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January 21, 1998

OPINION LETTER NO. 103-98

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo Supp. 1997, for sufficiency as to form of an initiative petition relating to the amendment of Article I of the Missouri Constitution by adopting one new section to be known as Section 33. A copy of the initiative petition which you submitted to this office on January 12, 1998, is attached for reference.

We conclude the petition must be rejected as to form for the following reasons:

1. The petition does not contain the enacting clause required by Article III, Section 50 of the Missouri Constitution. Article III, Section 50 requires the enacting clause on petitions for constitutional amendments to be "Be it resolved by the people of the state of Missouri that the Constitution be amended." The petition contains the enacting clause specified in Article III, Section 50 for laws, not constitutional amendments.

2. In the paragraph of the petition commencing "We, the undersigned, registered . . .," the section proposed is referred to as the "proposed law." Section 116.040, RSMo Supp. 1997, in setting forth the form of an initiative petition, provides for "law" or "amendment to the constitution" to be inserted in this paragraph of the petition. The section proposed is an "amendment to the constitution" and should be referred to in this paragraph as such.

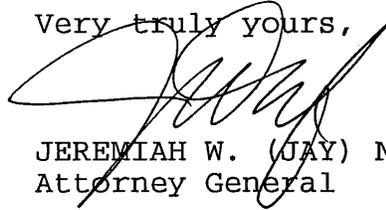
3. The petition does not contain at the bottom of the page a location for "Notary Public (Seal)" and "My commission expires... ." Section 116.040 requires a location be provided for those items.

The Honorable Rebecca McDowell Cook

In addition to the reasons for rejection specified above, two other concerns are apparent from our review of the petition form: 1) The day on which the election is to be held in November 1998 has been left blank. Customarily, the day is inserted in the pre-printed petition form; 2) The petition does not appear to have any available space on which to affix the official ballot title. Section 116.180, RSMo Supp. 1997, provides persons circulating a petition shall affix the official ballot title to each page of the petition prior to circulation.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure