

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

562Z0083

## HOUSE ENGROSSED NO. **HB 1005** - 1/24/2018

Introduced by: Representatives Peterson (Kent), Reed, and Soli and Senators Bolin, Nesiba, and Otten (Ernie) at the request of the Initiative and Referendum Task Force

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for a recitation regarding the  
2 effect of a vote on certain ballot measures.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-13-1 be amended to read:

5 12-13-1. The secretary of state, at least twelve weeks prior to the general election, shall  
6 deliver to each county auditor a certified copy of each initiated measure, referred law, or  
7 proposed amendment to the Constitution to be voted on at the election, together with a  
8 statement, title, explanation, and recitation ~~of the effect of a "Yes" or "No" vote as written~~  
9 pursuant to § 12-13-9 or 12-13-25.1 to be published preceding the text of the ~~initiative~~ initiated  
10 measure, referendum ~~referred law~~, or proposed amendment. The attorney general shall prepare  
11 each statement, title, explanation, and recitation.

12 Section 2. That § 12-13-9 be amended to read:

13 12-13-9. Before the third Tuesday in May, the attorney general shall deliver to the secretary  
14 of state an attorney general's statement for each amendment to the Constitution proposed by the  
15 Legislature, and any referred law from an odd year. The attorney general's statement for each



1 referred law from an even year shall be delivered to the secretary of state before the second  
2 Tuesday in July. The attorney general's statement shall be written by the attorney general and  
3 shall consist of a title, an explanation, and a ~~clear and simple recitation of the effect of a "Yes"~~  
4 ~~or "No" vote as provided in this section.~~ The title shall be a concise statement of the subject of  
5 the proposed amendment to the Constitution or referred law. The explanation shall be an  
6 objective, clear, and simple summary to educate the voters of the purpose and effect of the  
7 proposed amendment to the Constitution or ~~the~~ referred law. The recitation for each proposed  
8 amendment to the Constitution shall state "Vote 'Yes' to adopt the amendment" and "Vote 'No'  
9 to leave the Constitution as it is". The recitation for each referred law shall state "Vote 'Yes' to  
10 allow the Act of the Legislature to become law" and "Vote 'No' to reject the Act of the  
11 Legislature". The attorney general shall include a description of the legal consequences of the  
12 proposed amendment to the Constitution or ~~the~~ referred law, including the likely exposure of  
13 the state to liability if the proposed amendment to the Constitution or ~~the~~ referred law is  
14 adopted. The explanation may not exceed two hundred words in length. On the printed ballots,  
15 the title shall be followed by the explanation and the explanation shall be followed, if  
16 applicable, by any cost estimate prepared pursuant to § 2-9-34 or fiscal note prepared pursuant  
17 to § 2-9-32 and then followed by the recitation.

18 Section 3. That § 12-13-23 be amended to read:

19 12-13-23. The secretary of state shall distribute public information on any ~~constitutional~~  
20 amendment to the Constitution, initiated measure, or referred ~~measure~~ law submitted to the  
21 electors for approval. The secretary of state shall compile the public information by printing a  
22 statement in support of the ~~constitutional~~ amendment to the Constitution, initiated measure, or  
23 referred ~~measure~~ law written by its proponents, if any can be identified, and a statement against  
24 the ~~constitutional~~ amendment to the Constitution, initiated measure, or referred ~~measure~~ law

1 written by its opponents, if any can be identified. The secretary of state is not responsible for  
2 the contents, objectivity, or accuracy of the statements written by the proponents and opponents.  
3 The pamphlet shall also include the attorney general's title, explanation, and a ~~clear and simple~~  
4 recitation of the effect of a "Yes" or "No" vote as written pursuant to § 12-13-9 or 12-13-25.1;  
5 number of pages and sections in the proposed or referred language; and, if applicable, a prison  
6 or jail population cost estimate and fiscal note.

7 Section 4. That § 12-13-25.1 be amended to read:

8 12-13-25.1. Following receipt of the written comments of the director of the Legislative  
9 Research Council, the sponsors shall submit a copy of the proposed ~~initiative~~ initiated measure  
10 or initiated amendment to the Constitution in final form; to the attorney general. The attorney  
11 general shall prepare an attorney general's statement that consists of a title and explanation. The  
12 title shall be a concise statement of the subject of the proposed ~~initiative~~ initiated measure or  
13 initiated amendment to the Constitution. The explanation shall be an objective, clear, and simple  
14 summary to educate the voters of the purpose and effect of the proposed ~~initiative~~ initiated  
15 measure or initiated amendment to the Constitution. The attorney general shall include a  
16 description of the legal consequences of the proposed ~~initiative~~ initiated measure or initiated  
17 amendment to the Constitution, including the likely exposure of the state to liability if the  
18 proposed ~~initiative~~ initiated measure or initiated amendment to the Constitution is adopted. The  
19 explanation may not exceed two hundred words in length. The attorney general shall file the title  
20 and explanation with the secretary of state and shall provide a copy to the sponsors within sixty  
21 days of receipt of the proposed ~~initiative~~ initiated measure or initiated amendment to the  
22 Constitution.

23 If the petition is filed as set forth in §§ 2-1-1.1 and 2-1-1.2, the attorney general shall deliver  
24 to the secretary of state before the third Tuesday in May a ~~simple~~ recitation of a "Yes" or "No"

1 ~~vote~~ as provided in this section. The recitation for an initiated amendment to the Constitution  
2 shall state "Vote 'Yes' to adopt the amendment" and "Vote 'No' to leave the Constitution as it  
3 is". The recitation for an initiated measure shall state "Vote 'Yes' to adopt the initiated measure"  
4 and "Vote 'No' to leave South Dakota law as it is". On the printed ballots, the title shall be  
5 followed by the explanation and the explanation shall be followed, if applicable, by any cost  
6 estimate prepared pursuant to § 2-9-34 or fiscal note prepared pursuant to § 2-9-31, and then  
7 followed by the recitation.

8 Section 5. That the code be amended by adding a NEW SECTION to read:

9 The provisions of this Act apply to any recitation prepared for an initiated amendment to the  
10 Constitution, initiated measure, and referred law certified to appear on a ballot beginning with  
11 any election in 2018.