

STATE OF SOUTH DAKOTA



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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

April 30, 2026

**RECEIVED**

APR 30 2026

SD Secretary of State

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

RE: Draft Attorney General's Statement (An Amendment to the South Dakota Constitution that Repeals Expanded Medicaid Coverage if Federal Funding for the Program Drops below 90%)

Dear Secretary Johnson,

Enclosed submitted to our office is a copy of HJR 5001 (2025), 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 general election. In accordance with state law, I hereby file the enclosed *draft* Attorney General's Statement for the purpose of receiving public comment on the same.

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

Very truly yours,

Handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/dd  
Enc.

Filed this 30<sup>th</sup> day of

April 2026

Handwritten signature of Monae L. Johnson in black ink.

SECRETARY OF STATE

Cc/encl: John McCullough Legislative Research Council

**RECEIVED**

APR 30 2026

SD Secretary of State

CONSTITUTIONAL AMENDMENT  
DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Amendment to the South Dakota Constitution that Repeals Expanded Medicaid Coverage if Federal Funding for the Program Drops below 90%.

Explanation:

Medicaid is a program, funded by the State and the federal government, to provide medical coverage for low-income children, pregnant women, disabled individuals, and the elderly. In the 2022 General Election the voters approved Constitutional Amendment D, which expanded Medicaid eligibility in South Dakota. Amendment D requires the State to also provide Medicaid benefits to anyone over the age of 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. Currently, federal law requires the federal government to fund 90% of South Dakota's Medicaid expansion.

This proposed Constitutional Amendment ends the expanded Medicaid coverage if the federal funding for expansion drops below 90%. If federal funding drops below that 90% threshold, Medicaid coverage will once again only apply to low-income children, pregnant women, disabled individuals, and the elderly.

"Vote 'Yes' to adopt the amendment." "Vote 'No' to leave the Constitution as it is."

Filed this 30<sup>th</sup> day of

April 2026

*Monae L. Johnson*

SECRETARY OF STATE



2025 South Dakota Legislature  
**House Joint Resolution 5001**

**ENROLLED RECEIVED**

APR 30 2026

AN ACT

SD Secretary of State

**A JOINT RESOLUTION, Proposing and submitting to the voters at the next general election an amendment to the Constitution of the State of South Dakota, conditioning the requirement of expanded Medicaid on the level of federal medical assistance.**

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

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

**Section 2. That Article XXI, § 10 of the Constitution of the State of South Dakota, be AMENDED:**

**§ 10.** For the period beginning July 1, 2023, and ending on the day that the federal medical assistance percentage, described in 42 U.S.C. § 1396d(y) (January 1, 2025), is reduced below ninety percent, 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, except that the State of South Dakota may, to the extent permitted by the United States Department of Health and Human Services, Centers for Medicare and

Filed this 30<sup>th</sup> day of

April 2026

*Monae L. Johnson*

SECRETARY OF STATE

Medicaid Services, impose a work requirement on any person, eligible under this section, who has not been diagnosed as being physically or mentally disabled.

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.

A JOINT RESOLUTION, Proposing and submitting to the voters at the next general election an amendment to the Constitution of the State of South Dakota, conditioning the requirement of expanded Medicaid on the level of federal medical assistance.

\_\_\_\_\_

\_\_\_\_\_

I certify that the attached Resolution originated in the:

**STATE OF SOUTH DAKOTA,**

SS.

Office of the Secretary of State

House as Joint Resolution No. 5001

at 12:33 Filed March 6, 2025  
o'clock PM.

Patricia Miller  
Chief Clerk

[Signature]  
Speaker of the House

Monica L. Janson  
Secretary of State

Attest:

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

Patricia Miller  
Chief Clerk

[Signature]  
President of the Senate

Attest:

[Signature]  
Secretary of the Senate

House Joint Resolution No. 5001

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

Chapter No. 65