



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

JUN 14 2023

SD Secretary of State

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

June 14, 2023

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

RE: Attorney General's Statement (An Amendment to the South Dakota
Constitution Revising Legislative Term Limits)

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,

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Cc/encl: Senator Brent Hoffman
Reed Holwegner - Legislative Research Council

Filed this 14th day of
June 2023

SECRETARY OF STATE

CONSTITUTIONAL AMENDMENT
ATTORNEY GENERAL'S STATEMENT

RECEIVED

JUN 14 2023

SD Secretary of State

Title: An Amendment to the South Dakota Constitution Revising
Legislative Term Limits.

Explanation:

Members of the South Dakota Legislature are limited by the State Constitution to four consecutive terms of service, or eight consecutive years, in either the House of Representatives or the Senate. Currently, a legislator can serve an indefinite number of years in the Legislature if a break in service occurs in either chamber.

The proposed amendment limits legislators to serving a lifetime total of eight years in the State House of Representatives and a total of eight years in the State Senate, or a maximum total of sixteen years.

Filed this 14th day of
June 2023

Monae L. Johnson

SECRETARY OF STATE

SEN. B.R. HOFFMAN
SOUTH DAKOTANS FOR TERM LIMITS
2608 N. Career Avenue, #213, Sioux Falls, SD 57107

RECEIVED

JUN 14 2023

SD Secretary of State

March 28th, 2023

Office of the Attorney General
1302 E. Hwy 14, Suite 1
Pierre, SD 57501

I respectfully submit language for an initiated constitutional amendment to limit state legislators to eight years of service in the Senate and House of Representatives for your review. I have reviewed the form changes suggested by the Legislative Research Council (March 27, 2023) and submit the following for a draft title and explanation.

"Be it enacted by the people of South Dakota, that Article III, Sec. 6 of the Constitution of the State of South Dakota, be AMENDED:

Legislative terms of office—Compensation—Regular session. The terms of office of the members of the legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of section 2 of article XXI of this Constitution, and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

No person may serve more than ~~four consecutive terms or a total of eight consecutive~~ years in the senate and more than ~~four consecutive terms or a total of eight consecutive~~ years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed.

A regular session of the Legislature shall be held each year and shall not exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage."

Please note I haven't included an effective or delayed implementation date, and if approved by voters, the amendment would be effective July 1st, 2025, as provided by law. Please feel free to contact me if you have any questions or concerns. Thank you for your time and consideration.

//signed//

BRENT "B.R." HOFFMAN
State Senator (R-D9)

Copies to:
Legislative Research Council
Secretary of State

Filed this 14th day of

June 2023

Monae L. Johnson

SECRETARY OF STATE

From: Gene Fennell <gene@fendesinc.com>
Sent: Tuesday, May 30, 2023 8:56 AM
To: ATG Ballot Comments
Subject: [EXT] Comments to Joint Resolution 504

Comments to Joint Resolution 504:

- Does not resolve the issue

Line 16: No person may serve (2) Two consecutive Terms (4 consecutive years)

Line 17: in the Senate and more than (2) Two consecutive terms (4 consecutive years)

Line 18: in the house of representatives, unless that same person has held no State Government position for (4) four years, at which time they may again run for election to one of the State Legislative branches, Governor or hold other State Office.

Line 18 & 19: If a person has reached the above term limits, they are not eligible for appointment to either of the State legislative branches until after their (4) four year hiatus.



Gene Fennell
(605) 574-1084
gene@fendesinc.com

From: Brent Hoffman <brent.hoffman@att.net>
Sent: Thursday, June 1, 2023 9:16 AM
To: ATG Ballot Comments
Cc: Brent Hoffman; Brent Hoffman
Subject: [EXT] Comments: Legislative Term Limits

I'd like to submit the following comments in response to the Attorney General's Explanation (Draft), dated May 25th, 2023, for the Amendment to Revise Term Limits.

1. Change sentence one to "Members of the South Dakota Legislature are limited by the State Constitution to four *consecutive* terms of service, or eight *consecutive* years, in either the House of Representatives or the Senate.

Explanation: Italicizes the word "consecutive" as this is the key word of emphasis for voters.

2. Change sentence two to "Currently, a legislator can serve an indefinite number of years ~~in the Legislature if a break in service occurs in either chamber~~ as long as there is a break in service or the legislator is elected to the other chamber.

Explanation: Since the amendment is about the legislature and introduced in the opening sentence, the words "in the Legislature" are unnecessary, and it lengthens the explanation. However, more important, there is no actual "break in service" if a senator is elected to the house (or a representative is elected to the senate). Since the current language in the constitution lists each chamber separately, it can be interpreted that service between chambers is non-consecutive, though I'm not aware of a legal challenge to that interpretation. But it's clear that serving in one chamber while being elected to the other doesn't constitute a "break in service" and so I think it's important to make that distinction more clear, as that is currently the practice.

3. Change sentence three to "The proposed amendment limits legislators to serving a ~~lifetime~~ total of eight years in the State House of Representatives and a total of eight years in the State Senate or a maximum total of 16 years."

Explanation: Including the word "lifetime" is unnecessary and confusing, and I've not seen that language in another state-level proposal. It also could be argued that it doesn't apply to the senate since the word appears once, but the word confuses or prejudices voters. In addition, no matter how the language is written, some voters will interpret "and" as an "or" and presume a total of eight years in both chambers so it's important for clarity to include the maximum total of 16 years.

Please respond to verify you've received these comments. I appreciate your time and consideration.

Sen. Brent (B.R.) Hoffman (D-9)
2608 N. Career Ave (Unit 213)
Sioux Falls, SD 57107
Brent.Hoffman@att.net
605.215.7014



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RECEIVED

MAY 25 2023

SD Secretary of State

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

May 25, 2023

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 Revising Legislative Term Limits)

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.

Cc/encl: Senator Brent Hoffman
Reed Holwegner – Legislative Research Council

Filed this 25th day of

May 2023

SECRETARY OF STATE

RECEIVED

MAY 25 2023

SD Secretary of State

CONSTITUTIONAL AMENDMENT

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Amendment to the South Dakota Constitution Revising
Legislative Term Limits.

Explanation:

Members of the South Dakota Legislature are limited by the State Constitution to four consecutive terms of service, or eight consecutive years, in either the House of Representatives or the Senate. Currently, a legislator can serve an indefinite number of years in the Legislature if a break in service occurs in either chamber.

The proposed amendment limits legislators to serving a lifetime total of eight years in the State House of Representatives and a total of eight years in the State Senate.

Filed this 25th day of

May 2023

Monae L. Johnson

SECRETARY OF STATE

RECEIVED

MAY 25 2023

SD Secretary of State

SEN. B.R. HOFFMAN
SOUTH DAKOTANS FOR TERM LIMITS
2608 N. Career Avenue, #213, Sioux Falls, SD 57107

March 28th, 2023

Office of the Attorney General
1302 E. Hwy 14, Suite 1
Pierre, SD 57501

I respectfully submit language for an initiated constitutional amendment to limit state legislators to eight years of service in the Senate and House of Representatives for your review. I have reviewed the form changes suggested by the Legislative Research Council (March 27, 2023) and submit the following for a draft title and explanation.

"Be it enacted by the people of South Dakota, that Article III, Sec. 6 of the Constitution of the State of South Dakota, be AMENDED:

Legislative terms of office—Compensation—Regular session. The terms of office of the members of the legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of section 2 of article XXI of this Constitution, and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

No person may serve more than ~~four consecutive terms or a total of eight consecutive~~ years in the senate and more than ~~four consecutive terms or a total of eight consecutive~~ years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed.

A regular session of the Legislature shall be held each year and shall not exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage."

Please note I haven't included an effective or delayed implementation date, and if approved by voters, the amendment would be effective July 1st, 2025, as provided by law. Please feel free to contact me if you have any questions or concerns. Thank you for your time and consideration.

//signed//

BRENT "B.R." HOFFMAN
State Senator (R-D9)

Copies to:
Legislative Research Council
Secretary of State

Filed this 25th day of

May 2023

Monae L. Johnson

SECRETARY OF STATE

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

March 30, 2023

South Dakotans for Term Limits
Senator Brent "B.R." Hoffman
2608 N. Career Avenue, #213
Sioux Falls, SD 57107

Re: **Proposed Initiated Constitutional Amendment Regarding Legislative Term Limits**

Dear Senator Hoffman;

This letter acknowledges our receipt of the proposed initiated constitutional measure that you submitted to this Office. Your proposed measure was received on March 28, 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 May 30, 2023. You will be provided a copy of the title and explanation at the time it is filed.

Sincerely,

A handwritten signature in blue 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



MAR 28 2023

March 27, 2023

Senator B.R. Hoffman
South Dakotans for Term Limits
2608 N. Career Avenue, #213
Sioux Falls, SD 57107

Dear Senator Hoffman:

SDCL 12-13-25 requires the South Dakota Legislative Research Council (LRC) to review each proposed 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."

The initiated constitutional amendment proposes to amend S.D. Const. Art. III, § 6, the constitutional provision providing for legislative terms of office. Specifically, the amendment changes the term limits for both the House of Representatives and Senate from "four consecutive terms or a total of eight consecutive years" to "eight years in the senate" and "eight years in the house."

The proposed constitutional amendment is drafted as follows:

That at the next general election held in the state, the following amendment to Section 2, Article III (6b) of the Constitution of the State of South Dakota, shall be submitted to the electors of the state for approval:

"No person may serve more than eight years in the senate and more than eight years in the house of representatives."

The amended text of the proposed amendment to Article III (6b) is as follows:

"No person may serve more than ~~four consecutive terms or a total of eight consecutive~~ eight years in the senate and more than ~~four consecutive terms or a total of eight consecutive~~ eight years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed."

SDCL 12-13-24 requires an initiated amendment to the Constitution to be written in the "form of other legislation." The LRC suggests several form changes to conform to this requirement.

1. The typical lead-in clause for proposed constitutional amendments is as follows: "That Article III, § 6 of the Constitution of the State of South Dakota, be AMENDED:". The LRC recommends that this lead-in clause be used to be consistent with the form of other legislation. Further, S.D. Const. Art. III, § 6 does not letter its paragraphs; so, the reference to "(b)" in the proposal should not be included.
2. S.D. Const. Art. III, § 1 provides that the enacting clause of all laws approved by vote of the electors is as follows: "Be it enacted by the people of South Dakota." The LRC recommends that this enacting clause be used for the proposal.

3. When amending an existing law, the entire text of the section is pulled into the document. Thus, the LRC recommends that the proposed constitutional amendment language include the entirety of S.D. Const. Art. III, § 6, not just part of the section.
4. Finally, it is not necessary to show how the constitutional section will read if the voters approve the proposed constitutional amendment language. It is enough to simply show the language as amended.

Based on these suggestions, the LRC recommends that the proposed constitutional amendment language be redrafted as follows:

Be it enacted by the people of South Dakota:

That Article III, § 6 of the Constitution of the State of South Dakota, be AMENDED:

§ 6. Legislative terms of office--Compensation--Regular sessions. The terms of office of the members of the Legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of § 2 of article XXI of this Constitution, and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

No person may serve more than ~~four consecutive terms or a total of eight consecutive~~ years in the senate and more than ~~four consecutive terms or a total of eight consecutive~~ years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed.

A regular session of the Legislature shall be held each year and shall not exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage.

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](#).

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.

[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 appears to embrace only one subject—legislative terms limits. Given the limited nature of the proposed language, it appears to be an amendment and not a revision of the constitution.

The sponsor may want to consider providing a delayed effective date for the amendment language so that it coincides with legislative terms beginning in 2027, or otherwise clarify how the term limits apply to years of legislative service for legislative members beginning new terms in 2025. As drafted, the constitutional amendment language would be effective the first day of July after completion of the official canvas by the State Canvassing Board. See [SDCL 2-1-12](#).

Fiscal Impact

To determine whether the proposed initiated amendment to the Constitution in its final form has an impact on revenues, expenditures, or fiscal liability of the state and its agencies and political subdivisions, please provide the LRC, as required by SDCL 12-13-25.1, with a copy of the initiated amendment to the Constitution as submitted in final form to the Attorney General.

Compliance

This letter is issued in compliance with statutory requirements placed upon this office. It is neither an endorsement of the proposed initiated amendment to the Constitution nor of any of the edits suggested by the LRC. This letter is not a guarantee of the proposal's sufficiency. If you proceed with the 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,



Reed Holwegner
Director

Enclosure

CC: The Honorable Monae L. Johnson, Secretary of State
The Honorable Marty Jackley, Attorney General