

STATE OF SOUTH DAKOTA



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ATTORNEY GENERAL

**RECEIVED**  
**MAR 18 2021**  
**S.D. SEC. OF STATE**  
  
**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

March 19, 2021

Honorable Steve Barnett  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

RE: Attorney General's Statement for an initiated constitutional amendment  
(establishing top-two primary elections)

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this amendment.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,

A handwritten signature in blue ink that reads "Jason R. Ravensborg".

Jason R. Ravensborg  
ATTORNEY GENERAL

JRR/dd  
Enc.

CC/encl. Nick Reid

Filed this 19<sup>th</sup> day of  
March, 2021  
A handwritten signature in black ink that reads "Steve Barnett".  
SECRETARY OF STATE

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**Title:** An amendment to the South Dakota Constitution establishing top-two primary elections

**Explanation:**

Currently, to appear on the general election ballot, candidates for major political parties for the following offices must participate in a partisan primary election: Governor, State Legislature, U.S. Senate and House of Representatives, and elected county offices. Only registered members of the candidate's chosen party may vote for that candidate unless the political party has opened the primary to voters not affiliated with the party.

Candidates affiliated with a minor party may be chosen by primary or party convention.

Unaffiliated candidates (independents) do not participate in the primary election; they appear on the general election ballot by filing proper nominating petitions.

For the above offices, this amendment requires one primary election wherein all candidates run against each other in their respective races, including major party, minor party, and independent candidates. All registered voters may vote for any candidate. The two candidates receiving the most votes advance to the general election. If there is more than one candidate to be elected to an office, the number of candidates advancing to the general election will be twice the number to be elected. Primary elections may be held for other offices.

This amendment requires legislative action.

Filed this 19<sup>th</sup> day of  
March, 2021  
*Steve Barnett*  
SECRETARY OF STATE

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BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article VII of the Constitution of South Dakota be amended by adding NEW SECTION to read:

§ 11. A primary election shall be held prior to the general election to nominate candidates for the office of Governor, the Legislature, all county elective offices, and the United States Senate and House of Representatives. The primary election for such candidates shall be open to all registered voters. The two candidates who receive the most votes in the primary are the nominees for each office. If more than one candidate is to be elected to an office, the number of nominees shall be twice the number to be elected.

The Legislature shall provide by law any provisions necessary to implement this section.

Filed this 19<sup>th</sup> day of

March 2021

*Steve Barnett*

SECRETARY OF STATE