



OFFICE OF ATTORNEY GENERAL

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

MARTY J. JACKLEY
ATTORNEY GENERAL

RECEIVED

MAR 30 2023

SD Secretary of State

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

March 30, 2023

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Attorney General's Statement (Amendment to the South Dakota Constitution Removing the Limitation That a Proposed Constitutional Amendment Embrace Only One Subject)

Dear Secretary Johnson,

Enclosed is a copy of a proposed amendment to the South Dakota Constitution, 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 constitutional amendment.

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

Very truly yours,

Handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Cc/encl: Quincy Hanzen
Reed Holwegner – Legislative Research Council

Filed this 30th day of

March 2023

Handwritten signature of Monae L. Johnson in black ink.

SECRETARY OF STATE

RECEIVED

MAR 30 2023

SD Secretary of State

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An Amendment to the South Dakota Constitution Removing the Limitation That a Proposed Constitutional Amendment Embrace Only One Subject.

Explanation:

The South Dakota Constitution provides that a proposed constitutional amendment may not embrace more than one subject. In addition, the State Constitution requires that multiple amendments proposed at the same election must be individually presented and voted on separately. These rules are known as the single subject rule and the separate vote requirement.

This proposed amendment removes those provisions from the Constitution. If the measure is approved, voters may be asked to vote on amendments containing multiple subjects. Also, if approved, voters may no longer be able to vote separately on each constitutional change.

Filed this 30th day of

March 2023

Monae L. Johnson

SECRETARY OF STATE

RECEIVED

MAR 30 2023

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

SD Secretary of State

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

Filed this 30th day of

March 2023

Monae L. Johnson

SECRETARY OF STATE

From: Simon Montandon <Maximus604@msn.com>
Sent: Tuesday, March 14, 2023 5:36 PM
To: ATG Ballot Comments
Subject: [EXT] Proposal Question

Sir,

Our great state constitution is obviously a very important document for us. As such it should be treated very carefully, especially when it comes to changes. This opens the door to possible sweeping regulations that whichever political party is in control would severely damage our rights in our currently conservative state. Additionally, this could potentially allow conservatives the power to change the constitution in their favor regardless of what other conservatives believe. I am also curious as to the signatures required. Transforming South Dakota into a more progressive state that passes laws is concerning to me, especially when you could get the majority of signatures required from east river. If this passes I would appreciate a map to show the counties of where the signatures were acquired.

V/R

Simon Montandon

From: David A. Hubbard <david@hubbardgenesis.com>
Sent: Wednesday, March 15, 2023 8:43 AM
To: ATG Ballot Comments
Subject: [EXT] Citizens Rights to Participate in Government

Mr. Jackley,

Why do you seek to prohibit citizen participation in government? It sounds like you want to erect more hurdles for South Dakotans to voice their opinions and make choices for themselves.

In my humble opinion, you should look more closely into those things prohibiting citizen participation rather than creating more roadblocks.

David Hubbard
2822 Johnson Ranch Road
Rapid City, SD 57703
605-381-1127

From: Brent Cox <brent68cox@gmail.com>
Sent: Wednesday, March 15, 2023 10:07 AM
To: ATG Ballot Comments
Subject: [EXT] One subject constitutional amendment

It was the Republicans that put forth the Amendment in 2018 to force all referendums to be one subject and this was done to stop the recreational Marajuana initiative, and it worked with the help of a state trooper, an appointed judge and a biased Supreme Court. Now that you stopped recreational Marajuana (something the people voted to have) you want to put the former law back in place to get more of what you want.

Forget it and learn to deal with the law you wanted. .

Brent Cox
Sturgis SD

From: missmelj41 <missmelj41@gmail.com>
Sent: Friday, March 17, 2023 12:51 PM
To: ATG Ballot Comments
Subject: [EXT] Draft Amendment ballot comments

AG Jackley,
I support your draft Amendment to change the language prohibiting more than one Amendment per initiative or ballot.

Mary Jassman
206A 7th Avenue
Belle Fourche, SD 57717
missmelj41@gmail.com

Sent from my Galaxy

Attorney General,

Attorney General

MAR 20 2023

There should be more than 1 subject under a Constitutional Amendment. This is supposed to be a free nation/state. Meaning, the government of this state (South Dakota) has too much power. Meaning, our state govt. only allows for one subject. The people are supposed to have more power than government. Thank you for caring about freedom.

Regards,

Michael Cedeno

Dougherty, Debbie

From: SD_Coalition_of_Counties <SD_Coalition_of_Counties@proton.me>
Sent: Wednesday, March 22, 2023 1:22 PM
To: ATG Ballot Comments
Subject: [EXT] Joint Resolution Opposing the Proposed Amendment to Delete Single Subject Limitations for Future Constitutional Amendments

Attorney General Jackley,

Greetings! The following joint resolution from the South Dakota Coalition of Counties is hereby submitted as a public comment in response to your letter dated March 13, 2023, RE: Attorney General's Statement (Amendment to the South Dakota Constitution Removing the Limitation that a Proposed Constitutional Amendment Embrace Only One Subject). The undersigned are in complete opposition to the proposed amendment for the below stated reasons:

South Dakota Coalition of Counties

22 March 2023

A Joint Resolution Opposing a Proposed Constitutional Amendment That Would Dangerously Delete the Requirement to Limit Constitutional Amendments to One Subject

WHEREAS: A proposed constitutional amendment that would remove the limitation that a constitutional amendment embrace only one subject was forwarded to the Attorney General of the State of South Dakota.

WHEREAS: Attorney General Marty Jackley subsequently submitted the required draft statement including the proposed amendment to Secretary of State Monae Johnson for the purposes of receiving public comment on the document, with the public comment period ending 23 March.

WHEREAS: The proposed amendment would delete existing language in Article XXIII, Section 1, of the state constitution on single subject limitations, to wit: "... however, no proposed amendment may embrace more than one subject. If more than one amendment is submitted at the same election, each amendment shall be prepared and distinguished that it can be voted upon separately."

WHEREAS: The purpose of the existing single subject requirement is to make clear to voters the specific change being proposed in clear and concise terms. Specific, intentional, and limiting language has served the state and its citizens well by focusing public debate on the pros and cons of individual topics.

WHEREAS: The proposed amendment, if passed into law, would result in future amendments that could include a smorgasbord of topics all bundled into one in a likely deceitful effort to either distract or mislead voters. If this irresponsible and manipulative practice were to be allowed, proponents would be wrongly allowed to be more misleading and/or deceptive in their intended ballot campaigns as they seek to forever disrupt and overturn our well-constructed state constitutional provisions by perhaps bundling the good with the bad and thereby potentially forcing voters to perhaps accept the bad in order to get the good.

WHEREAS: Over time and too much like deceptive, disingenuous, and bloated federal legislation over the years, the passage of such "omnibus multi-topic amendments" would dangerously dilute the well-intended purpose and effect of South Dakota's grounded foundational constitutional requirements, such that it would tend to corrupt our long-established limited government focus that has kept our state a low-tax, low-regulation and maximally free haven for our citizens since it was adopted back in 1889.

THEREFORE, BE IT RESOLVED: That we the undersigned oppose the proposed constitutional amendment that would delete the limitation that future amendments be restricted to a single topic.

Signed:

Executive Board, Aurora County Republican Party
Executive Board, Bennett County Republican Party
Executive Board, Bon Homme County Republican Party
Prospective Executive Board, Buffalo County Republican Party
Executive Board, Butte County Republican Party
Executive Board, Charles Mix County Republican Party
Sarah Taggart, Vice Chair, Clay County Republican Party
Gary Sokolow, Secretary, Clay County Republican Party
Linda Alvey, State Committeewoman, Clay County Republican Party
Glenn Pulse, State Committeeman, Clay County Republican Party
Executive Board, Davison County Republican Party
Executive Board, Fall River County Republican Party
Prospective Executive Board, Hand County Republican Party
Executive Board, Harding County Republican Party
Executive Board, Jackson County Republican Party
Executive Board, McPherson County Republican Party
Executive Board, Minnehaha County Republican Party
Executive Board, Pennington County Republican Party
Executive Board, Todd County Republican Party
Executive Board, Yankton County Republican Party
Executive Board, Ziebach County Republican Party



Attorney General

MAR 22 2023

STATE OF SOUTH DAKOTA
OFFICE OF THE GOVERNOR
KRISTI NOEM | GOVERNOR

March 22, 2023

The Honorable Marty Jackley
Attorney General
Ballot Comment
1302 E. Hwy. 14, Suite 1
Pierre, SD 57501

HAND-DELIVERED

RE: Ballot Comment (Amendment to the South Dakota Constitution Removing the Limitation That a Proposed Constitutional Amendment Embrace Only One Subject)

Dear Attorney General Jackley,

On behalf of the Office of the Governor, I respectfully submit the following ballot comment to the proposed Constitutional Amendment Draft Attorney General's Statement regarding "An Amendment to the South Dakota Constitution Removing the Limitation That a Proposed Constitutional Amendment Embrace Only One Subject."

The "explanation shall be an objective, clear, and simple summary to educate the voters of the purpose and effect of the proposed initiated measure or initiated amendment to the Constitution." SDCL 12-13-25.1. This ballot comment will focus on the requirement that the explanation include the purpose and effect of the proposed change to repeal what's known as the Single Subject Rule and the Separate Vote Requirement.

Missing from the explanation is the purpose and effect of striking the single subject rule and the separate vote requirement, which the latter has been in place since statehood. Both rules "serve to ensure that the voters will not be compelled to vote upon multiple 'subjects' or multiple constitutional changes in a single vote." *Thom v. Barnett*, 967 N.W.2d 261, 273 (S.D. 2021) (citing *Armatta v. Kitzhaber*, 959 P.2d 49, 63 (Or. 1998)).

Long ago, the South Dakota Supreme Court "emphasized the significance of the constitutional requirement ensuring voters are afforded an opportunity to vote separately on each separate subject contained in a proposed amendment. '[I]t is hardly necessary to point out that the provision of the constitution requiring that amendments shall be so

presented to the electors that they may vote upon each separately is one of the utmost importance, and one of substantial merit.” *Id.*, 967 N.W.2d at 273 (citing *State ex rel. Adams v. Herried*, 72 N.W. 93, 97 (S.D. 1897)). While the explanation cannot advocate for maintaining these provisions in the Constitution, the explanation cannot ignore the effect such a repeal would have on how South Dakota voters would express their will at the ballot box.

As a suggestion, a complete explanation that complies with the state law and adequately educates the voters about the purpose and effect of the proposed change could read:

*The South Dakota Constitution provides that a proposed constitutional amendment may not embrace more than one subject. In addition, the state Constitution requires that multiple amendments proposed at the same election must be individually presented and voted on separately. **These rules are known as the one subject rule and the separate vote requirement. The purpose of each rule is to ensure voters can cast separate votes on separate subjects of a Constitutional amendment.***

*This proposed amendment removes those provisions from the Constitution **so that, if passed, a voter would be asked to vote once to either approve or reject the entire amendment as presented. The voter would no longer be able to vote separately on each separate issue presented when the voter may vote differently on each issue.***

With these emboldened additions, the explanation remains an objective summary of the purpose and effect of the proposed initiated amendment that follows the law.

Thank you for your consideration of this ballot comment.

Sincerely,



Katie Hruska
General Counsel



OFFICE OF ATTORNEY GENERAL

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

MARTY J. JACKLEY
ATTORNEY GENERAL

RECEIVED

MAR 13 2023

SD Secretary of State

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

March 13, 2023

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Draft Attorney General's Statement (Amendment to the South Dakota Constitution Removing the Limitation That a Proposed Constitutional Amendment Embrace Only One Subject)

Dear Secretary Johnson,

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 *draft* Attorney General's Statement for the purposes of receiving public comment on the same.

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

Very truly yours,

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Filed this 13th day of

March 2023

SECRETARY OF STATE

Cc/encl: Quincy Hanzen
Reed Holwegner – Legislative Research Council

RECEIVED

MAR 13 2023

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

SD Secretary of State

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

Filed this 13th day of

March 2023

Monae L. Johnson

SECRETARY OF STATE

RECEIVED

MAR 13 2023

SD Secretary of State

CONSTITUTIONAL AMENDMENT

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Amendment to the South Dakota Constitution Removing the Limitation That a Proposed Constitutional Amendment Embrace Only One Subject.

Explanation:

The South Dakota Constitution provides that a proposed constitutional amendment may not embrace more than one subject. In addition, the state Constitution requires that multiple amendments proposed at the same election must be individually presented and voted on separately.

This proposed amendment removes those provisions from the Constitution.

Filed this 13th day of
March 2023

Monae L. Johnson

SECRETARY OF STATE

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

January 25, 2023

Quincy Hanzen, Associate
Matthew Schweich
Ned Horsted
Eagle Campaigns, LLC
4510 W. 35th St. N. #204
Sioux Falls, SD 57107

Re: **Proposed Initiated Constitutional Amendment to Repeal the Single-Subject Rule**

Dear Mr. Hanzen;

This letter acknowledges our receipt of the submission of your proposed initiated constitutional measure repealing the single-subject rule found in S.D. Const. Art. XXIII, § 1. Your proposed measure was received on January 17, 2023. As required by SDCL 12-13-25.1, the Attorney General will prepare a draft title and explanation for the measure and file it with the Secretary of State on or before March 18, 2023. You will be provided a copy of the title and explanation at the time it is filed.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", followed by a horizontal line.

Steven R. Blair
Assistant Attorney General

SRB/dd

cc: Reed Holwegner, Director – Legislative Research Council
Hon. Monae L. Johnson, Secretary of State

Dougherty, Debbie

From: McGuigan, Charles
Sent: Tuesday, January 17, 2023 4:30 PM
To: Blair, Steven
Cc: Dougherty, Debbie
Subject: FW: [EXT] Filing a proposed initiated amendment to the Constitution to repeal the single-subject rule
Attachments: 2024 Single Subject Repeal Constitutional Amendment Jan 14 2023 (1).docx

From: Quincy Hanzen <quincy@eaglecampaigns.com>
Sent: Tuesday, January 17, 2023 4:27 PM
To: reed.holwegner@sdlegislature.gov; McGuigan, Charles <Charles.McGuigan@state.sd.us>; Elections <Elections@state.sd.us>; Johnson, Monae <Monae.Johnson@state.sd.us>; Matthew Schweich <matt@eaglecampaigns.com>; nedhorsted@gmail.com
Subject: [EXT] Filing a proposed initiated amendment to the Constitution to repeal the single-subject rule

To:
Attorney General Marty Jackley
Secretary of State Monae Johnson
Director of the Legislative Research Council Reed Holwegner

I, the undersigned, are hereby submitting a proposed initiated amendment to the Constitution in final form to your offices in accordance with SDCL 12-13-25.1. The amendment would repeal the single-subject rule. The three sponsors of the initiative are Quincy Hanzen, Matthew Schweich, and Ned Horsted.

We previously filed a draft of this initiative with the Director of the Legislative Research Council and received written comments on December 12, 2022.

From:
Quincy Hanzen
Matthew Schweich
Ned Horsted

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

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

DEC 19 2022



PRESIDENT PRO TEMPORE LEE SCHOENBECK, CHAIR | SPEAKER SPENCER GOSCH, VICE CHAIR
REED HOLWEGNER, DIRECTOR | SUE CICHOS, DEPUTY DIRECTOR | JUSTIN GOETZ, CODE COUNSEL
500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV

December 12, 2022

Quincy Hanzen, Associate
Eagle Campaigns, LLC
4510 W. 35th St. N. #204
Sioux Falls, SD
57107

Dear Quincy Hanzen:

SDCL 12-13-25 requires the South Dakota Legislative Research Council (LRC) to review each initiated constitutional amendment submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the amendment "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters."

LRC encourages you to consider the edits and suggestions to the proposed text. The edits are suggested for sake of clarity and to bring the proposed measure into conformance with the style and form of South Dakota legislation. LRC comments are based upon the Guide to Legislative Drafting, which may be found on the South Dakota legislative website—sdlegislature.gov.

The sponsors' proposed initiative constitutional amendment is as follows:

PROPOSED AMENDMENT TO THE SOUTH DAKOTA CONSTITUTION

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

§ 1. Amendments to this Constitution may be proposed by initiative or by a majority vote of all members of each house of the Legislature. An amendment proposed by initiative shall require a petition signed by qualified voters equal in number to at least ten percent of the total votes cast for Governor in the last gubernatorial election. The petition containing the text of the proposed amendment and the names and addresses of its sponsors shall be filed at least one year before the next general election at which the proposed amendment is submitted to the voters. A proposed amendment may amend one or more articles as necessary to accomplish the objectives of the amendment.

-
1. The proposed amendment to the South Dakota Constitution, Article XXIII, § 1, appears to remove the single-subject requirement for initiated constitutional amendments, but that removal is not clearly depicted. The sponsors did not include in the proposal the language they seek to strike from the existing section of the constitution. Therefore, the proposal is not written "in the style and form of other legislation" as required by SDCL 12-13-24.

The style and form for drafting legislation requires that the words to be eliminated by amendment must be stricken with a line running through them. In this case, the drafting convention ensures that the reader of the amendment, when reviewing the text of the amendment on the petition, fully understands the changes being proposed. To not include the overstricken language may result in confusion among potential petition signatories and voters.

Also, an enacting clause (as styled below) is required by S.D. Const., Art. III, § 1. Please consider adding one to your proposal.

The LRC recommends that the initiated constitutional amendment be redrafted as follows:

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article XXIII, section 1 of the Constitution of the State of South Dakota, be amended to read:§ 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; ~~however, no proposed amendment may embrace more than one subject. If more than one amendment is submitted at the same election, each amendment shall be so prepared and distinguished that it can be voted upon separately.~~

By showing the constitutional language being proposed to be removed, any potential petition signatories and voters may better understand the proposed changes and the overall impact on the constitutional language.

2. Although a sponsor is not statutorily required to make changes based upon the suggestions and comments provided above, you are encouraged to be cognizant of the standards established in SDCL 12-13-24 and 12-13-25 and ensure that your language is in conformity.
3. SDCL 12-13-25 also requires the issuance of a written opinion "as to whether the initiated amendment embraces only one subject under S.D. Const., Art. XXIII, § 1" and whether it is in fact an "amendment under S.D. Const., Art. XXIII, § 1," or a "revision under S.D. Const., Art. XXIII, § 2." The proposed constitutional change embraces only one subject, the removal of the single-subject requirement for proposed initiated constitutional amendments. Given the limited nature of the proposed language, the proposal is an amendment and not a revision of the constitution.

Fiscal Impact

It has been determined during this review that this proposed initiated constitutional amendment will not have an impact on the revenues, expenditures, or fiscal liability of the state and its agencies and political subdivisions.

Compliance

This letter is issued in compliance with statutory requirements placed upon this office. It is neither an endorsement of the proposed initiated constitutional amendment nor a guarantee of its sufficiency. If you proceed with the

Hanzen—Single Subject

December 12, 2022

Page 3

initiated constitutional amendment, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the Legislative Research Council.

Sincerely,

A handwritten signature in blue ink that reads "Reed Holwegner". The signature is written in a cursive style with a large initial "R".

Reed Holwegner

Director

CC: The Honorable Monae L. Johnson, Secretary of State
✓ The Honorable Mark Vargo, Attorney General
Matthew Schweich
Ned Horsted