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NOV 19 2021

S.D. SEC. OF STATE

OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov>

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

November 19, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Constitutional Amendment: Requiring
Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees
or Obligating Over \$10 Million)

Dear Secretary Barnett,

Enclosed is a copy of H.J.R. 5003, in final form, through which the Legislature has proposed an amendment to the state Constitution. The proposed amendment will be decided upon by the voters at the next primary election. In accordance with state law, I prepared and filed a draft Attorney General's Statement concerning the proposed amendment for the public to comment upon. I received comments from the following individuals or organizations:

Brendan Johnson
Jim Leach
S.D. Chamber of Commerce & Industry
S.D. Education Association
Sen. Reynold Nesiba

After review of the comments received, I have prepared the enclosed and hereby file the final Attorney General's Statement concerning H.J.R 5003.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd

Enc.

cc/enc.: Reed Holwegner, Director of LRC

Filed this 19th day of
November, 2021
A handwritten signature in black ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

RECEIVED

NOV 19 2021

S.D. SEC. OF STATE

CONSTITUTIONAL AMENDMENT
ATTORNEY GENERAL'S STATEMENT

Title: A Constitutional Amendment Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million.

Explanation:

Currently the constitution requires that any new tax or tax increase must be approved either by voters or by two-thirds of the members of each legislative branch. To be approved by voters, such a measure must obtain a majority of the votes cast. This constitutional amendment requires that any initiated measure, proposed constitutional amendment, or referred measure imposing or increasing taxes must obtain three-fifths of the votes cast to be approved.

This constitutional amendment also adds the requirement that any initiated measure, proposed constitutional amendment, or referred measure obligating the state to appropriate \$10 million or more in any of the first five fiscal years must obtain three-fifths of the votes cast to be approved.

This constitutional amendment additionally requires any initiated measure, proposed constitutional amendment, or referred measure which imposes or increases fees to obtain three-fifths of the votes cast to be approved.

Filed this 19th day of
November, 2021
Steve Barnett
SECRETARY OF STATE

RECEIVED

NOV 19 2021



S.D. SEC. OF STATE

2021 South Dakota Legislature

House Joint Resolution 5003**ENROLLED**

AN ACT

A JOINT RESOLUTION, Proposing and submitting to the voters at the next primary election a new section to Article XI of the Constitution of the State of South Dakota, relating to a three-fifths vote requirement for certain initiated or Legislature-proposed constitutional amendments and initiated or Legislature-referred measures.

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

Section 1. That at the next primary election held in the state, the following amendment to Article XI 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 XI of the Constitution of the State of South Dakota, be amended by adding a NEW SECTION to read:

§16. Constitutional amendments or measures--Taxes or fees--Certain funding obligations--Vote required.

Any initiated constitutional amendment, initiated measure, constitutional amendment proposed and submitted to the people by the Legislature, or measure referred to the people by the Legislature that imposes or increases taxes or fees, and any initiated constitutional amendment, initiated measure, constitutional amendment proposed and submitted to the people by the Legislature, or measure referred to the people by the Legislature that obligates the state to appropriate funds of ten million dollars or more in any of the first five fiscal years after enactment, to be annually adjusted for inflation as determined by the Legislature, shall become part of the Constitution or statute only if approved by three-fifths of the votes cast thereon.

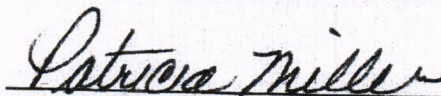
Filed this 19th day ofNovember, 2021Steve Barnett

SECRETARY OF STATE

A JOINT RESOLUTION, Proposing and submitting to the voters at the next primary election a new section to Article XI of the Constitution of the State of South Dakota, relating to a three-fifths vote requirement for certain initiated or Legislature-proposed constitutional amendments and initiated or Legislature-referred measures.

I certify that the attached Resolution originated in the:

House as Joint Resolution No. 5003

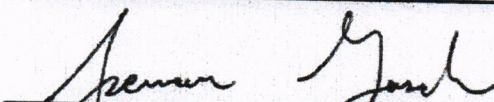

Chief Clerk

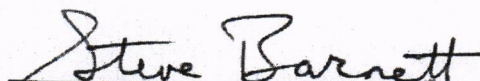
STATE OF SOUTH DAKOTA,

Office of the Secretary of State

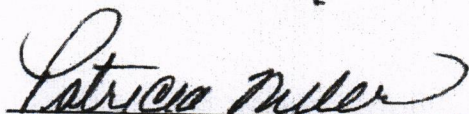
SS.

Filed March 9, 2021
at 9:15 o'clock A.M.

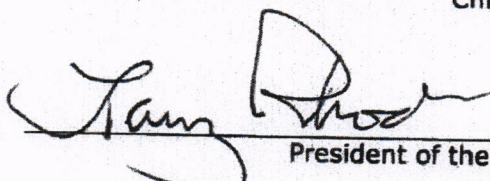

Speaker of the House


Secretary of State

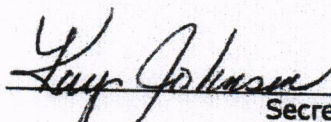
Attest:


Chief Clerk

By _____
Asst. Secretary of State


President of the Senate

Attest:


Secretary of the Senate

House Joint Resolution No. 5003

File No. _____

Chapter No. 122

Dougherty, Debbie

From: Vomacka, Shawna J. <SVomacka@RobinsKaplan.com>
Sent: Tuesday, November 9, 2021 3:50 PM
To: ATG Help
Cc: Johnson, Brendan V.; Billion, Timothy W.
Subject: [EXT] Draft Attorney General's Statement (Constitutional Amendment: Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million)

To Whom It May Concern:

This letter offers public comment regarding the draft Attorney General's Statement for a proposed Constitutional Amendment Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million. The draft statement submitted to the Secretary of State on November 2, 2021 begins: "Currently the constitution requires that any new tax or tax increase must be approved either by voters or by two-thirds of the members of each legislative branch. To be approved by voters, such a measure must obtain only a majority of votes cast."

The Attorney General should omit those two sentences from its final statement. While the comparison of the ballot measure threshold to the legislative threshold has been a talking point used in support of H.J.R. 5003, these two sentences do not describe the content of the proposed constitutional amendment itself. The proposed amendment does not alter, address, or even mention the process by which the legislative branch may increase taxes. Thus, the first two sentences of the draft statement do not relate to the proposed constitutional amendment.

In addition, the legislative supermajority requirement in Article XI, § 14 only applies to taxes, whereas the proposed constitutional amendment applies to taxes, fees, and measures obligating over \$10 million. Furthermore, Article XI, § 14 imposes a 2/3 supermajority, whereas the proposed constitutional amendment imposed a 3/5 supermajority requirement. Drawing a comparison between two different processes risks confusing voters regarding the substance of the proposed amendment.

The first two sentences are not an objective, clear and simple summary of the amendment. They address material outside the amendment, and inject confusion regarding what is actually in the amendment. We request that the Attorney General's office delete the first two sentences of its draft explanation.



Very truly yours,

Brendan V. Johnson

ROBINS  KAPLAN LLP

Robins Kaplan LLP | 140 North Phillips Avenue | Suite 307 | Sioux Falls, SD 57104
p 605 335 1300 | f 612 339 4181 | BJohnson@RobinsKaplan.com

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Thank you in advance for your cooperation.

Robins Kaplan LLP
<http://www.robinskaplan.com>

NOV 10 2021

BRENDAN V. JOHNSON
605 740 7101 TEL
BJOHNSON@ROBINSKAPLAN.COM
ADMITTED IN SOUTH DAKOTA AND MINNESOTA

November 9, 2021

Via email and overnight mail

Attorney General's Office
Ballot Comments
1302 E. Hwy 14, Suite 1
Pierre, SD 57501

Re: Draft Attorney General's Statement (Constitutional Amendment:
Requiring Three-Fifths Vote for Approval of Ballot Measures
Imposing Taxes or Fees or Obligating over \$10 Million)

To Whom It May Concern:

This letter offers public comment regarding the draft Attorney General's Statement for a proposed Constitutional Amendment Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million. The draft statement submitted to the Secretary of State on November 2, 2021 begins: "Currently the constitution requires that any new tax or tax increase must be approved either by voters or by two-thirds of the members of each legislative branch. To be approved by voters, such a measure must obtain only a majority of votes cast."

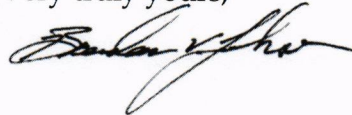
The Attorney General should omit those two sentences from its final statement. While the comparison of the ballot measure threshold to the legislative threshold has been a talking point used in support of H.J.R. 5003, these two sentences do not describe the content of the proposed constitutional amendment itself. The proposed amendment does not alter, address, or even mention the process by which the legislative branch may increase taxes. Thus, the first two sentences of the draft statement do not relate to the proposed constitutional amendment.

In addition, the legislative supermajority requirement in Article XI, § 14 only applies to taxes, whereas the proposed constitutional amendment applies to taxes, fees, and measures obligating over \$10 million. Furthermore, Article XI, § 14 imposes a 2/3 supermajority, whereas the proposed constitutional amendment

imposed a 3/5 supermajority requirement. Drawing a comparison between two different processes risks confusing voters regarding the substance of the proposed amendment.

The first two sentences are not an objective, clear and simple summary of the amendment. They address material outside the amendment, and inject confusion regarding what is actually in the amendment. We request that the Attorney General's office delete the first two sentences of its draft explanation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brendan V. Johnson", written in a cursive style.

Brendan V. Johnson

Dougherty, Debbie

From: Jim Leach <jim@southdakotajustice.com>
Sent: Friday, November 12, 2021 11:19 AM
To: ATG Help
Subject: [EXT] Comment on Draft Attorney General's Statement re H.J.R. 5003

Dear Attorney General Ravnsborg:

I write to ask that you **delete** the word "**only**" from the end of the third line of your proposed explanation of H.J.R. 5003.

"Only" is pejorative, because it suggests that a majority of the votes cast is somehow insufficient to justify a measure that imposes or increases taxes.

To the contrary, majority vote is the traditional standard by which almost everything is decided.

If you remove the word "only," the remainder of the sentence accurate, clearly, and fairly explains current law --- without editorializing that there is some problem with majority rule.

Leaving the word "only" in the third line suggests that you have determined that there is something wrong with majority rule on this subject. I know that you have made no such determination, and that you do not intend to editorialize. Deleting the word "only" would make this clear.

Thank you for listening.

Respectfully submitted,

Jim Leach
Attorney
1617 Sheridan Lake Rd
Rapid City, SD 57702
605 341 4400

Dougherty, Debbie

From: David Owen <david@sdchamber.biz>
Sent: Friday, November 12, 2021 1:12 PM
To: ATG Help
Subject: [EXT] comment for Amendment C



November 12, 2021

Office of the Attorney General
Ballot Comment

1302 E. Hwy 14, Suite 1

Pierre, SD 57501 – Delivered via Email to ATGhelp@state.sd.us.

Dear Ballot Comment Staff:

As the primary organization promoting the creation of a comment period for “Ballot Explanations” which is being used for the first time for Amendment C, the South Dakota Chamber of Commerce wishes to thank Attorney General Jason Ravnsborg and the Attorney General’s office staff for this inaugural comment period.

The South Dakota Chamber of Commerce has no suggestions for the text of the explanation offered as the first draft. There is additional information that should be considered for the final explanation dealing with the unusual timing of the election and the fact that placing Amendment C on the June primary ballot is in fact an aberration from the legislative rules and was only accomplished by suspending those rules using a 2/3rds vote in the Senate. *Specific proposed language is at the bottom of page two in red ink.*

To review this point. The legislature’s joint rule 6A-1 control bills that may be introduced in the Legislature. Rule 6A-1 says:

6A-1. Legislative Documents. Only bills and the following may be introduced in the Legislature:

(1) A House or Senate resolution pertains to the affairs of one house only and requires action only by the legislative chamber concerned. A House or Senate resolution may be used to express an opinion or principle of one house, to express an opinion to or make a request of the other house, to regulate procedure, or to refer a topic to the Executive Board of the Legislative Research Council for possible study by an interim study committee;

(2) A concurrent resolution does not have the force of law. A concurrent resolution shall only be used to express an opinion or principle of the Legislature, to authorize interim studies, sessions or committees, to instruct a department of state government, or to petition federal agencies;

(3) A joint resolution contains matters of legislation only. *A joint resolution may be used to refer a matter for referendum to the people, to place a constitutional amendment on the ballot at the next general election, to ratify proposed amendments to the United States Constitution, to enact legislative reapportionment, or to grant a water right pursuant to § 46-5-20.1;*

(4) A House or Senate resolution of disapproval as provided under Article IV, Section 8, of the South Dakota Constitution; and

(5) A legislative commemoration expresses recognition of service or achievements of national or statewide importance or expresses sorrow over death or loss.

As noted in the highlighted section Rule 6A-1(3) requires that HJR 5003/Amendment C be placed on the general election ballot. Only after a suspension of this rule was HJR 5003/Amendment C placed on the primary election ballot scheduled for June of 2022.

Remedy and Recommendation. The ballot explanation should make voters aware of this fact by stating that the June vote was accomplished with a suspension of the legislative rules. The following is offered as an example of how this might be written:

“Amendment C was placed on the June Primary ballot after the regular legislative rules were suspended”
(16 words)

Or

“Voting on Amendments in a primary is rare; Amendment C was placed on the June Primary ballot after the regular legislative rules were suspended” (24 words)

The proposed explanation has 144 words. This leaves more than 50 words to put the vote in proper context.

Respectfully Submitted,

David Owen, President

South Dakota Chamber of Commerce and Industry

davido@sdchamber.biz

(605) 224-6161

David Owen, President

South Dakota Chamber of Commerce and Industry

davido@sdchamber.biz

(605) 224-6161



Dougherty, Debbie

From: Ryan Rolfs <ryan.rolfs@sdea.org>
Sent: Friday, November 12, 2021 2:04 PM
To: ATG Help
Subject: [EXT] SDEA Public Comment on Draft Attorney General's Statement (Constitutional Amendment: Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million)

To: Attorney General's Office
Ballot Comments
1302 E. Hwy 14, Suite 1
Pierre, SD 57501

Re: Draft Attorney General's Statement (Constitutional Amendment: Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million)

To Whom It May Concern:

On behalf of the South Dakota Education Association, I am offering public comment regarding the draft Attorney General's Statement for a proposed Constitutional Amendment Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million. The draft statement submitted to the Secretary of State on November 2, 2021 begins: "Currently the constitution requires that any new tax or tax increase must be approved either by voters or by two-thirds of the members of each legislative branch. To be approved by voters, such a measure must obtain only a majority of votes cast."

We believe the Attorney General should remove these first two sentences from its statement. The proposed amendment does not address or change the legislative process and may be confusing to voters. While these sentences have been a talking point for those who support the measure, they are not germane to the proposed amendment.

We request that the Attorney General's office delete the first two sentences of its draft explanation.



Ryan Rolfs
South Dakota Education Association
Executive Director
411 E Capitol Ave
Pierre, SD 57501
Office: 605-224-9263 Ext 1114
Cell: 605-222-4291

Dougherty, Debbie

From: Ravensborg, Jason
Sent: Friday, November 12, 2021 4:59 PM
To: Blair, Steven
Cc: Dougherty, Debbie
Subject: FW: [EXT] comments on amendment C language

FYI

From: Reynold Nesiba <Reynold.Nesiba@sdlegislature.gov>
Sent: Friday, November 12, 2021 4:57 PM
To: ATG Help <ATGHelp@state.sd.us>
Cc: Ravensborg, Jason <Jason.Ravnsborg@state.sd.us>
Subject: [EXT] comments on amendment C language

Attorney General Ravensborg:

Your brief description of Amendment C is deceptive, misleading, and therefore unfairly biased in support of Amendment C and against the power of the people. This requires correction before it is published or made a part of any SD election ballot.

The vast majority of SD state spending—93%—occurs through passage of the general appropriations bill and the supplementary bill. Read that again, almost all spending in SD is done through a mere majority vote of the legislature. This should be reflected in the second and third paragraph of your explanation.

Passage of the supplementary bill and the appropriations bills require only a majority vote.

LRC staff provided the following breakdown from last session:

FY21 Supplemental Appropriation: \$229,581,010—50% vote

FY22 General Appropriations Act: \$5,087,976,571—50% vote

Session 21 Special Appropriations: \$394,357,836—only this tiny fraction of total state spending, about 7.4% last year—required a two-thirds vote.

To be clear, the FY21 Supplemental and the FY 22 General bill require **only** a majority vote. Together these two bills appropriated \$5.3 billion dollars. An additional \$394 million was spent as special appropriations. **They made up a mere 7.4% of total spending.** The second paragraph of your statement does not point out that we would also be raising the people's standard higher than that used by the vast majority of spending by the legislature.

This proposal suggests holding the people to a far higher voting threshold for spending than the legislature holds itself. Failure to point this is out is deceptive, misleading, and biased. Please correct this.

R-

Reynold F. Nesiba

State Senator District 15
802 S. Willow Ave.
Sioux Falls, SD 57104
reynold.nesiba@sdlegislature.gov
(605) 371-6311



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov>

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NOV 02 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

November 2, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Constitutional Amendment: Requiring
Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees
or Obligating Over \$10 Million)

Dear Secretary Barnett,

Enclosed is a copy of H.J.R. 5003, in final form, through which the Legislature has proposed an amendment to the state constitution. The proposed amendment will be decided upon by the voters at the next primary election. In accordance with state law, I hereby file the enclosed *draft* Attorney General's Statement for the purposes of receiving public comment on the same.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Filed this 2nd day of
November, 2021

A handwritten signature in black ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

RECEIVED

NOV 02 2021

S.D. SEC. OF STATE

CONSTITUTIONAL AMENDMENT

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: A Constitutional Amendment Requiring Three-Fifths Vote for Approval of Ballot Measures Imposing Taxes or Fees or Obligating over \$10 Million.

Explanation:

Currently the constitution requires that any new tax or tax increase must be approved either by voters or by two-thirds of the members of each legislative branch. To be approved by voters, such a measure must obtain only a majority of the votes cast. This constitutional amendment requires that any initiated measure, proposed constitutional amendment, or referred measure imposing or increasing taxes must obtain three-fifths of the votes cast to be approved.

This constitutional amendment also adds the requirement that any initiated measure, proposed constitutional amendment, or referred measure obligating the state to appropriate \$10 million or more in any of the first five fiscal years must obtain three-fifths of the votes cast to be approved.

This constitutional amendment additionally requires any initiated measure, proposed constitutional amendment, or referred measure which imposes or increases fees to obtain three-fifths of the votes cast to be approved.

Filed this 2nd day of
November, 2021
Steve Barnett
SECRETARY OF STATE



2021 South Dakota Legislature
House Joint Resolution 5003

ENROLLED

AN ACT

A JOINT RESOLUTION, Proposing and submitting to the voters at the next primary election a new section to Article XI of the Constitution of the State of South Dakota, relating to a three-fifths vote requirement for certain initiated or Legislature-proposed constitutional amendments and initiated or Legislature-referred measures.

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

Section 1. That at the next primary election held in the state, the following amendment to Article XI 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 XI of the Constitution of the State of South Dakota, be amended by adding a NEW SECTION to read:

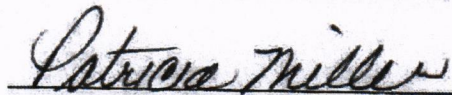
§16. Constitutional amendments or measures--Taxes or fees--Certain funding obligations--Vote required.

Any initiated constitutional amendment, initiated measure, constitutional amendment proposed and submitted to the people by the Legislature, or measure referred to the people by the Legislature that imposes or increases taxes or fees, and any initiated constitutional amendment, initiated measure, constitutional amendment proposed and submitted to the people by the Legislature, or measure referred to the people by the Legislature that obligates the state to appropriate funds of ten million dollars or more in any of the first five fiscal years after enactment, to be annually adjusted for inflation as determined by the Legislature, shall become part of the Constitution or statute only if approved by three-fifths of the votes cast thereon.

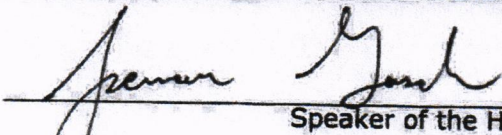
A JOINT RESOLUTION, Proposing and submitting to the voters at the next primary election a new section to Article XI of the Constitution of the State of South Dakota, relating to a three-fifths vote requirement for certain initiated or Legislature-proposed constitutional amendments and initiated or Legislature-referred measures.

I certify that the attached Resolution originated in the:

House as Joint Resolution No. 5003

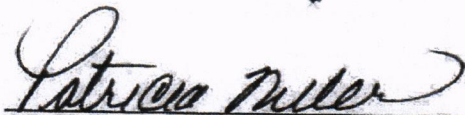


Chief Clerk

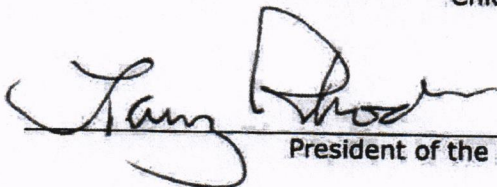


Speaker of the House

Attest:

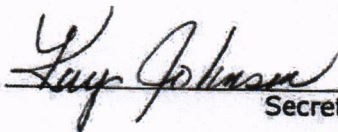


Chief Clerk



President of the Senate

Attest:



Secretary of the Senate

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed March 9, 2021
at 9:15 o'clock AM.



Secretary of State

By _____

Asst. Secretary of State

House Joint Resolution No. 5003

File No. _____

Chapter No. 122

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
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JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED
OCT 08 2021
S.D. SEC. OF STATE

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

October 8, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Constitutional Amendment: Article XXI –
Marijuana (Version A))

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Filed this 8 day of
October
A handwritten signature in black ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

CONSTITUTIONAL AMENDMENT
ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution to legalize the possession, use, and distribution of marijuana.

Explanation:

This constitutional amendment legalizes the possession, use, and distribution of marijuana and marijuana paraphernalia by people age 21 and older. Individuals may possess one ounce or less of marijuana. They may also distribute one ounce or less of marijuana without payment or other consideration. Marijuana plants and marijuana produced from those plants may be possessed under specific conditions.

Certain violations of the restrictions the amendment places on the possession, use, and distribution of marijuana and marijuana paraphernalia are subject to various civil penalties. Individuals under age 21 may be offered drug education or counseling instead of paying a penalty. The amendment authorizes the Legislature to adjust these penalties, but those adjustments cannot exceed the rate of inflation.

The amendment does not intend to affect certain laws otherwise regulating marijuana, including laws regulating medical marijuana or industrial hemp.

The amendment legalizes substances considered felony controlled substances under State law. Marijuana remains illegal under Federal law.

Judicial or legislative clarification of the amendment may be necessary.

Filed ~~Filed~~ this 8 day of
october
Sten B. Bennett
FORESTARY OF STATE

RECEIVED

OCT 08 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article XXI of the Constitution of the State of South Dakota, be amended by adding a NEW SECTION to read:

§ 10. Marijuana

The following acts, if done by a person at least twenty-one years of age, may not be an offense under state or local law, regulation, or ordinance; be subject to a civil fine, penalty, or sanction; be a basis for detention, search, or arrest; be a basis for the denial of any right or privilege; or be a basis for asset seizure or forfeiture: possessing, using, ingesting, transporting, processing, delivering without consideration, or distributing without consideration one ounce or less of marijuana, except that not more than eight grams of marijuana may be in a concentrated form; cultivating not more than three marijuana plants and possessing the marijuana produced by the plants, provided the plants and any marijuana produced by the plants in excess of one ounce are kept at one private residence, are in a locked space, are not visible by normal, unaided vision from a public place, and not more than six plants are kept in or on the grounds of a private residence at one time; possessing, manufacturing, or delivering, distributing, or selling to persons twenty-one years of age or older marijuana accessories; and assisting another person who is at least twenty-one years of age, or allowing property to be used, in any of the acts permitted by this section.

Filed this 8 day of October
Filed this 8 day of October

Steve Barnett
SECRETARY OF STATE
SECRETARY OF STATE

This section does not limit or affect laws that otherwise regulate: the use, ingestion, purchase, possession, transport, delivery, or distribution of marijuana or marijuana accessories by a person younger than twenty-one years of age; the delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age; the consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport, while it is being operated; smoking marijuana within a motor vehicle, aircraft, motorboat, or other motorized form of transport, while it is being operated; the possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private school, in a school bus, or on the grounds of any correctional facility; smoking marijuana in a location where smoking tobacco is prohibited; the consumption of marijuana in a public place, unless permitted by statute; the consumption of marijuana as part of a criminal penalty or a diversion program; undertaking any task under the influence of marijuana, if doing so would constitute negligence or professional malpractice; performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol, unless permitted by statute; conduct that endangers others; or medical marijuana or industrial hemp.

This section does not require that an employer permit or accommodate an employee to engage in conduct allowed by this section. This section does not limit the right of a

person who occupies, owns, or controls private property from otherwise regulating conduct permitted by this section on or in that property, or limit the ability of the state or a local government to otherwise regulate any conduct permitted under this section within a building owned, leased, or occupied by the state or the local government.

Marijuana plants that are otherwise cultivated not in violation of state or local law, but that are in public view or not kept in a locked space, shall subject the possessor of the plants to a civil penalty not exceeding two hundred and fifty dollars. A person who smokes marijuana in a public place where smoking marijuana is not lawfully permitted is subject to a civil penalty not exceeding one hundred dollars. A person who is under twenty-one years of age and possesses, uses, ingests, transports, processes, delivers without consideration or distributes without consideration one ounce or less of marijuana or marijuana accessories is subject to a civil penalty not to exceed one hundred dollars, and may be provided the option of attending up to four hours of drug education or counseling in lieu of the civil penalty. The legislature may periodically adjust the amounts of the civil penalties provided herein, not to exceed the rate of inflation.

This section must be construed broadly to accomplish its purposes and intents. Nothing in this section purports to supersede any applicable federal law, except where allowed by federal law. If any provision in this section or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or

unconstitutionality may not affect other provisions or applications of the section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

STATE OF SOUTH DAKOTA



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OCT 08 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

October 8, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Constitutional Amendment: Article XXI –
Marijuana (Version B))

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Filed this 8 day of

October

A handwritten signature in black ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

CONSTITUTIONAL AMENDMENT
ATTORNEY GENERAL'S STATEMENT

RECEIVED
OCT 08 2021
S.D. SEC. OF STATE

Title: An initiated amendment to the South Dakota Constitution to legalize the possession, use, and distribution of marijuana and to legalize commercial marijuana activities.

Explanation:

This constitutional amendment legalizes the possession, use, and distribution of marijuana and marijuana paraphernalia by people age 21 and older. Individuals may possess one ounce or less of marijuana. They may also distribute one ounce or less of marijuana without payment or other consideration. Marijuana plants and marijuana produced from those plants may be possessed under specific conditions.

The amendment authorizes commercial cultivation, distribution, and sale of marijuana. The Legislature must pass laws regulating commercial marijuana activities. Up to a 15% tax may be imposed on the commercial sale of marijuana and marijuana paraphernalia.

Certain violations of the restrictions the amendment places on the possession, use, and distribution of marijuana and marijuana paraphernalia are subject to various civil penalties. Individuals under age 21 may be offered drug education or counseling instead of paying a penalty. The amendment authorizes the Legislature to adjust these penalties, but those adjustments cannot exceed the rate of inflation.

The amendment does not intend to affect certain laws otherwise regulating marijuana, including laws regulating medical marijuana or industrial hemp.

The amendment legalizes substances considered felony controlled substances under State law. Marijuana remains illegal under Federal law.

Judicial or legislative clarification of the amendment may be necessary.

Filed this 8 day of

October

Steve Barnett
SECRETARY OF STATE

RECEIVED

OCT 08 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article XXI of the Constitution of the State of South Dakota, be amended by adding a NEW SECTION to read:

Filed this 8 day of

October

Steve Barnett
SECRETARY OF STATE

§ 10. Marijuana

The following acts, if done by a person at least twenty-one years of age, may not be an offense under state or local law, regulation, or ordinance; be subject to a civil fine, penalty, or sanction; be a basis for detention, search, or arrest; be a basis for the denial of any right or privilege; or be a basis for asset seizure or forfeiture: possessing, using, ingesting, transporting, processing, delivering without consideration, or distributing without consideration one ounce or less of marijuana, except that not more than eight grams of marijuana may be in a concentrated form; cultivating not more than three marijuana plants and possessing the marijuana produced by the plants, provided the plants and any marijuana produced by the plants in excess of one ounce are kept at one private residence, are in a locked space, are not visible by normal, unaided vision from a public place, and not more than six plants are kept in or on the grounds of a private residence at one time; possessing, cultivating, manufacturing, testing, or delivering, distributing, or selling for consideration to persons twenty-one years of age or older marijuana or marijuana accessories, by licensed commercial cultivators, wholesalers, testing facilities, or retail sales outlets; and assisting another person who is at least

twenty-one years of age, or allowing property to be used, in any of the acts permitted by this section.

This section does not limit or affect laws that otherwise regulate: the use, ingestion, purchase, possession, transport, delivery, or distribution of marijuana or marijuana accessories by a person younger than twenty-one years of age; the delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age; the consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport, while it is being operated; smoking marijuana within a motor vehicle, aircraft, motorboat, or other motorized form of transport, while it is being operated; the possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private school, in a school bus, or on the grounds of any correctional facility; smoking marijuana in a location where smoking tobacco is prohibited; the consumption of marijuana in a public place, unless permitted by statute; the consumption of marijuana as part of a criminal penalty or a diversion program; undertaking any task under the influence of marijuana, if doing so would constitute negligence or professional malpractice; performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol, unless permitted by statute; conduct that endangers others; or medical marijuana or industrial hemp.

This section does not require that an employer permit or accommodate an employee to engage in conduct allowed by this section. This section does not limit the right of a person who occupies, owns, or controls private property from otherwise regulating conduct permitted by this section on or in that property, or limit the ability of the state or a local government to otherwise regulate any conduct permitted under this section within a building owned, leased, or occupied by the state or the local government.

Marijuana plants that are otherwise cultivated not in violation of state or local law, but that are in public view or not kept in a locked space, shall subject the possessor of the plants to a civil penalty not exceeding two hundred and fifty dollars. A person who smokes marijuana in a public place where smoking marijuana is not lawfully permitted is subject to a civil penalty not exceeding one hundred dollars. A person who is under twenty-one years of age and possesses, uses, ingests, transports, processes, delivers without consideration or distributes without consideration one ounce or less of marijuana or marijuana accessories is subject to a civil penalty not to exceed one hundred dollars, and may be provided the option of attending up to four hours of drug education or counseling in lieu of the civil penalty. The legislature may periodically adjust the amounts of the civil penalties provided herein, not to exceed the rate of inflation.

This section must be construed broadly to accomplish its purposes and intent. The legislature shall enact laws regulating the commercial cultivation, manufacturing, processing, testing, transport, delivery, and sale of marijuana, and may enact other laws as necessary to implement this section, but the legislature may not hinder or frustrate the purposes or intent of this section. The legislature may impose a tax on the commercial sale of marijuana and marijuana accessories, not to exceed fifteen percent.

Nothing in this section purports to supersede any applicable federal law, except where allowed by federal law. If any provision in this section or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality may not affect other provisions or applications of the section that can be given effect without the invalid or unconstitutional provision or application, and to this end, the provisions of this section are severable.



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OCT 08 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

October 8, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Initiated measure: Title 34 be amended by adding a new section (Version A))

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Filed this 8 day of

October

A handwritten signature in dark ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

RECEIVED

OCT 08 2021

S.D. SEC. OF STATE

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure legalizing the possession, use, and distribution of marijuana.

Explanation:

This initiated measure legalizes the possession, use, and distribution of marijuana and marijuana paraphernalia by people age 21 and older. Individuals may possess one ounce or less of marijuana. They may also distribute one ounce or less of marijuana without payment or other consideration.

Marijuana plants, and the marijuana produced from those plants, may be possessed under specific conditions. Marijuana plants may only be grown, and the marijuana from those plants may only be possessed, in counties or cities where no licensed retail marijuana store is available or where allowed by county or city ordinances.

Certain violations of the restrictions the measure places on the possession, use, and distribution of marijuana and marijuana paraphernalia are subject to various civil penalties. Individuals under age 21 can attend drug education or counseling instead of paying a civil penalty.

The measure legalizes substances considered felony controlled substances under State law. Marijuana remains illegal under Federal law.

Judicial or legislative clarification of the measure may be necessary.

Filed this 8 day of
October
Steve Barnett
SECRETARY OF STATE

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S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That title 34 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Hemp," the plant of the genus cannabis, and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;
- (2) "Local government," means a county, municipality, town, or township;
- (3) "Marijuana," the plant of the genus cannabis, and any part of that plant, including, the seeds, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including hash and marijuana concentrate. The term includes an altered state of marijuana absorbed into the human body. The term does not include hemp, or fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products;
- (4) "Marijuana accessory," any equipment, product, material, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

Section 2. That title 34 be amended by adding a NEW SECTION to read:

This chapter does not affect laws that otherwise regulate:

Filed this 8 day of
October
Steve Barnett
SECRETARY OF STATE

- (1) Delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;
- (2) Purchase, possession, use, or transport of marijuana or marijuana accessories by a person younger than twenty-one years of age;
- (3) Consumption of marijuana by a person younger than twenty-one years of age;
- (4) Operating or being in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana;
- (5) Consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport, while it is being operated;
- (6) Smoking marijuana within a motor vehicle, aircraft, motorboat, or other motorized form of transport, while it is being operated;
- (7) Possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private preschool, elementary school, or high school, in a school bus, or on the grounds of any correctional facility;
- (8) Smoking marijuana in a location where smoking tobacco is prohibited;
- (9) Consumption of marijuana in a public place, unless permitted by statute;
- (10) Consumption of marijuana as part of a criminal penalty or a diversion program;
- (11) Conduct that endangers others;
- (12) Undertaking any task under the influence of marijuana, if doing so would constitute negligence or professional malpractice; or
- (13) Performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol, unless permitted by statute.

Section 3. That title 34 be amended by adding a NEW SECTION to read:

This chapter does not:

- (1) Require that an employer permit or accommodate an employee to engage in conduct allowed by this chapter;
- (2) Affect an employer's ability to restrict the use of marijuana by employees;
- (3) Limit the right of a person who occupies, owns, or controls private property from prohibiting or otherwise regulating conduct permitted by this chapter on or in that property; or
- (4) Limit the ability of the state or a local government to prohibit or restrict any conduct otherwise permitted under this chapter within a building owned, leased, or occupied by the state or the local government.

Section 4. That title 34 be amended by adding a NEW SECTION to read:

Subject to the limitations in this chapter, and notwithstanding any other law, the following acts, if done by a person at least twenty-one years of age, may not be an offense under state or local law, regulation, or ordinance; be subject to a civil fine, penalty, or sanction; be a basis for detention, search, or arrest; be a basis for the denial of any right or privilege; or be a basis for asset seizure or forfeiture:

- (1) Possessing, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration one ounce or less of marijuana, except that not more than eight grams of marijuana may be in a concentrated form;
- (2) Possessing, planting, cultivating, harvesting, drying, processing, or manufacturing not more than three marijuana plants and possessing the marijuana produced by the plants, if:
 - (a) The plants and any marijuana produced by the plants in excess of one ounce are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place;
 - (b) Not more than six plants are kept in or on the grounds of a private residence at one time; and

- (c) The private residence is located within the jurisdiction of a local government where there is no licensed retail store where marijuana is available for purchase pursuant to this chapter.
- (3) Assisting another person who is at least twenty-one years of age, or allowing property to be used, in any of the acts permitted by this section; and
- (4) Possessing, using, delivering, distributing, manufacturing, transferring, or selling to persons twenty-one years of age or older marijuana accessories.

Section 5. That title 34 be amended by adding a NEW SECTION to read:

A person who commits the following acts is subject to a civil penalty not exceeding the amount specified:

- (1) Violates section 4(2)(a) of this chapter by cultivating marijuana plants that are visible by normal, unaided vision from a public place, two hundred and fifty dollars.
- (2) Violates section 4(2)(a) of this chapter by cultivating marijuana plants that are not kept in a locked space, two hundred and fifty dollars.
- (3) Smokes marijuana in a public place, other than in an area licensed for such activity by the department, one hundred dollars.
- (4) Is under twenty-one years of age and possesses, uses, ingests, inhales, transports, delivers without consideration or distributes without consideration one ounce or less of marijuana or possesses, delivers without consideration, or distributes without consideration marijuana accessories, one hundred dollars. The person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the civil penalty.

Section 6. That title 34 be amended by adding a NEW SECTION to read:

This chapter must be broadly construed to accomplish its purposes and intents.
Nothing in this chapter purports to supersede any applicable federal law, except where

allowed by federal law. If any provision in this chapter or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality may not affect other provisions or applications of the chapter that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this chapter are severable.

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OCT 08 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

October 8, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Initiated measure: Title 34 be amended by adding a new section (Version B))

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in cursive script, reading "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Filed this 8 day of

October

A handwritten signature in cursive script, reading "Steve Barnett".

SECRETARY OF STATE

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S.D. SEC. OF STATE

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure legalizing the possession, use, and distribution of marijuana and legalizing commercial marijuana activities.

Explanation:

This initiated measure legalizes the possession, use, and distribution of marijuana and marijuana paraphernalia by people age 21 and older. Individuals may possess one ounce or less of marijuana. They may also distribute one ounce or less of marijuana without payment or other consideration. Marijuana plants and marijuana produced from those plants may be possessed under specific conditions.

Certain violations of the restrictions the measure places on the possession, cultivation, use, and distribution of marijuana and marijuana paraphernalia are subject to various civil penalties. Individuals under age 21 can attend drug education or counseling instead of paying a civil penalty.

The measure authorizes the Department of Revenue to issue marijuana-related licenses for commercial cultivators and manufacturers, testing facilities, wholesalers, and retailers. Local governments may regulate or ban the establishment of licensees within their jurisdiction.

The measure imposes a 15% tax on marijuana sales. The tax revenue will be used for the Department's costs incurred in implementing the measure, with remaining revenue equally divided between support of public schools and the State general fund

The measure legalizes substances considered felony controlled substances under State law. Marijuana remains illegal under Federal law.

Judicial or legislative clarification of the measure may be necessary.

Filed this 8 day of
October
Steve Barnett
SECRETARY OF STATE

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OCT 08 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That title 34 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Department," the Department of Revenue or its successor agency;
- (2) "Hemp," the plant of the genus cannabis, and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;
- (3) "Local government," means a county, municipality, town, or township;
- (4) "Marijuana," the plant of the genus cannabis, and any part of that plant, including, the seeds, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including hash and marijuana concentrate. The term includes an altered state of marijuana absorbed into the human body. The term does not include hemp, or fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products;
- (5) "Marijuana accessory," any equipment, product, or material that is designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

Section 2. That title 34 be amended by adding a NEW SECTION to read:

This chapter does not affect laws that otherwise regulate:

- (1) Delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;
- (2) Purchase, possession, use, or transport of marijuana or marijuana accessories by a person younger than twenty-one years of age;
- (3) Consumption of marijuana by a person younger than twenty-one years of age;
- (4) Operating or being in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana;
- (5) Consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport, while it is being operated;

Filed this 8 day of

October

Steve Barnett

SECRETARY OF STATE

- (6) Smoking marijuana within a motor vehicle, aircraft, motorboat, or other motorized form of transport, while it is being operated;
- (7) Possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private preschool, elementary school, or high school, in a school bus, or on the grounds of any correctional facility;
- (8) Smoking marijuana in a location where smoking tobacco is prohibited;
- (9) Consumption of marijuana in a public place, other than in an area licensed by the department for consumption;
- (10) Consumption of marijuana as part of a criminal penalty or a diversion program;
- (11) Conduct that endangers others;
- (12) Undertaking any task under the influence of marijuana, if doing so would constitute negligence or professional malpractice; or
- (13) Performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol, unless licensed for this activity by the department.

Section 3. That title 34 be amended by adding a NEW SECTION to read:

This chapter does not:

- (1) Require that an employer permit or accommodate an employee to engage in conduct allowed by this chapter;
- (2) Affect an employer's ability to restrict the use of marijuana by employees;
- (3) Limit the right of a person who occupies, owns, or controls private property from prohibiting or otherwise regulating conduct permitted by this chapter on or in that property; or
- (4) Limit the ability of the state or a local government to prohibit or restrict any conduct otherwise permitted under this chapter within a building owned, leased, or occupied by the state or the local government.

Section 4. That title 34 be amended by adding a NEW SECTION to read:

Subject to the limitations in this chapter, and notwithstanding any other law, the following acts, if done by a person at least twenty-one years of age, may not be an offense under state or local law, regulation, or ordinance; be subject to a civil fine, penalty, or sanction; be a basis for detention, search, or arrest; be a basis for the denial of any right or privilege; or be a basis for asset seizure or forfeiture:

- (1) Possessing, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration one ounce or less of marijuana, except that not more than eight grams of marijuana may be in a concentrated form;
- (2) Possessing, planting, cultivating, harvesting, drying, processing, or manufacturing not more than three marijuana plants and possessing the marijuana produced by the plants, if:

- (a) The plants and any marijuana produced by the plants in excess of one ounce are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place;
- (b) Not more than six plants are kept in or on the grounds of a private residence at one time; and
- (c) The private residence is located within the jurisdiction of a local government where there is no licensed retail store where marijuana is available for purchase pursuant to this chapter;
- (3) Assisting another person who is at least twenty-one years of age, or allowing property to be used, in any of the acts permitted by this section; and
- (4) Possessing, using, delivering, distributing, manufacturing, transferring, or selling to persons twenty-one years of age or older marijuana accessories.

Section 5. That title 34 be amended by adding a NEW SECTION to read:

A person who commits the following acts is subject to a civil penalty not exceeding the amount specified:

- (1) Violates section 4(2)(a) of this chapter by cultivating marijuana plants that are visible by normal, unaided vision from a public place, two hundred and fifty dollars;
- (2) Violates section 4(2)(a) of this chapter by cultivating marijuana plants that are not kept in a locked space, two hundred and fifty dollars;
- (3) Cultivates marijuana plants within the jurisdiction of a local government where marijuana is available for purchase at a licensed retail store or where the cultivation of plants is not allowed through local ordinance or regulation pursuant to section 10 of this chapter, two hundred and fifty dollars;
- (4) Smokes marijuana in a public place, other than in an area licensed for such activity by the department, one hundred dollars;
- (5) Is under twenty-one years of age and possesses, uses, ingests, inhales, transports, delivers without consideration or distributes without consideration one ounce or less of marijuana or possesses, delivers without consideration, or distributes without consideration marijuana accessories, one-hundred dollars. The person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the civil penalty.

Section 6. That title 34 be amended by adding a NEW SECTION to read:

The department shall have the power, except as otherwise provided in section 10 of this chapter, to license and regulate the cultivation, manufacture, testing, transport, delivery, and sale of marijuana in the state and to administer and enforce this chapter. The department shall accept applications for and issue:

- (1) Licenses permitting commercial cultivators and manufacturers of marijuana to cultivate, process, manufacture, transport, and sell marijuana to marijuana wholesalers;

- (2) Licenses permitting independent marijuana testing facilities to analyze and certify the safety and potency of marijuana;
- (3) Licenses permitting marijuana wholesalers to package, process, and prepare marijuana for transport and sale to retail sales outlets; and
- (4) Licenses permitting retail sales outlets to sell and deliver marijuana to consumers.

Section 7. That title 34 be amended by adding a NEW SECTION to read:

Not later than July 1, 2023, the department shall promulgate rules pursuant to chapter 1-26 addressing:

- (1) Procedures for the issuance, renewal, suspension, and revocation of licenses;
- (2) Application, licensing, and renewal fees, not to exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter;
- (3) Time periods, not to exceed ninety days, by which the department must issue or deny an application;
- (4) Qualifications for licensees;
- (5) Security requirements, including lighting and alarm requirements, to prevent diversion;
- (6) Testing, packaging, and labeling requirements, including maximum tetrahydrocannabinol levels, to ensure consumer safety and accurate information;
- (7) Restrictions on the manufacture and sale of edible products to ensure consumer and child safety;
- (8) Health and safety requirements to ensure safe preparation and to prohibit unsafe pesticides;
- (9) Inspection, tracking, and record-keeping requirements to ensure regulatory compliance and to prevent diversion;
- (10) Restrictions on advertising and marketing;
- (11) Requirements to ensure that all applicable statutory environmental, agricultural, and food and product safety requirements are followed;
- (12) Requirements to prevent the sale and diversion of marijuana to persons under twenty-one years of age; and
- (13) Civil penalties, not to exceed \$10,000, for the failure to comply with rules adopted pursuant to this chapter.

Section 8. That title 34 be amended by adding a NEW SECTION to read:

In determining the appropriate number of licenses to issue, as required under this chapter, the department shall:

- (1) Issue enough licenses to substantially reduce the illicit production and sale of marijuana throughout the state; and
- (2) Limit the number of licenses issued, if necessary, to prevent an undue concentration of licenses in any one municipality.

Section 9. That title 34 be amended by adding a NEW SECTION to read:

Actions and conduct by a licensee, a licensee's employee, and a licensee's agent, as permitted pursuant to a license issued by the department, or by those who allow property to be used by a licensee, a licensee's employee, or a licensee's agent, as permitted pursuant to a license issued by the department, may not be an offense under state or local law, regulation, or ordinance; be subject to a civil fine, penalty, or sanction; be a basis for detention, search, or arrest; be a basis for the denial of any right or privilege; or be a basis for asset seizure or forfeiture. No contract is unenforceable on the basis that marijuana is prohibited by federal law.

Section 10. That title 34 be amended by adding a NEW SECTION to read:

A local government may enact ordinances or regulations governing the time, place, manner, and number of licensees operating within its jurisdiction. A local government may ban the establishment of licensees or any category of licensee within its jurisdiction. A local government may allow for cultivation at private residences within its jurisdiction that would otherwise not be allowed under section 4(2)(c) of this chapter so long as the cultivation complies with sections 4(2)(a) and 4(2)(b) and the other requirements of this chapter. A local government may not prohibit the transportation of marijuana through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter.

Section 11. That title 34 be amended by adding a NEW SECTION to read:

An excise tax of fifteen percent is imposed upon the gross receipts of all sales of marijuana to a consumer by a person licensed by the department pursuant to this chapter. The department shall promulgate rules pursuant to chapter 1-26 to establish a procedure for the collection of this tax and shall collect the tax. The revenue collected under this section must be appropriated to the department to cover costs incurred by the department in carrying out its duties under this chapter. Fifty percent of the remaining revenue must be appropriated for the support of South Dakota public schools and the remainder must be deposited into the state general fund.

Section 12. That title 34 be amended by adding a NEW SECTION to read:

The department shall publish an annual report that includes the number and type of licenses issued; demographic information on licensees; a description of any enforcement or disciplinary action taken against licensees; a statement of revenues and expenses of the department related to the implementation, administration, and enforcement of this chapter; and a statement of taxes collected in accordance with this chapter and an accounting for how the tax revenues were disbursed.

Section 13. That title 34 be amended by adding a NEW SECTION to read:

This chapter must be broadly construed to accomplish its purposes and intents. Nothing in this chapter purports to supersede any applicable federal law, except where allowed by federal law. If any provision in this chapter or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality may not affect other provisions or applications of the chapter that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this chapter are severable.

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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OCT 08 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

October 8, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501


RE: Attorney General's Statement (Constitutional Amendment: Article XXIII –
Single Subject Rule)

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,


Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

Filed this 8 day of

October


STEVE BARNETT
SECRETARY OF STATE

CONSTITUTIONAL AMENDMENT
ATTORNEY GENERAL'S STATEMENT

RECEIVED
OCT 08 2021
S.D. SEC. OF STATE

Title: An initiated amendment to the South Dakota Constitution removing the limitation that a proposed constitutional amendment embrace only one subject and removing the requirement that proposed amendments be presented and voted on separately.

Explanation:

In 2018 the voters amended the South Dakota Constitution to add the limitation that a proposed amendment may not embrace more than one subject. In addition, the voters added the requirement that multiple amendments proposed at the same election must be individually presented and voted on separately.

This proposed constitutional amendment removes those provisions from the Constitution.

Filed this 8 day of
October
Steve Barnett
SECRETARY OF STATE

RECEIVED

OCT 08 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article XXIII, § 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 as necessary to accomplish the objectives of the amendment.

Filed this 8 day of
October
Steve Barnett
SECRETARY OF STATE

STATE OF SOUTH DAKOTA



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JASON R. RAVNSBORG

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

September 3, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement – initiated measure making ingestion of a controlled substance a petty offense

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jason R. Ravnsborg".

Jason R. Ravnsborg
ATTORNEY GENERAL

JRR/dd

Enc.

Cc/encl: Payton Behrend

Title: An initiated measure making the unauthorized ingestion of a controlled drug or substance a petty offense

Explanation:

Under state law, controlled drugs or substances are those placed on one of four schedules by the Legislature. The established schedules can be found in chapter 34-20B of state law. These controlled drugs and substances include those that have no medical use, some potential for abuse or dependency, or are only available by prescription.

State law currently prohibits the ingestion of a controlled drug or substance unless the person has a valid prescription for the substance ingested. The maximum penalty for the unlawful ingestion of a Schedule I or II controlled drug or substance is 5 years in prison and a \$10,000 fine. The maximum penalty for the unlawful ingestion of a Schedule III or IV controlled drug or substance is 2 years in prison and a \$4,000 fine.

This measure re-classifies the unlawful ingestion of all controlled drugs or substances, regardless of schedule, as a petty offense. Petty offenses are civil proceedings under state law. For a petty offense, a judgment of \$25 may be imposed. No time in jail may be imposed for a petty offense.

STATE OF SOUTH DAKOTA



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JASON R. RAVNSBORG

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

September 3, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement – initiated measure making possession of a controlled substance a class 1 misdemeanor

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd

Enc.

Cc/encl: Payton Behrend

Title: An initiated measure making the unauthorized possession of a controlled drug or substance a misdemeanor offense

Explanation:

Under state law, controlled drugs or substances are those placed on one of four schedules by the Legislature. The established schedules can be found in chapter 34-20B of state law. These controlled drugs and substances include those that have no medical use, some potential for abuse or dependency, or are only available by prescription.

Currently, state law classifies the unauthorized possession of a controlled drug or substance as a felony offense. The penalty depends upon the specific schedule on which the possessed drug or substance is listed. The current maximum penalty for the unauthorized possession of a Schedule I or II controlled drug or substance is 5 years in prison and a \$10,000 fine. The current maximum penalty for the unauthorized possession of a Schedule III or IV controlled drug or substance is 2 years in prison and a \$4,000 fine.

This measure re-classifies the unauthorized possession of all controlled drugs or substances, regardless of schedule, as a class 1 misdemeanor offense. The current maximum penalty for a Class 1 misdemeanor is 1 year in jail and a \$2,000 fine.



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JASON R. RAVNSBORG
ATTORNEY GENERAL

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MAY 11 2021

S.D. SEC. OF STATE

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

May 11, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Medicaid expansion initiated measure)

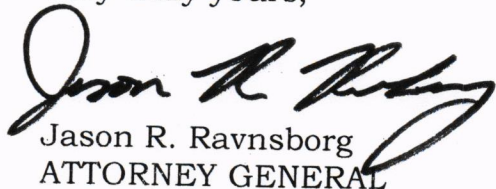
Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this measure.

After review, it was determined that the final form of this proposed measure is identical to the measure previously submitted by the sponsor. Accordingly, the Attorney General's Statement for this measure is identical to the one submitted to you on February 1, 2021.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,


Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

CC/encl. Laurie Jensen Wunder

RECEIVED

MAY 11 2021

S.D. SEC. OF STATE

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution expanding Medicaid eligibility.

Explanation:

Medicaid is a program, funded by the State and the federal government, to provide medical coverage for low-income people who are in certain designated categories. This constitutional amendment expands Medicaid eligibility in South Dakota. It requires the State to provide Medicaid benefits to any person over age 18 and under 65 whose income is at or below 133% of the federal poverty level, plus 5% of the federal poverty level for the applicable family size, as provided in federal law. For people who qualify under this amendment, the State may not impose burdens or restrictions that are greater than those imposed on any other person eligible for Medicaid benefits under South Dakota law.

The South Dakota Department of Social Services must submit to the federal government all documentation required to implement this amendment, and must take all actions necessary to maximize federal funding for this expansion.

Filed this 10th day of
May, 2021
Steve Barnett
SECRETARY OF STATE

RECEIVED

MAY 11 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article XXI of the Constitution of South Dakota be amended by adding a NEW SECTION to read:

§ 10 Beginning July 1, 2023, the State of South Dakota shall provide Medicaid benefits to any person over eighteen and under sixty-five whose income is at or below one hundred thirty-three percent of the federal poverty level plus five percent of the federal poverty level for the applicable family size, as authorized by federal law as of January 1, 2021. Such person shall receive coverage that meets or exceeds the benchmark or benchmark-equivalent coverage requirements, as such terms are defined by federal law as of January 1, 2021.

The State of South Dakota may not impose greater or additional burdens or restrictions on eligibility or enrollment standards, methodologies, or practices on any person eligible under this section than on any person otherwise eligible for Medicaid under South Dakota law.

No later than March 1, 2023, the Department of Social Services shall submit all state plan amendments necessary to implement this section to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

The State of South Dakota shall take all actions necessary to maximize the federal financial medical assistance percentage in funding medical assistance pursuant to this section.

This section shall be broadly construed to accomplish its purposes and intents. If any provision in this section or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of the section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

Filed this 11th day of
May, 2021
Steve Barnett
SECRETARY OF STATE

STATE OF SOUTH DAKOTA



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JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED
MAR 18 2021
S.D. SEC. OF STATE

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

March 19, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement for an initiated constitutional amendment
(establishing top-two primary elections)

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this amendment.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

CC/encl. Nick Reid

Filed this 19th day of
March, 2021
A handwritten signature in black ink, appearing to read "Steve Barnett".
SECRETARY OF STATE

RECEIVED

MAR 18 2021

S.D. SEC. OF STATE

Title: An amendment to the South Dakota Constitution establishing top-two primary elections

Explanation:

Currently, to appear on the general election ballot, candidates for major political parties for the following offices must participate in a partisan primary election: Governor, State Legislature, U.S. Senate and House of Representatives, and elected county offices. Only registered members of the candidate's chosen party may vote for that candidate unless the political party has opened the primary to voters not affiliated with the party.

Candidates affiliated with a minor party may be chosen by primary or party convention.

Unaffiliated candidates (independents) do not participate in the primary election; they appear on the general election ballot by filing proper nominating petitions.

For the above offices, this amendment requires one primary election wherein all candidates run against each other in their respective races, including major party, minor party, and independent candidates. All registered voters may vote for any candidate. The two candidates receiving the most votes advance to the general election. If there is more than one candidate to be elected to an office, the number of candidates advancing to the general election will be twice the number to be elected. Primary elections may be held for other offices.

This amendment requires legislative action.

Filed this 19th day of
March, 2021
Steve Barnett
SECRETARY OF STATE

RECEIVED

MAR 18 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article VII of the Constitution of South Dakota be amended by adding NEW SECTION to read:

§ 11. A primary election shall be held prior to the general election to nominate candidates for the office of Governor, the Legislature, all county elective offices, and the United States Senate and House of Representatives. The primary election for such candidates shall be open to all registered voters. The two candidates who receive the most votes in the primary are the nominees for each office. If more than one candidate is to be elected to an office, the number of nominees shall be twice the number to be elected.

The Legislature shall provide by law any provisions necessary to implement this section.

Filed this 19th day of

March 2021

Steve Barnett

SECRETARY OF STATE



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FEB 26 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

February 26, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

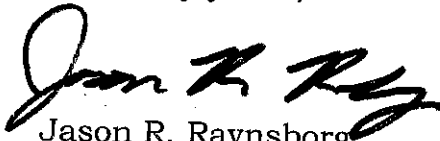
RE: Attorney General's Statement for an initiated constitutional amendment
(redistricting by commission)

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this amendment.


By copy of this letter, I am providing a copy of the Statement to the sponsors.

Very truly yours,


Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

CC/encl. De Knudson
Scott Heidepriem
Vernon Brown

Filed this 26th day of
February, 2021

STEVE BARNETT
SECRETARY OF STATE

RECEIVED

FEB 26 2021

S.D. SEC. OF STATE

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution providing for state legislative redistricting by a commission.

Explanation:

Article III, section 5, of the state Constitution currently requires the Legislature to establish legislative districts every ten years. This amendment removes that authority from the Legislature and grants it to a redistricting commission consisting of nine registered voters selected by the State Board of Elections. The commission will redistrict in 2023, 2031, and every ten years thereafter.

Under the amendment, a commission member must have the same party registration, or be registered as unaffiliated with a party, for three continuous years immediately prior to appointment. No more than three commission members may belong to the same political party.

Commission members may not hold certain state or local public offices, nor hold office in a political party organization. This restriction applies for three years immediately prior to appointment to the commission, and three years immediately after appointment.

The commission must make a draft redistricting map and report available for public inspection, and must accept written comments and hold public hearings. The commission will then establish final legislative district boundaries in a manner consistent with the amendment's requirements.

Any person purposefully violating any portion of this section would be guilty of fraud.

Filed this 26th day of

February 2021

Steve Barnett

SECRETARY OF STATE

RECEIVED

FEB 26 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article III, section 5 of the
Constitution of the State of South Dakota, be amended:

~~§ 5. The Legislature shall apportion its membership
by dividing the state into as many single-member,
legislative districts as there are state senators. House
districts shall be established wholly within senatorial
districts and shall be either single-member or dual-
member districts as the Legislature shall determine.
Legislative districts shall consist of compact,
contiguous territory and shall have population as nearly
equal as is practicable, based on the last preceding
federal census. An apportionment shall be made by the
Legislature in 1983 and in 1991, and every ten years
after 1991. Such apportionment shall be accomplished by
December first of the year in which the apportionment is
required.~~

The independent redistricting commission is hereby
created and shall be composed of nine registered voters

Filed this 26th day of
February 2021
Steve Barnett
SECRETARY OF STATE

in South Dakota, none of whom may hold a state public office or a political party office. The term, state public office, means an elective office in the executive or legislative branch of the government of this state; an office in the executive or legislative branch of the government of this state that is filled by gubernatorial appointment; or an office of a county, municipality or other political subdivision of this state that is filled by an election process involving nomination and election of candidates on a partisan basis.

The commission shall prepare the plan for redistricting the state into legislative districts. This redistricting plan shall be completed by the commission in 2023 and 2031 and every ten years after 2031.

Redistricting shall be accomplished by December first of the year in which the redistricting is required.

By the last day of February of each year in which the redistricting is required, the board overseeing state elections and procedures shall appoint the commission. No more than three members of the commission may be members of the same political party. The commission shall select

by majority vote one member to serve as chair and one member to serve as vice chair.

Each commission member shall have been continuously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment.

Within the three years immediately preceding appointment, no commission member may have been appointed to or elected to any state public office or political party office. Within the three years immediately after appointment, no commission member may be appointed to or elected to any state public office or political party office.

If a vacancy occurs on the commission, the board shall select a successor who has the same qualifications as the commissioner whose position is being vacated.

The Legislature shall provide the technical staff and clerical services that the commission needs to prepare its redistricting plan. Each commission member shall receive per diem and expenses in the same manner and amount as paid to members of the Legislature.

Five commissioners, including the chair or vice chair, constitute a quorum. Five or more affirmative votes are required for any official action.

The commission shall establish legislative districts by dividing the state into as many single-member legislative districts as there are state senators. House districts shall be established wholly within senatorial districts and shall be either single-member or dual-member districts as the commission determines in compliance with federal and state law.

The commission shall commence the mapping process for the legislative districts by creating districts of equal population in a grid-like pattern across the state. Adjustments to the legislative districts shall be made to:

(1) Comply with the United States Constitution, the South Dakota Constitution, and federal laws, as interpreted by the United States Supreme Court and other courts of competent jurisdiction;

(2) Have equal population to the extent practicable;

(3) Be geographically compact and contiguous to the extent practicable;

(4) Respect communities of interest to the extent practicable; and

(5) Use visible geographic features, municipal and county boundaries, and undivided census tracts to the extent practicable.

Party registration, voting history, or any other data showing likely voting patterns shall be excluded from the redistricting process. The place of residence of any legislative incumbent or candidate may not be identified or considered.

Any tools used by the commission as well as any adjustments from the grid-like pattern shall be documented in a report made available to the public with a draft map.

The commission shall notify the public that a draft map of legislative districts is available for inspection and written comments. The commission shall accept written comments for thirty calendar days following notification to the public. The Legislature may act within this period

to submit written comments to the commission. After the comment period has ended, the commission shall hold no less than three public meetings throughout the state that shall also be available to the public through virtual means. After all meetings have concluded, the commission shall establish final district boundaries. The commission shall certify to the Office of the Secretary of State the establishment of each legislative district.

The commission shall have standing in legal actions regarding the redistricting plan and the adequacy of resources provided for the operation of the commission. The commission may determine whether the Attorney General or other legal counsel shall be used or selected by the commission to represent the commission in any matter relating to a redistricting plan.

The duties of each commission member expire upon the appointment of the next commission. The commission may not meet or incur expense after the redistricting plan is completed, except if litigation or any government approval of the plan is pending or to revise districts if required by court decision.

The Legislature shall provide by law any provisions necessary to implement this section.

If ~~any Legislature~~ the Commission whose duty it is to make an apportionment shall fail to make the same as herein provided, it shall be the duty of the Supreme Court within ninety days to make such apportionment.

Any person purposefully violating any portion of this section is guilty of fraud and shall be punished as provided by law.



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FEB 01 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

February 1, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Medicaid expansion initiated measure)

Dear Secretary Barnett,

Enclosed is a copy of a proposed initiated measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this measure.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason R. Ravensborg".

Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd

Enc.

CC/encl. Laurie Jensen Wunder

RECEIVED

FEB 01 2021

S.D. SEC. OF STATE

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An initiated measure expanding Medicaid eligibility.

Explanation:

Medicaid is a program, funded by the State and the federal government, to provide medical coverage for low-income people who are in certain designated categories. This measure expands Medicaid eligibility in South Dakota. It requires the State to provide Medicaid benefits to any person age 19 or older and under 65 whose income is at or below 133% of the federal poverty level, plus 5% of the federal poverty level for the applicable family size, as provided in federal law. For people who qualify under this measure, the State may not impose burdens or restrictions that are greater than those imposed on any other person eligible for Medicaid benefits under South Dakota law.

The South Dakota Department of Social Services must submit to the federal government all documentation required to implement this measure, and must take all actions necessary to maximize federal funding for this expansion.

RECEIVED

FEB 01 2021

S.D. SEC. OF STATE

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That chapter 28-6 be amended by adding a NEW SECTION to read:

Notwithstanding any provision of law to the contrary, beginning July 1, 2023, the state shall provide medical assistance to any person nineteen years of age or older and under sixty-five years of age who qualifies for medical assistance under 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII) and federal regulations as of January 1, 2021, and who has income at or below one hundred thirty-three percent of the federal poverty level plus five percent of the federal poverty level for the applicable family size, as provided for by 42 U.S.C. § 1396a(e)(14) and federal regulations as of January 1, 2021.

Any person eligible for medical assistance under this section shall receive coverage that meets the benchmark or benchmark-equivalent coverage requirements, as such terms are defined under 42 U.S.C. § 1396a(k)(1) and any federal regulations as of January 1, 2021.

No later than March 1, 2023, the Department of Social Services shall submit all state plan amendments necessary to implement this section to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

The Department of Social Services shall take all actions necessary to maximize the federal financial medical assistance percentage in funding medical assistance pursuant to this section.

The state may not impose greater or additional burdens or restrictions on eligibility or enrollment standards, methodologies, or practices on any person eligible under this section than on any person otherwise eligible for medical assistance under this chapter.

The Department of Social Services shall promulgate rules pursuant to chapter 1-26 to authorize any person eligible under this section for medical assistance, and any other rule as authorized by §28-6-1 that is necessary to implement this section.

If any provision in this section or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of the section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.



OFFICE OF ATTORNEY GENERAL

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FEB 01 2021

S.D. SEC. OF STATE

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

February 1, 2021

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501


RE: Attorney General's Statement (Medicaid expansion constitutional amendment)

Dear Secretary Barnett,

Enclosed is a copy of a proposed constitutional amendment, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this amendment.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,


Jason R. Ravensborg
ATTORNEY GENERAL

JRR/dd
Enc.

CC/encl. Laurie Jensen Wunder

RECEIVED

FEB 01 2021

S.D. SEC. OF STATE

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution expanding Medicaid eligibility.

Explanation:

Medicaid is a program, funded by the State and the federal government, to provide medical coverage for low-income people who are in certain designated categories. This constitutional amendment expands Medicaid eligibility in South Dakota. It requires the State to provide Medicaid benefits to any person over age 18 and under 65 whose income is at or below 133% of the federal poverty level, plus 5% of the federal poverty level for the applicable family size, as provided in federal law. For people who qualify under this amendment, the State may not impose burdens or restrictions that are greater than those imposed on any other person eligible for Medicaid benefits under South Dakota law.

The South Dakota Department of Social Services must submit to the federal government all documentation required to implement this amendment, and must take all actions necessary to maximize federal funding for this expansion.

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article XXI of the Constitution of South Dakota be amended by adding a NEW SECTION to read:

§ 10 Beginning July 1, 2023, the State of South Dakota shall provide Medicaid benefits to any person over eighteen and under sixty-five whose income is at or below one hundred thirty-three percent of the federal poverty level plus five percent of the federal poverty level for the applicable family size, as authorized by federal law as of January 1, 2021. Such person shall receive coverage that meets or exceeds the benchmark or benchmark-equivalent coverage requirements, as such terms are defined by federal law as of January 1, 2021.

The State of South Dakota may not impose greater or additional burdens or restrictions on eligibility or enrollment standards, methodologies, or practices on any person eligible under this section than on any person otherwise eligible for Medicaid under South Dakota law.

No later than March 1, 2023, the Department of Social Services shall submit all state plan amendments necessary to implement this section to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

The State of South Dakota shall take all actions necessary to maximize the federal financial medical assistance percentage in funding medical assistance pursuant to this section.

This section shall be broadly construed to accomplish its purposes and intents. If any provision in this section or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of the section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.