

**Attorney General's Title:** An Amendment to the South Dakota Constitution Establishing Top-Two Primary Elections.

**Attorney General's Explanation:** Currently, to appear on the general election ballot, major party candidates 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 members of the candidate's party may vote for that candidate unless that party has opened the primary to voters not affiliated with the party.

Minor party candidates may be chosen by primary or party convention.

Unaffiliated candidates (independents) are only required to file nominating petitions to appear on the general election ballot.

For the listed offices, this amendment requires one primary election wherein all candidates run against each other in their respective races, including major and minor party and unaffiliated candidates. A candidate may list any party next to their name on the ballot regardless of party affiliation or registration. All 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 is twice the number to be elected.

Primary elections may be held for other offices.

The amendment may be challenged on constitutional grounds.

**Fiscal Note:** 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.

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*Monae L. Johnson*

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