

AN ACT

ENTITLED, An Act to establish certain fees for receiving electronic files of petitions, to revise certain provisions concerning filing petitions and other documents, and to revise certain provisions concerning elections and voting.

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

Section 1. That § 1-8-10 be amended to read:

1-8-10. The secretary of state shall charge the following fees for services performed in the Office of the Secretary of State and shall collect the fees in advance:

- (1) For making a copy or transcript of any record, instrument, or paper on file in the office, two dollars per page;
- (2) For filing and safekeeping of any instrument or paper required by law to be filed, ten dollars; except the oath of office of members of the Legislature and legislative officers, employees and governmental officers, employees and agencies, no fee;
- (3) For each commission, requisition, passport, or other document, signed by the Governor and attested by the secretary of state, under the great seal of the state, except commissions issued for executive appointment and extraditions, and making the proper record for the same, five dollars;
- (4) For filing the application, bond, and issuing commission of a notary public, thirty dollars;
- (5) For official certificate, attestation, and impression of the great seal, twenty-five dollars;
- (6) For filing or recording any other instrument or document, ten dollars;
- (7) For a certified copy of any document, instrument, or paper on file in the office, two dollars per page and fifteen dollars for the certificate and affixing the seal; and
- (8) If the document is a petition and the request is for an electronic file the following fees shall be:

- (a) Nominating petition for a legislative candidate or special district candidate, fifteen dollars;
- (b) Nominating petition for a statewide candidate, fifty dollars;
- (c) Petitions for statewide ballot measure, fifty dollars; and
- (d) Petitions for new party formation, fifty dollars.

Section 2. That § 1-8-14 be amended to read:

1-8-14. The secretary of state may establish and maintain a secure and interactive website where all documents required to be filed with or maintained by the Office of the Secretary of State may be filed, processed, and obtained by interested parties. Any document required to be filed shall be filed in a medium permitted by the secretary of state. The secretary of state shall promulgate rules, pursuant to chapter 1-26, to establish the procedure and methodology for filing documents.

Section 3. That chapter 12-1 be amended by adding a NEW SECTION to read:

No petition submitted may be made available to the public until the validation process has been completed and the office where that petition was submitted has filed or rejected the petition.

Section 4. That § 12-18-27 be amended to read:

12-18-27. No person may publicize an official ballot after it is marked to any person in such a way as to reveal the contents of the official ballot, or the name of any candidate for whom the person has marked a vote. No person may solicit a voter to show the voter's official ballot. Immediately after marking the official ballot the voter shall deposit the official ballot in the ballot box, if necessary, leaving the official stamp exposed.

Section 5. That § 12-19-2 be amended to read:

12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the election for an absentee ballot. The application or request shall be made in writing, signed by the applicant, and shall contain the applicant's voter registration address. The application or request shall

contain an oath verifying the validity of the information in the application or request. The oath shall be administered by a notary public or other officer authorized by this state to administer an oath or administered by an out-of-state notary public. If the application or request does not contain an oath, the application or request shall be accompanied by a copy of the voter's identification card as required by § 12-18-6.1. The copy of the voter's identification card shall be maintained by the person in charge of the election pursuant to § 12-20-31. However, the voter's identification card is not available for public inspection. The application or request may be used to obtain an absentee ballot for all elections in that calendar year conducted by the jurisdiction receiving the application or request if so indicated. The ballot shall be sent to the voter's residence, as shown in the voter registration file or any temporary residence address designated in writing by the voter, at the time of applying for the absentee ballot. If the application or request is from a voter identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of January 1, 2010, the voter may designate on the application for the ballot to be sent electronically pursuant to this section through the system provided by the Office of the Secretary of State. The person in charge of the election shall stamp the application with the date it was received. The person in charge of the election shall preserve a record of the name, mailing address, and voting precinct of each applicant and, except as provided by § 12-19-45, deliver a copy of the record to the superintendent of the election board of the home precinct of the applicant.

Section 6. That § 12-19-9.1 be amended to read:

12-19-9.1. If there is any nursing facility, assisted living center, or hospital, as defined in § 34-12-1.1, within any county from which there might reasonably be expected to be five or more absentee applications, the county auditor shall notify the person in charge of that facility and the chair of the county central committee of each party and any other person who has filed a request to be notified of the date and time at which representatives of the auditor's office will be present to

assist the residents of that facility to vote, utilizing the absentee procedure. Any political party, independent candidate, and nonpolitical candidate may assign a person to accompany the auditor's representatives. At the date and time announced, the auditor's representative shall deliver ballots to and assist all persons at that facility who desire such assistance and who have applied for absentee ballots. This section applies only to a general election.

If a person in charge of an election conducts absentee voting at a nursing facility, assisted living center, or hospital as defined in § 34-12-1.1, the voter shall complete a combined absentee ballot application/return envelope and the identification and affidavit requirements provided in § 12-19-2.1 are waived.

Section 7. That § 12-1-3 be amended to read:

12-1-3. Terms used in this title mean:

- (1) "Candidate," a person whose name is on the ballot or who is entitled to be on the ballot to be voted upon for nomination or election at any election;
- (2) "Election," any election held under the laws of this state;
- (3) "Election officials," state and local officials charged with the duty of conducting elections and the canvass of returns;
- (4) "Elector," a person qualified to register as a voter, whether or not the person is registered;
- (4A) "Electronic pollbook," an electronic system containing both the registration list and pollbook;
- (5) "General election," the vote required to be taken in each voting precinct of the state on the first Tuesday after the first Monday in November of each even-numbered year;
- (5A) "Paid circulator," any person who receives money or anything of value for collecting signatures for a petition;
- (6) "Party office," an office of a political party organization as distinct from a public office;

- (7) "Person in charge of an election," or "person charged with the conduct of an election," the county auditor in all cases except local elections for a municipality, school district, township, or other political subdivision, in which case it is the officer having the position comparable to the auditor in that unit of government if not specifically designated by law;
- (8) "Petition," a form prescribed by the State Board of Elections, which contains the question or candidacy being petitioned, the declaration of candidacy if required and the verification of the circulator. If multiple sheets of paper are necessary to obtain the required number of signatures, each sheet shall be self-contained and separately verified by the circulator;
- (9) "Petition circulator," a resident of the State of South Dakota who is at least eighteen years of age who circulates nominating petitions or other petitions for the purpose of placing candidates or issues on any election ballot;
- (10) "Political party," a party whose candidate for any statewide office at the last preceding general election received at least two and one-half percent of the total votes cast for that statewide office;
- (10A) "Pollbook" or "poll list," a list containing in numerical order the names of all persons voting at the election and type of ballot voted;
- (10B) "Polling place," a designated place voters may go to vote;
- (11) "Primary" or "primary election," an election held at which candidates are nominated for public office;
- (12) "Public office," an elected position in government;
- (12A) "Registration list," a list of eligible voters;
- (13) "Registered mail," does not include certified mail;
- (14) "Registration officials," the county auditor and deputies and other persons authorized to assist in registration pursuant to chapter 12-4;

- (14A) "Vote center," a polling place when the precinct has been defined as the entire jurisdiction and an electronic pollbook is utilized;
- (15) "Voter," a person duly registered to vote or one who is performing the act of voting;
- (16) "Independent (IND)" or "no party affiliation (NPA)," any voter who writes independent, I, Ind, the field is blank, no party affiliation, no party, no choice, nonpartisan, or line crossed off in the choice of party field on the voter registration form;
- (17) "Independent candidate," notwithstanding the definition of independent as stated in this chapter, any registered voter regardless of party affiliation who declares to be an independent candidate for public office pursuant to this chapter;
- (18) "Other," any voter who writes a political party not recognized in South Dakota in the choice of party field on the voter registration form.

Section 8. That chapter 2-1 be amended by adding a NEW SECTION to read:

The director of the Legislative Research Council shall prepare a fiscal note, if applicable, for an initiated measure, initiated amendment to the Constitution, or referred law. The fiscal note shall include an estimate of the impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions by the provisions of the initiated measure or initiated amendment to the Constitution. The fiscal note may not exceed fifty words. The director shall file the fiscal note, if applicable, with the sponsor and the secretary of state within sixty days of the receipt of an initiated measure, initiated amendment to the Constitution, or referred law.

Section 9. That Section 3 of the enrolled version of HB 1037 as previously enacted by the Ninety-Second Session Legislative Assembly, 2017, be amended to read:

Section 3. That § 12-6-7 be amended to read:

12-6-7. A nominating petition may be composed of several sheets, each sheet shall have identical headings printed at the top and shall be a self-contained sheet of paper. The petition for party office

or political public office shall be signed by not less than one percent of the voters who voted for that party's gubernatorial candidate at the last gubernatorial election in the county, part of the county, district, or state electing a candidate to fill the office. If a county uses vote centers and does not print ballots by precinct, signature requirements for both partisan and independent candidates are:

- (1) Fifty signatures for a legislative candidate whose district either in whole or in part includes that county;
- (2) Thirty signatures for a county candidate;
- (3) Fifteen signatures for county commissioner district candidates;
- (4) Five signatures for a new party legislative candidate whose district either in whole or in part includes that county;
- (5) Five signatures for a new party county candidate; or
- (6) Three signatures for a new party county commissioner district candidate.

Section 10. That Section 7 of the enrolled version of HB 1037 as previously enacted by the Ninety-Second Session Legislative Assembly, 2017, be amended to read:

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

12-7-1. Any candidate for nonjudicial public office, except as provided in § 12-7-7, who is not nominated by a primary election may be nominated by filing a certificate of nomination with the secretary of state or county auditor as prescribed by § 12-6-4, after December thirty-first and by the last Tuesday of April at 5:00 p.m. local time before the election. A certificate of nomination shall be executed as provided in chapter 12-6. If the certificate of nomination is mailed by registered mail by the last Tuesday of April at 5:00 p.m. local time before the election, it is timely submitted. The certificate of nomination shall be signed by registered voters within the district or political subdivision in and for which the officers are to be elected. The number of signatures required may not be less than one percent of the total combined vote cast for Governor at the last certified

gubernatorial election within the district or political subdivision. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the forms for the certificate of nomination.

Section 11. That § 12-13-23 be amended to read:

12-13-23. The secretary of state shall distribute public information on any constitutional amendment, initiated, or referred measure submitted to the electors for approval. The secretary of state shall compile the public information by printing a statement in support of the constitutional amendment, initiated, or referred measure written by its proponents, if any can be identified, and a statement against the constitutional amendment, initiated, or referred measure written by its opponents, if any can be identified. The secretary of state is not responsible for the contents, objectivity, or accuracy of the statements written by the proponents and opponents. The pamphlet shall also include the attorney general's title, explanation, and a clear and simple recitation of the effect of a "Yes" or "No" vote; number of pages and sections in the proposed or referred language; and, if applicable, a prison or jail population cost estimate and fiscal note.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1034

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1034
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State