

Enjoy the Holidays – 2018 Legislative Session Looms

November is General Election – Ballot Measures – Update Below

The second Tuesday in January is just another day unless it happens to be your birthday or you are one of 105 legislators, hundreds of public servants or among the endless hoard of those who are required to register as lobbyists and, therefore, must hand over your credentials as a human being. Fortunately, being a lobbyist isn't a trait that shows up on the "23 and Me" genetic tests so one can keep this private after retirement.

Below you will see a breakdown of the legislators that will gather starting on January 9th, 2018 in Pierre. Of special note in this report is the impact term limits will have on the elections in November.

The second half of the report you will also read about the potential ballot measures and how many signatures each turned in to the Secretary of State's Office.

2018 Legislative Session at a Glance

There are 105 legislators:

- 35 in the Senate (29 republicans; 6 democrats)
- 70 in the House of Representatives (60 republicans; 10 democrats)

Length of Service: Each of these legislators may have served prior terms or previously in the other body. The term limits apply strictly to their current seats.

- 4th term – 9 legislators (4 Senators; 5 Representatives) *see below on term limits*
- 3rd term – 23 legislators (6 Senators; 17 Representatives)
- 2nd term – 22 legislators (8 Senators; 14 Representatives)
- 1st term – 48 legislators (17 Senators; 31 Representatives)

- ❖ **Note:** At the start of the 2017 Session, there were 29 legislators with no previous experience and 76 that were re-elected, switched to the other chamber or had served previously.
- ❖ **Note also:** Two legislators are serving partial terms and were appointed by Governor Dugaard – one to replace a legislator who resigned during the last session and one who resigned after the session was completed.

- ❖ **Sad Note:** There will be a new legislator appointed to fill the seat held by Representative Tieszen after his untimely and tragic death earlier this month. The Chamber wishes to thank Representative Tieszen's family for sharing his remarkable talents with the state; he was truly a superior legislator and will be missed deeply.

Legislators Careers

The 2017 session included people who spent their lives doing the work listed below:

- 46 – Business professionals (including 16 owners; 9 bankers/financial reps; 3 CPAs)
- 22 – Farmers/Ranchers
- 16 – Retired people (including 6 from business; 3 teachers; 3 military/law enforcement)
- 6 – Attorneys
- 5 – Medical professionals
- 3 – Public employees
- 2 – Educators
- 2 – Clergy
- 2 – Non-profit professionals

Term Limits

The 2018 legislative session will be the final session for five members of the House of Representatives and four members of the Senate. Elected to these seats in 2010; and reelected in 2012-2016, each of these individuals has served the full four terms (8 sessions) allowed under South Dakota term limits.

Those facing term limits have several choices.

They can seek election to the other legislative body – this works best if the person filling that seat(s) is willing to switch or, better yet, has reached their own term limit.

Stay out for a term and run to regain the seat which would restart the term limit clock. This can prove to be awkward since the person who filled the seat is eligible to run for their second term. But what the heck, this isn't a game of "hide and seek" and there is no base.

South Dakota uses a system that technically has two people representing each legislative district in the House of Representatives (and one Senator from each district). To be clear, House members that have reached their term limit cannot run for the "other seat" and stay in the House; they must run for the Senate or leave the legislature.

Below you will find the legislators who are term limited and the situation of the other legislators from that district.

Senators

Jason Frerichs: Dist. 1 (D) Wilmont

House members are:

- Steven McCleerey (D) Sisseton – 2nd term
- Susan Wismer (D) Britton – 1st term - Democrat nominee for Governor in 2014; Served in the House 2009-2014

Deb Peters: Dist. 9 (R) Hartford

House members are:

- Michael Clark (R) Hartford – 1st term
- Wayne Steinhauer (R) Hartford – 1st term (was appointed to the 2016 session by Governor Daugaard)

Billie H. Sutton: Dist. 21 (D) Burke – Seeking Democratic Party nomination for Governor

House members are:

- Julie Bartling (D) Gregory – 3rd term – Served in the House 2001-04 and the Senate 2005-10
- Lee Qualm (R) Platte – 3rd term

Larry Tidemann: Dist. 7 (R) Brookings

House members are:

- Spencer Hawley (D) Brookings – 4th term
- Tim Reed (R) Brookings – 1st term

Representatives

Kristin Conzet: Dist. 32 (R) Rapid City – Initially appointed by Governor Daugaard

- Other House Member: Sean McPherson (R) Rapid City – 1st term
- Senator: Alan Solano (R) Rapid City – 2nd term – appointed by Governor Daugaard

Spencer Hawley: Dist. 7 (D) Brookings

- Other House Member: Tim Reed (R) Brookings – 1st term
- Senator: Larry Tidemann (R) Brookings – 4th term

Tona Rozum: Dist. 20 (R) Mitchell

- Other House Member: Lance Carson (R) Mitchell – 1st term – Served in House 2007-2014
- Senator: Joshua Klumb (R) Mount Vernon – 1st term – served in House 2015-16

James G. Schaefer: Dist. 26B (R) Kennebec

- Other House Member: None - Single member district
- Senator: Troy Heinert (D) Mission – 2nd term – served in House 2013-14

Burt E. Tulson: Dist. 2 (R) Lake Norden

- Other House Member: Lana Greenfield (R) Doland – 2nd term
- Senator: Brock Greenfield (R) Clark – 2nd term

The following legislators will be completing their **3rd terms** during the 2018 legislative session and are eligible to run in 2018 for the same seat and their 4th term.

Senators

Bob Ewing – Dist. 31 (R) Spearfish

Phil Jensen – Dist. 33 (R) Rapid City

Jeff Monroe – Dist. 24 (R) Pierre

Ernie Otten – Dist. 6 (R) Tea

Deb Soholt – Dist. 14 (R) Sioux Falls

Jim White – Dist. 22 (R) Huron

Representatives

Julie Bartling – Dist. 21 (D) Gregory

Blaine B. Campbell – Dist. 35 (R) Rapid City

Mary Duvall – Dist. 24 (R) Pierre

Leslie Heinemann – Dist. 8 (R) Flandreau

Timothy R. Johns – Dist. 31 (R) Lead

Dan Kaiser – Dist. 3 (R) Aberdeen

Isaac Latterell – Dist. 6 (R) Tea
Elizabeth May – Dist. 27 (R) Kyle
Mark Mickelson – Dist. 13 (R) Sioux Falls
Herman Otten – Dist. 6 (R) Lennox
Lee Qualm – Dist. 21 (R) Platte
Nancy Rasmussen – Dist. 17 (R) Hurley
Ray Ring – Dist. 17 (D) Vermillion
Tim Rounds – Dist. 24 (R) Pierre
Kyle Schoenfish – Dist. 19 (R) Scotland
Karen Soli – Dist. 15 (D) Sioux Falls
Mike Stevens – Dist. 18 (R) Yankton

Key Dates

Opening Day of 2018 Legislative Session: Tuesday, January 9th
Legislative Committee/Board of Directors Weekly Calls: Thursday at 4 PM (CT)
Governmental Affairs Group Weekly Calls: Wednesday at 4 PM (CT)
Local Chamber/Development Office Weekly Calls: Friday at 12 Noon (CT)
Business Day at the Legislature: Thursday, February 22nd

Update on Possible Ballot Issues for the 2018 General Election

Groups working to gather signatures in order to place initiatives on the ballot for next year's general election were required to submit those signatures November 6th at 5 pm.

A total of 20 proposed initiatives were filed with the Secretary of State's office earlier this year. After drafting and getting an official explanation from the Attorney General, there were 12 measures approved for circulation of petitions to gather signatures.

Of the 12 that were approved for gathering signatures; 8 submitted signatures by the deadline. The chart below shows the eight ballot measures that submitted signatures, the total valid signatures needed and the number turned in for each issue. The table also shows the percentage

of those signatures that will need to be valid for the initiative to be placed on the ballot next November.

<u>Issue Name</u>	<u>Initiative/Amend</u>	<u>Sigs needed</u>	<u>Sigs submitted</u>	<u>Valid sig % needed</u>	<u>Max invalid rate</u>	<u>Notes</u>
IM 22 Redux	Amendment	27,741	50,000	55%	45%	last year group had 26% invalid
Open Primaries	Amendment	27,741	37,000	75%	25%	last year similar group had 32% invalid
Redistricting Commission	Amendment	27,741	34,000	81%	19%	invalid
Vote by mail	Initiative	13,871	20,000	69%	31%	
Limit drug prices state agency	Initiative	13,871	22,000	63%	37%	
Prohibit non-resident contributions	Initiative	13,871	18,000	77%	23%	
Tobacco Tax/tech institutes	Initiative	13,871	19,000	73%	27%	
Medical marijuana	Initiative	13,871	15,000	92%	8%	lowest invalid rate since 2008 = 11.7%

The following proposed ballot measures were authorized to circulate petitions and gather signatures but did NOT submit any signatures by the deadline

- Physician assisted suicide
- Legalizing certain amounts of marijuana
- Legalizing all amounts of marijuana
- Amendment to limit the legislature’s ability to alter initiatives and referred measures

Below is a link to a list of past initiatives and their rate of valid signatures. It goes back to 2008 when the current practice of sampling 5% of the signatures was established. Since 2008, this sheet shows that records are available for 19 issues and that 2 of them failed to qualify enough signatures to be placed on the ballot.

The lowest rate of invalid signatures was in 2008 by the Pro Life initiative which had only 11.7% invalid signatures. In 2016, the Payday Loan interest rate cap of 36% had just 13.6% invalid signatures.

At the high end of invalid signatures was the Right to Charge Fees which had a whopping 51.7% of their signatures ruled as invalid. Several other measures saw 40-45% invalid rates. The average rate of invalid signatures in 2016 for the other issues was 25.8%.

Here is a link to that chart:

<https://sdsos.gov/elections-voting/assets/InvalidBQPetitionsRandomSampleAveragesUpdated.pdf>

Constitutional Amendments

1) **IM-22 Redux** - *James D. Leach, Attorney (Rapid City)*

Needs 27,741 signatures - Turned in 50,000 signatures (must qualify 55% of signatures)

This is a repeat of IM-22 which was passed during the 2016 election and repealed by the 2017 legislative session that also passed a number of bills to put the provisions of IM-22 into law. This effort is again being promoted and financed by “Represent US”, a non-profit organization out of the east coast.

2) **An initiated amendment establishing open primaries** - *Joe Kirby (Sioux Falls)*

Needs 27,741 signatures – Turned in 37,000 (must qualify 75% signatures)

Under an open primary system, all candidates running for the offices that are subject to primary elections currently would appear on one ballot rather than on a ballot for the democrats or republicans. All registered voters would be allowed to vote, including those registered as independent or with alternate party designations.

The two candidates getting the most votes would move on to the general election (for House races, the four candidates would move on – top two winning the seats, which is current law). This would create the possibility that the general election would have two candidates from the same party facing each other.

3) **Redistricting by Commission** - *Drey Samuelson (Sioux Falls)*

Needs 27,741 signatures – Turned in 34,000 (must qualify 81% of signatures)

After each census, the legislature redraws legislative districts to make sure they have “equal representation” which means a population that is within 5% of other districts. This has come to be known as “one person/one vote”.

In South Dakota, the legislature draws these lines. This amendment would give this duty to an independent commission appointed by the State Board of Elections. The Commission would be made up of 9 people, with no more than 3 from the same political party.

Initiated Ballot Measures

1) **Allowing certain elections to be done thru a voting-by-mail process** - *Drey Samuelson (Sioux Falls)*

Needs 13,871 signatures – Turned in 20,000 (must qualify 69% of signatures)

This initiated measure gives county commissioners the authority to require elections to be held by mail ballot. It also gives county auditors the authority to require voting by mail in precincts with less than 200 registered voters. The measure applies only to primary, special and general elections conducted by the county auditor. In most circumstances, if an election is conducted by mail, the measure requires that ballots must be mailed to voters at least 14 days before the election.

2) **Establishing a cap on the price a state agency may pay for a prescription** - *Drey Samuelson (Sioux Falls)*

Needs 13,871 signatures – Turned in 22,000 (needs to qualify 63% of signatures)

This measure limits the amount that a State agency may pay for a prescription drug. Under the measure, a State agency may not directly or indirectly pay more for a prescription drug than the U.S. Department of Veterans Affairs pays for that same drug. The measure requires the State Bureau of Administration to enact rules establishing prescription drug prices payable by State agencies.

3) **Prohibiting contributions by non-residents not filed with Secretary of State** - *Mark Mickelson (Sioux Falls/Speaker of the House)*

Needs 13,871 signatures – Turned in 18,000 (needs to qualify 77% of signatures)

This measure prohibits contributions to statewide ballot question committees by non-residents, by political committees organized outside South Dakota and by any entity that is not filed as an entity with the Secretary of State for the four years prior to making a contribution. It requires the Secretary of State to impose a civil penalty on any ballot question committee that accepts a prohibited contribution. The civil penalty is double the amount of the contribution. The measure requires the Secretary of State to investigate alleged contribution violations prohibited by this measure.

4) **Increasing tobacco tax/Technical Institutes - \$1/Pack** - *Mark Mickelson (Sioux Falls/Speaker of the House)*

Needs 13,871 signatures – Turned in 19,000 (needs to qualify 73% of signatures)

This measure increases the State tax on tobacco products sold in the state. The tax on packs containing 20 cigarettes would increase \$1.00 per pack, and 25-cigarette packs would increase \$1.25 per pack. Tax on other types of tobacco products such as cigars, roll-your-own and chewing tobacco would change from the current rate (35% of the wholesale price) and be increased to 55% of the wholesale price. The measure also creates a postsecondary technical institute tuition reduction and workforce training fund that will be administered by the State Board of Technical Education, which oversees the State postsecondary technical institutes.

Under current law, the first \$30 million of tobacco tax revenue collected annually is deposited into the State general fund and the next \$5 million is deposited into the existing tobacco

prevention and reduction trust fund. This measure would require the next \$20 million to be deposited into the technical institute fund created by this measure.

**5) Legalize marijuana for medical use - *Melissa Mentele/New Approach South Dakota*
(*Emery*)**

Needs 13,871 signatures – Turned in 15,000 (needs to qualify 92% of signatures)

This 95-section measure legalizes medical use of marijuana by qualifying patients, including minors. No person or entity may be penalized, or denied any right or privilege, for conduct that is lawful under the measure. Qualifying patients must be certified by a practitioner as having a debilitating medical condition. South Dakota patients must obtain a registration card from the State Department of Health ("Department"). Nonresident patients are permitted to use their registration cards from other jurisdictions.

Allowable amounts of marijuana include three ounces of marijuana, a minimum (not maximum) of six marijuana plants, if cultivation is permitted for that cardholder, and quantities of other marijuana products as determined by the Department.

Summary

- **A total of 20 ballot measures were submitted to the Secretary of State's office**
 - **These were submitted by 9 people – 16 proposals were submitted by 5 people**
- **12 were authorized to gather signatures**
- **8 submitted signatures by the deadline**
- **8 did not finish the process to gather signatures**