



## 2021 South Dakota Legislature

# Senate Bill 86

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senator Schoenbeck**

1 **An Act to revise certain requirements regarding the review of initiated amendments**  
 2 **to the Constitution and to declare an emergency.**

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

4 **Section 1.** That § 12-13-25 be AMENDED.

5 **12-13-25. Review and comment--Legislative Research Council--Contents.**

6 The sponsors of each initiated measure or initiated amendment to the Constitution  
 7 shall submit a copy of each version of the initiated measure or initiated amendment to the  
 8 Constitution to the director of the Legislative Research Council for review and comment  
 9 not more than six months before it may be circulated for signatures under § 2-1-1.1 or 2-  
 10 1-1.2. The director shall review each version of the submitted initiated measure or initiated  
 11 amendment to the Constitution to determine if the requirements of § 12-13-24 are  
 12 satisfied and if the initiated measure or initiated amendment to the Constitution may have  
 13 any impact on revenues, expenditures, or fiscal liability of the state or its agencies and  
 14 subdivisions. Unless as otherwise provided under § 12-13-25.2, not more than fifteen  
 15 workdays following receipt of an initiated measure or initiated amendment to the  
 16 Constitution, the director shall provide written comments on the initiated measure or  
 17 initiated amendment to the Constitution to the sponsors of the initiated measure or  
 18 initiated amendment, the attorney general, and the secretary of state for the purpose of  
 19 assisting the sponsors in complying with § 12-13-24. The director's written comments  
 20 under this section shall include assistance regarding the substantive content of the  
 21 initiated measure or initiated amendment in order to minimize any conflict with existing  
 22 law and to ensure the measure's or amendment's effective administration. If the sponsors  
 23 submit an initiated amendment to the Constitution, the director shall provide, with the  
 24 written comments, a written opinion to the sponsors, the attorney general, and the  
 25 secretary of state as to whether the initiated amendment embraces only one subject under  
 26 S.D. Const., Art. XXIII, § 1 and whether it is an amendment under S.D. Const., Art. XXIII,

1        § 1 or a revision under S.D. Const., Art. XXIII, § 2. The sponsors may, but are not required  
2        to, amend the initiated measure or initiated amendment to the Constitution to comply  
3        with the director's comments.

4        **Section 2.** That § 12-13-26 be AMENDED.

5                    **12-13-26. Unreviewed initiatives or initiated amendments unacceptable--**  
6                    **Uncertified initiated amendments unacceptable.**

7                    The secretary of state may not accept any initiative or initiated amendment to the  
8                    Constitution unless such initiative or initiated amendment to the Constitution has been  
9                    submitted to the director of the Legislative Research Council and the director has reviewed  
10                  and commented on such initiative or initiated amendment to the Constitution, and unless  
11                  the attorney general has filed the title and explanation of the initiative or initiated  
12                  amendment to the Constitution with the secretary of state. The secretary of state may not  
13                  accept any initiated amendment to the Constitution that is not certified pursuant to § 12-  
14                  13-26.1.

15        **Section 3.** That a NEW SECTION be added:

16                    **12-13-26.1. Initiated amendment--Written certification by secretary of**  
17                    **state.**

18                    Upon receiving a proposed initiated amendment to the Constitution, the secretary  
19                    of state shall provide written certification to the sponsors, the attorney general, and the  
20                    director of the Legislative Research Council that the initiated amendment embraces only  
21                    one subject and is an amendment to the Constitution under S.D. Const., Art. XXIII, § 1.  
22                    The secretary of state shall publish on the secretary of state's website notice of this  
23                    certification not more than fifteen working days following receipt of the initiated  
24                    amendment to the Constitution.

25                    The secretary of state may not certify the initiated amendment to the Constitution  
26                    if it embraces more than one subject in violation of S.D. Const., Art. XXIII, § 1. The  
27                    secretary of state may not certify the initiated amendment to the Constitution if it is a  
28                    revision under S.D. Const., Art. XXIII, § 2. If the secretary of state determines that the  
29                    initiated amendment to the Constitution embraces more than one subject or is a revision,  
30                    the secretary of state shall provide written notice to the sponsors explaining the reason  
31                    the initiated amendment to the Constitution is not certified not more than fifteen working  
32                    days following receipt of the initiated amendment to the Constitution. The sponsors may  
33                    amend the initiated amendment to the Constitution in accordance with the secretary of

1 state's explanation and resubmit the amended initiated amendment to the Constitution to  
2 the director of the Legislative Research Council for review under § 12-13-25.

3 **Section 4.** That a NEW SECTION be added:

4 **12-13-26.2. Action to challenge the secretary of state's decision--Time**  
5 **limits--Promulgation of rules.**

6 If the secretary of state does not certify an initiated amendment to the Constitution  
7 pursuant to § 12-13-26.1, the sponsor may directly appeal the secretary of state's decision  
8 to the Supreme Court within fifteen days after receiving notice from the secretary of state.

9 Any interested party may directly appeal the secretary of state's certification of an  
10 initiated amendment to the Constitution pursuant to § 12-13-26.1 to the Supreme Court  
11 within fifteen days of the secretary of state publishing notice of certification on the  
12 secretary of state's website.

13 The Supreme Court shall promulgate rules, pursuant to chapter 16-3, defining the  
14 procedures for an appeal taken under this section.

15 **Section 5.** Whereas, this Act is necessary for the support of the state government and its  
16 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
17 full force and effect from and after its passage and approval.