



June 6, 2024

SENT VIA EMAIL

Mr. Hillel Hellinger
1081 NE 175 Street
North Miami Beach, FL 33162
hellinger@gmail.com

Dear Mr. Hellinger:

SDCL 12-13-25 requires the Legislative Research Council (LRC) to review each proposed initiated measure submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the measure "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters." See SDCL 12-13-24.

The proposed initiated measure is drafted as follows:

An act requiring South Dakota public schools K-12 to initiate each school day with the following non-denominational prayer "Almighty God, who is aware of His creation, who keeps it going and judges it, please have mercy on us".

The teacher will lead the students phrase by phrase with the students repeating the phrase.

Teachers or students of parents who don't want their children to participate are under no obligation to join.

SDCL 12-13-24 requires an initiative to be written in the "form of other legislation." The LRC suggests several style, form, and clarity changes to conform to this requirement.

1. S.D. Const. Art. III, § 1 provides that the enacting clause of all laws approved by vote of the electors is as follows: "Be it enacted by the people of South Dakota." The LRC recommends that this enacting clause be used for the proposal. See page 10 of the [Guide to Legislative Drafting](#).
2. The first sentence of the measure is written in the form of a bill title. It states that the measure is "[a]n act requiring South Dakota public schools K-12 to initiate" a "non-denominational prayer." This statement provides what the measure is, i.e. "An Act." But the language does not clearly state the prayer requirement, i.e. "Each school district shall require students and school employees to begin each school day with the following prayer...." A more clearly stated requirement should be considered and should not be written in the form of a bill title.
3. In the first sentence, there should be a colon after "non-denominational prayer."
4. The second sentence has a period between "repeating" and "the"—this should be removed.
5. The period at the end of the first sentence should be located within the quotation marks.
6. The second sentence begins with the definite article, "The." The LRC recommends using "Each," as there is more than one teacher to which the requirement would apply.

7. Laws are written in the present tense. The second sentence uses "will," which is used to refer to the future. Since the purpose of this sentence is to establish a requirement, the word "shall" should be used instead of "will." See page 18 of the Guide to Legislative Drafting.
8. The text should also make clear what the teacher is required to lead the students in. The second sentence does not clearly specify this. For example, it could be written as follows: "Each teacher shall begin each day with the prayer provided in this section. The teacher shall lead the teacher's students in the prayer, reciting the prayer phrase by phrase with each student repeating each phrase."
9. The second sentence places a requirement on a teacher to lead students in prayer, but the third sentence provides that a teacher is not required to participate in the prayer. The proposal should further clarify how the exception applies to the general requirement.
10. When proposing new text in legislation, the new text is underscored. The LRC recommends underscoring the language in the proposal.
11. There is well-established U.S. Supreme Court jurisprudence on the issue of state-mandated prayer in public schools. These cases should be reviewed and considered. The sponsor may want to make modifications to the text of the proposal to address constitutional issues.

Although there is no statutory requirement to make changes based upon the suggestions and comments provided above, you are encouraged to be cognizant of the standards established in SDCL 12-13-24 and 12-13-25 and ensure that your language is in conformity.

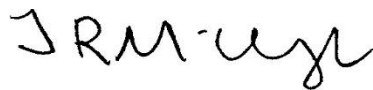
Fiscal Impact

To determine whether the proposed initiated measure has an impact on the revenues, expenditures, or fiscal liability of the state and its political subdivisions, please provide the LRC, as required by SDCL 12-13-25.1, with a copy of the proposed initiated measure, as submitted in final form to the Attorney General.

Compliance

This letter is issued in compliance with statutory requirements placed upon this office. It is neither an endorsement of the proposed measure nor of any of the edits suggested. This letter is not a guarantee of the proposal's sufficiency. If you proceed with the initiated measure, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC.

Sincerely,



John McCullough
Director, Legislative Research Council

CC: The Honorable Monae L. Johnson, Secretary of State
The Honorable Marty Jackley, Attorney General