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HAND DELIVERED

August 12, 2015

Hon. Shantel Krebs
Secretary of State
500 E. Capitol
Pierre, SD 57501

Re: **Attorney General's Statement—Amendment establishing nonpartisan elections and requiring secret ballot elections for certain legislative officers.**

Dear Secretary Krebs,

This Office received a constitutional amendment establishing nonpartisan elections and requiring secret ballot elections for certain legislative officers. The sponsors are Rick Weiland and Drew Samuelson. Enclosed is a copy of the constitutional amendment, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby submit the Attorney General's Statement with respect to this amendment.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marty J. Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/PA/lde
Enc.

cc w/enc.: Rick Weiland
Drew Samuelson
Jason Hancock, Director of LRC

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution establishing nonpartisan elections and requiring secret ballot elections for certain legislative officers

Explanation:

Currently, most general election candidates for federal, state, and county offices are selected through a partisan primary or at a state party convention. This Constitutional amendment eliminates those methods by establishing a nonpartisan primary to select candidates for all federal, state, and county elected offices. This amendment does not apply to elections for United States President and Vice President.

Under the amendment, candidates are not identified by party affiliation on the primary or general election ballot. All qualified voters, regardless of party affiliation, may vote for any candidate of their choice.

The two candidates with the most votes advance to the general election. For certain offices where more than one candidate is elected at the general election, the number of candidates advancing to the general election will be double the number of seats to be filled.

In addition, this amendment requires secret ballot elections for: Speaker and Speaker Pro Tempore of the State House; President Pro Tempore of the State Senate; and chair and vice-chair of all standing legislative committees.

If the amendment is approved, a substantial re-write of state election laws will be necessary. Additionally, the amendment may be challenged and declared invalid under the State Constitution.

FULL TEXT OF INITIATED MEASURE

For An Initiated Measure Entitled An Initiated Amendment to the South Dakota Constitution to provide for open nonpartisan elections giving all qualified voters the right to vote for the candidates of their choice in the primary and general elections and to provide for the election of certain legislative officers.

Section 1. That Article VII of the Constitution of South Dakota be amended by adding thereto NEW SECTIONS to read as follows:

§4 There is hereby established an open nonpartisan primary election, in which each candidate nominated for an office appears together on the same ballot. Neither the candidate's party affiliation nor lack of party affiliation may appear on the primary or general election ballots in any election.

This section applies to the election of candidates for all federal, state and county elective offices except for the election of President and Vice President of the United States.

§5 An open nonpartisan primary election shall be conducted to select the candidates who shall compete in the general election. All registered voters may vote in the open nonpartisan primary election for any qualified candidate, provided that the voter is otherwise qualified to vote for the candidate for the office in question. The two candidates who receive the most votes in the primary election shall compete in the general election. However, for any office to which more than one candidate is elected, the number of candidates who compete in the general election shall be the number of candidates to be elected times two.

§6 Each qualified voter is guaranteed the unrestricted right to vote for the qualified candidate of the voter's choice in all elections. No voter may be denied the right to vote for the qualified candidate of the voter's choice in a primary or general election based upon the voter's party affiliation or lack of party affiliation.

§7 Each candidate running for an elective office shall file, with the appropriate elections officer, petitions containing the signatures of registered voters in an amount to be established by law. The signature requirements established shall be based on the total votes cast for that office in the previous general election and shall be the same for all candidates for that

office, regardless of party affiliation or lack of party affiliation.

§8 Nothing in this article restricts the right of any person to join or organize into a political party or in any way restrict the right of private association of political party. Nothing in this article restricts a party's right to contribute to, endorse, or otherwise support or oppose candidates for elective office. Each political party may establish such procedures as the party determines to elect party officers, endorse or support candidates, or otherwise participate in all elections. However, no such procedures may be paid for or subsidized using public funds. All qualified voters and candidates shall be treated equally by law and regulations governing elections regardless of party affiliation or lack of party affiliation. To the extent that any privileges or procedures are made available to any candidate or political party, such privileges and procedures shall be made equally available to all candidates or political parties, regardless of party affiliation or lack of party affiliation.

§9 The provisions of §§4 to 9, inclusive, of this article apply to all elections occurring after January 1, 2018, except for the election of President and Vice President of the United States, and shall supersede any existing law, regulation, and elections procedure to the extent that such are inconsistent with this article. The Legislature, Secretary of State and local officials shall make such changes in and additions to laws, regulations, and elections procedures as are necessary to fully implement the provisions of this article in time for the open primary election in 2018 and for each open primary and general election thereafter. Laws, regulations, and elections procedures implementing this article shall permit and encourage all qualified voters in South Dakota to vote in primary and general elections for the candidates of the voter's choice.

Section 2. That Article III of the Constitution of South Dakota be amended by adding thereto a NEW SECTION to read as follows:

§33 Each election held for Speaker of the House, Speaker Pro Tempore and for chair and vice chair of each standing committee in the House of Representatives and for President Pro Tempore and for chair and vice chair of each standing committee in the Senate shall be by secret ballot.