



December 2024

SENT VIA EMAIL

Mr. Rick Weiland
rick@rickweiland.com

Dear Mr. Weiland:

SDCL 12-13-25 requires the Legislative Research Council (LRC) to "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." (See SDCL 12-13-24.) The LRC suggests several style, form, and clarity changes to the proposed language (enclosed) to conform to this requirement.

This review and comment provided herein is not an endorsement of the proposed language or any of the suggested edits. *If you proceed with the proposed language, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC.* With any proposed 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 and any edits made to it should be reviewed by the sponsor and adequately vetted to ensure the language accomplishes the sponsor's objective.

Although there is no statutory requirement to make changes based upon the LRC's comments, 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.

This proposal will not likely have 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 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 amendment embraces only one subject under S.D. Const., Art. XXIII, § 1" and whether it is in fact an "amendment under S.D. Const., Art. XXIII, § 1," or a "revision under S.D. Const., Art. XXIII, § 2." The proposed constitutional change appears to embrace only one subject—the process by which measures approved by the voters may be amended or repealed. Given the limited nature of the proposed language, it appears to be an amendment and not a revision of the constitution.

Sincerely,

/s/ John R. McCullough, LRC Director

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

1 The proposed language and comments are as follows:

2 **BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:**

3 That Article III Section 1 of the Constitution of the State of South Dakota be amended by adding the
4 following:

5 The legislative power of the state shall be vested in a Legislature which shall consist of a senate
6 and house of representatives. However, the people expressly reserve to themselves the right to propose
7 measures, which shall be submitted to a vote of the electors of the state, and also the right to require
8 that any laws which the Legislature may have enacted shall be submitted to a vote of the electors of the
9 state before going into effect, except such laws as may be necessary for the immediate preservation of
10 the public peace, health or safety, support of the state government and its existing public institutions.
11 Not more than five percent of the qualified electors of the state shall be required to invoke either the
12 initiative or the referendum.

13 This section shall not be construed so as to deprive the Legislature or any member thereof of the
14 right to propose any measure. The veto power of the Executive shall not be exercised as to measures
15 referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws
16 approved by vote of the electors of the state shall be: "Be it enacted by the people of South Dakota." The
17 Legislature shall make suitable provisions for carrying into effect the provisions of this section.

18 A measure approved by the electors may not be repealed or amended by the Legislature for
19 seven years from its effective date, except by a two-thirds vote of the members elected to each house,
20 and only if the repeal or amendment is approved by the electors of the state at the general election
21 immediately following Legislative passage.

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- 23 • See the Guide to Legislative Drafting (GLD), p. 18, for the form of lead lines. The correct lead line
24 for a constitutional amendment is as follows:
25
26 ○ "That Article III, § 1 of the Constitution of the State of South Dakota, be AMENDED:"
27
28 • The proposed language submitted to the LRC only includes the new text being proposed to Art.
29 III, § 1, and that proposed language is not underscored. New language added to a section should
30 be underscored. Existing language in the section should be included in the text of the proposal.
31 See GLD, p. 16. These form requirements are reflected above.
32
33 • A law sentence is typically drafted in the active voice for the sake of clarity. See GLD, p. 21.
34 Consider redrafting the new language to begin with: "The Legislature may not enact a law to
35 repeal or amend a measure..."
36
37 • Consider replacing "its" with "the measure's" on line 19.
38
39 • If the Legislature enacts a law, which is referred to the voters and approved by the voters, that
40 law would be subject to the language proposed above. Should a law enacted by the Legislature,
41 referred to the voters, and approved by the voters be subject to these requirements? Is the intent

1 of the new language to apply only to "measures" proposed by the people? Should the beginning
2 of the new sentence on line 18 be changed to "[a] measure proposed by the people and approved
3 by the electors"?

4

- 5 • After "Legislative passage" on line 21, consider adding the phrase "of the measure" or consider
6 changing the entire phrase to "following Legislative enactment of the law" if other similar changes
7 are made to the text.

November 26, 2024

By email and Federal Express
john.mccullough@sdlegislature.gov

John McCullough, Director
Legislative Research Council
500 E. Capitol Ave.
Pierre, SD 57501

Dear Director McCullough:

As prescribed by SDCL 12-13-25, please review and comment on the following proposed text for an initiated amendment to the South Dakota Constitution within fifteen workdays:

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article III Section 1 of the Constitution of the State of South Dakota be amended by adding the following:

A measure approved by the electors may not be repealed or amended by the Legislature for seven years from its effective date, except by a two-thirds vote of the members elected to each house, and only if the repeal or amendment is approved by the electors of the state at the general election immediately following Legislative passage.

Thank you.

Sincerely,

/s/ Rick Weiland
Rick Weiland
Dakotans for Health
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