

# Three Separate Branches



The government of South Dakota, like the federal government, is divided into three distinct branches. The legislative branch makes the laws, the executive branch carries out the laws, and the judicial branch interprets the laws.

## STUDENT REFERENCE SERIES

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During the interim, when the Legislature is not in session, the Legislature meets through committee meetings and special task forces to study topics for the next Legislative session.

The Legislative Branch includes:

- ♦ House of Representatives
- ♦ Senate
- ♦ Legislative Research Council
- ♦ Legislative Audit

## Legislative Branch

The legislative article of the Constitution vests the legislative powers, other than the initiative and referendum processes, in a bicameral body.

The number of senators may not be less than twenty-five nor more than thirty-five; the House of Representatives must have between fifty and seventy-five members.

Sessions are held annually and commence on the second Tuesday in January. The Legislature may also be convened in special session by the presiding officers of both houses upon the written request of two-thirds of the members of each house, or by the Governor.

Legislators must be qualified voters in their legislative district, at least twenty-one years old, a citizen, and resident of the state for two years immediately preceding the election. Terms are for two years and members can only serve four consecutive terms in each house.

## Executive Branch

The Governor is the chief executive of the state elected to a four-year term in even numbered, nonpresidential election years.

The candidates for governor and lieutenant governor of each party must run as a team and are limited to two successive terms in office. They must be residents of the state for at least two years, citizens of the United States and at least twenty-one years old.

Controlled by the Governor, the executive branch of state government operates through the following departments and bureaus, each headed by a cabinet-level secretary or commissioner:

- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| ♦ Agriculture and Natural Resources  | ♦ Information and Telecommunications |
| ♦ Corrections                        | ♦ Labor and Regulation               |
| ♦ Economic Development               | ♦ Military                           |
| ♦ Education                          | ♦ Public Safety                      |
| ♦ Finance and Management             | ♦ Revenue                            |
| ♦ Game, Fish and Parks               | ♦ Social Services                    |
| ♦ Health                             | ♦ Tourism                            |
| ♦ Human Resources and Administration | ♦ Transportation                     |
| ♦ Human Services                     | ♦ Tribal Relations                   |
|                                      | ♦ Veterans Affairs                   |



## Judicial Branch

The present Unified Judicial System is the product of a 1972 constitutional amendment and the implementing legislation adopted in subsequent years.

At the top of the system is a five justice Supreme Court. Until 1980, justices were elected for eight-year terms. Under a constitutional amendment, Supreme Court justices no longer file petitions to have their names on the ballot. They are subject to a retention election every eight years. All vacancies on the Court are filled by gubernatorial appointment upon the recommendation of the judicial qualifications commission. Justices represent each of five geographic Supreme Court districts, and they elect among themselves the chief justice.

As South Dakota's highest court, the Supreme Court has limited original jurisdiction and its primary function is that of an appeals court. Parties seeking to overturn the ruling of a circuit court can appeal to the Supreme Court. The Supreme Court will review the court's work and determine if the decision made was the correct decision. In addition, the Governor has the authority to request opinions upon important questions of law involved in the exercise of executive power.

The state is also divided into seven circuit court districts, each circuit electing a proportionate share of the thirty-eight circuit court judges which are the backbone of the system. Judges are elected on a non-partisan basis for eight-year terms by the voters in the circuit they each represent, or are appointed by the Governor.

The circuit courts are the general trial courts of the Unified Judicial System. These courts have jurisdiction in all civil and criminal cases throughout the state. The circuit courts are the only courts in which felony criminal cases and civil cases with damages over ten thousand dollars are tried.

The last type of courts in South Dakota is magistrate courts. They exist in each of the judicial circuits and function under the supervision of the presiding judge of the circuit court. The magistrate courts have limited jurisdiction and can only assist circuit courts with minor criminal cases and less serious civil actions:

Magistrate Courts (as well as Circuit Courts) can:

- ♦ Perform marriages
- ♦ Issue warrants
- ♦ Set bail
- ♦ Accept pleas of Class II Misdemeanors
- ♦ Hear non contested civil and small claims (Damages under \$12,000)
- ♦ Receive dispositions
- ♦ Conduct preliminary hearings
- ♦ Appoint counsel

### Key Resources:

[South Dakota Legislative Research Council](#)  
[South Dakota Constitution](#)  
[South Dakota Secretary of State](#)  
[South Dakota Unified Judicial System](#)  
[South Dakota Governor](#)

### Key Terms:

<i>bicameral</i>	<i>Judicial Branch</i>
<i>bureau</i>	<i>Justice</i>
<i>Cabinet Secretary</i>	<i>Legislative Audit</i>
<i>Chief Justice</i>	<i>Legislative Branch</i>
<i>Circuit Judge</i>	<i>Legislative Research Council</i>
<i>Commissioner</i>	<i>Magistrate</i>
<i>Constitution</i>	<i>party</i>
<i>department</i>	<i>referendum</i>
<i>Executive Branch</i>	<i>Representative</i>
<i>Governor</i>	<i>Senator</i>
<i>initiative</i>	<i>session</i>
	<i>special session</i>
	<i>Supreme Court</i>

### Did you know?

South Dakota was the first state to adopt the "initiative and referendum" process on a statewide level.

Members of the Populist Party at the time submitted an amendment calling for the "initiative and referendum," and the voters gave it final approval in 1898.

Initiatives occur when the citizens, collecting signatures on a petition, place advisory questions, memorials, statutes or constitutional amendments on the ballot for the citizens to adopt or reject.

The referendum process gives citizens the ability to reject laws or amendments proposed by the state legislature.

The state's first initiated measure was approved by the voters in 1912 which was Richard's Primary Election Law.

