2026 South Dakota Legislature

Senate Bill 5

ENROLLED

AN ACT

ENTITLED An Act to require the disclosure of whether a ballot question was proposed by initiative or by the Legislature.

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

Section 1. That § 12-13-9 be AMENDED:

12-13-9. The attorney general shall deliver a statement for each amendment to the South Dakota Constitution proposed by the Legislature and referred law from an odd year to the secretary of state before the third Tuesday in May, in the year of the election. The attorney general shall deliver a statement for each referred law from an even year to the secretary of state before the second Tuesday in July, in the year of the election. The attorney general's statement must be written by the attorney general and must consist of:

(1)   The title of the proposed amendment to the constitution or referred law;

(2)   A disclosure indicating that the amendment was proposed by the Legislature or the law was referred after enactment by the Legislature;

(3)   An objective, clear, and simple explanation that:

(a)   Educates the voters on the purpose and effect of the proposed amendment to the constitution or referred law; and

(b)   Describes the legal consequences of the proposed amendment to the constitution or referred law, including any likely exposure of the state to liability if the proposed amendment to the constitution or referred law is adopted; and

(4)   A recitation:

(a)   For a proposed amendment to the constitution, stating "Vote 'Yes' to adopt the amendment" and "Vote 'No' to leave the Constitution as it is"; or

(b)   For a referred law, stating "Vote 'Yes' to allow the Act of the Legislature to become law" and "Vote 'No' to reject the Act of the Legislature".

The explanation may not exceed two hundred words in length.

On the printed ballots, the title of the proposed amendment to the constitution or referred law must be followed by the disclosure, the attorney general's explanation, the most recent fiscal note prepared pursuant to § 2-9-32 or 2-9-30.2, and the recitation. The title, disclosure, explanation, fiscal note, and recitation must be printed on the ballot in the order provided by this section.

Section 2. That § 12-13-25.1 be AMENDED:

12-13-25.1. Following receipt of the written comments of the director of the Legislative Research Council, the sponsors shall submit a copy of the proposed initiated measure or initiated amendment to the South Dakota Constitution in final form to the attorney general, the secretary of state, and the director of the Legislative Research Council.

The attorney general shall prepare a draft statement that consists of:

(1)   The title, which is a concise statement of the subject of the proposed measure or amendment to the constitution;

(2)   A disclosure indicating that the measure or amendment to the constitution was proposed by a citizen-initiated petition; and

(3)   An objective, clear, and simple explanation that:

(a)   Educates the voters on the purpose and effect of the proposed measure or amendment to the constitution; and

(b)   Describes the legal consequences of the proposed measure or amendment to the constitution, including any likely exposure of the state to liability as the result of the proposed measure or amendment to the constitution.

The explanation may not exceed two hundred words in length.

The attorney general shall file the draft statement with the secretary of state, post the draft statement on the attorney general's website, and release a press release announcing a draft statement has been posted for comment within sixty days of receipt of the proposed measure or amendment to the constitution. The attorney general shall accept comments for ten days from the date the draft statement was filed. The attorney general shall review all comments submitted and revise the statement in response to the comments as deemed necessary.

Once the comment period has expired and any revisions have been completed, the attorney general shall file the final statement with the secretary of state and shall provide a copy to the sponsors within twenty days of the filing of the draft statement.

If the signatures on a petition for a proposed initiated measure or initiated amendment to the constitution are filed pursuant to § 2-1-1.1 or 2-1-1.2, the attorney general must deliver a recitation to the secretary of state before the third Tuesday in May. The recitation for an initiated amendment to the constitution must state "Vote 'Yes' to adopt the amendment" and "Vote 'No' to leave the Constitution as it is". The recitation for an initiated measure must state "Vote 'Yes' to adopt the initiated measure" and "Vote 'No' to leave South Dakota law as it is".

On the printed ballots, the title of the proposed initiated measure or initiated amendment to the constitution must be followed by the disclosure, the attorney general's explanation, the most recent fiscal note prepared pursuant to § 2-9-30 or 2-9-30.2, and the recitation. The title, disclosure, explanation, fiscal note, and recitation must be printed on the ballot in the order provided by this section.

An Act to require the disclosure of whether a ballot question was proposed by initiative or by the Legislature.

I certify that the attached Act originated in the:

Senate as Bill No. 5

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk of the House

Senate Bill No. 5
File No. _____
Chapter No. _____

Received at this Executive Office this _____ day of _____,

2026 at _____M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____, A.D., 2026

_____
Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 2026 at _____ o'clock ___M.

_____
Secretary of State

By _____
Asst. Secretary of State