



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
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Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**RECEIVED**

**MAR 16 2018**

**S.D. SEC. OF STATE**

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

March 16, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

RE: **Attorney General's Statement for initiated constitutional amendment  
(allowing people to buy, sell, or rent any property or service)**

Dear Secretary Krebs,

This Office received a proposed initiated constitutional amendment that the sponsor will seek to place on the November 2020 general election ballot. Enclosed is a copy of the proposed constitutional amendment, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby file the enclosed Attorney General's Statement with respect to this amendment.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor pursuant to SDCL 12-13-25.1.

Very truly yours

A handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

cc/enc.: Levi Breyfogle  
Jason Hancock, Director of LRC

Filed this 16<sup>th</sup> day of  
March 2018

A handwritten signature of Shantel Krebs in black ink.

**SECRETARY OF STATE**

RECEIVED

MAR 16 2018

S.D. SEC. OF STATE

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution allowing people to buy, sell, or rent any property or service.

Explanation:

Under this amendment, people who are at least 18 years old may buy, sell, or rent any of their property or services to any willing person who is at least 18 years of age. In addition, any person who is 18 or older may possess or modify any property the person owns.

The amendment prohibits the use of state and local funds, personnel, or property to implement or enforce any federal law that violates this amendment.

The full scope and effect of this amendment are unclear and will likely require judicial clarification. Among other things, a court may determine the amendment decriminalizes the possession, sale, or rental of property or services that are currently illegal under state and local laws.

Attorney General

JAN 31 2018

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article VI of the Constitution of the State of South Dakota be amended by adding a NEW SECTION to read as follows:

§ 30. Any person eighteen years of age or older may freely buy, sell, or rent any property or service owned by the person to any other willing person eighteen years of age or older. Any person eighteen years of age or older may freely possess or modify any property owned by the person. No public funds of this state, or any political subdivision of this state, may be expended for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment. No personnel or property of this state, or any political subdivision of this state, may be utilized for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.

Filed this 16<sup>th</sup> day of  
March 2018  
*Shantel Krebs*  
SECRETARY OF STATE

RECEIVED

MAR 16 2018

S.D. SEC. OF STATE



RECEIVED

MAR 19 2018

S.D. SEC. OF STATE

**OFFICE OF ATTORNEY GENERAL**

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**MARTY J. JACKLEY**

ATTORNEY GENERAL

**CHARLES D. MCGUIGAN**

CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

March 19, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**RE: Attorney General's Statement for initiated constitutional amendment  
(requiring physical damage)**

Dear Secretary Krebs,

This Office received a proposed initiated constitutional amendment that the sponsor will seek to place on the November 2020 general election ballot. Enclosed is a copy of the proposed constitutional amendment, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby file the Attorney General's Statement with respect to this amendment.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marty Jackley", with a long horizontal flourish extending to the right.

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

cc/enc.: Levi Breyfogle  
Jason Hancock, Director of LRC

## CONSTITUTIONAL AMENDMENT

## ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution requiring physical damage in order for conduct to be considered a violation of the law.

Explanation:

This amendment significantly re-defines what would be considered a violation of state or local law. Under the amendment, conduct is a violation only if the perpetrator damages another person or person's property. Damages must be physical, quantifiable, and have already occurred. Under the amendment, if a victim does not file a charge, there can be no prosecution. If the victim is incapable of doing so, a family member may bring the charge, as long as the victim does not object.

The amendment would take effect July 1, 2021. At that time, victims must be notified in all cases where there are pending charges, uncompleted sentences, or unpaid fines. If a victim does not file a charge as described in this amendment, then the case, sentence, or fine must be dismissed.

The amendment prohibits the use of state and local funds, personnel, or property to implement or enforce any federal law that violates this amendment.

Some of the amendment's provisions are unclear and will require judicial interpretation and clarification. Any state and local laws that do not meet the amendment's requirements would no longer be valid. A substantial re-write of state and local criminal laws will be necessary.

Filed this 19th day of  
March 2018  
*Shantel Krebs*  
SECRETARY OF STATE

RECEIVED

MAR 19 2018

S.D. SEC. OF STATE

Attorney General  
JAN 31 2018

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article VI of the Constitution of the State of South Dakota be amended by adding NEW SECTIONS to read as follows:

§ 30. In order for a violation of the law to have been committed each of the following shall occur:

(1) A charge of a violation may only be filed by a individual victim whose person or property have been physically damaged by the defendant. If the victim is incapable of filing a charge of a violation, a family member may, but only if the victim does not object; and

(2) The damages must be physical, quantifiable, and have already occurred.

§ 31. Each known victim in any pending case on July 1, 2021, in the law enforcement, judicial, or correctional systems shall be notified and the victim may file a charge of a violation. If no victim files a charge of a violation, the case, sentence, or outstanding fine shall be dropped by October 1, 2021. If a charge is filed, the charge shall be initially reviewed within 30 days to verify the person filing the charge was a probable victim of a willful, direct, physical action of the defendant. No restitution shall be paid for time or fines already paid by any person currently or previously incarcerated or paying fines even if a charge of a violation is dropped pursuant to this section.

§ 32. No public-funds of this state, or any political subdivision of this state, may be expended for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment. No personnel or property of this state, or any political subdivision of this state, may be utilized for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.



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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**RECEIVED**

**MAR 21 2018**

**S.D. SEC. OF STATE**

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

March 21, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**RE: Attorney General's Statement for proposed constitutional amendment  
HJR 1004 (revising Marsy's law)**

Dear Secretary Krebs,

During the 93<sup>rd</sup> Legislative Session, 2018, the Legislature passed House Joint Resolution (HJR) 1004 which proposes certain revisions to South Dakota's constitutional victim's rights provisions. The proposed constitutional changes will be placed on the June 2018 primary election ballot. Enclosed is a signed copy of HJR 1004, proposing the constitutional amendment. In accordance with SDCL 12-13-9, I hereby file the enclosed Attorney General's Statement with respect to this amendment.

Very truly yours,

A handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

Filed this 21<sup>st</sup> day of

March 2018

A handwritten signature of Shantel Krebs in black ink.

SECRETARY OF STATE

cc/enc.: Jason Hancock, Director of LRC

ATTORNEY GENERAL  
2018 BALLOT EXPLANATION  
CONSTITUTIONAL AMENDMENT Y

RECEIVED

MAR 21 2018

S.D. SEC. OF STATE

Title: An amendment to the South Dakota Constitution revising certain provisions relating to the rights of crime victims.

Explanation:

In 2016 the voters approved Marsy's Law, which expanded rights for crime victims and placed them in the state constitution. This amendment makes changes to Marsy's Law.

The amendment narrows the definition of "victim" to mean a person against whom a crime or delinquent act is committed. If the victim is killed, incapacitated, or a minor, then "victim" may include that person's spouse, parent, child, sibling, grandparent, grandchild, or guardian.

The amendment makes it clear that a victim must make an affirmative request to receive the benefits of several of the rights provided by Marsy's Law. In addition, the amendment clarifies that law enforcement is allowed to share information with the public to help solve crimes.

The amendment also provides that a person may not file a lawsuit for money damages against the State, local governments, or their officers and employees, if the person's rights under Marsy's Law are violated.

Vote "Yes" to adopt the amendment.

Vote "No" to leave the Constitution as it is.



A JOINT RESOLUTION, Proposing and submitting to the electors at the next election

Constitutional amendment to revise certain provisions relating to the rights of crime victims.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH DAKOTA, THE SENATE CONCURRING THEREIN:

Section 1. That at the next election held in the state, the following amendment to Article VI, section 29 of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state for approval.

Section 2. That Article VI, section 29 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 29. A victim shall have the following rights:

1. The right to due process and to be treated with fairness and respect for the victim's dignity;
2. The right to be free from intimidation, harassment and abuse;
3. The right to be reasonably protected from the accused and any person acting on behalf of the accused;
4. The right to have the safety and welfare of the victim and the victim's family considered when setting bail or making release decisions;
5. The right, upon request, to prevent the disclosure to the public, or the defendant or anyone acting on behalf of the defendant in the criminal case, of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records. This does not limit law enforcement from sharing information with the public for the purposes of enlisting the public's help in solving a crime;
6. The right, upon request, to privacy, which includes the right to refuse an interview, deposition or other discovery request, and to set reasonable conditions on the conduct of any such interaction

to which the victim consents;

7. The right, upon request, to reasonable, accurate and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication and disposition, and any proceeding during which a right of the victim is implicated;
8. The right, upon request, to be promptly notified of any release or escape of the accused;
9. The right to be heard in any proceeding involving release, plea, sentencing, adjudication, disposition or parole, and any proceeding during which a right of the victim is implicated;
10. The right, upon request, to confer with the attorney for the government;
11. The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any pre-sentence or disposition sentence investigation report or plan of disposition, and to have any such information considered in any sentencing or disposition recommendations;
12. The right, upon request, to receive a copy of any pre-sentence report or plan of disposition, and any other report or record relevant to the exercise of a victim's right, except for those portions made confidential by law;
13. The right, upon request, to the prompt return of the victim's property when no longer needed as evidence in the case;
14. The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal conduct and as provided by law for all losses suffered as a result of delinquent conduct;
15. The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings;
16. The right, upon request, to be informed of the conviction, adjudication, sentence, disposition, place and time of incarceration, detention or other disposition of the offender, any scheduled release

date of the offender, and the release of or the escape by the offender from custody;

17. The right, upon request, to be informed in a timely manner of all post-judgment processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. Any parole authority shall extend the right to be heard to any person harmed by the offender;

18. The right, upon request, to be informed in a timely manner of clemency and expungement procedures, to provide information to the Governor, the court, any clemency board and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made, and to be notified of such decision in advance of any release of the offender; and

19. The right to be informed of these rights, and to be informed that a victim can seek the advice of an attorney with respect to the victim's rights. This information shall be made available to the general public and provided to each crime victim in what is referred to as a Marsy's Card.

The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government, upon request of the victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right and ensuring that victims' rights and interests are protected in a manner no less vigorous than the protections afforded to criminal defendants and children accused of delinquency. The reasons for any decision regarding the disposition of a victim's right shall be clearly stated on the record.

The granting of these rights to any victim shall ensure the victim has a meaningful role

throughout the criminal and juvenile justice systems and may not be construed to deny or disparage other rights possessed by victims. The Legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to further define, implement, preserve, and protect the rights guaranteed to victims by this section.

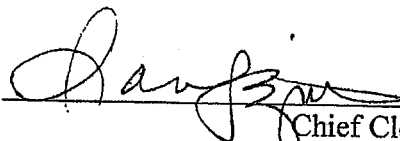
As used in this section, the term, victim, means a person against whom a crime or delinquent act is committed. In the case of a victim who is killed or incapacitated as a result of the crime or delinquent act, or who is a minor, the term also includes any spouse, parent, child, sibling, or as designated by the court, grandparent, grandchild, or guardian. The term does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

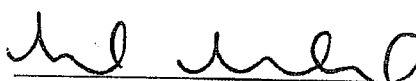
Nothing in this section or any law enacted under this section creates a cause of action for damages against the state or any political subdivision of the state, or any officer, employee, or agent of the state or of any political subdivision of the state.

Proposing and submitting to the electors at the next election a Constitutional amendment to revise certain provisions relating to the rights of crime victims.

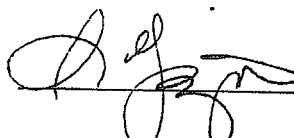
I certify that the attached  
Resolution originated in the

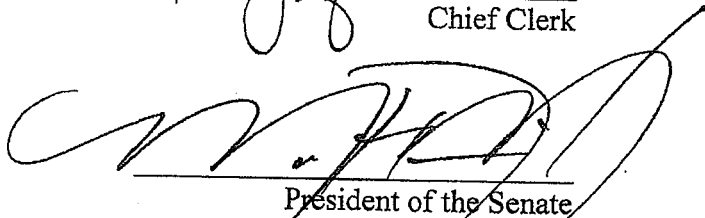
HOUSE as Joint Resolution No.  
1004

  
Chief Clerk

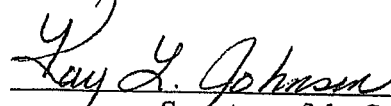
  
Speaker of the House

Attest:

  
Chief Clerk

  
President of the Senate

Attest:

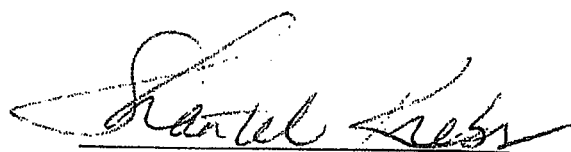
  
Secretary of the Senate

STATE OF SOUTH DAKOTA,

SS.

Office of the Secretary of State

Filed March 9, 2018  
at 1:00 o'clock P M.

  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State

House Joint Resolution No. 1004

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_



**OFFICE OF ATTORNEY GENERAL**

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**RECEIVED**

**MAY 04 2018**

**S.D. SEC. OF STATE**

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

May 4, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**RE: Attorney General's Statement for Constitutional Amendment X  
(increasing the number of votes needed to approve a constitutional  
amendment)**

Dear Secretary Krebs,

During the 2018 legislative session the Legislature passed Senate Joint Resolution 1, a proposed constitutional amendment that will be placed on the November 2018 general election ballot (copy enclosed). In accordance with SDCL 12-13-9, I hereby file the enclosed Attorney General's Statement with respect to this amendment.

Very truly yours,

A handwritten signature in black ink that reads "Marty J. Jackley".

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

cc/enc.: Jason Hancock, Director of LRC

Filed this 4th day of

May 2018

A handwritten signature in black ink that reads "Shantel Krebs".

**SECRETARY OF STATE**

RECEIVED  
MAY 04 2018  
S.D. SEC. OF STATE

ATTORNEY GENERAL  
2018 BALLOT EXPLANATION  
CONSTITUTIONAL AMENDMENT X

Title: An amendment to the South Dakota Constitution increasing the number of votes needed to approve a constitutional amendment.

Explanation:

The South Dakota Constitution may only be amended by a vote of the people. Currently, the Constitution provides that a proposed amendment must receive a majority of the votes cast in order to be approved.

Constitutional Amendment X changes the Constitution, increasing the number of votes needed to approve an amendment from a majority to 55% of the votes cast on the amendment.

Vote "Yes" to adopt the amendment.

Vote "No" to leave the Constitution as it is.

A JOINT RESOLUTION. Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, relating to amendments to the Constitution.

BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

Section 1. That at the next general election held in the state, the following amendment to Article XXIII, section 3 of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state for approval.

Section 2. That Article XXIII, section 3 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 3. Any constitutional amendment or revision must be submitted to the voters and shall become a part of the Constitution only when approved by not less than fifty-five percent of the votes cast on the amendment or revision. The Legislature may provide for the withdrawal by its sponsors of an initiated amendment at any time prior to its submission to the voters.



Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, relating to amendments to the Constitution.

I certify that the attached  
Resolution originated in the

SENATE as Joint Resolution No. 1

Lay L. Johnson  
Secretary of the Senate

W. H. D.  
President of the Senate

Attest:

Lay L. Johnson  
Secretary of the Senate

W. H. D.  
Speaker of the House

Attest:

Harper  
Chief Clerk

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed March 6, 2018  
at 2:45 o'clock P.M.

David Krebs  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State

Senate Joint Resolution No. 1  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_



**OFFICE OF ATTORNEY GENERAL**

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<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**RECEIVED**

**MAY 08 2018**

**S.D. SEC. OF STATE**

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

May 8, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**RE: Attorney General's Statement for Constitutional Amendment Z  
(requirements regarding amendments to the constitution)**

Dear Secretary Krebs,

During the 2018 legislative session the Legislature passed House Joint Resolution 1006, a proposed constitutional amendment that will be placed on the November 2018 general election ballot (copy enclosed). In accordance with SDCL 12-13-9, I hereby file the enclosed Attorney General's Statement with respect to this amendment.

Very truly yours,

A handwritten signature in cursive script that reads "Marty J. Jackley".

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

cc/enc.: Jason Hancock, Director of LRC

Filed this 8<sup>th</sup> day of

May 2018

A handwritten signature in cursive script that reads "Shantel Krebs".

**SECRETARY OF STATE**

ATTORNEY GENERAL  
2018 BALLOT EXPLANATION  
CONSTITUTIONAL AMENDMENT Z

RECEIVED

MAY 08 2018

S.D. SEC. OF STATE

Title: An amendment to the South Dakota Constitution establishing that a proposed constitutional amendment may embrace only one subject, and requiring proposed amendments to be presented and voted on separately.

Explanation:

By law, any proposed amendment to the South Dakota Constitution must first be submitted to and approved by a vote of the people.

Constitutional Amendment Z changes the Constitution to add the requirement that a proposed amendment may not embrace more than one subject. In addition, multiple amendments proposed at the same election must be individually presented and voted on separately.

Vote "Yes" to adopt the amendment.

Vote "No" to leave the Constitution as it is.

A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, relating to amendments to the Constitution.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH DAKOTA, THE SENATE CONCURRING THEREIN:

Section 1. That at the next general election held in the state, the following amendment to Article XXIII, section 1 of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state for approval.

Section 2. That Article XXIII, section 1 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 1. Amendments to this Constitution may be proposed by initiative or by a majority vote of all members of each house of the Legislature. An amendment proposed by initiative shall require a petition signed by qualified voters equal in number to at least ten percent of the total votes cast for Governor in the last gubernatorial election. The petition containing the text of the proposed amendment and the names and addresses of its sponsors shall be filed at least one year before the next general election at which the proposed amendment is submitted to the voters. A proposed amendment may amend one or more articles and related subject matter in other articles as necessary to accomplish the objectives of the amendment; however, no proposed amendment may embrace more than one subject. If more than one amendment is submitted at the same election, each amendment shall be so prepared and distinguished that it can be voted upon separately.

Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, relating to amendments to the Constitution.


I certify that the attached  
Resolution originated in the

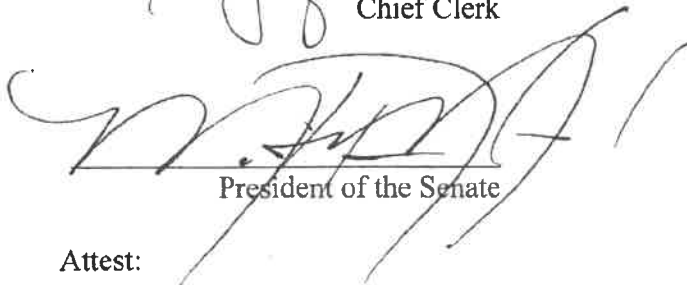
HOUSE as Joint Resolution No.  
1006

  
Chief Clerk

  
Speaker of the House

Attest:

  
Chief Clerk

  
President of the Senate

Attest:

  
Secretary of the Senate

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed March 9, 2018  
at 1:00 o'clock P.M.

  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State

House Joint Resolution No. 1006  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_



**OFFICE OF ATTORNEY GENERAL**

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RECEIVED  
NOV 21 2018  
S.D. SEC. OF STATE

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

November 21, 2018

Filed this 21<sup>st</sup> day of  
November 2018

A handwritten signature in cursive script that reads "Shantel Krebs".

**SECRETARY OF STATE**

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**Re: Attorney General's Statement for initiated constitutional amendment  
(allowing sports wagering)**

Dear Secretary Krebs,

Enclosed is a copy of an initiated constitutional amendment, in final form, that this Office received pursuant to SDCL 12-13-25.1. In accordance with that statute, I hereby submit the Attorney General's Statement with respect to this initiated amendment. By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the amendment.

Very truly yours,

A handwritten signature in cursive script that reads "Marty J. Jackley".

MARTY J. JACKLEY  
Attorney General

MJJ/PA/lde

Enc.

cc/enc.: Roger Tellinghuisen  
Jason Hancock, Director of LRC

CONSTITUTIONAL AMENDMENT  
ATTORNEY GENERAL'S STATEMENT

RECEIVED  
NOV 21 2018  
S.D. SEC. OF STATE

Title: An initiated amendment to the South Dakota Constitution authorizing the Legislature to allow sports wagering in Deadwood.

Explanation:

The constitution currently authorizes the Legislature to allow certain types of gaming in the City of Deadwood: roulette, keno, craps, limited card games, and slot machines. This proposed constitutional amendment authorizes the Legislature to also include wagering on sporting events as a type of gaming allowed in Deadwood.

The constitution requires the net municipal proceeds of Deadwood gaming to be devoted to Deadwood historic restoration and preservation. Under this proposed amendment, those proceeds would be adjusted annually for inflation.

Under federal law, any gaming authorized by the Legislature to be offered in Deadwood would also be allowed at on-reservation tribal casinos.

§ 25. Games of chance prohibited--Exceptions. The Legislature shall not authorize any game of chance, lottery, or gift enterprise, under any pretense, or for any purpose whatever provided, however, it shall be lawful for the Legislature to authorize by law, bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, volunteer fire departments, or such other public spirited organizations as it may recognize, to conduct games of chance when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious, or other public spirited uses. However, it shall be lawful for the Legislature to authorize by law a state lottery or video games of chance, or both, which are regulated by the State of South Dakota, either separately by the state or jointly with one or more states, and which are owned and operated by the State of South Dakota, either separately by the state or jointly with one or more states or persons, provided any such video games of chance shall not directly dispense coins or tokens. However, the Legislature shall not expand the statutory authority existing as of June 1, 1994, regarding any private ownership of state lottery games or video games of chance, or both. The Legislature shall establish the portion of proceeds due the state from such lottery or video games of chance, or both, and the purposes for which those proceeds are to be used. SDCL 42-7A, and its amendments, regulations, and related laws, and all acts and contracts relying for authority upon such laws and regulations, beginning July 1, 1987, to the effective date of this amendment, are ratified and approved. Further, it shall be lawful for the Legislature to authorize by law, roulette, keno, craps, wagering on sporting events, limited card games and slot machines within the city limits of Deadwood. The entire net Municipal proceeds, adjusted annually for inflation, of such roulette, keno, craps, wagering on sporting events, card games and slot machines shall be devoted to the Historic Restoration and Preservation of Deadwood.

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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

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**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

November 21, 2018

Filed this 21<sup>st</sup> day of  
November 2018

*Shantel Krebs*  
SECRETARY OF STATE

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

Re: **Attorney General's Statement for initiated measure (changing  
initiative and referendum requirements)**

Dear Secretary Krebs,

Enclosed is a copy of an initiated measure, in final form, that this Office received pursuant to SDCL 12-13-25.1. In accordance with that statute, I hereby submit the Attorney General's Statement with respect to this initiated measure. By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the measure.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marty Jackley".

MARTY J. JACKLEY  
Attorney General

MJJ/PA/lde

Enc.

cc/enc.: Cory Heidelberger  
Jason Hancock, Director of LRC

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## INITIATED MEASURE

### ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure changing initiative and referendum requirements.

Explanation:

This measure eliminates some information a ballot measure petition circulator must provide to a petition signer, including the circulator's contact information and a statement whether the circulator is paid.

Additionally, the measure eliminates the law barring individuals from sponsoring or circulating petitions for four years if they have committed multiple petition-law violations.

It changes fiscal note requirements for initiated measures and initiated constitutional amendments, and removes fiscal notes from the ballot for these types of measures.

By law, the Attorney General must write a title and an explanation for each initiated measure and initiated amendment. This proposal decreases the time in which the Attorney General must file the title. It eliminates the Attorney General's deadline for filing an explanation for these types of measures.

Current law requires sponsors to file signed initiative petitions with the Secretary of State at least one year prior to the general election. The measure changes this deadline to four months prior.

Under this measure, most voter-approved ballot measures would take effect the day after the official vote canvass, rather than the following July 1 as the law currently states.

The measure repeals the statute that prohibits an initiated measure from embracing more than one subject.

**FINAL DRAFT: Initiative & Referendum Petition Reform Initiative**

**AN ACT to revise certain provisions regarding elections.**

**BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:**

**Section 1: That § 2-1-1.1 be amended to read:**

2-1-1.1. The petition as it is to be circulated for an initiated amendment to the Constitution shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated amendment;
- (2) Contain the date of the general election at which the initiated amendment is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall provide make available to each person who signs the petition a form containing the title and explanation of the initiated amendment to the Constitution as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; and the name, phone number, and email address of each petition sponsor; the name, phone number, and email address of the petition circulator; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation. The petition circulator may make this information available in written or electronic form, or by providing the URL of a webpage that may be accessed free of charge and that displays all of the information required by this section.

For any initiated amendment petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated amendment petition shall be filed with the secretary of state at least ~~one year~~ four months before the next general election. A sworn affidavit, signed by at least two-thirds of the petition sponsors, ~~containing information required for each petition circulator as required under § 2-1-1.4 and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state.~~ The form of the petition, including petition size and petition font size, and the affidavit shall be prescribed by the State Board of Elections.

**Section 2: That § 2-1-1.2 be amended to read:**

2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated measure;
- (2) Contain the date of the general election at which the initiated measure is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall provide make available to each person who signs the petition a form containing the title and explanation of the initiated measure as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; and the name, phone number, and email address of each petition sponsor; the name, phone number, and email address of the petition circulator; and a statement whether the

*AK*

## FINAL DRAFT: Initiative & Referendum Petition Reform Initiative

petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation. The petition circulator may make this information available in written or electronic form, or by providing the URL of a webpage that may be accessed free of charge and that displays all of the information required by this section.

For any initiated measure petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated measure petition shall be filed with the secretary of state at least ~~one year~~ four months before the next general election. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each petition circulator as required under § 2-1-1.4 and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition, including petition size and petition font size, and the affidavit shall be prescribed by the State Board of Elections.

### Section 3: That § 2-1-3.1 be amended to read:

2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the title of the referred law;
- (2) Contain the effective date of the referred law;
- (3) Contain the date of the general election at which the referred law is to be submitted;
- (4) Be accompanied by a notarized form that includes the names and addresses of the petition sponsors; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition shall be filed with the secretary of state within ninety days after the adjournment of the Legislature which passed the referred law. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each petition circulator as required under § 2-1-1.4 and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

The petition circulator shall provide make available to each person who signs the petition a form containing the title of the referred law; any fiscal note or summary of a fiscal note obtained pursuant to § 2-9-32; and the name, phone number, and email address of each petition sponsor; the name, phone number, and email address of the petition circulator; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation. The petition circulator may make this information available in written or electronic form, or by providing the URL of a webpage that may be accessed free of charge and that displays all of the information required by this section.

### Section 4: That § 2-1-12 be amended to read:

2-1-12. Each constitutional amendment, initiated measure, or referred law that is approved by a majority of all votes cast is effective on the first day of ~~July~~ after the completion of the official canvass by the State Canvassing Board, unless the approved constitutional amendment, initiated measure, or referred law specifies a later enactment date.

### Section 5: That § 2-1-1.4 be repealed:

~~2-1-1.4. A sworn affidavit filed with the secretary of state pursuant to § 2-1-1.1, 2-1-1.2, or 2-1-3.1 shall include~~

## FINAL DRAFT: Initiative & Referendum Petition Reform Initiative

information attesting to residency as defined in § 2-1-4 of each petition circulator. The following information shall be included in the affidavit:

- (1) Current state in which the petition circulator is licensed to drive, driver license number, and expiration date;
- (2) Current state of voter registration;
- (3) Length of time at current physical street address and previous two addresses, and whether the prior addresses were located in South Dakota;
- (4) A sworn statement by the petition circulator indicating the circulator's intention to stay in the state after the petition circulation deadline;
- (5) Any other information relevant to indicate residency, including a library card or utility bill;
- (6) Whether the petition circulator pays in-state tuition at any public postsecondary educational institution, if applicable; and
- (7) Whether the petition circulator obtains any resident hunting or resident fishing license of any kind, if applicable.

The information included in the affidavit are factors in determining residency but are not determinative. The contents under this section of any affidavit filed with the secretary of state shall be held confidential by the secretary of state, and the secretary of state may release the contents only to an interested person for purposes of § 2-1-18 and to the attorney general. Failure to substantially comply with the provisions of this section shall disqualify the petitions from a petition circulator not in substantial compliance with this section from being considered.

### Section 6: That § 2-1-21 be repealed:

2-1-21. If any petition sponsor, or any person or entity compensated by the petition sponsor or a ballot question committee for purposes of petition circulation, knowingly or with reckless disregard commits multiple violations of the law regarding petition circulation, residency of a petition circulator, or campaign finance regulation, the petition

sponsor, person, or entity, including any person serving as a member of the board or as an officer of the entity, is prohibited from being a petition sponsor or petition circulator, and from performing any work for any ballot question committee for a period of four years in addition to any other penalty imposed under state or federal law. Any violation of the provisions of this section shall also result in a civil penalty of up to five thousand dollars to be deposited into the state general fund.

### Section 7: That § 2-9-30 be amended to read:

2-9-30. If the director of the Legislative Research Council determines in the review and comment under § 12-13-25 that an initiated measure or initiated amendment to the Constitution may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions, the director shall notify the petition sponsor. If the director of the Legislative Research Council determines that an initiated measure or initiated amendment to the Constitution in final form under § 12-13-25.1 may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions, the director shall prepare a fiscal note. The fiscal note shall include an estimate of the impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions, by the provisions of the proposed initiated measure or initiated amendment to the Constitution. The fiscal note expenditure estimate shall also include any impact to the prison or county jail population. ~~The fiscal note may not exceed fifty words.~~ The director shall file the fiscal note with the secretary of state and shall provide a copy to the sponsors not more than ~~sixty~~ fifteen days following receipt of the initiated measure or initiated amendment in final form pursuant to § 12-13-25.1.

### Section 8: That § 12-13-25.1 be amended to read:

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

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*Handwritten signature/initials*

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**FINAL DRAFT: Initiative & Referendum Petition Reform Initiative**

amendment to the Constitution in final form to the attorney general and the director of the Legislative Research Council. The attorney general shall prepare an attorney general's statement that consists of a title and explanation. The title shall be a concise statement of the subject of the proposed initiated measure or initiated amendment to the Constitution. The explanation shall be an objective, clear, and simple summary to educate the voters of the purpose and effect of the proposed initiated measure or initiated amendment to the Constitution. The attorney general shall include a description of the legal consequences of the proposed initiated measure or initiated amendment to the Constitution, including the likely exposure of the state to liability if the proposed initiated measure or initiated amendment to the Constitution is adopted. The explanation may not exceed two hundred words in length. The attorney general shall file the title and explanation with the secretary of state and shall provide a copy to the sponsors within ~~sixty~~ fifteen days of receipt of the proposed initiated measure or initiated amendment to the Constitution.

If the petition is filed as set forth in §§ 2-1-1.1 or 2-1-1.2, the attorney general shall deliver to the secretary of state before the third Tuesday in May a recitation as provided in this section. The recitation for an initiated amendment to the Constitution shall state "Vote 'Yes' to adopt the amendment" and "Vote 'No' to leave the Constitution as it is". The recitation for an initiated measure shall 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 shall be followed by the explanation and the explanation shall be followed, if applicable, by any fiscal note prepared pursuant to § 2-9-30, and then followed by the recitation.

**Section 9: That § 12-13-25.2 be repealed:**

~~12-13-25.2. If the director of the Legislative Research Council receives any initiated measure or initiated amendment to the Constitution from the first day of December to the day of~~

~~adjournment sine die of the following legislative session, inclusive, the director shall provide written comments as required pursuant to § 12-13-25 not more than fifteen work days following adjournment sine die of the legislative session.~~

**Section 10: That § 2-1-11.1 be repealed:**

~~2-1-11.1. No initiated measure may embrace more than one subject, which shall be expressed in the title.~~

**Section 11: That § 12-13-25 be amended to read:**

The sponsors of each initiated measure or initiated amendment to the Constitution shall submit a copy of the initiated measure or initiated amendment to the Constitution to the director of the Legislative Research Council for review and comment not more than six months before it may be circulated for signatures under § 2-1-1.1 or 2-1-1.2. The director shall review each submitted initiated measure or initiated amendment to the Constitution to determine if the requirements of § 12-13-24 are satisfied and if the initiated measure or initiated amendment to the Constitution may have any impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. ~~Unless as otherwise provided under § 12-13-25.2,~~ ~~not~~ Not more than fifteen work days following receipt of an initiated measure or initiated amendment to the Constitution, the director shall provide written comments on the initiated measure or initiated amendment to the Constitution to the sponsors of the initiated measure or initiated amendment, the attorney general, and the secretary of state for the purpose of assisting the sponsors in complying with § 12-13-24. The director's written comments under this section shall include assistance regarding the substantive content of the initiated measure or initiated amendment in order to minimize any conflict with existing law and to ensure the measure's or amendment's effective administration. The sponsors may, but are not required to, amend the initiated measure or initiated amendment to the Constitution to comply with the director's comments.



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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

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**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

December 6, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

Re: **Attorney General's Statement for initiated measure (changing initiative and referendum requirements—Version 2)**

Dear Secretary Krebs,

After I filed an Attorney General's Statement on November 21, 2018, the measure's sponsor made revisions to the measure and submitted it to this Office pursuant to SDCL 12-13-25.1. Enclosed is a copy of the revised initiated measure, in final form.

In accordance with that statute, I hereby submit the Attorney General's Statement with respect to this revised initiated measure. To avoid confusion, I have identified this measure and my Statement as Version 2. By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the measure.

Very truly yours,

MARTY J. JACKLEY  
Attorney General

MJJ/PA/lde

Enc.

cc/enc.: Cory Heidelberger  
Jason Hancock, Director of LRC

Filed this 6<sup>th</sup> day ofDecember 2018

SECRETARY OF STATE

VERSION 2

## INITIATED MEASURE

## ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure changing initiative and referendum requirements.

Explanation:

This measure changes and repeals laws regarding ballot measures. It eliminates some information a petition circulator must provide to a petition signer, including circulator contact information and a statement whether the circulator is paid. It eliminates the requirement that sponsors submit circulator residency information.

It repeals the law barring individuals from sponsoring or circulating petitions for four years if they have committed multiple petition-law violations.

It repeals the law extending the Legislative Research Council's deadline for reviewing initiated measures received during legislative session. It changes fiscal note requirements for initiated measures and initiated constitutional amendments, and removes fiscal notes from the ballot for these types of measures.

It decreases the time in which the Attorney General must file a title and explanation for initiated measures and initiated amendments.

It repeals the law prohibiting an initiated measure from embracing more than one subject.

Currently, sponsors must file signed initiative petitions with the Secretary of State at least one year prior to the general election. The measure changes this deadline to four months prior.

Under this measure, most voter-approved ballot measures would take effect the day after the official vote canvass, rather than the following July 1 as the law currently states.



NOV 29 2018

AN ACT to revise certain provisions regarding elections.

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

**Section 1: That § 2-1-1.1 be amended to read:**

2-1-1.1. The petition as it is to be circulated for an initiated amendment to the Constitution shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated amendment;
- (2) Contain the date of the general election at which the initiated amendment is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall ~~provide~~ make available to each person who signs the petition ~~a form containing the title and explanation of the initiated amendment to the Constitution as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; and the name, phone number, and email address of each petition sponsor; the name, phone number, and email address of the petition circulator; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid.~~ The form shall be approved by the secretary of state prior to circulation. The petition circulator may make this information available in written or electronic form, or by providing the URL of a webpage that may be accessed free of charge and that displays all of the information required by this section.

For any initiated amendment petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated amendment petition shall be filed with the secretary of state at least ~~one year~~ four months before the next general election. A sworn affidavit, signed by at least two-thirds of the petition sponsors, ~~containing information required for each petition circulator as required under § 2-1-1.4 and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state.~~ The form of the petition, including petition size and petition font size, and the affidavit shall be prescribed by the State Board of Elections.

**Section 2: That § 2-1-1.2 be amended to read:**

2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated measure;
- (2) Contain the date of the general election at which the initiated measure is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall ~~provide~~ make available to each person who signs the petition ~~a form containing the title and explanation of the initiated measure as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; and the name, phone number, and email address of each petition sponsor; the name, phone number, and email address of the petition circulator; and a statement whether the~~

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~~petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation. The petition circulator may make this information available in written or electronic form, or by providing the URL of a webpage that may be accessed free of charge and that displays all of the information required by this section.~~

For any initiated measure petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated measure petition shall be filed with the secretary of state at least one year four months before the next general election. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each

~~petition circulator as required under § 2-1-1.4 and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition, including petition size and petition font size, and the affidavit shall be prescribed by the State Board of Elections.~~

**Section 3: That § 2-1-3.1 be amended to read:**

2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the title of the referred law;
- (2) Contain the effective date of the referred law;
- (3) Contain the date of the general election at which the referred law is to be submitted;
- (4) Be accompanied by a notarized form that includes the names and addresses of the petition sponsors; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition shall be filed with the secretary of state within ninety days after the adjournment of the Legislature which passed the referred law. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each petition circulator as required under § 2-1-1.4 and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

The petition circulator shall provide make available to each person who signs the petition a form containing the title of the referred law, any fiscal note or summary of a fiscal note obtained pursuant to § 2-9-32; and the name, phone number, and email address of each petition sponsor, the name, phone number, and email address of the petition circulator; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation. The petition circulator may make this information available in written or electronic form, or by providing the URL of a webpage that may be accessed free of charge and that displays all of the information required by this section.

**Section 4: That § 2-1-12 be amended to read:**

2-1-12. Each constitutional amendment, initiated measure, or referred law that is approved by a majority of all votes cast is effective on the first day of July after the completion of the official canvass by the State Canvassing Board, unless the approved constitutional amendment, initiated measure, or referred law specifies a later enactment date.

**Section 5: That § 2-1-1.4 be repealed:**

~~2-1-1.4 A sworn affidavit filed with the secretary of state pursuant to § 2-1-1.1, 2-1-1.2, or 2-1-3.1 shall include~~

**FINAL DRAFT: Initiative & Referendum Petition Reform Initiative**

information attesting to residency as defined in § 12-1-4 of each petition circulator. The following information shall be included in the affidavit:

- (1) Current state in which the petition circulator is licensed to drive, driver license number, and expiration date;
- (2) Current state of voter registration;
- (3) Length of time at current physical street address and previous two addresses, and whether the prior addresses were located in South Dakota;
- (4) A sworn statement by the petition circulator indicating the circulator's intention to stay in the state after the petition circulation deadline;
- (5) Any other information relevant to indicate residency, including a library card or utility bill;
- (6) Whether the petition circulator pays in-state tuition at any public postsecondary educational institution, if applicable; and
- (7) Whether the petition circulator obtains any resident hunting or resident fishing license of any kind, if applicable.

The information included in the affidavit are factors in determining residency but are not determinative. The contents under this section of any affidavit filed with the secretary of state shall be held confidential by the secretary of state, and the secretary of state may release the contents only to an interested person for purposes of § 2-1-18 and to the attorney general. Failure to substantially comply with the provisions of this section shall disqualify the petitions from a petition circulator not in substantial compliance with this section from being considered.

**Section 6: That § 2-1-21 be repealed:**

2-1-21. If any petition sponsor, or any person or entity compensated by the petition sponsor or a ballot question committee for purposes of petition circulation, knowingly or with reckless disregard commits multiple violations of the law regarding petition circulation, residency of a petition circulator, or campaign finance regulation, the petition

sponsor, person, or entity, including any person serving as a member of the board or as an officer of the entity, is prohibited from being a petition sponsor or petition circulator and from performing any work for any ballot question committee for a period of four years in addition to any other penalty imposed under state or federal law. Any violation of the provisions of this section shall also result in a civil penalty of up to five thousand dollars to be deposited into the state general fund.

**Section 7: That § 2-9-30 be amended to read:**

2-9-30. If the director of the Legislative Research Council determines in the review and comment under § 12-13-25 that an initiated measure or initiated amendment to the Constitution may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions, the director shall prepare a fiscal note. The fiscal note shall include an estimate of the impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions, by the provisions of the proposed initiated measure or initiated amendment to the Constitution. The fiscal note expenditure estimate shall also include any impact to the prison or county jail population. ~~The fiscal note may not exceed fifty words.~~ The director shall file the fiscal note with the secretary of state and shall provide a copy to the sponsors not more than ~~sixty~~ fifteen days following receipt of the initiated measure or initiated amendment in final form pursuant to § 12-13-25.1.

**Section 8: That § 12-13-25.1 be amended to read:**

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

## FINAL DRAFT: Initiative &amp; Referendum Petition Reform Initiative

amendment to the Constitution in final form to the attorney general and the director of the Legislative Research Council. The attorney general shall prepare an attorney general's statement that consists of a title and explanation. The title shall be a concise statement of the subject of the proposed initiated measure or initiated amendment to the Constitution. The explanation shall be an objective, clear, and simple summary to educate the voters of the purpose and effect of the proposed initiated measure or initiated amendment to the Constitution. The attorney general shall include a description of the legal consequences of the proposed initiated measure or initiated amendment to the Constitution, including the likely exposure of the state to liability if the proposed initiated measure or initiated amendment to the Constitution is adopted. The explanation may not exceed two hundred words in length. The attorney general shall file the title and explanation with the secretary of state and shall provide a copy to the sponsors within ~~sixty~~ fifteen days of receipt of the proposed initiated measure or initiated amendment to the Constitution.

If the petition is filed as set forth in §§ 2-1-1.1 or 2-1-1.2, the attorney general shall deliver to the secretary of state before the third Tuesday in May a recitation as provided in this section. The recitation for an initiated amendment to the Constitution shall state "Vote 'Yes' to adopt the amendment" and "Vote 'No' to leave the Constitution as it is". The recitation for an initiated measure shall 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 shall be followed by the explanation and the explanation shall be followed, if applicable, by any fiscal note prepared pursuant to § 2-9-30, and then followed by the recitation.

**Section 9: That § 12-13-25.2 be repealed:**

~~12-13-25.2. If the director of the Legislative Research Council receives any initiated measure or initiated amendment to the Constitution from the first day of December to the day of~~

~~adjournment since the of the following legislative session, inclusive, the director shall provide written comments as required pursuant to § 12-13-25 not more than fifteen work days following adjournment since the of the legislative session.~~

**Section 10: That § 2-1-11.1 be repealed:**

~~2-1-11.1. No initiated measure may embrace more than one subject, which shall be expressed in the title.~~

**Section 11: That § 12-13-25 be amended to read:**

The sponsors of each initiated measure or initiated amendment to the Constitution shall submit a copy of the initiated measure or initiated amendment to the Constitution to the director of the Legislative Research Council for review and comment not more than six months before it may be circulated for signatures under § 2-1-1.1 or 2-1-1.2. The director shall review each submitted initiated measure or initiated amendment to the Constitution to determine if the requirements of § 12-13-24 are satisfied and if the initiated measure or initiated amendment to the Constitution may have any impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. ~~These as otherwise provided under § 12-13-25.2, not~~ Not more than fifteen work days following receipt of an initiated measure or initiated amendment to the Constitution, the director shall provide written comments on the initiated measure or initiated amendment to the Constitution to the sponsors of the initiated measure or initiated amendment, the attorney general, and the secretary of state for the purpose of assisting the sponsors in complying with § 12-13-24. The director's written comments under this section shall include assistance regarding the substantive content of the initiated measure or initiated amendment in order to minimize any conflict with existing law and to ensure the measure's or amendment's effective administration. The sponsors may, but are not required to, amend the initiated measure or initiated amendment to the Constitution to comply with the director's comments.



**OFFICE OF ATTORNEY GENERAL**

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**DEC 21 2018**

**S.D. SEC. OF STATE**

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

December 21, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol  
Pierre, SD 57501

**RE: Attorney General's Statement for initiated measure (marijuana)**

Dear Secretary Krebs,

This Office received a proposed initiated measure that the sponsor will seek to place on the November 2020 general election ballot. Enclosed is a copy of the proposed measure, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby file the enclosed Attorney General's Statement with respect to this measure.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in cursive script that reads "Marty J. Jackley".

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/PA/lde  
Enc.

cc/enc.: John Dale

Filed this 21<sup>st</sup> day of  
December 2018  
A handwritten signature in cursive script that reads "Shantel Krebs".  
SECRETARY OF STATE

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S.D. SEC. OF STATE

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure to legalize marijuana and paraphernalia for certain people, and to make other changes to State law regarding marijuana.

Explanation:

This measure may allow anyone over age 21 to possess, grow, sell, and distribute marijuana or marijuana paraphernalia.

It prohibits State enforcement of any law, including federal law, regarding marijuana or paraphernalia, except as provided in the measure. It forbids prosecutions for driving under the influence of ingested marijuana. It prohibits law enforcement and agents of the State from keeping records regarding use or possession of marijuana or paraphernalia.

Individuals under 21 working in the agricultural industry may handle marijuana. Individuals under 21 may possess and ingest marijuana with a doctor's recommendation. No one may distribute marijuana to a person under 21 unless that person has a doctor's recommendation. Violations may result in community service or a fine.

"Localities" cannot tax marijuana or paraphernalia use, nor regulate the consumption of marijuana, the location of marijuana-related businesses, or the cultivation, production, distribution, or sale of marijuana or paraphernalia.

The State cannot infringe a person's right to keep and bear arms for possessing marijuana or paraphernalia. A parent's marijuana or paraphernalia use or possession cannot be used against the parent in a child custody case.

Judicial or legislative clarification of this measure will likely be necessary. Marijuana remains illegal under federal law.

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Be it enacted by the people of South Dakota:

Section 1. That the code be amended by adding a NEW SECTION to read:

As used in this Act, cannabis means any part of the plant genus Cannabis spp containing one or more of the cannabinoids tetrahydrocannabinol (THC), cannabidiol (CBD), and cannabigerol (CBG), whether growing or not, whether living or not, whether in vegetative or flowering stages, cannabis seeds, and all other compounds naturally occurring in the plant genus Cannabis spp.

Section 2. That the code be amended by adding a NEW SECTION to read:

As used in this Act, cannabis implements means cannabis accessories, cannabis growing supplies and growing tools, means of processing cannabis, means of transporting cannabis, means of reselling cannabis, and the tools and means of consuming cannabis.

Section 3. That the code be amended by adding a NEW SECTION to read:

No law enforcement agency in the state nor any agent of the state may enforce any federal law regarding cannabis or cannabis implements.

Section 4. That the code be amended by adding a NEW SECTION to read:

A person's right to keep and bear arms may not be infringed for possessing cannabis or cannabis implements in accordance with the provisions of this Act.

Section 5. That the code be amended by adding a NEW SECTION to read:

No charge may be brought under chapter 32-23 for consumed cannabis metabolites. No law enforcement agency in the state nor any agent of the state may keep any record, whether written, electronic, digital, or otherwise, based on a finding that cannabis plant matter or its metabolites or cannabis implements are found on a person's body or breath or in the person's possession.

Section 6. That the code be amended by adding a NEW SECTION to read:

Any person under age twenty-one who is working in the agriculture industry with a letter from the person's employer describing the legal duties performed by the person may handle cannabis having greater than three percent tetrahydrocannabinol and cannabis implements.

Section 7. That the code be amended by adding a NEW SECTION to read:

Any person under age twenty-one who possesses a doctor's recommendation describing the person's medical condition that requires cannabis as medication may possess and ingest cannabis having greater than three percent tetrahydrocannabinol.

Section 8. That the code be amended by adding a NEW SECTION to read:

Any person under age twenty-one who possesses cannabis plant material containing greater than three percent tetrahydrocannabinol without an employer letter under section 6 of this Act or a doctor's recommendation under section 7 of this Act is subject to a penalty of ten hours of community service for each offense, not to exceed one hundred hours in any calendar year, and shall surrender the plant material to a law enforcement agency in the state.

Section 9. That the code be amended by adding a NEW SECTION to read:

The cannabis plant material surrendered under section 8 of this Act shall be tested by agents of the state in accordance with standards deemed appropriate by the department of agriculture. The secretary of agriculture shall promulgate rules pursuant to chapter 1-26 to establish and implement the standards under this section. The standards shall be in accordance with the general requirements for the competence of testing as published by the International Organization of Standardization under ISO/IEC 17025:2005. The plant material tested under this section shall be catalogued without retaining or associating any personally identifying information about the person from whom the cannabis or cannabis implements were obtained. Any cannabis plant material that is confiscated under this section shall be destroyed after testing. At least once per year the department of agriculture shall issue a report disclosing test results and overall weight and composition of confiscated cannabis.

Section 10. That the code be amended by adding a NEW SECTION to read:

Any person who sells or distributes cannabis to any other person under age twenty-one who does not have a doctor's recommendation under section 7 of this Act shall be subject to one hundred hours of community service for each offense, not to exceed two hundred hours in any calendar year, after which the person shall pay a one thousand dollar fine per offense.

Section 11. That the code be amended by adding a NEW SECTION to read:

If a person cannot display the documentation required under section 6 of this Act or section 7 of this Act to an official at the time of cannabis possession, the person may display the documentation to a court of competent jurisdiction within thirty days of the offense to avoid prosecution under section 8 of this Act.

Section 12. That the code be amended by adding a NEW SECTION to read:

The secretary of agriculture shall promulgate rules pursuant to chapter 1-26 regarding the manufacture, sale, and transport of cannabis in the state consistent with the provisions of this Act.

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Section 13. That the code be amended by adding a NEW SECTION to read:

Any revenue generated from licensure fees under this Act in excess of the amount required to implement the provisions of this Act shall be awarded by grant to South Dakota small farmers. The grants shall be awarded to support early-stage, high-risk local agriculture new venture, and research and development. The grants may only be awarded to proof of concept projects that are already completed, using a ratio of investment-level-to-value of the expressed entrepreneurial idea as a key criterion for the award. The secretary of agriculture shall promulgate by rule pursuant to chapter 1-26 the criteria for any grant under this section.

Section 14. That the code be amended by adding a NEW SECTION to read:

No court may determine parental suitability based on the parent's use or possession of cannabis or cannabis implements when deciding a child custody case under chapter 25-4a.

Section 15. That the code be amended by adding a NEW SECTION to read:

No locality may pass any ordinance that restricts or provides for the location of operation of a cannabis-related business. No locality may tax or pass any ordinance governing the use or consumption of cannabis or cannabis implements. No locality may enact any zoning requirement that is discriminatory to a cannabis related business. A locality may require a standard business license to conduct cannabis or cannabis implements sales within the locality. No locality may ban home cultivation or any other cultivation of cannabis or the lawful production, distribution, and sale of cannabis or cannabis implements.

Section 16. That the code be amended by adding a NEW SECTION to read:

Nothing in this Act grants the right of an employee to use cannabis while at a workplace, nor limits the right of employers to enact workplace policies that restrict or prohibit the use of cannabis in the workplace. Nothing in this Act prohibits a landowner from restricting or prohibiting the use of cannabis on the landowner's private property.

Section 17. That the code be amended by adding a NEW SECTION to read:

No law enforcement agency in the state nor any agent of the state may enforce any law regarding cannabis or cannabis implements other than as provided in this Act.

Section 18. That the code be amended by adding a NEW SECTION to read:

Any person over age twenty-one may possess, grow, sell, and distribute cannabis and cannabis implements in accordance with the provisions of this Act.