



May 14, 2026

Dear Brenda Anderson:

On May 1, 2026, you submitted to the Legislative Research Council (LRC) a proposed initiated measure. SDCL 12-13-25 requires the LRC to provide a "review and comment" on each proposal submitted to it by a sponsor, for the purpose of assisting the sponsor in writing language "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." (SDCL 12-13-24).

For your consideration, attached to this letter are suggested style, form, and clarity changes to the language you submitted. Please consider each suggestion.

If you proceed with the proposed language or a modified version of the proposed language, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC. With any proposal to enact new law, whether introduced in the Legislature or proposed by initiative, the contents of the proposal are solely within the discretion of the sponsor. The proposed language should be reviewed by the sponsor and adequately vetted to ensure the language accomplishes the sponsor's objective.

This proposal will have an impact on the revenues, expenditures, or fiscal liability of the state and its political subdivisions. As required by SDCL 12-13-25.1, please provide the LRC with a copy of the proposed language, as submitted in final form to the attorney general, so that a final fiscal impact determination can be made.

SDCL 12-13-25 also requires the issuance of a written opinion as to "whether the initiated measure embraces only one subject under S.D. Const., Art. III, § 21." The proposed measure appears to embrace only one subject—homemade dairy products.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. McCullough".

John McCullough
LRC Director

Enclosures: LRC suggested style, form, and clarity edits
Original sponsor submission

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

Be it enacted by the people of South Dakota:

Section 1. That a NEW SECTION be added to chapter 40-32:

Terms used in this Act mean:

- (1) "Homemade dairy product," any milk or dairy product derived from milk produced by a producer's own animals and processed in a private, on-farm, or home setting that is not licensed, permitted, inspected, or regulated by the state as a commercial dairy operation;
- (2) "Informed end consumer," a person who purchases a homemade dairy product for personal or household consumption and does not resell the product; and who has been informed that the product is not licensed, regulated, permitted, or inspected by the state;
- (3) "Producer," a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products; and
- (4) "Deliver," to transfer a homemade dairy product directly from a producer or the producer's designated agent to an informed end consumer at the farm, ranch, home, farmers' market, office, or any mutually agreed upon location in this state.

Section 2. That a NEW SECTION be added to chapter 40-32:

Exemptions from permit and related requirements:

Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter or chapter 39-6, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. That a NEW SECTION be added to chapter 40-32:

Relation to cottage food laws:

Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. Homemade dairy products sold under this Act are not subject to the provisions or limitations of chapter 34-18.

Commented [A1]: Another way to accomplish the objectives of this proposal would be to amend SDCL chapter 39-6, removing the permitting requirements ... [1]

Commented [A2]: Definition section: definitions are typically ordered alphabetically.

Commented [A3]: Should the definition of "homemade dairy product" be changed to begin as follows: "raw ... [2]

Commented [A4R3]: The reason for the above suggestion is that the definition as currently drafted ... [3]

Commented [A5R3]: Is the text after "home-setting" in the definition of "homemade dairy product" necessary ... [4]

Commented [A6R5]: Suggested rewrite of "homemade dairy product" definition: "Homemade dairy product ... [5]

Commented [A7]: "Informed end consumer" definition: Does it matter if it is for personal or household ... [6]

Commented [A8]: See *Guide to Legislative Drafting*, p. 16. "Do not insert substantive law into a definition ... [7]

Commented [A9R8]: "has been informed that the product..." reads like a substantive requirement. The ... [8]

Commented [A10R8]: Suggested rewrite: "End consumer," an individual who purchases a homema ... [9]

Commented [A11]: Consider defining "designated agent." Could a third-party retailer facilitate delivery?

Commented [A12]: "Informed" would need to be deleted if the definition of "informed end consume ... [10]

Commented [A13]: This essentially means the transfer may occur anywhere in the state. The language co ... [11]

Commented [A14R13]: Please note that the transfer location language is also included in current secti ... [12]

Commented [A15]: Consider whether a "(3)" needs to be added to this proposed section, to exempt SDC ... [13]

Commented [A16]: Catchlines are editorially added if a proposal becomes law.

Commented [A17]: Does SDCL § 40-32-4 (license requirements) also need to be referenced?

Commented [A18]: Does "packaged" need to be added here?

Commented [A19]: Or "section 4 of this Act"

Commented [A20]: Current law distinguishes between "milk" and "raw milk for human consumption." Sh ... [14]

Commented [A21]: This section doesn't appear to be necessary. The proposal specifically deals with ... [15]

Commented [A22R21]: Please consider deleting this section.

Section 4. That a NEW SECTION be added to chapter 40-32:

Allowed sales:

A producer may sell and deliver a homemade dairy product, including raw milk and raw dairy products, directly to an informed end consumer if the requirements of this section are met. ~~Sales~~A sale authorized under this section may occur at the producer's farm or ranch, farmers' markets, by delivery, or at any mutually agreed location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Before or at the time of sale, the producer ~~shall~~ must provide the following notice to the informed end consumer:

"This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk."

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery. A producer may, at the producer's option, include additional information about any voluntary testing performed.

Section 5. That a NEW SECTION be added to chapter 40-32:

Assumption of risk:

By purchasing a homemade dairy product under this Act, the informed end consumer assumes the inherent risks associated with consuming an unregulated and unpasteurized food product.

Section 6. That a NEW SECTION be added to chapter 40-32:

Voluntary testing and disclosure:

A producer may, at the producer's option and expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing, (including the date and tests performed), to the informed end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery. Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Commented [A23]: Should this be "produce, package, sell, and deliver"?

Commented [A24]: This implies that pasteurized milk and pasteurized milk products are included in the meaning of "homemade dairy product." Is that the intent?

Commented [A25]: See discussion above.

Commented [A26]: Is "by delivery" necessary? It is not a location like every other term listed.

Commented [A27]: If a producer must operate in this state and the sale/delivery must occur in this state, is this reference necessary?

Commented [A28]: Does this mean that the intent of the term "homemade dairy product" is to include "raw" products only? Please review above comment.

The proposed law should be clear as to its application. Is it intended to only apply to raw milk and raw milk products? The required notice indicates that it does, but other language in the proposal indicates it applies more broadly to pasteurized milk and related products.

Commented [A29]: Is this necessary? It is not provide any legal requirement or duty, and it seems to be covered by section 6.

Commented [A30R29]: Please consider deleting from proposal.

Commented [A31]: Is this section necessary? It does not provide any legal requirement or duty.

Commented [A32R31]: Please consider deleting from proposal.

Page 1: [1] Commented [A1]

Author

Another way to accomplish the objectives of this proposal would be to amend SDCL chapter 39-6, removing the permitting requirements and other restrictions on the sale of "raw milk for human consumption."

Page 1: [2] Commented [A3]

Author

Should the definition of "homemade dairy product" be changed to begin as follows: "raw milk or any dairy product derived from raw milk produced by a producer's..."? If this change were made, a definition of raw milk should be added to match the one included in SDCL 39-6-1.

Page 1: [3] Commented [A4R3]

Author

The reason for the above suggestion is that the definition as currently drafted doesn't necessarily mean that "homemade dairy product" would only include raw milk; it would also include pasteurized milk.

Page 1: [4] Commented [A5R3]

Author

Is the text after "home-setting" in the definition of "homemade dairy product" necessary? Section 2 of the proposed measure provides that a "homemade dairy product" is not required to be licensed, permitted, inspected, or regulated.

Page 1: [5] Commented [A6R5]

Author

Suggested rewrite of "homemade dairy product" definition: "Homemade dairy product," raw milk or any dairy product derived from raw milk sourced, produced, and packaged for human consumption at the residential or agricultural property of the producer.

Page 1: [6] Commented [A7]

Author

"Informed end consumer" definition: Does it matter if it is for personal or household consumption? Is "consumption" enough?

Page 1: [7] Commented [A8]

Author

See [Guide to Legislative Drafting](#), p. 16. "Do not insert substantive law into a definition section."

Page 1: [8] Commented [A9R8]

Author

"has been informed that the product..." reads like a substantive requirement. This requirement is already contained in the current section 4 for the notice requirement.

Page 1: [9] Commented [A10R8]

Author

Suggested rewrite: "End consumer," an individual who purchases a homemade dairy product for personal consumption and does not intend to resell the product."

Page 1: [10] Commented [A12]

Author

“Informed” would need to be deleted if the definition of “informed end consumer” is changed to “end consumer.”

Page 1: [11] Commented [A13]

Author

This essentially means the transfer may occur anywhere in the state. The language could be simplified to only include “at any location in this state.” Also, it may add further clarity to add, “provided that the transfer is not conducted on private property, other than the property of the producer or end consumer, without the consent of the property owner.”

Page 1: [12] Commented [A14R13]

Author

Please note that the transfer location language is also included in current section 4. Does it need to be in both places?

Page 1: [13] Commented [A15]

Author

Consider whether a “(3)” needs to be added to this proposed section, to exempt SDCL § 39-6-2 - the section of law imposing criminal penalties for selling raw milk without a permit.

Page 1: [14] Commented [A20]

Author

Current law distinguishes between “milk” and “raw milk for human consumption.” Should that distinction be made here?

Page 1: [15] Commented [A21]

Author

This section doesn’t appear to be necessary. The proposal specifically deals with “homemade dairy products,” which means it doesn’t pertain to “non-dairy homemade foods.”

From: [Busy Fwe Farm Fibers](#)
To: [John McCullough](#); LRC
Subject: [EXT]: Review of 2028 Initiated Measure for Ballot
Date: Friday, May 1, 2026 9:19:06 AM

“An Act Creating Exemptions for the Direct Sale of Homemade Dairy Products to Informed Consumers.”

Be it enacted by the people of South Dakota:

That a NEW SECTION be added to chapter 40-32:

Section 1. Terms used in this Act mean:

- (1) “Homemade dairy product,” any milk or dairy product derived from milk produced by a producer’s own animals and processed in a private, on-farm, or home setting that is not licensed, permitted, inspected, or regulated by the state as a commercial dairy operation;
- (2) “Informed end consumer,” a person who purchases a homemade dairy product for personal or household consumption and does not resell the product, and who has been informed that the product is not licensed, regulated, permitted, or inspected by the state;
- (3) “Producer,” a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products; and
- (4) “Deliver,” to transfer a homemade dairy product directly from a producer or the producer’s designated agent to an informed end consumer at the farm, ranch, home, farmers’ market, office, or any mutually agreed upon location in this state.

Section 2. Exemptions from permit and related requirements. Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter or chapter 39-6, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. Relation to cottage food laws. Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. Homemade dairy products sold under this Act are not subject to the provisions or limitations of chapter 34-18.

Section 4. Allowed sales. A producer may sell and deliver a homemade dairy product, including raw milk and raw dairy products, directly to an informed end consumer if the requirements of this section are met. Sales authorized under this section may occur at the producer’s farm or ranch, farmers’ markets, by delivery, or at any mutually agreed location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Before or at the time of sale, the producer shall provide the following notice to the informed end consumer:

“This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk.”

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery. A producer may, at the producer’s option, include additional information about any voluntary testing performed.

Section 5. Assumption of risk. By purchasing a homemade dairy product under this Act, the informed end consumer assumes the inherent risks associated with consuming an unregulated and unpasteurized food product.

Section 6. Voluntary testing and disclosure. A producer may, at the producer’s option and

expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing (including the date and tests performed) to the informed end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery. Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Please review-
Brenda Anderson
District 30
(605) 440-0316
25743 Carroll Creek Road
Custer SD 57730

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