shall be  
9 considered timely submitted.

10 Except as provided by § 12-5-4 and as may be otherwise provided in chapter 12-9, no  
11 candidate for any office to be filled, or nomination to be made, for a political party candidate  
12 of a new political party or a candidate for a political party that qualifies for alternative political  
13 status, at the general election, may have that person's name printed on the official general  
14 election ballot of that person's party unless a petition has been filed on that person's behalf after  
15 December thirty-first and on or before July first at five p.m. local time. If the petition is mailed  
16 by registered mail on or before July first at five p.m. local time, the petition shall be considered  
17 timely submitted.

18 If two or more candidates of the same new political party of a political party that qualifies  
19 for alternative political status submit petitions for the same state or legislative office, the office  
20 receiving the petitions shall review the petitions in the order the petitions were received. If the  
21 petitions received by multiple candidates running for the same statewide or legislative office are  
22 validated, the secretary of state shall notify that state political party that the state party central  
23 committee shall call a meeting of the committee. The meeting shall be called and conducted  
24 pursuant to § 12-6-57. The committee members shall vote to determine which candidate that the

1 party will certify as the party's candidate to the secretary of state no later than July fifteenth at  
2 5:00 p.m. central time. The candidate certified by the state political party shall be placed on the  
3 general election ballot.

4 If two or more candidates of the same new political party or of a political party that qualifies  
5 for alternative political status submit petitions for the same county office, the office receiving  
6 the petitions shall review the petitions in the order the petitions were received. If the petitions  
7 received by multiple candidates running for the same county office are validated, the county  
8 auditor shall notify that county party central committee that the county party shall call a meeting  
9 of the county party central committee. The meeting shall be called and conducted pursuant to  
10 § 12-6-57. The county party central committee members shall vote to determine which candidate  
11 the county party will certify to the county auditor no later than July fifteenth at five p.m. local  
12 time. The candidate certified by the county party shall be placed on the general election ballot.  
13 If there is no county party central committee for that party, then that state party central  
14 committee shall vote and certify the candidate's name to the county auditor.

15 A nominating petition for national convention delegates and alternates as provided in § 12-  
16 5-3.11 shall be filed in accordance with the provisions of this section. Nominating petitions for  
17 all party and public offices except legislative and judicial offices shall be filed in the office of  
18 the county auditor of the county in which the person is a candidate. Nominating petitions for  
19 legislative and judicial office<sub>2</sub> whether elected in one or more counties, and all other party and  
20 public offices to be voted on in more than one county shall be filed in the Office of the Secretary  
21 of State.

22 Section 7. That § 12-6-8 be amended to read:

23 12-6-8. No person may sign the nominating petition of a candidate before January first in  
24 the year in which the election is to be held, ~~nor for whom the person is not entitled to vote, nor~~

1 ~~for a political candidate of a party of which the person is not a member~~, nor for more than the  
2 number of candidates required to be nominated for the same office. The signer or circulator shall  
3 add the signer's place of residence and the date of signing. The signer's post office box number  
4 may be given in lieu of a street address if the signer lives within a municipality of the second  
5 or third class. A formal declaration of the candidate shall be signed by the candidate before the  
6 circulation of petitions. The signed declaration of the candidate shall accompany and be a part  
7 of the petition. An original signed declaration shall accompany the group of petitions upon  
8 filing. The petition shall be verified under oath by the persons circulating the petition. The  
9 verification by the person circulating the petition may not be notarized by the candidate whom  
10 the petition is nominating. A nominating petition for any election shall be a self-contained sheet  
11 of paper in order to have the candidate's name placed on the ballot. The provisions of this  
12 section may not prohibit a person registered with party affiliation from signing either a petition  
13 nominating an independent or a nonpolitical candidate for office if the person has not previously  
14 signed a petition for that office to be filled.

15 Section 8. That § 12-5-1.4 be amended to read:

16 12-5-1.4. If a political party qualifies for the primary ballot under § 12-5-1 or as alternative  
17 political status, each candidate intending to participate in a primary election shall file a  
18 nominating petition pursuant to § 12-6-4. ~~In each primary election following the qualification~~  
19 ~~of a political party and prior to the next gubernatorial election, each~~ with the following signature  
20 requirements:

21 (1) ~~State and~~ A state or federal candidate for that party shall file a petition bearing  
22 signatures of at least two hundred fifty registered voters in that party or one percent  
23 of the total number of registered voters that voted at the last gubernatorial election.

24 The signatures may be collected from any registered voter; and

- 1       (2) ~~Legislative and county~~ A legislative candidate for that party shall file a petition
- 2           bearing signatures of at least five registered voters in that party or one percent of the
- 3           total votes cast at the last gubernatorial election in the county, part of the county, or
- 4           district. The signatures may be collected from any registered voter; and
- 5       (3) A county candidate for that party shall file a petition bearing signatures of at least
- 6           five registered voters in that party or one percent of the total votes cast at the last
- 7           gubernatorial election in the county, part of the county, or district. The signatures
- 8           may be collected from any registered voter.

9       Section 9. That § 12-5-1.5 be amended to read:

10       12-5-1.5. ~~If a new political party organizing does not have a candidate for United States~~

11 ~~Senate, United States House of Representatives, Governor, or Legislature, that~~ A new political

12 party may be organized by filing with the secretary of state not later than July first at five p.m.

13 central time, a written declaration signed by at least ~~two and one-half~~ one percent of the voters

14 of the state as shown by the total vote cast for Governor at the last preceding gubernatorial

15 election. The declaration shall contain:

- 16       (1) The name of the proposed party; and
- 17       (2) A brief statement of the principles of the proposed party.

18       The new political party shall, under the party name chosen, have all the rights of a political

19 party whose ticket was on the ballot at the preceding general election. No signature on a

20 declaration is valid if the declaration was signed more than one year prior to filing of the

21 declaration.

22       A political party loses the right to participate in the primary election for failure to meet the

23 definition of political party as defined in § 12-1-3.

24       The national and state chairperson of a recognized political party may request in writing,

1 subscribed and sworn to by each chairperson before any officer qualified to administer oaths and  
2 take acknowledgments, to no longer be recognized as a political party. The political party shall  
3 also comply with the requirements for dissolution pursuant to chapter 12-27.

4 Section 10. That chapter 12-5 be amended by adding a NEW SECTION to read:

5 A nominee for United States Senate, United States House of Representatives and Governor  
6 of a political party that has new political party status or alternative political status may be placed  
7 on the general election ballot if the nominee submits a certificate of nomination containing two  
8 hundred fifty signatures from that candidate's party or one percent of the total votes cast at the  
9 last gubernatorial election and those signatures may be collected from any registered voter. The  
10 certificate of nomination shall be filed with the secretary of state on or before July first at five  
11 p.m. central time. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,  
12 prescribing the forms for the certificate of nomination.

13 Section 11. That § 12-7-1 be amended to read:

14 12-7-1. Any candidate for nonjudicial public office, except as provided in § 12-7-7, who is  
15 not nominated by a primary election may be nominated by filing a ~~certificate of nomination~~  
16 nominating petition with the secretary of state or county auditor as prescribed by § 12-6-4, after  
17 ~~December thirty-first and by the last Tuesday of April at 5:00~~ on or before July first at five p.m.  
18 ~~local time before the election. A certificate of nomination~~ nominating petition shall be executed  
19 as provided in chapter 12-6. ~~If the certificate of nomination is mailed by registered mail by the~~  
20 ~~last Tuesday of April at 5:00 p.m. local time before the election, it is timely submitted. The~~  
21 ~~certificate of nomination~~ nominating petition is mailed by registered mail on or before July first,  
22 at five p.m. local time, the petition shall be considered timely submitted. The nominating  
23 petition shall be signed by registered voters within the district or political subdivision in and for  
24 which the officers are to be elected. The number of signatures required may not be less than one

1 percent of the total combined vote cast for Governor at the last certified gubernatorial election  
2 within the district or political subdivision. ~~The State Board of Elections shall promulgate rules,~~  
3 ~~pursuant to chapter 1-26, prescribing the forms for the certificate of nomination~~ If the county  
4 uses vote centers, an independent candidate shall follow the signature requirements pursuant to  
5 § 12-6-7.1 and sections 4 and 5 of this Act. The form of the nominating petition shall be  
6 prescribed by the State Board of Elections.

7 Section 12. Whereas, this Act is necessary for the support of the state government and its  
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
9 full force and effect from and after its passage and approval.