

SENATOR BROCK L. GREENFIELD, CHAIR | REPRESENTATIVE G. MARK MICKELSON, VICE CHAIR
JASON HANCOCK, DIRECTOR | SUE CICHOS, DEPUTY DIRECTOR | DOUG DECKER, CODE COUNSEL

500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



September 5, 2018

Mr. Cory Allen Heidelberger
912 N. 1st Street
Aberdeen, SD 57401

RECEIVED

SEP 06 2018

S.D. SEC. OF STATE

Dear Mr. Heidelberger:

Pursuant to SDCL 12-13-25, this office is required to review each initiated measure. Further, this office is required by SDCL 12-13-24 to determine if each initiated measure is written in clear and coherent manner in the style and form of other legislation and that it is worded so that the effect of the initiated measure 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.

The title of an initiated measure is drafted by the Office of the Attorney General under statute, so the title of this initiated measure should be removed. In sections 1, 2, 3, and 5 of the submitted draft, the formatting of the numbered subdivisions is altered from existing statute, using no parentheses in the numbered subdivisions. The final version of the initiated measure needs to include the language of existing statute as codified, including the proper numbering format of subdivisions with parentheses. Also, section 1 of the submitted draft inserts the word "constitutional" in subdivisions (1) and (2), but this term does not appear in current law and must be deleted. In section 7, the word "but" is not in existing statute and should be added as new language.

Section 4 of the submitted draft repeals language in § 2-1-3 regarding referred laws that prohibits them for laws designated as "necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions." This prohibitive language comes from the State Constitution, Article III, § 1. The language in § 2-1-3 merely reflects the constitutional prohibition, which would remain even if the language in § 2-1-3 is repealed. By repealing this statutory language, the initiated measure would create a conflict between the constitution and statute that could cause confusion. We recommend that you reconsider repealing this statutory language.

The submitted draft repeals §§ 12-1-36 and 12-13-25.2. These two sections are referenced in two other sections of code that would need to be amended in order to keep cross-references in the code current. For the cross-reference to § 12-1-36 in § 12-1-37, the reference is such that the entirety of § 12-1-37 should be repealed since § 12-1-37 is entirely dependent on the existence of § 12-1-36. For the cross-reference to § 12-13-25.2 in § 12-13-25, a simple line amendment to eliminate the cross-reference is all that would be necessary. These affected sections have been added to the end of your submitted draft for your review.

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

If you have any questions regarding our suggested changes, please feel free to contact me.