

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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MARTY J. JACKLEY
ATTORNEY GENERAL

RECEIVED

MAR 12 2025

SD Secretary of State

BRENT K. KEMPEMA
CHIEF DEPUTY

March 12, 2025

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

RE: Attorney General's Statement – Proposed Initiated Constitutional Amendment Concerning Legislative Changes to Initiated Measures

Dear Secretary Johnson,

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

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

Very truly yours,

Handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Filed this 12th day of
March 2025

Handwritten signature of Monae L. Johnson in black ink.

SECRETARY OF STATE

Cc/encl: James D. Leach
John McCullough – Legislative Research Council

RECEIVED

MAR 12 2025

SD Secretary of State

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An Amendment to the South Dakota Constitution Requiring Legislative Changes to Voter-Approved Initiated Measures, for Seven Years After Approval, to Pass by a Three-Fourths Vote of the Legislature and be Approved by a Vote of the People.

Explanation:

The State Constitution gives citizens the right to propose state laws under the initiative process. Through that process, if an initiated measure is approved by the voters, it goes into effect on July 1 of the following year.

Currently, the Legislature can repeal or change initiated measures approved by the voters through the regular legislative process.

This constitutional amendment restricts the Legislature's ability to change or repeal voter-approved initiated measures for seven years after a measure goes into effect. Within those seven years, the Legislature may still pass legislation that changes or repeals laws approved by initiated measure, but that legislation must pass by a three-fourths vote of all members in each house of the Legislature. The voters must also approve that legislation at the next general election before the legislation becomes effective.

Filed this 12th day of

March 2025

Monae L. Johnson

SECRETARY OF STATE

RECEIVED

MAR 12 2025

SD Secretary of State

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article III, Section 1 of the Constitution of the State of South Dakota be AMENDED by adding the following:

The Legislature may not repeal or amend a measure proposed by the people and approved by the electors for seven years from the measure's effective date, except by a three-fourths vote of the members elected to each house, and only if the repeal or amendment is approved by the electors of the state at the general election immediately following Legislative passage.

Filed this 12th day of
March 2025

Monae L. Johnson

SECRETARY OF STATE

From: John Dale <jcdale@protonmail.com>
Sent: Thursday, February 20, 2025 1:35 PM
To: ATG Ballot Comments
Subject: [EXT] Interplay between democracy and republicanism ..

Good Afternoon;

These thoughts and opinions are with respect to the proposal to put regulation on the ability of the South Dakota legislature to change the citizens initiative process.

Whether we should embrace pure democracy depends on the wisdom of the crowd.

The salient point:

An unwise crowd turns into an angry mob, which can have bad consequences at the ballot box.

The initiative process in South Dakota is not pure democracy, but could hobble the ability of the legislature to react accordingly to some really bad initiatives become law without legislative reinforcement.

For your consideration: The wisdom of the crowd suffers by the addition of fluoride in the water, known to lower IQ.

Of note: I am a fan of representative republican democracy with constituent rights for audit.

Mr. Weiland's proposal seems to question the efficacy of our legislature in dealing with the political wishes of large numbers of concerned SD citizens.

this characterization of the legislature is correct, it begs the question, is our legislature also drinking too much fluoridated water?

Inasmuch as the people of South Dakota seem disconnected with the direction of the legislature, it seems wise to preserve, even in the face of chemically induced idiocy, the citizens right to petition to the extent it the SD political process does not devolve into a pure democracy.

It stands credulity that some limitations be placed on the legislature's ability to react too harshly to the informative citizens initiative process, which serves to answer the question, "what is at the top-of-mind of the South Dakota rank-and-file, so much so that they would sign their names en mass in lieu of mass producing pitch forks and torches?"

Thank you for considering my thoughts and opinions.

Sincerely,

John Dale

Growing Business Solutions LLC
239 W. Jackson Blvd.
Spearfish, SD 57783

605 644 7337





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MARTY J. JACKLEY
ATTORNEY GENERAL

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FEB 20 2025

SD Secretary of State

BRENT K. KEMPEMA
CHIEF DEPUTY

February 20, 2025

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

RE: Draft Attorney General's Statement – Proposed Initiated Constitutional Amendment Concerning Legislative Changes to Initiated Measures

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated 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,

Handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Filed this 20th day of
February 2025

Handwritten signature of Monae L. Johnson in black ink.

SECRETARY OF STATE

Cc/encl: James D. Leach
John McCullough – Legislative Research Council

RECEIVED

FEB 20 2025

SD Secretary of State

CONSTITUTIONAL AMENDMENT

DRAFT ATTORNEY GENERAL'S STATEMENT

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Filed this 20th day of

February 2025

Monae L. Johnson

SECRETARY OF STATE

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FEB 20 2025

SD Secretary of State

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Filed this 20th day of
February 2025

Monae L. Johnson

SECRETARY OF STATE



December 2024

SENT VIA EMAIL

Mr. Rick Weiland
rick@rickweiland.com

Dear Mr. Weiland:

SDCL 12-13-25 requires the Legislative Research Council (LRC) to "review and comment" on each proposal submitted to it by a sponsor, for the purpose of assisting the sponsor in writing language "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 LRC suggests several style, form, and clarity changes to the proposed language (enclosed) to conform to this requirement.

This review and comment provided herein is not an endorsement of the proposed language or any of the suggested edits. *If you proceed with the proposed language, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC.* With any proposed law, whether introduced in the Legislature or proposed by initiative, the contents of the proposal are solely within the discretion of the sponsor. The proposed language and any edits made to it should be reviewed by the sponsor and adequately vetted to ensure the language accomplishes the sponsor's objective.

Although there is no statutory requirement to make changes based upon the LRC's comments, 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.

This proposal will not likely have 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 language, as submitted in final form to the Attorney General, so that a final fiscal impact determination can be made.

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—the process by which measures approved by the voters may be amended or repealed. Given the limited nature of the proposed language, it appears to be an amendment and not a revision of the constitution.

Sincerely,

/s/ John R. McCullough, LRC Director

Weiland
December 2024
Page 2

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

1 The proposed language and comments are as follows:

2 **BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:**

3 That Article III Section 1 of the Constitution of the State of South Dakota be amended by adding the
4 following:

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

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

18 A measure approved by the electors may not be repealed or amended by the Legislature for
19 seven years from its effective date, except by a three-fourths vote of the members elected to each
20 house, and only if the repeal or amendment is approved by the electors of the state at the general
1 election immediately following Legislative passage.

-
- 22
- 23 • See the Guide to Legislative Drafting (GLD), p. 18, for the form of lead lines. The correct lead line
24 for a constitutional amendment is as follows:
25
 - 26 ○ "That Article III, § 1 of the Constitution of the State of South Dakota, be AMENDED:"
 - 27
 - 28 • The proposed language submitted to the LRC only includes the new text being proposed to Art.
29 III, § 1, and that proposed language is not underscored. New language added to a section should
30 be underscored. Existing language in the section should be included in the text of the proposal.
31 See GLD, p. 16. These form requirements are reflected above.
32
 - 33 • A law sentence is typically drafted in the active voice for the sake of clarity. See GLD, p. 21.
34 Consider redrafting the new language to begin with: "The Legislature may not enact a law to
35 repeal or amend a measure..."
36
 - 37 • Consider replacing "its" with "the measure's" on line 19.
38
 - 39 • If the Legislature enacts a law, which is referred to the voters and approved by the voters, that
40 law would be subject to the language proposed above. Should a law enacted by the Legislature,
41 referred to the voters, and approved by the voters be subject to these requirements? Is the intent

1 of the new language to apply only to "measures" proposed by the people? Should the beginning
2 of the new sentence on line 18 be changed to "[a] measure proposed by the people and approved
3 by the electors"?

- 4
- 5 • After "Legislative passage" on line 21, consider adding the phrase "of the measure" or consider
6 changing the entire phrase to "following Legislative enactment of the law" if other similar changes
7 are made to the text.