

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

580Y0231

## SENATE ENGROSSED NO. **SB 77** - 2/13/2017

Introduced by: Senators Otten (Ernie), Nelson, Rusch, Russell, and Stalzer and  
Representatives Haggar, Haugaard, Otten (Herman), and Tieszen

1 FOR AN ACT ENTITLED, An Act to provide for a fiscal note for any initiated measure,  
2 initiated amendment to the Constitution, or referred law that would have a fiscal impact on  
3 the state.

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

5 Section 1. That the code be amended by adding a NEW SECTION to read:

6 If the director of the Legislative Research Council determines in the review and comment  
7 under § 12-13-25 that any initiated measure or initiated amendment to the Constitution may  
8 have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and  
9 subdivisions, the sponsor of the initiated measure or initiated amendment to the Constitution  
10 shall request a fiscal note from the director of the Legislative Research Council. No petition for  
11 any initiated measure or initiated amendment to the Constitution may be filed with the secretary  
12 of state pursuant § 2-1-1.1 or 2-1-1.2 before the director of the Legislative Research Council  
13 files a fiscal note, if any, pursuant to section 3 of this Act.

14 Section 2. That the code be amended by adding a NEW SECTION to read:

15 If any referred law had a fiscal note prepared by the director of the Legislative Research



1 Council prior to passage of the law, the sponsor shall obtain the fiscal note from the Legislative  
2 Research Council website and attach the fiscal note to the petition filed pursuant to § 2-1-3.1.  
3 If the fiscal note exceeds fifty words, the sponsor shall request from the director of the  
4 Legislative Research Council a summary of the fiscal note that does not exceed fifty words and  
5 attach the fiscal note summary in lieu of the fiscal note to the petition filed pursuant to § 2-1-3.1.  
6 The director shall file the fiscal note summary with the sponsor within five days of receipt of  
7 the sponsor's request.

8 Section 3. That the code be amended by adding a NEW SECTION to read:

9 The director of the Legislative Research Council shall prepare any fiscal note requested  
10 pursuant to section 1 of this Act. The fiscal note shall include an estimate of the impact on  
11 revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions by the  
12 provisions of the initiated measure or initiated amendment to the Constitution. The fiscal note  
13 may not exceed fifty words. The director shall file the fiscal note with the sponsor and the  
14 secretary of state within sixty days of the receipt of the sponsor's request.

15 Section 4. That § 12-13-25 be amended to read:

16 12-13-25. The sponsors of each initiative or initiated amendment to the Constitution shall  
17 submit a copy of the initiative or initiated amendment to the Constitution to the director of the  
18 Legislative Research Council for review and comment before it may be circulated for signatures.  
19 The director shall review each submitted initiative or initiated amendment to the Constitution  
20 to determine if the requirements of § 12-13-24 are satisfied and if the initiative or initiated  
21 amendment to the Constitution may have any impact on revenues, expenditures, or fiscal  
22 liability of the state or its agencies and subdivisions. Within fifteen days of receipt of an  
23 initiative or initiated amendment to the Constitution, the director shall provide written  
24 comments on the initiative or initiated amendment to the Constitution to the sponsors of the

1 initiative or initiated amendment, the attorney general, and the secretary of state for the purpose  
2 of assisting the sponsors in complying with § 12-13-24. The sponsors may, but are not required  
3 to, amend the initiative or initiated amendment to the Constitution to comply with the director's  
4 comments.

5 Section 5. That § 12-13-9 be amended to read:

6 12-13-9. Before the third Tuesday in May, the attorney general shall deliver to the secretary  
7 of state an attorney general's statement for each amendment to the Constitution proposed by the  
8 Legislature, and any referred ~~measure~~ law from an odd year. The attorney general's statement  
9 for each referred ~~measure~~ law from an even year shall be delivered to the secretary of state  
10 before the second Tuesday in July. The attorney general's statement shall be written by the  
11 attorney general and shall consist of a title, an explanation, and a clear and simple recitation of  
12 the effect of a "Yes" or "No" vote. The title shall be a concise statement of the subject of the  
13 proposed amendment to the Constitution or referred ~~measure~~ authored by the attorney general  
14 law. The explanation shall be an objective, clear, and simple summary to educate the voters of  
15 the purpose and effect of the proposed amendment to the Constitution or the referred law. The  
16 attorney general shall include a description of the legal consequences of the proposed  
17 amendment to the Constitution or the referred law, including the likely exposure of the state to  
18 liability if the proposed amendment to the Constitution or the referred law is adopted. The  
19 explanation may not exceed two hundred words in length. On the printed ballots, the title shall  
20 be followed by the explanation and the explanation shall be followed, if applicable, by ~~the fiscal~~  
21 ~~impact statement~~ any cost estimate prepared pursuant to § 2-1-20 or fiscal note prepared  
22 pursuant to section 3 of this Act and then followed by the recitation.

23 Section 6. That § 12-13-25.1 be amended to read:

24 12-13-25.1. Following receipt of the written comments of the director of the Legislative

1 Research Council, the sponsors shall submit a copy of the proposed initiative or initiated  
2 amendment to the Constitution in final form, to the attorney general. The attorney general shall  
3 prepare an attorney general's statement ~~which~~ that consists of a title and explanation. The title  
4 shall be a concise statement of the subject of the proposed initiative or initiated amendment to  
5 the Constitution. The explanation shall be an objective, clear, and simple summary to educate  
6 the voters of the purpose and effect of the proposed ~~initiated measure~~ initiative or initiated  
7 amendment to the Constitution. The attorney general shall include a description of the legal  
8 consequences of the proposed initiative or initiated amendment ~~or initiated measure~~ to the  
9 Constitution, including the likely exposure of the state to liability if the proposed initiative or  
10 initiated amendment ~~or initiated measure~~ to the Constitution is adopted. The explanation may  
11 not exceed two hundred words in length. The attorney general shall file the title and explanation  
12 with the secretary of state and shall provide a copy to the sponsors within sixty days of receipt  
13 of the proposed initiative or initiated amendment to the Constitution.

14 If the petition is filed as set forth in §§ 2-1-1.1 and 2-1-1.2, the attorney general shall deliver  
15 to the secretary of state before the third Tuesday in May a simple recitation of a "Yes" or "No"  
16 vote. On the printed ballots, the title shall be followed by the explanation and the explanation  
17 shall be followed, if applicable, by ~~the prison or jail population~~ any cost estimate prepared  
18 pursuant to § 2-1-20 or fiscal note prepared pursuant to section 3 of this Act, and then followed  
19 by the recitation.

20 Section 7. That § 2-1-1.1 be amended to read:

21 2-1-1.1. The petition as it is to be circulated for an initiated constitutional amendment shall  
22 be filed with the secretary of state prior to circulation for signatures and shall:

- 23 (1) Contain the full text of the initiated constitutional amendment;
- 24 (2) Contain the date of the general election at which the initiated constitutional

1 amendment is to be submitted;

2 (3) Contain the title and explanation as prepared by the attorney general;

3 (4) Be accompanied by a notarized affidavit form signed by each person who is a petition  
4 sponsor that includes the name and address of each petition sponsor; and

5 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

6 The petition circulator shall provide to each person who signs the petition a form containing  
7 the title and explanation of the initiated constitutional amendment as prepared by the attorney  
8 general; any fiscal note prepared pursuant to section 3 of this Act; the name, phone number, and  
9 email address of each petition sponsor; and a statement whether the petition circulator is a  
10 volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being  
11 paid. The form shall be approved by the secretary of state prior to circulation.

12 For any initiated constitutional amendment petition, no signature may be obtained more than  
13 twenty-four months preceding the general election that was designated at the time of filing of  
14 the full text. The initiated constitutional amendment petition shall be filed with the secretary of  
15 state at least one year before the next general election. A notarized affidavit form, signed by at  
16 least two-thirds of the petition sponsors, stating that the documents filed constitute the entire  
17 petition and to the best of the knowledge of the sponsors contains a sufficient number of  
18 signatures shall also be filed with the secretary of state. The form of the petition and affidavit  
19 shall be prescribed by the State Board of Elections.

20 Section 8. That § 2-1-1.2 be amended to read:

21 2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the  
22 secretary of state prior to circulation for signatures and shall:

23 (1) Contain the full text of the initiated measure;

24 (2) Contain the date of the general election at which the initiated measure is to be

1 submitted;

2 (3) Contain the title and explanation as prepared by the attorney general;

3 (4) Be accompanied by a notarized affidavit form signed by each person who is a petition  
4 sponsor that includes the name and address of each petition sponsor; and

5 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

6 The petition circulator shall provide to each person who signs the petition a form containing  
7 the title and explanation of the initiated measure as prepared by the attorney general; any fiscal  
8 note prepared pursuant to section 3 of this Act; the name, phone number, and email address of  
9 each petition sponsor; and a statement whether the petition circulator is a volunteer or paid  
10 petition circulator and, if a paid circulator, the amount the circulator is being paid. The form  
11 shall be approved by the secretary of state prior to circulation.

12 For any initiated measure petition, no signature may be obtained more than twenty-four  
13 months preceding the general election that was designated at the time of filing of the full text.

14 The initiated measure petition shall be filed with the secretary of state at least one year before  
15 the next general election. A notarized affidavit form, signed by at least two-thirds of the petition  
16 sponsors, stating that the documents filed constitute the entire petition and to the best of the  
17 knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the  
18 secretary of state. The form of the petition and affidavit shall be prescribed by the State Board  
19 of Elections.

20 Section 9. That § 2-1-3.1 be amended to read:

21 2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the  
22 secretary of state prior to circulation for signatures and shall:

23 (1) Contain the title of the referred law;

24 (2) Contain the effective date of the referred law;

- 1 (3) Contain the date of the general election at which the referred law is to be submitted;
- 2 (4) Be accompanied by a notarized form that includes the names and addresses of the
- 3 petition sponsors; and
- 4 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

5 The petition shall be filed with the secretary of state within ninety days after the  
6 adjournment of the Legislature which passed the referred law. A sworn affidavit, signed by at  
7 least two-thirds of the petition sponsors, stating that the documents filed constitute the entire  
8 petition and to the best of the knowledge of the sponsors contains a sufficient number of  
9 signatures shall also be filed with the secretary of state. The form of the petition and affidavit  
10 shall be prescribed by the State Board of Elections.

11 The petition circulator shall provide to each person who signs the petition a form containing  
12 the title of the referred law; any fiscal note or summary of a fiscal note obtained pursuant to  
13 section 2 of this Act; the name, phone number, and email address of each petition sponsor; and  
14 a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid  
15 circulator, the amount the circulator is being paid. The form shall be approved by the secretary  
16 of state prior to circulation.