



**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**

SEP 09 2024

SD Secretary of State

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

September 9, 2024

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

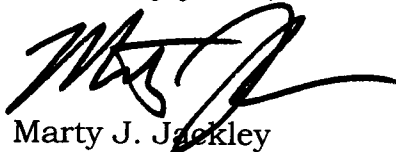
RE: Attorney General's Statement (Proposed Initiated Measure  
To Require a Daily Non-denominational Prayer in Public Schools)

Dear Secretary Johnson,

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 sponsor.

Very truly yours,



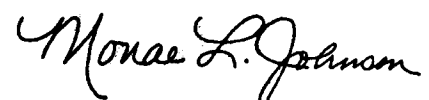
Marty J. Jackley  
ATTORNEY GENERAL

MJJ/dd  
Enc.

Cc/encl: Hillel Hellinger  
John McCullough – Legislative Research Council

Filed this 9<sup>th</sup> day of

September 2024



SECRETARY OF STATE

RECEIVED

SEP 09 2024

SD Secretary of State

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure to Require a Daily Non-denominational Prayer in Public Schools.

Explanation:

This initiated measure requires each public-school teacher, in grades Kindergarten through 12th grade, to lead students every morning in the following prayer: "Almighty God, who is aware of His creation, who keeps it going and judges it, please have mercy on us." The measure requires students to repeat each phrase after the teacher. The measure allows both teachers and students who object to the prayer on religious grounds to seek an exemption from participating in the prayer. The request for an exemption must be submitted in writing to the school principal.

The measure may be challenged in court on constitutional grounds. Judicial or legislative clarification of the measure may be necessary.

Filed this 9<sup>th</sup> day of  
September 2024

*Monae L. Johnson*

SECRETARY OF STATE

RECEIVED

SEP 09 2024

SD Secretary of State

**From:** Hillel Hellinger <hhellinger@gmail.com>  
**Sent:** Friday, June 28, 2024 12:14 PM  
**To:** ATG Help; Elections; McCullough, John  
**Subject:** [EXT] Initiated measure for a non-denominational prayer in public schools

Good afternoon

I am submitting a final copy of my proposed initiated proposal as stated in SD **12-13-25.1**

Be it enacted by the people of South Dakota:

Each school district shall require that every school day begin with each teacher Grades K through 12 leading their students in the non-denominational prayer provided in this section.

The teacher shall lead their students in the prayer reciting phrase by phrase with each student repeating each phrase. The text of this prayer is as follows:

"Almighty God, who is aware of His creation, who keeps it going and judges it, please have mercy on us."

This act excuses the participation of both teachers and students whose parents object on religious grounds to the saying of the prayer mentioned in this section.

Those seeking a religious exemption from participating in prayer shall submit their request in writing to the school principal.

Hillel Hellinger  
Hellinger Trading company  
1081 NE 175 Street  
North Miami Beach, FL 33162  
Tel# 305-992-1348

Filed this 9<sup>th</sup> day of  
September 2024

*Monae L. Johnson*

SECRETARY OF STATE

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**From:** Michael Oestreich <michael.oestreich@ymail.com>  
**Sent:** Thursday, August 22, 2024 12:27 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Opposition to forced prayer in public schools.

This proposed ballot measure requiring public schools in South Dakota to implement prayer sessions is deeply concerning. It violates the fundamental principle of freedom of speech that the United States stands for and imposes a particular religious practice on students of diverse faiths—or those who choose no faith at all. South Dakota is a state, not a Christian theocracy, and our government should reflect the pluralism that defines our nation. Forcing prayer in schools disregards the religious freedoms of countless students and families, infringing on their right to practice—or not practice—religion as they see fit. I urge the Attorney General to recognize that this measure is not only unconstitutional but also out of step with the values of a diverse and inclusive society. This is not just a matter of protecting minority rights; it is about upholding the very principles that define us as a nation. Such an imposition will not be tolerated.

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**From:** Stuart Rounds <stu.rounds08@gmail.com>  
**Sent:** Thursday, August 22, 2024 3:08 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Why not a sign up program?

I'm all for freedom of religion, so making this a mandatory (unless papers signed to exempt) thing seems off. It seems like it would be better worded if the prayer program was something students could sign up for on their own, instead of making it mandatory. What if a student doesn't wish to take part, but their parents don't exempt them? Do the child's religious freedoms not exist? Speaking as someone who was forced to "pray" when he didn't believe, mandating these things has a way of creating the opposite of the intent.

I won't even get into the separation of church and state here, because this is SD and that argument just gets drowned out, despite being valid and grounds to throw the whole measure out in court.

(Not sure if my name is needed or these are anonymous. If needed only: Stuart Rounds)

Sent from my iPhone

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**From:** Amy Brech <ajoslin@sio.midco.net>  
**Sent:** Thursday, August 22, 2024 3:49 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in Schools

Absolutely not. Prayer is not something that should be practiced in any public schools. Public schools that are paid for from taxes from people who may not believe in God. Our country was founded on separation of church and state; I would hope the South Dakota government would be smart enough to know this. But, I won't hold my breath.

South Dakota absolutely should be following the laws of this country. I am so sick and tired of this state shoving religion at everything as though the country was founded on a Bible

It's this government's answer to everything; when it should be your answer to NOTHING! Religion has nothing to do with our state. Leave the Bible out of our government.

As every historian will tell you- we were founded on the freedom to read and believe in the Bible. Or the freedom to read and believe in the Torah. Or the freedom to believe in Allah or Buddha.

Quit shoving a certain group of people's beliefs down the throats of all South Dakotans. If we want our children to pray; we will do so in the privacy of our own homes.

I am a Christian. I am the descendant of many generations of Methodist ministers. I believe in prayer. But I also believe that we are free to believe in our own version of God. And the state of South Dakota has absolutely no right to take that away from those who do not believe in your right winged, white Jesus version of him/her.

Amy Brech  
605-929-8127

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**From:** Doug Nielsen <DNIelsen1966@outlook.com>  
**Sent:** Thursday, August 22, 2024 8:32 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] An initiated measure to require a non-denominational prayer in public schools

To Marty Jackley, Attorney General of the Great State of South Dakota

Mr. Jackley,

I am writing to express my unequivocal opposition to this initiated measure. I believe it flies directly in the face of the First Amendment to the Constitution of the United States, and is specifically contrary to the 3rd enumerated right as expressed in our State Constitution.

No person should ever be compelled to worship against their conscience or ask for permission to exercise their Constitutionally guaranteed right to dissent. This measure requires a choice between one or the other and both are an affront to our God given rights as citizens of the United States and the free people of South Dakota.

Furthermore, I find it distasteful that people who are not citizens governed by this proposed law are placing blatantly unconstitutional proposals on our ballot with the clear intent of indoctrinating our children into their version of religion. Or government should not and cannot be in that business.

Thank you for all your efforts to bring these issues to the public's attention.

Sincerely,

Douglas Nielsen  
Madison, SD

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**From:** Brianne G <bngarr19@ole.augie.edu>  
**Sent:** Friday, August 23, 2024 2:48 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Ballot Measure Comment SD 12-13-25.1 Non-Denominational Prayer in Public Schools

Dear Attorney General Jackley,

I am writing to express my serious concerns regarding the proposed measure that mandates a non-denominational prayer led by teachers at the beginning of each school day for students in grades K-12.

The proposed measure states that "Each school district shall require that every school day begin with each teacher Grades K-12 leading their students in the non-denominational prayer provided in this section." The use of the term "shall" in this context is legally equivalent to "must," and this language appears to contradict established legal precedents, particularly the ruling in *West Virginia State Board of Education v. Barnette* 319 U.S. 624 (1943).

In *Barnette*, the Supreme Court overturned *Minersville School District v. Gobitis* 310 U.S. 586 (1940), which involved coerced participation in flag salute ceremonies. The Court emphasized that the government cannot compel individuals to express beliefs, stating, "We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent." Justice Jackson noted that the state's power to impose such a policy is limited by the First Amendment, highlighting that compelled speech "creates a clear and present danger that would justify an effort even to muffle expression" (319 U.S. at 633, 634).

Additionally, the Court's decision in *Janus v. American Federation of State, County, and Municipal Employees* 138 S. Ct. 2448 (2018) reaffirmed that compelled speech poses significant First Amendment concerns. When evaluating the constitutionality of laws related to compelled speech, the standard of "strict scrutiny" must be applied. This requires that the government demonstrate:

1. A compelling interest: The government must show that its interest is essential and not merely discretionary.
2. Narrow tailoring: The regulation must be implemented using the least restrictive means to achieve the compelling interest.

The proposed measure fails to meet both criteria. In *Engel v. Vitale* 370 U.S. 421 (1962), the Court ruled that even non-denominational prayers in public schools violate the Establishment Clause of the First Amendment. The language of the proposed prayer closely mirrors that in *Engel v. Vitale*, further illustrating its inconsistency with established constitutional principles.

Our nation's founders sought to establish a core principle of religious freedom, understanding that government endorsement of any religion poses a threat to individual religious freedom. This principle remains as vital today as it was at the nation's founding.

Furthermore, the proposed measure contradicts our state constitution. Article VI, Section 3 clearly states:

"Freedom of religion--Support of religion prohibited. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the state. No person shall be compelled to attend or support any ministry or place of worship against his consent nor shall any preference be given by



law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution."

As a concerned constituent, I urge you to either conduct a review of this proposed amendment for legal and constitutional compliance or refer it to the appropriate legislative authority for such a review.

Thank you for your attention to this matter.

Sincerely,  
Brienne Garr  
Resident of Sioux Falls, SD

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**From:** Susan Hovey <susanjhovey@gmail.com>  
**Sent:** Friday, August 23, 2024 3:45 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] SD school prayer ballot initiative

This prayer has no place in our public schools.

The initiative is blatantly Christian, using "God," not "Allah," or the preferred titles of deities of other non-Christian religions. This prayer would effectively single out children who do not express their faith in this way, as well as children being raised with no religious faith -- as is the constitutional right of their parents.

Especially objectionable is the language about God's judgement, imploring Him to "have mercy on us" -- children begging His mercy for His judgment. That's a heavy burden of guilt to lay on the shoulders of children. I find it especially odd in a state where Social Studies and History curriculum is required to be sanitized so as not to make White children feel guilt about our nation's indisputable history of slavery and the annihilation of Native culture and peoples.

This supposedly innocuous little prayer would be just a "toe in the door" for religious zealots to use to expand their unconstitutional force-feeding of their Christian beliefs on the rest of us. It's an insidious piece of religious crap that does not belong in public schools.

Susan Hovey  
4017 S. Outfield Ave.  
Sioux Falls, SD 57110  
605.254.4525  
[susanjhovey@gmail.com](mailto:susanjhovey@gmail.com)

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**From:** Emily Wilson <ekwilson16@gmail.com>  
**Sent:** Friday, August 23, 2024 7:25 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in School

No. No prayers in public school.

We have plenty of places to pray and if someone wants to personally, fine. No mandated prayer in public schools.

Thank you,  
Emily

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**From:** Andrew Rogers <a.rogers6437@gmail.com>  
**Sent:** Friday, August 23, 2024 9:55 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Strong Opposition to Placing Unconstitutional Measure on the Ballot

I am writing to express my strong opposition to the proposed initiated measure that would require public school teachers in South Dakota to lead students in prayer every morning. This measure is not only unconstitutional, but it also represents a significant threat to the separation of church and state. For these reasons, it should not even be allowed on the ballot.

The First Amendment of the United States Constitution prohibits any law respecting an establishment of religion. Public schools, as government entities, must remain neutral on matters of religion. By mandating prayer, this measure would effectively impose a religious practice on all students, regardless of their personal beliefs. Although the measure suggests that teachers and students could seek exemptions, this option does not negate the coercive nature of the mandate or the potential for students to feel marginalized if they opt out.

Allowing this measure to appear on the ballot would open the door to potential lawsuits from organizations like Freedom From Religion and others committed to defending the separation of church and state. These legal challenges would be costly for our state, both in terms of finances and reputation, diverting resources from more pressing educational needs.

It is also concerning that this measure is being driven by an individual from Florida, rather than someone who understands and represents the values and priorities of South Dakotans. Our state should not be used as a testing ground for extreme religious agendas from outsiders.

Given these significant issues, I strongly urge you to take action to prevent this measure from being placed on the ballot. It is a clear violation of constitutional principles and an unnecessary risk for our state.

Thank you for your attention to this matter.

Sincerely,

**Andrew Rogers**  
[a.rogers6437@gmail.com](mailto:a.rogers6437@gmail.com)

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**From:** Paul Wingert <paullwrt@yahoo.com>  
**Sent:** Saturday, August 24, 2024 3:35 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Non-denominational Prayer in Public Schools

I will not sit back and watch this state sink to 3rd world status that we're witnessing in Louisiana and Oklahoma. This country is not a Christian nation, and citizens have freedom of religion as well as freedom from religion.

Suppose proposing this measure is Mr Hellinger's way to gain attention. Either way, If this passes, attention is something he'll surely get, along with the barrage of lawsuits that will soon follow. I'm sure this state has better things to do with the taxpayer's money.

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**From:** Zachary Dresch <zacharydresch2@gmail.com>  
**Sent:** Saturday, August 24, 2024 11:45 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Message to Marty Jackley

Dear Attorney General Marty Jackley,

I hope this letter finds you well. I am writing to you as a concerned citizen and a Christian who values the principles of both faith and the separation of church and state.

While I hold my beliefs close to my heart, I believe it is important to recognize that public schools serve a diverse population of students, representing a wide array of beliefs and backgrounds. As such, I feel that prayer, as a formal practice within the public school system, does not belong in our schools.

In a public school setting, the focus should be on providing a safe and inclusive environment for all students, regardless of their religious beliefs. For some, school is a place of learning and growth, and introducing prayer can inadvertently create an atmosphere of exclusion for those who may practice a different faith or none at all.

I appreciate that many individuals find comfort and strength in prayer, and I support the right of students to engage in private prayer if they choose to do so. However, I believe that promoting prayer as a formal part of the school day can blur the lines between personal beliefs and public education, potentially infringing on the rights of those who do not share the same faith.

As we strive to create a more inclusive educational environment, I encourage you to consider the implications of public prayer in schools and to support policies that respect the beliefs of all students.

Thank you for your attention to this important matter. I hope you will take my thoughts into consideration as you continue your work to uphold the principles of justice and equality for all.

Sincerely,

Zach Dresch  
605-310-3938

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**From:** Elizabeth Rahn <efrahn@gmail.com>  
**Sent:** Saturday, August 24, 2024 6:44 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] NO to 2026 Initiated Measure on Prayer in Schools

The state of South Dakota has no business requiring teachers to lead K-12 students in prayer every morning. Why is this initiated measure even being considered?

Elizabeth F Rahn  
47262 295th  
Beresford, SD 57004  
605-951-8034

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**From:** Kevin S <kevin57703@outlook.com>  
**Sent:** Sunday, August 25, 2024 8:45 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] initiated measure was proposed by Hillel Hellinger of North Miami Beach Florida to have teachers lead students in morning prayer

The proposed initiated measure by a resident of Florida for South Dakota is absolutely ridiculous. Is this for Christian prayer Muslim prayer Jewish prayer Hindu prayer? What about separation of church and state or is this measure being supported by Kristi Noem? I will fight hard to make sure this measure does not get put on the ballot, and I suggest you do the same.

Kevin Spiekermeier  
6055800580  
3726 Serendipity Lane  
Rapid City, SD. 57702  
Sent from my iPhone



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**From:** E. Ruth Bidwell <erbidwell@gmail.com>  
**Sent:** Sunday, August 25, 2024 11:48 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Comment on Proposed Initiated Measure to Require a Daily Non-denominational Prayer in Public Schools

Dear Attorney General Jackley,

I was concerned to read the proposed initiated measure to require a daily non-denominational prayer in SD public schools. This proposed measure is in flagrant violation of the Establishment Clause of the First Amendment, and since 1962 the US Supreme Court has repeatedly ruled against the constitutionality of teacher-led prayer in public schools. The opt-out clause in the proposed measure does not circumvent its unconstitutionality, as Supreme Court rulings such as Engel v. Vitale, Abington School District v. Schempp, and others have clarified that indirect coercion and peer pressure to participate in school-led prayers are unacceptable and cannot be eliminated merely by allowing students or teachers to opt out of said prayers. Teachers, who are government employees, should not be controlling how our students pray, nor should they be forced to pray in a specific way themselves. South Dakota's parents, families, and students should decide for themselves how, whether, and to whom they wish to pray, and it is not the place of the government to tell them how to practice religion. Moreover, dedicating class time to a prescribed prayer takes away valuable instructional time. It is my hope that this measure is challenged in court on constitutional grounds and does not make its way into the lives of South Dakota's students.

Sincerely,  
Ruth Bidwell

Phone Number: 503-400-0917  
Email: [erbidwell@gmail.com](mailto:erbidwell@gmail.com)  
Address: 5900 S Kerry Ave, Sioux Falls, SD 57106

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**From:** Roger Rhody <rdklrhody1@swiftel.net>  
**Sent:** Sunday, August 25, 2024 8:55 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in the classroom

Dear AG Jackley,

I have recently seen comments about a proposal by a Florida resident to mandate teacher lead prayer in all SD K-12 schools. This is to be on the 2026 general election ballot. If this is true, I would like to strongly object to this proposal. This seems to be clearly against the separation of church and state. If private parochial school want to do this, fine. But it should not be mandated in public schools. I was a public school teacher for 30+ years in MN and I would have been very uncomfortable leading prayers in my very diverse classroom. And as a parent, I don't want anyone teaching my children about religion other than parents and religious leaders from my own church. I don't care how generic the prayer is or if students can opt out, I disagree with teacher led prayer in the public schools. One last point, why is someone from Florida telling other states how to run the schools in other states.

Thank you.  
Kim Rhody  
Brookings, SD  
320-979-5639 cell  
rdklrhody1@swiftel.net

Sent from my iPhone

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**From:** Lady Bridget <ladybridget@gmail.com>  
**Sent:** Tuesday, August 27, 2024 9:33 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] comment on Prayer in Public Schools

This is my comment on the proposed "non-denominational" prayer for public schools as proposed by Mr. Hillel Hellinger.

NO

First, it goes against the Constitution of the United States which clearly separates Church and State. Since K-12 grade are mandated by the Federal government, they cannot have prayers in schools because it violates the rights of those who are Atheist, Wiccan, or any other humanist faith or those who do not see Deity as male. The prayer says "He".

Secondly, in order to be exempt, one has to appeal in writing. That takes away the parents or child's choice until that can be reviewed.

Thirdly, the child even if exempt is going to have to sit there and hear OTHER children reciting this which still violates his/her rights.

But actually the fact that this goes against the US Constitution should be enough.

That is MY comment. Plus, what right does someone living in Florida have to demand that another state do his bidding? Maybe you need to strengthen your state laws so that only actual residents are allowed to submit these mandates?

Sincerely,  
Reverend Elizabeth Field

"May you live as long as you want, and never want as long as you live!" ...old Irish Toast

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**From:** Cerridwen Johnson <cerridwenjohnson@gmail.com>  
**Sent:** Tuesday, August 27, 2024 1:05 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] An Initiated Meashre to Require a Daily Non-Debominational Prayer in Public Schools

Normally, I would not comment on this, as I do not live in SD so what you do is none of my buisness. But if Florida Man can interfere, we'll then...

To paraphrase Ricky Gervasis: if you need a got watching over you to stop you from committing crime, you are not as good a person as you want people to think you are.

If a christian prayer is in schools, then there should be one to my diety as well. So after the children finish their "invisible man is judging me" mantra, please have the recite

The Charge Of The Goddess as well

A version for your use

<https://reclaimingcollective.wordpress.com/charge-of-the-goddess/>

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**From:** Linda Lea M. Viken <llmv@vikenlaw.com>  
**Sent:** Tuesday, August 27, 2024 1:53 PM  
**To:** ATG Ballot Comments  
**Cc:** Linda Lea M. Viken  
**Subject:** [EXT] Proposed Initiative on prayer in school

Dear Attorney Jackley,

I read the information on the proposed initiative requiring a certain prayer be read in school. Maybe I am missing something, but I don't think a non-citizen can place an initiative on the South Dakota Ballot. See the highlighted items below. "The people" surely means the people "of the state". The State is South Dakota.

§ 1. Legislative power--Initiative and referendum. The legislative power of the state shall be vested in a Legislature which shall consist of a senate and house of representatives. However, the people expressly reserve to themselves the right to propose measures, which shall be submitted to a vote of the electors of the state, and also the right to require that any laws which the Legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect, except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions. Not more than five percent of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

This section shall not be construed so as to deprive the Legislature or any member thereof of the right to propose any measure. The veto power of the Executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by vote of the electors of the state shall be: "Be it enacted by the people of South Dakota." The Legislature shall make suitable provisions for carrying into effect the provisions of this section.

**History:** Amendment proposed by SL 1897, ch 39, approved Nov. 8, 1898; amendment proposed by SL 1913, ch 132, rejected Nov. 3, 1914; amendment proposed by SL 1921, ch 146, rejected Nov., 1922; amendment proposed by SL 1969, ch 242, rejected Nov. 3, 1970; amendment proposed by SL 1974, ch 1, rejected Nov. 5, 1974; amendment proposed by SL 1975, ch 2, as amended by SL 1976, ch 1, rejected Nov. 2, 1976; amendments proposed by SL 1980, chs 2 and 3, rejected Nov. 4, 1980; amendment proposed by SL 1987, ch 1, approved November 8, 1988.

Additionally, you have to be a citizen of the state of SD to vote. (be a qualified elector)

We certainly don't want to allow just anyone from anywhere to be able to put items on our ballot.

Since I no longer have a copy of the newest Code, and know you have, I am asking you to look into the issue.

Thank You.

Linda Lea M. Viken  
4760 Trout Court  
Rapid City, SD 57702  
[llmv@vikenlaw.com](mailto:llmv@vikenlaw.com)  
605-391-

4546

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**From:** Lorna Dibley <lldibley@hotmail.com>  
**Sent:** Tuesday, August 27, 2024 6:20 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayers in schools

Any form of a coerced sacred rite is antithetical to Amendment One of the US Constitution. Believe me, more private prayers are silently uttered by students facing tests, projects, etc. than you can possibly imagine. That is beside the point, although salient. If someone decides not to participate by leaving the classroom they will most likely be silently or overtly belittled by their classmates. Why would government wish to participate in creating such an adverse environment? Use some common sense and reject this assault on our most precious freedom: the freedom to pray or not to pray ON OUR OWN TERMS!!  
Sent from my iPhone



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**From:** Mary Boots <bootsmla2@gmail.com>  
**Sent:** Wednesday, August 28, 2024 10:23 AM  
**To:** ATG Ballot Comments  
**Subject:** RE: [EXT] An Initiated measure to require a daily non-denominational prayer in public schools

Attorney General Jackley,

My husband and I are vehemently opposed to any kind of measure including this one to require public teachers to lead any kind of prayer in public school. We are both former teachers in our SD public school system and I am currently on the School Board of the Elk Mountain School. We believe in the Constitution of the US including the Bill of Rights. We the people have a right under the First Amendment that protects the freedom of religion. Right now students and teachers have every right to say their own prayer to themselves anytime during the school day. The fact that there can be exceptions to this proposed law is not acceptable either. This type of proselytizing by our government for any particular religion...in this case Christianity....steps all over our freedom. The state of SD must stay clear of it. If this would ever make it on the ballot we would work tirelessly against it.

Mary and Wayne Boots  
Custer, SD

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**Mary Boots**

*"Not all of us can do great things but we can do small things with great love." --Mother Teresa*

[bootsmla2@gmail.com](mailto:bootsmla2@gmail.com)  
**605 515 9186**



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**From:** Karen Wearne <kwearne1945@gmail.com>  
**Sent:** Wednesday, August 28, 2024 9:01 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in Schools

My name is Karen Wearne. What can be wrong with starting the school day with Prayer? I think it's a great idea! I would also support an elective Bible course in the public schools as we had a few decades ago. I think long-term results could even show a reduction in crime. Thanks to Hillel Hellinger!

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**From:** Mike Trier <mikeytrier@gmail.com>  
**Sent:** Wednesday, August 28, 2024 10:09 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] School Prayer

There's nothing wrong with students praying. What is wrong is having teachers lead prayer because that's a clear violation of the Constitution. It is establishment of religion because whatever religion's prayer is used becomes the defacto religion of the government school. If school prayer is enacted, be prepared to defend and lose multiple lawsuits.

Mike Trier  
114 Buckboard Ct  
Custer SD 57730-7264  
515 971 2305  
mgtrier@yahoo.com

[Yahoo Mail: Search, Organize, Conquer](#)

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**From:** jara@gwtc.net  
**Sent:** Thursday, August 29, 2024 7:50 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Stop the nonsense

Separation of church and state is important. Take your kids to church if you need GOD in your life.

Stop the nonsense! Trudy

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**From:** Gene Fennell <gene@fendesinc.com>  
**Sent:** Thursday, August 29, 2024 8:18 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Against the the initiated measure to require daily nondenominational prayer in public schools

I am adamantly against this weak attempt to indoctrinate our State's children to a singular misguided "religious" direction.

Even in the parochial high school I attended for 4 years we daily stated the Pledge of Allegiance rather than some concocted drivel such as this.

Hillel Hellinger, mind your own business.

From:

Eugene A. Fennell

247 N 6th Street

Custer, SD

gene@fendesinc.com

(605) 673-1631

Sent from my iPhone

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**From:** Linda Fennell <lindafennell@hotmail.com>  
**Sent:** Thursday, August 29, 2024 8:43 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Mandated school prayer objection

Dear Attorney General:

And I quote" Since 1962, the Supreme Court has repeatedly ruled that school-mandated prayers in public schools are unconstitutional. United States law does permit [religious education](#) of public school students, along with voluntary prayer, during school hours under the principle of [released time](#) as "long as the teachers are not state-approved, public money is not involved, and there is no state coercion."<sup>[2]</sup>

This attempt to indoctrinate our SD students is totally unacceptable for the reasons listed above, and the fact that teachers and students should not be forced to participate in an illegal act. In no way should teachers be required to break the law.

I am a Christian and firmly believe in the separation of school and state. As a SD retired teacher of 32 years, this is the most outlandish thing I have seen presented. An out-of-state petitioner should not have the right to use our state as a legislative test subject for their radical beliefs.

Linda Fennell  
247 N 6th St  
Custer, SD 57730  
605-673-2913

Sent from my iPhone

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**From:** frcreek@gwtc.net  
**Sent:** Thursday, August 29, 2024 9:23 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] prayer in school

We have been made aware of an initiated message to be placed on this fall's ballot. I am not against prayer in any form but we do not feel this is appropriate in our public schools. Our country and state has become more diverse and along with that encompasses more faiths than what was here many decades ago. There is a reason we have a separation of government and religion. We believe the state is trying to use politics and religion as a message of dominance which in truth should have no place in religion. There also are many more who do not practice and form of religion and the suggested prayer I feel is inappropriate as it denies their constitutional freedoms. In this country we all have freedom of religion and there is really no purpose to this law. We have schools run by various religions for those who feel this is a necessity and has no place in our government funded schools. Another note regarding who is behind this initiated measure is a very conservative out of state resident which offends us even more. Just because this has become a very conservative state in past years, does not mean that all South Dakotans are like that.

Mary & Dwight Klein

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**From:** Bonnie Tennyson <bonnietennyson@gwtc.net>  
**Sent:** Thursday, August 29, 2024 11:32 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] No prayer in public school

I am against putting prayer in public schools!!! I'm not pleased that out of State people are pushing this on us! Not for South Dakota! I can't believe they want prayer and the 10 commandments in school yet don't feed the children....

Sincerely,

Bonnie Tennyson

11981 Mellow Meadow Place

Custer. sad 57730

Sent from my iPad

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**From:** Don Frankfort <mogenfort@gmail.com>  
**Sent:** Thursday, August 29, 2024 11:35 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Proposed ballot initiative for teacher-led prayers in South Dakota public schools

To the Attorney General,

In response to the proposed ballot initiative to mandate teacher-led prayer in South Dakota public schools, I unequivocally say "NO" to allowing this to appear on any ballot. This reeks of State-sponsored religion being required in public schools. I read one of the provisions of the proposed initiative is to allow teachers and/or students to opt out of this for religious reasons. What about for non-religious reasons? Since I have no religion nor religious beliefs, if I were a teacher in a South Dakota public school, would I be allowed to opt out just because? Let's say, I wanted to opt out because I did not believe this was right. Would I be allowed this option?

The sponsor of this initiative stated that students need to pray because there is so much crime in the United States. The most glaring crime I see at the moment are the 34 felony convictions of one of our Presidential candidates. Would teachers and students be allowed to pray for deliverance from those crimes? Praying and religious practices belong in the home and in peoples' places of worship, not in State-sponsored venues. I would understand that any rule against praying in school should be suspended when a disturbed individual, with unfettered 2nd Amendment rights, enters a school with a loaded AR-15, planning to do harm.

Without any facts to back up my thoughts, it seems to me the sponsor of this initiative is an Evangelical Christian, perhaps a Christian Nationalist, who has a tunnel-vision view of what America should be. Even the initiative states "non-denominational" prayer, I can read between the lines.

I am the progeny of a Roman Catholic mother and Jewish father, who abandoned all religious practices for the sake of familial harmony after they were married (happily for 49.5 years). My personal experiences with "religion", as a youth, were not happy ones. Growing up in the Bronx (yes, part of the big "Liberal" east coast city), I lived in a neighborhood in which I was identified as Jewish, and tormented and harassed by "Christian" kids, kids who went to the local Roman Catholic parochial schools and were taught by the nuns that "the Jews killed Christ". Once, when I was 21, I stood up to a gang of 7 of these neo-Nazis, and rewarded for my bravery by being knocked down and kicked in the head.

Experiences like that soured me on any and all religious activities and associations. Where religion should do so much to comfort and uplift people, I have very negative views. If I were to define religion (ANY religion) it would be thus: a faith-based institution in which people grant themselves the right to commit harassment, intolerance, bias, and persecution, in the name of an almighty entity.

Again, I say "NO" to a ballot initiative requiring any type of State-sanctioned prayer in public schools in the State of South Dakota.

Don Frankfort  
Hot Springs, South Dakota  
605 745-6873



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**From:** Mary Zolnowsky <mary.zolnowsky@gmail.com>  
**Sent:** Thursday, August 29, 2024 12:16 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in school objection

I am against required group prayer in public schools. Students are able to pray privately in school and many often do. "God I hope I pass this test."

I contacted our daughter who was a high school teacher for years, English and Social Studies. What would she do if she was told her State required her to lead her students in a short prayer at the beginning of every school day? She said she would quit. Then she would contact the ACLU to sue the State as this was clearly unconstitutional. She said as a teacher she did not share her political or religious beliefs with her students. She felt it would be a violation of her duty as a teacher to influence her students in that way. Personal belief should be personal, guided by conscience and family.

I'm a proud parent.

Mary Zolnowsky  
11874 Sundance Dr.  
Hot Springs, SD 57747  
605-745-6933

605-745-6933  
Sent from my iPad

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**From:** Liz Kleffner <lizkleff@goldenwest.net>  
**Sent:** Thursday, August 29, 2024 12:44 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in school

I am appalled that the State is considering requiring a daily prayer in our public schools. As a retired high school teacher with 32 years' service in our public schools, I taught students of every religious persuasion and practice and many of neither. The Constitution clearly requires separation of Church and State, and every student is entitled to freedom of religious expression. This measure clearly violates both. The State needs to concentrate on making sure schools are properly funded and teachers fairly compensated, NOT to proselytize!

Elizabeth Kleffner  
259 Desperado Lane  
Custer,, SD 57730  
605-673-2449

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**From:** Joanne Anderson <joanne@rushmore.com>  
**Sent:** Thursday, August 29, 2024 3:28 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Prayer in schools/teacher participation

As a retired teacher in the state of SD, I could not lead a group of students with varied beliefs in prayer. My rights and values wouldn't be considered as the rights of my Native children or other faiths of my classroom. I would resign before I could morally lead a group of students in prayer. I feel SD is being used by others because of our low population to set precedent and that also is not right. This is NOT the SD way.

Joanne Anderson  
4029 W. Chicago  
Rapid City, SD, 57702  
Sent from my iPad



PO Box 750  
Madison, WI 53701  
ffrfaction.org

August 29, 2024

**Submitted via Email: ATGballotcomments@state.sd.us**

Hon. Marty Jackley  
Office of the Attorney General  
Ballot Comment  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

Re: Legal Consequences for Ballot Initiative Compelling Prayer in Schools

Dear Attorney General Jackley:

I am writing on behalf of the FFRF Action Fund (FFRF AF) regarding a ballot initiative proposed for the 2026 election cycle. This initiative was proposed by Hillel Hellinger of North Miami Beach, Florida, and would compel teachers and students to pray together every morning. FFRF AF is an affiliate of the Freedom From Religion Foundation, a national nonprofit organization with more than 40,000 members across the country. We work to ensure that our laws remain secular in order to protect the constitutional separation between state and church.

We write today specifically about the legal consequences of this ballot measure. This ballot measure is plainly unconstitutional and will cause the state to absorb litigation expenses because of the whims of someone who lives in Miami. This ballot measure, as proposed, violates both the Establishment Clause and the Free Speech Clause of the U.S. Constitution, as well as the South Dakota Constitution.

School-sponsored prayer has been denounced by the Supreme Court of the United States. *Lee v. Weisman*, 505 U.S. 577 (1992); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000). Both Districts sponsored prayer over students; both were deemed unconstitutional by the Supreme Court. The Court in both cases cited special concerns arising from the school context and coercion, and reaffirmed students' right to a secular public education system.



This proposed ballot measure directly conflicts with both of those cases and fails to respect those special concerns.

In a third case, *Engel v. Vitale*, a school district wrote a non-denominational prayer for students to recite, as a way to open the day. 370 U.S. 421 (1962). The Supreme Court deemed this practice unconstitutional. South Dakota's proposed ballot initiative is a non-denominational prayer for *teachers and students* to say, as a way to open the day. This ballot initiative is *more coercive* than the unconstitutional policy in *Engel*. That makes three U.S. Supreme Court cases that this ballot initiative runs head-first into.

This ballot initiative is facially unconstitutional as a matter of the First Amendment's Free Speech Clause. In *West Virginia Board of Education v. Barnette*, the Supreme Court held that school districts cannot compel students to recite the Pledge of Allegiance. 319 U.S. 624 (1943). Doing so would run contrary to the compelled speech doctrine, integral to the Free Speech Clause. This proposed initiative requires students who wish to be exempt get parental approval. *Barnette*, on the other hand, gives students the right to simply *remain silent* when schools invite them to speak. Districts cannot require students to get parental permission to be exempt from compelled speech. This ballot initiative would deeply undermine students' constitutional rights to non-disruptively protest.

This ballot initiative also conflicts with South Dakota's constitution. First, South Dakota's constitution states that "nor shall any preference be given by law to any religious establishment or *mode of worship*." S.D. Const. Art. VI § 3 (emphasis added). This "no preference" clause has been interpreted to be stricter than the First Amendment. *Doe v. Marianist Province of U.S.*, 620 S.W.3d 73, 78 (Mo. banc 2021). By requiring students and teachers to pray, and only pray, South Dakota prefers prayer over other forms of worship. That includes preferencing public prayer over private prayer in accordance with Matthew 6:5.<sup>1</sup> This ballot initiative violates South Dakota's no preference clause.

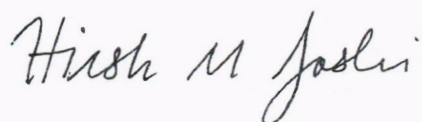
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<sup>1</sup> "And when you pray, do not be like the hypocrites, for they love to pray standing in the synagogues and on the street corners to be seen by others. Truly I tell you, they have received their reward in full. But when you pray, go into your room, close the door and pray to your Father, who is unseen. Then your Father, who sees what is done in secret, will reward you. And when you pray, do not keep on babbling like pagans, for they think they will be heard because of their many words. Do not be like them, for your Father knows what you need before you ask him." Matthew 6:5-9 (NIV).

Our First Amendment prohibits any state from establishing a “pall of orthodoxy.” *Keyishian v. Bd. of Regents*, 385 U.S. 589 (1967). Requiring prayer in classrooms does exactly what our First Amendment begs it not to do. Prayer is an intimate, deeply spiritual, personal journey that cannot be so unceremonious as to be commanded by the state. Instead, this question should be left to the individual, as it is today. Because this ballot initiative fails to respect that personal conscientious autonomy, litigation is almost certainly in order and South Dakota is doomed to lose. The state will bear tremendous expense for no reason. The voters of South Dakota should be aware of these consequences when potentially voting on this ballot measure.

Any questions about the First Amendment can be directed to me. Thank you for your time and attention.

Sincerely,

A handwritten signature in cursive script that reads "Hirsh M. Joshi".

Hirsh M. Joshi  
*Patrick O'Reiley Legal Fellow*  
*Freedom From Religion Foundation Action Fund*

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**From:** Hillel Hellinger <hhellinger@gmail.com>  
**Sent:** Thursday, August 29, 2024 9:40 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Non-denominational Prayer in Public Schools

My name is Hillel Hellinger, and I authored the non-denominational prayer.

I am not a Christian, nor is the prayer a Christian prayer. I derived this prayer from the ideas mentioned in the US Declaration of Independence.

Although the Declaration of Independence is a secular document, it demonstrates how the formation of our country is based on the belief in God. This belief is even found on our currency with the words " In God We Trust."

It is appropriate that public schools besides teaching reading and writing implant in the children the knowledge that there is an Almighty God who judges the world. Without belief in a Higher Power, children could grow up to act immorally like wild animals in a jungle.

If we look at the violent crime statistics for South Dakota we will see that they have increased rapidly in recent years. My proposal to address this unfortunate trend is to introduce belief in God through this non-denominational prayer into the public schools.



Virus-free. [www.avast.com](http://www.avast.com)



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**From:** Lady Crystal Hudson-Boyd <ladycrystalofthecelts@gmail.com>  
**Sent:** Friday, August 30, 2024 4:42 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Comment on "An Initiated Measure to Require a Daily Non-denominational Prayer in Public Schools"

As per Cornell Law School-

The First Amendment guarantees freedoms concerning religion, expression, assembly, and the right to petition. It forbids Congress from both [promoting one religion over others](#) and also [restricting an individual's religious practices](#). It guarantees freedom of expression by prohibiting Congress from restricting the press or the rights of individuals to speak freely. It also guarantees the right of citizens to [assemble peaceably and to petition their government](#).

I hardly think anything really needs to be said beyond this from the standpoint of constitutional law, other than to add that

this prayer is presented as nondenominational, but it doesn't take a theologian to recognize it as clearly Protestant. I hope no one is foolish enough to think this isn't just the beginning.

I would like to take this opportunity to share some personal experience. As a non Christian as well as a proud American, this proposed initiative chills me to the bone. Not only is it overtly indoctrinating, but echoes of Germany circa 1939 resonate throughout it. An opportunity to "request" an exemption that will be "reviewed" by the school principal sounds like the principal has license to decide who gets an exemption and who does not. Submitting a request may very well require the divulging of personal, private information that employees, students, and families may not wish to share. This can easily turn into some sort of religious test. The wording also suggests an exemption can only be requested on "religious grounds". What about atheist students and employees? Not only do we have freedom of religion in this country, but also freedom from religion. America has historically granted rights, not taken them away. Until lately that is.

The gravest concern is the effect on exempt students and employees. They will obviously stand out and it will be noticed. If this misguided idea becomes reality other kids are going to use this as a weapon. It's entirely possible teachers will too; I've seen it before. Kids are cruel and school is hard enough for kids that are in any way perceived as different.

Serving your god by making the lives of so many children and school employees miserable doesn't seem like a positive step forward for our schools or our country. The exempt or "different" kids are going to get mocked, harassed, threatened, beat up, excluded, ostracized, treated as less than, and made to feel badly about themselves because of the bigoted judgement and fragile egos exhibited by people they've never met and probably never will. The risk is also there to make this initiative a built-in "moral" reason to not respect exempt school employees or follow their directions.

I know, painfully, of what I speak. The "good Christian kids" at my school never missed an opportunity to mock me, harass me, and threaten me. Of course they felt completely justified because their church or their parents or both said I was going to Hell as a witch and a devil worshipper, although how I worship something I do not believe in still stumps me. Some of my peers were even encouraged to it, in order to "save my soul". I regularly received death threats, in elementary school. By fifth grade I was suicidal. That's just one example of what you are inviting with this dangerous idea. Kids are indeed cruel but they're still children; they want to please adults while establishing a sense of self. Mandated religion is a one-stop shop for both.



If people want religion, they can go to church. School is for education, not the promotion of one religious group's misguided and vain belief that their belief system is the only "right" one, allowing them to pretend they're doing good by enforcing their beliefs as law in order to influence other people's children to create the world they want. There is nothing American about this twisted vision. How is it even logical for one group to decide that: all students need to pray in school; what kind of prayer they need; and the very words they need coming out of their mouths? And the man bringing this travesty of the constitution- exactly what are his qualifications for this, besides being woefully ignorant of history and a first-class busybody?

This country came into being because our ancestors were fleeing from religious persecution. Now you are mandating what will quickly become the persecution of children by their peers and teachers. And habits learned in formative years... As a non Christian in adulthood I have been assaulted, spit on, evicted from apartments, fired from jobs, disowned by family, kicked out of social groups, and dropped by friends. I have received death threats, rape threats, and have survived 2 murder attempts. I have endured abusive heckling, numerous attempts at "brutal conversion", willfully ignorant questions and hurtful remarks, slander, libel, attempts to destroy my marriage, and I couldn't begin to count the number of times I've been told I'm evil, I deserve to die, and I'm going to hell. Does your religion support this? Is this really what your god desires? This state-sanctioned singling out of kids as different and punishing them for it?

With all due respect I humbly beg anyone who can to do anything they can to keep this wildly unAmerican fever dream from becoming a reality. We don't need and have never needed random religious zealots with personal agendas to decide what's best for everyone else's children. Parents decide that. Let schools be schools and keep religion out of it. At no time in history has enforced religion produced a positive outcome. And children don't need anything else to add to the pressure of school. It's hard to be a child these days; don't make it worse.

I will close with the only quote ever needed to explain why this is an illogical, horrifying, and unpatriotic initiative:

**"Politics and governing demand compromise. But these Christians believe they are acting in the name of God, so they can't and won't compromise."**

Please don't let this happen.

Lady Crystal Hudson-Boyd

Laird Emeritus

Steward of the Clans

"We live in two worlds; the world into which we were born, and the Otherworld that was born within us." -Druid teaching

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**From:** hanknjoyce@netzero.net  
**Sent:** Friday, August 30, 2024 10:15 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Comment on Prayer in Schools Ballot Initiative

We strongly disagree with this proposed ballot initiative. For starters, it is blatantly unconstitutional despite the initiator's comments. It will cause expensive legal proceedings on all sides. It will place both teachers and students in unfair and potentially demeaning, awkward and dangerous personal situations. It is a throwback attempt at Christian evangelization. We are a churchgoing couple, but group prayer belongs in church settings (whether indoor or outdoor, in small or large groups) and not in the classroom.

Lastly - an out of state resident trying to tell us how to run our schools? While perhaps legal, it certainly appears unethical. I recall some legislators trying to restrict out of staters from infringing on our citizen-driven ballot initiative system. Why are they not objecting?

If there is a process to disallow a ballot measure I strongly suggest it be used.

Thank You,

Hank and Joyce Whitney  
1209 Bluebell Lane  
Custer SD 57730

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**From:** Mary Wheaton <mcwheaton1@gmail.com>  
**Sent:** Friday, August 30, 2024 10:18 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Proposed IM to Implement School Prayer

To Whom it May Concern,

The Initiated Measure proposing teachers lead students in classroom prayer is in direct violation of our constitutional rights. Everyone has a right to pray, granted to us in the first amendment. I'm sure many teachers and students silently pray under their breath multiple times a day. What a wonderful thing!! School prayer crosses the line when teachers and students are told exactly when to pray, what to pray, and how to pray it. That's indoctrination and a violation of individual rights, as well as a confrontation to faith, family, and freedom. Expect many expensive legal challenges.

Sincerely,

Mary Wheaton  
25345 S Lightning Creek Rd  
Custer, SD 57730  
605-521-7016

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**From:** dan.b@builderssupply.biz  
**Sent:** Friday, August 30, 2024 10:41 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] ballot initiative - prayer in schools

Please leave prayer out of schools. Separation of church and state should not be ignored.

Dan Batt

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**From:** Erin B <brokenwishbone.tattoo@outlook.com>  
**Sent:** Friday, August 30, 2024 10:49 AM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] 20206 election cycle ballot initiative, r.e. prayer in schools

I am deeply opposed to prayer in schools. Separation of church and state, always. This ballot initiative being brought by Hillel Hellinger of Miami Beach, Florida, to compel teachers and students to pray together every morning, is blatantly unconstitutional and goes against several established cases. The ballot measure, as proposed, violates both the Establishment Clause and the Free Speech Clause of the U. S. Constitution, as well as the South Dakota Constitution.

Our First Amendment prohibits any state from establishing a "pall of orthodoxy." Requiring prayer in classrooms does exactly what our First Amendment begs it not to do. Prayer is an intimate, deeply spiritual, personal journey that cannot be so unceremonious as to be commanded by the state. Instead, this question should be left to the individual, as it is today. Because this ballot initiative fails to respect that personal conscientious autonomy, litigation is almost certainly in order and South Dakota is doomed to lose. The state will bear tremendous expense for no reason. Funds are better suited to lift up and enlighten students in South Dakota's public school system, not be needlessly squandered against a measure that holds no value. I reject the movements of Christian Nationalism. The voters of South Dakota should be aware of these consequences when potentially voting on this ballot measure.

Parts of this email were quoted from a missive written by Hirsh M. Joshi of the Freedom From Religion Action Fund, as sent to Marty Jackley. I fully and wholeheartedly support the comments made by the FFRF. Please do not let this ballot measure come to harm the First Amendment rights of both students and teachers in our great state.

*Erin B.  
Ordained Minister in the Church of the Flying Spaghetti Monster  
The Broken Wishbone Tattoo Co., LLC  
2005 S. Minnesota Ave.  
Sioux Falls, SD 57105  
(605) 271-1479*

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**From:** James V. Brummett <james@jvbrummett.com>  
**Sent:** Friday, August 30, 2024 12:21 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] NO on the School Prayer Ballot Initiative

I am writing regarding a ballot initiative proposed for the 2026 election cycle. This initiative was proposed by Hillel Hellinger of North Miami Beach, Florida, and would compel teachers and students to pray together every morning.

This ballot measure violates both the Establishment Clause and the Free Speech Clause of the U.S. Constitution, as well as the South Dakota Constitution. Requiring prayer in classrooms does exactly what our First Amendment begs it not to do. Prayer is an intimate, deeply spiritual, personal journey that cannot be so unceremonious as to be commanded by the state. Instead, this question should be left to the individual, as it is today. Because this ballot initiative fails to respect that personal conscientious autonomy, litigation is almost certainly in order and South Dakota is doomed to lose. The state will bear tremendous expense for no reason.

Do we not have actual issues to spend the State's time, money, and attention on?

Thank you.

James Brummett  
Sioux Falls, SD



Attorney General

AUG 30 2024

Aug. 27, 2024

Dear A. G.:

The idea that there should be a law that requires teachers in South Dakota to read a prayer and have students recite it back is ridiculous. I'm a retired teacher who had enough to do in the classroom without being a religious leader. The person from Florida who thinks this is good needs to stay in Florida, plus, what about separation of state and religion? That's what I learned about all my life. This needs to be ripped in the bud.

Sincerely,

Anita Schmitt  
605-201-3946

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**From:** User <jocarsonvisualfx@earthlink.net>  
**Sent:** Friday, August 30, 2024 5:54 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] SD 12-13-25.1 Ballot Measure Comment

Dear South Dakota Attorney General Marty Jackley,

I strenuously object to SD 12-13-25.1 requiring prayer in public schools to the Abrahamic God for the following reasons:

It is legal to be an atheist.

It is legal to be an agnostic.

It is legal to be an animist.

It is legal to be a humanist.

It is legal to believe in Goddesses, or a Goddess.

It is legal to be a Native American, a Hindu, a Shinto, a Buddhist, a Jain, to have an African Diaspora Religion, etc.

It is legal to want to have nothing to do with religion in public discourse, as outlined in the U.S. Constitution.

This proposed ballot measure is unconstitutional and offensive to the majority of American people.

Thank you for your attention to this.

Jo Carson R.N.  
Fairfax, CA 94930



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**From:** Lynn Graves <leggam@yahoo.com>  
**Sent:** Friday, August 30, 2024 7:56 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] School prayer

Sir,

I am opposed to teacher led prayer in public schools. Our Constitution deliberately separates church and state. I believe this to be a good thing.

I have no doubt there is a lot of individual silent prayer in public schools and I don't see a problem with that. Mandating teacher led prayer, on the other hand, infringes on our freedom to believe or not to believe in a higher power.

Sincerely,

Lynn Graves  
leggam@Yahoo.com

Member in good standing at St.John Lutheran Church  
Madison, SD

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**From:** Amy Policky <amykpolicky@gmail.com>  
**Sent:** Friday, August 30, 2024 11:03 PM  
**To:** ATG Ballot Comments  
**Subject:** [EXT] Rapid City Interfaith Council comments opposing mandated prayer in public schools

Rapid City Area Interfaith Council

Mr. Marty Jackley  
Attorney General  
State of South Dakota  
1302 East Highway 14, Suite 1  
Pierre, SD 57501-8501

Dear Mr. Jackley:

The Rapid City Area Interfaith Council opposes mandated prayer in public schools, which is contrary to the First Amendment to the United States Constitution and Article VI of the South Dakota Constitution.

The First Amendment of the U.S. Constitution calls for the separation of church and state. Similarly, Article VI of the South Dakota Constitution states that the right to worship God according to the dictates of conscience shall never be infringed.

The proposed Initiated Measure is unconstitutional on its face and should not be moved forward. We stand firm in our opposition to this measure.

*The Rapid City Interfaith Council is a grassroots effort designed to unite one another and all people of faith who seek collectively to promote a spirit of community, service, understanding, cooperation, and appreciation for the many faith traditions within our community that inspire and teach us to love and support one another more.*

*Amy Policky, President*

*Rich Bensigner, Vice-President*

*Kari Scovel Hendrickson, Secretary*

*Rachel Lindvall, Member*



**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**

AUG 20 2024

SD Secretary of State

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

August 20, 2024

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

RE: Draft Attorney General's Statement (Proposed Initiated Measure  
To Require a Daily Non-denominational Prayer in Public Schools)

Dear Secretary Johnson,

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 *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,

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

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/dd  
Enc.

Filed this 20<sup>th</sup> day of  
August 2024

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

**SECRETARY OF STATE**

Cc/encl: Hillel Hellinger  
John McCullough - Legislative Research Council

**RECEIVED**

AUG 20 2024

SD Secretary of State

INITIATED MEASURE

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure to Require a Daily Non-denominational Prayer in Public Schools.

Explanation:

This initiated measure requires each public-school teacher, in grades Kindergarten through 12th grade, to lead students every morning in the following prayer: "Almighty God, who is aware of His creation, who keeps it going and judges it, please have mercy on us." The measure requires students to repeat each phrase after the teacher. The measure allows both teachers and students who object to the prayer on religious grounds to seek an exemption from participating in the prayer. The request for an exemption must be submitted in writing to the school principal.

The measure may be challenged in court on constitutional grounds. Judicial or legislative clarification of the measure may be necessary.

Filed this 20<sup>th</sup> day of  
August 2024

*Monae L. Johnson*

SECRETARY OF STATE

RECEIVED

AUG 20 2024

SD Secretary of State

From: Hillel Hellinger <hhellinger@gmail.com>  
Sent: Friday, June 28, 2024 12:14 PM  
To: ATG Help; Elections; McCullough, John  
Subject: [EXT] Initiated measure for a non-denominational prayer in public schools

Good afternoon

RECEIVED

AUG 20 2024

SD Secretary of State

I am submitting a final copy of my proposed initiated proposal as stated in SD 12-13-25.1

Be it enacted by the people of South Dakota:

Each school district shall require that every school day begin with each teacher Grades K through 12 leading their students in the non-denominational prayer provided in this section.

The teacher shall lead their students in the prayer reciting phrase by phrase with each student repeating each phrase. The text of this prayer is as follows:

"Almighty God, who is aware of His creation, who keeps it going and judges it, please have mercy on us."

This act excuses the participation of both teachers and students whose parents object on religious grounds to the saying of the prayer mentioned in this section.

Those seeking a religious exemption from participating in prayer shall submit their request in writing to the school principal.

--  
Hillel Hellinger  
Hellinger Trading company  
1081 NE 175 Street  
North Miami Beach, Fl 33162  
Tel# 305-992-1348

Filed this 20<sup>th</sup> day of  
August 2024

*Monae L. Johnson*

SECRETARY OF STATE

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Hillel Hellinger  
Hellinger Trading company  
1081 NE 175 Street  
North Miami Beach, Fl 33162  
Tel# 305-992-1348



June 6, 2024

SENT VIA EMAIL

Mr. Hillel Hellinger  
1081 NE 175 Street  
North Miami Beach, FL 33162  
[hhellinger@gmail.com](mailto:hhellinger@gmail.com)

Attorney General

JUN - 7 2024

Dear Mr. Hellinger:

SDCL 12-13-25 requires the Legislative Research Council (LRC) to review each proposed initiated measure submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the measure "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." See SDCL 12-13-24.

The proposed initiated measure is drafted as follows:

An act requiring South Dakota public schools K-12 to initiate each school day with the following non-denominational prayer "Almighty God, who is aware of His creation, who keeps it going and judges it, please have mercy on us".

The teacher will lead the students phrase by phrase with the students repeating the phrase.

Teachers or students of parents who don't want their children to participate are under no obligation to join.

SDCL 12-13-24 requires an initiative to be written in the "form of other legislation." The LRC suggests several style, form, and clarity changes to conform to this requirement.

1. 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. See page 10 of the *Guide to Legislative Drafting*.
2. The first sentence of the measure is written in the form of a bill title. It states that the measure is "[a]n act requiring South Dakota public schools K-12 to initiate" a "non-denominational prayer." This statement provides what the measure is, i.e. "An Act." But the language does not clearly state the prayer requirement, i.e. "Each school district shall require students and school employees to begin each school day with the following prayer...." A more clearly stated requirement should be considered and should not be written in the form of a bill title.
3. In the first sentence, there should be a colon after "non-denominational prayer."
4. The second sentence has a period between "repeating" and "the"—this should be removed.
5. The period at the end of the first sentence should be located within the quotation marks.
6. The second sentence begins with the definite article, "The." The LRC recommends using "Each," as there is more than one teacher to which the requirement would apply.

7. Laws are written in the present tense. The second sentence uses "will," which is used to refer to the future. Since the purpose of this sentence is to establish a requirement, the word "shall" should be used instead of "will." See page 18 of the Guide to Legislative Drafting.
8. The text should also make clear what the teacher is required to lead the students in. The second sentence does not clearly specify this. For example, it could be written as follows: "Each teacher shall begin each day with the prayer provided in this section. The teacher shall lead the teacher's students in the prayer, reciting the prayer phrase by phrase with each student repeating each phrase."
9. The second sentence places a requirement on a teacher to lead students in prayer, but the third sentence provides that a teacher is not required to participate in the prayer. The proposal should further clarify how the exception applies to the general requirement.
10. When proposing new text in legislation, the new text is underscored. The LRC recommends underscoring the language in the proposal.
11. There is well-established U.S. Supreme Court jurisprudence on the issue of state-mandated prayer in public schools. These cases should be reviewed and considered. The sponsor may want to make modifications to the text of the proposal to address constitutional issues.

Although there is no statutory requirement 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.

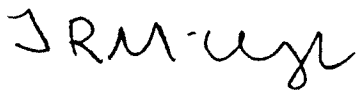
#### Fiscal Impact

To determine whether the proposed initiated measure has an impact on the revenues, expenditures, or fiscal liability of the state and its political subdivisions, please provide the LRC, as required by SDCL 12-13-25.1, with a copy of the proposed initiated measure, 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 measure nor of any of the edits suggested. This letter is not a guarantee of the proposal's sufficiency. If you proceed with the initiated measure, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC.

Sincerely,



John McCullough  
Director, Legislative Research Council

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