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OPINION LETTER NO. 150-99

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, for sufficiency as to form of an initiative petition relating to a proposed constitutional amendment to Article IV, §36(a) of the Constitution of the State of Missouri. A copy of the initiative petition which you submitted to this office on August 30, 1999, is attached for reference.

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

1. HB 676 was signed by the Governor on June 16, 1999. The legislation contains a section specific emergency clause, making portions of the legislation effective upon signing. One such section is §116.040. The petition form is not in compliance with section 116.040, as amended, for several reasons. Initially, it must be noted that the first paragraph of the petition fails to follow the statutory notice language in that it omits the phrase "measure for the same" in the last line of the notice. Additionally, the petition form prohibits the inclusion of P.O. Boxes as the registered voting address despite the fact that the registered voting address of some Missouri voters is a post office box and this prohibition is not found in the statute. Finally, we note that the petition form provides for the notary public seal and commission expiration date to appear before the signature and address of the notary. This is inconsistent with the statutory placement.

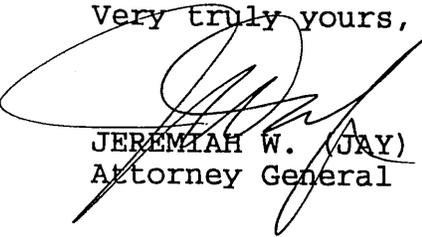
2. The petition form is not in compliance with section 116.050.2(1) and (2), RSMo Supp. 1998, because the petition form fails to contain the full and correct text of the measure in that it does not "[c]ontain all matter which is to be deleted included

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in its proper place enclosed in brackets and all new matter shown underlined." The currently applicable Article IV, § 36(a) is not bracketed as matter to be deleted by the proposed amendment and it is unclear whether this preexisting section is to be repealed. Additionally, the underlined material does not appear to contain only the language of the proposed constitutional amendment and the "schedule" is not underlined or bracketed and does not appear to properly delete or add to the existing constitutional provision.

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