



May 8, 2023

Travis Ismay
19073 Gammon Rd.
Newell, SD 57760
tdismay@icloud.com

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SD Secretary of State

Dear Travis Ismay:

SDCL 12-13-25 requires the South Dakota Legislative Research Council (LRC) to review each proposed initiated measure submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the proposal "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters." Based on this review, the LRC provides written comments to the proposal's sponsor for the purpose of assisting the sponsor in meeting these requirements. This includes providing "assistance . . . to minimize any conflict with existing law and to ensure the [proposal]'s . . . effective administration."

The proposed initiated measure repeals SDCL chapter 34-20G, the medical cannabis chapter.

The Guide to Legislative Drafting provides examples on how to draft a section that repeals a section of the codified laws. These examples are found on pages 57-58. To conform with the requirement to write the proposed initiated measure in the form of other legislation, the sponsor should consider redrafting each section of the proposed initiated measure to conform to the drafting requirements for repealing a section. Below is an example of how to repeal a section.

Section 2. That § 34-20G-2 be REPEALED:

~~A cardholder is not subject to arrest, prosecution, or penalty of any kind, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- ~~(1) The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;~~
- ~~(2) Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;~~
- ~~(3) Transferring the cannabis to a testing facility;~~
- ~~(4) Compensating a dispensary or a testing facility for goods or services provided;~~
- ~~(5) Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or~~
- ~~(6) Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the person giving~~

~~the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.~~

When repealing a section of the code, all the language in the section should be overstricken. This makes it clear that the section is being removed from the codified laws. It is not necessary to include in the proposed initiated measure the catchline or source note for each section.

Fiscal Impact

It has been determined during this review that this proposed initiated measure will likely have an impact on the revenues, expenditures, or fiscal liability of the state and its agencies and political subdivisions. Please provide the Legislative Research Council with a copy of this initiated measure as submitted in final form to the Attorney General so the LRC can develop any fiscal note required by SDCL 2-9-30.

Compliance

This letter is issued in compliance with statutory requirements placed upon the LRC. It is neither an endorsement of the proposed initiated measure nor a guarantee of its sufficiency. If you proceed with the proposed initiated measure, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC.

Sincerely,



Reed Holwegner
Director

CC: The Honorable Monae L. Johnson, Secretary of State
The Honorable Marty Jackley, Attorney General
Charles McGuigan, Office of the Attorney General
Steven Blair, Office of the Attorney General