

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**RECEIVED**  
JUL 11 2017  
S.D. SEC. OF STATE

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

July 11, 2017

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**RE: Attorney General's Statement for initiated constitutional amendment  
(open primary elections)**

Dear Secretary Krebs,

This Office received a proposed constitutional amendment that the sponsor will seek to place on the November 2018 general election ballot. Enclosed is a copy of the constitutional amendment, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby submit the Attorney General's Statement with respect to the amendment. The title is: "An initiated amendment to the South Dakota Constitution establishing open primary elections."

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the constitutional amendment pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marty Jackley", written over a horizontal line.

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

cc w/enc.: Joe Kirby  
Jason Hancock, Director of LRC

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CONSTITUTIONAL AMENDMENT  
ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution establishing open primary elections.

Explanation:

Currently, in order to appear on the general election ballot as a political party's nominee, candidates for the following offices must participate in a partisan primary election: Governor, State Legislature, U.S. Senate and House of Representatives, and elected county offices. On the primary ballot, each candidate is listed with a party designation. Only registered members of the candidate's chosen party may vote for that candidate unless the political party has also opened the primary to voters with no party affiliation.

Under current law, candidates unaffiliated with a political party (independents) do not participate in the primary election. Rather, they appear on the general election ballot by filing proper nominating petitions.

For the above offices, this amendment establishes an open primary election for candidates, including independents. All registered voters may vote for any candidate. The two candidates with the most votes advance to the general election. For some offices, more than one candidate is to be elected at the general election. In those instances, two candidates will advance to the general election for each position to be filled.

If this amendment is adopted, State election laws will need to be changed or be subject to challenge under the U.S. Constitution.

That Article VII of the Constitution of South Dakota be amended by adding thereto NEW SECTION to read as follows:

§ 4. An open primary election shall be held prior to the general election to nominate candidates for the office of Governor, the Legislature, all county elective offices, and the United States Senate and House of Representatives. The primary election for such candidates shall be open to all registered voters. The two candidates who receive the most votes in the open primary are the nominees for each office. If more than one candidate is to be elected to an office, the number of nominees shall be twice the number to be elected.

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**JUL 11 2017**

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