



OFFICE OF THE SECRETARY OF STATE

STEVEN J. BARNETT, SECRETARY OF STATE

JASON LUTZ, DEPUTY SECRETARY OF STATE

March 17, 2021

Rick Weiland
Dakotans for Health
1109 South Phillips Avenue
Sioux Falls, SD 57105

Dear Mr. Weiland,

Our office is in receipt of your submission to circulate a petition referring House Joint Resolution (HJR) 5003 to the next general election, which will be held on November 8, 2022.

South Dakota Codified Law (SDCL) 2-1-3 explains that "any law which the Legislature may have enacted..." may be referred to a vote of the electors at the next general election. SDCL 2-1-3.1 requires the referendum petition as it is to be circulated to be filed with the Secretary of State's office prior to circulation and provides the criteria the petition must meet. Among the requirements of SDCL 2-1-3.1, the petition must "contain the title of the referred law" and "contain the effective date of the referred law".

HJR 5003 does not qualify as a "law which the Legislature may have enacted" as required by SDCL 2-1-3. The joint resolution submits a proposed amendment to the South Dakota constitution for consideration of the electorate at the next primary election, which will be held on June 7, 2022. The proposed amendment to the constitution has no force of law unless approved by a majority of voters at the specified election. Furthermore, HJR 5003 does not enact a law that will take effect at a particular time, as the resolution only offers for consideration of the electorate a proposed change to the constitution. Absent a valid "effective date of the referred law" required by SDCL 2-1-3.1, the petition cannot be considered valid under the statute.

Based on these factors, our office is unable to file your petition to refer HJR 5003.

Kindest regards,

A handwritten signature in cursive script that reads "Kea Warne".

Kea Warne
Director, Division of Elections

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EXHIBIT

2