



February 21, 2023

Hon. Monae L. Johnson
Secretary of State
500 E Capitol Avenue
Pierre, SD 57501

RECEIVED
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SD Secretary of State

Dear Secretary Johnson,

The Legislative Research Council received an initiated amendment to the South Dakota Constitution to establish open primary elections. The initiated amendment requires a fiscal note because it was determined that it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-31 requires the fiscal note be no longer than fifty words.

The fiscal note examines the fiscal impacts associated with creating open primaries for several types of South Dakota elections. The initiated amendment states primary elections to nominate candidates for the office of Governor, the Legislature, all county elective offices, and the United States Senate and House of Representatives would include all eligible candidates and be open to all registered voters. If there is more than one candidate to be elected to an office, the number of candidates advancing to the general election would be twice the number to be elected.

On average, an additional 50,355 ballots would need to be printed for primary elections by South Dakota counties every two years at a cost of \$0.47 per ballot. The total current cost to all counties for each open primary election would be \$23,667. The estimated increase in the number of ballots needed is based on the average difference between the number of general election ballots printed and the number of primary election ballots printed in 2018, 2020, and 2022. The number of ballots needed in future primary elections would depend upon the number of registered voters in South Dakota and past election turnout. The share of the total cost for each county would vary depending on the number of ballot types available and the number of candidates running in all elections. There would be no expected additional cost to the Secretary of State to manage open primaries. Any other potential costs cannot be determined at this time.

Enclosed is a copy of the initiated measure, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated measure.

Sincerely,

A handwritten signature in black ink that reads "Reed Holwegner". The signature is written in a cursive, flowing style.

Reed Holwegner
Director

Cc: Joe Kirby
Enclosures

SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

FISCAL NOTE

INITIATED CONSTITUTIONAL AMENDMENT

AN INITIATED AMENDMENT TO THE SOUTH DAKOTA CONSTITUTION REGARDING
OPEN PRIMARIES.

Open primaries would require printing additional ballots at a cost of \$0.47 per ballot. The additional cost statewide to counties would currently be approximately \$23,667 for each primary election. The share of the total cost for each county will vary. There is no expected cost to state government.

Approved: Reed Holwegner

Date: February 21, 2023

Director, Legislative Research Council

Open Primaries

Be it enacted by the People of South Dakota:

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

§ 4. A primary election held for the office of governor, a legislative office, a county office, the United States Senate, or the United States House of Representatives shall be open to all candidates and all qualified voters without regard to the candidates' or voters' party registration or affiliation, or lack thereof.

In a primary election covered by this section, each candidate must be listed on a single primary ballot regardless of the candidate's political party. A voter may vote for any primary candidate regardless of the voter's party affiliation or lack thereof. The two candidates receiving the highest number of votes cast in a primary election advance to the general election. If more than one candidate is to be elected to an office at the general election, the number of candidates advancing from the primary election is twice the number to be elected in the general election.

The general election ballot may only include those candidates advancing from the primary election. The legislature may, by law, establish procedures for replacing a candidate who advanced from the primary election but will not participate in the general election due to death, withdrawal from the race, or disqualification.

A candidate may select the name of a political party to be listed next to the candidate's name on the primary ballot. The same political party designation shall appear next to the candidate's name on the general election ballot if the candidate advances to the general election.

Both the primary and general election ballots must state that a candidate's indicated political party designation does not constitute or imply an endorsement of the candidate by the political party designated.

The legislature may establish any necessary procedures to implement this section.

If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity will not affect any other provision or application of the section that can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.