



July 27, 2017

RECEIVED

JUL 27 2017

S.D. SEC. OF STATE

Mr. Joe Kirby
8 Woodchuck Place
Sioux Falls, SD 57105

Dear Mr. Kirby:

Pursuant to SDCL 12-13-25, this office is required to review each initiated amendment to the South Dakota Constitution. Further, this office is required by SDCL 12-13-24 to determine if each initiated amendment is written in a clear and coherent manner in the style and form of other legislation and that it is worded so that the effect of the initiated amendment is not misleading or likely to cause confusion among voters. You are under no obligation to accept any of the suggestions contained in this letter, but please keep in mind the legal standards established in SDCL 12-13-24.

There are several form and style changes that should be made to the draft language of the initiated constitutional amendment. Please write in the active voice, use the singular subject instead of the plural when drafting, and avoid inconsistent use of terminology, such as primary election and first-round election.

The proposed initiated amendment provides for a blanket primary. If approved by the voters, this amendment requires all party and independent candidates seeking the offices specified in the proposed amendment to submit nomination petitions for the primary election. This amendment also requires a number of provisions in state law and administrative rules to be amended, for example, the procedures and forms for nominating petitions and primary elections.

It has been determined during this review that this proposed initiated amendment to the Constitution may have an impact on revenues, expenditures, or fiscal liability of the state and its agencies and political subdivisions. Please provide the Legislative Research Council a copy of the amendment as submitted in final form to the Attorney General, so we can develop the required fiscal note.

The last two sentences of the proposed amendment concerning party endorsements do not add clarity to the amendment and should be deleted. The last two sentences could be provided as informational material or used in talking points. These sentences appear to be repetitive to the rest of the proposed amendment.

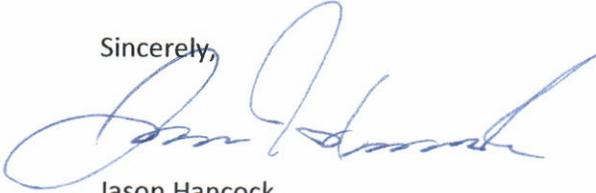
Sections 4 to 10 of S.D. Const. Art. VII have been superseded and the proposed amendment should be identified as Section 11.

Attached is a copy of your proposed constitutional amendment with our suggested style and form changes.

Mr. Joe Kirby
July 26, 2017
Page 2

This letter constitutes neither an endorsement of your initiated amendment nor a guarantee of its statutory sufficiency. It does constitute fulfillment of your responsibility pursuant to SDCL 12-13-25 to submit your draft to this office for review and comment. If you proceed with your initiated amendment, please take care to ensure that your statements or advertising do not imply that this office endorses or approves your proposals.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Hancock", written in a cursive style.

Jason Hancock
Director

JH/FB/ct

Enclosure

CC: The Honorable Shantel Krebs, Secretary of State
The Honorable Marty Jackley, Attorney General

That Article VII of the Constitution of South Dakota be amended by adding thereto NEW SECTION to read as follows:

§ 11. *The primary election*

~~§ 4. Primary elections~~ for the office of Governor, the Legislature, all county elective offices, and the United States Senate and House of Representatives shall be open to all *the* candidates and ~~all~~ voters. In ~~such a primary~~, *the primary election, each candidate* all candidates shall be listed on a single primary ballot and the two candidates receiving the ~~greatest~~ *highest* numbers of votes cast shall advance to a general election. No ~~candidate~~ *person* who did not appear on the primary ballot, *for these* may appear on the general election ballot. If more than one candidate is to be elected to an office, the number of candidates advancing to the general election shall be twice the number to be elected. *A* ~~Candidates~~ may select a party preference to be listed on the ballot. Selection of a party preference by a candidate ~~shall~~ *does* not constitute or imply endorsement of the candidate by the party designated, and no candidate for that office ~~shall~~ *may* be deemed the official candidate of any party by virtue of his or her selection in the ~~first round~~ *primary* election. Endorsement, nomination, or otherwise selection by any means, by a political party ~~shall be neither~~ *is not* necessary ~~nor~~ *or* sufficient for a candidate's name to appear on any ballot in any primary or any general election for the office the office of Governor, the Legislature, all county elective offices, and the United States Senate and House of Representatives.

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