

South Dakota



2018 Ballot Questions

2018 Ballot Question Pamphlet Compiled by the Office of Secretary of State Shantel Krebs

For immediate election returns on November 6th, call the Secretary of State toll free at 1-888-70-ELECT or browse the results on the Secretary of State's web page at electionresults.sd.gov. The text of this pamphlet is available on our website at www.sdsos.gov and also available in large print, Braille, or on tape by calling the SD State Library at 1-800-423-6665.

The title, explanation and effect of a vote for each ballot question were provided by the Attorney General. No other statements on this pamphlet reflect the opinion of the State or the Attorney General.

The information was compiled by the Secretary of State as supplied by the writers, was not verified by the Secretary of State and does not reflect the position of the State regarding the legality or effect of the amendments or measures. The Secretary of State is not responsible for the contents, objectivity or accuracy of the statements written by the proponent and opponent writers in this brochure.

SDCL 12-13-23 Distribution of public information - Statements of proponents and opponents. The secretary of state shall distribute public information on any constitutional amendment, initiated, or referred measure submitted to the electors for approval. The secretary of state shall compile the public information by printing a statement in support of the constitutional amendment, initiated, or referred measure written by its proponents, if any can be identified, and a statement against the constitutional amendment, initiated, or referred measure written by its opponents, if any can be identified. **The secretary of state is not responsible for the contents, objectivity, or accuracy of the statements written by the proponents and opponents.** The pamphlet shall also include the attorney general's title, explanation, and a recitation of the effect of a "Yes" or "No" vote as written pursuant to § 12-13-9 or 12-13-25.1; number of pages and sections in the proposed or referred language; and, if applicable, a fiscal note.

Please feel free to photocopy and distribute this pamphlet. You may also bring the pamphlet with you to vote at your polling place.

Secretary of State

Kea Warne

Deputy Secretary of State, Election Services

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Constitutional amendments, initiated and referred measures approved by majority vote will become effective on the first day of July after the completion of the official canvass by the State Canvassing Board. SDCL 2-1-12

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Constitutional Amendment Y was placed on the Primary Election Ballot by the 2018 South Dakota Legislature.

Sponsors are not required to provide email addresses or phone numbers.

For more information on ballot questions and Attorney General explanations, and the full text of the ballot question, please visit our website.

<https://sdsos.gov/elections-voting/upcoming-elections/general-information/2018-ballot-questions.aspx>

Constitutional Amendment W

Title: An initiated amendment to the South Dakota Constitution changing campaign finance and lobbying laws, creating a government accountability board, and changing certain initiative and referendum provisions.

Attorney General Explanation: This constitutional amendment lowers campaign contribution amounts to candidates and political parties. It prohibits contributions to candidates or political parties by labor unions and corporations. Candidates and elected officials are prohibited from using campaign contributions for personal use.

The amendment expands the scope of activities requiring people to register as lobbyists, and places additional restrictions on lobbyists.

The amendment replaces the government accountability board recently created by the Legislature. The new board is granted broad power, including the power to investigate, adopt rules, issue advisory opinions, and conduct audits. It may impose sanctions, including fines, on any elected or appointed official, judge, or State or local government employee. The amendment annually appropriates State funds to be solely administered by the board.

The amendment limits the number of votes necessary for approval of any initiative or referendum to a simple majority. It requires the Legislature to make specific factual findings when enacting laws that are not subject to referral. If the Legislature wants to change the initiative or referendum process, or a law passed by initiative, it must submit the change to the voters.

This multiple-section amendment makes other additions to the Constitution. It will likely be challenged on constitutional grounds.

Prison/Jail Population Cost Estimate Statement: This initiated measure to amend the South Dakota Constitution establishes five misdemeanor penalties and three felony penalties, to be punished as provided by law. If passed, the Legislature would be required to set the class levels for each of the penalties created. However, it is the opinion of the Legislative Research Council that the penalties in this initiated amendment are administrative penalties. The nature of these laws encourages regular compliance with the provisions to which they adhere. Hence, the impact on jail and prison populations is likely negligible.

Fiscal Note: The amendment annually appropriates \$389,000, indexed to inflation, in state funds to a government accountability board. Additionally, the state will have to pay one-time costs if the amendment is challenged on constitutional grounds. Based on previous court cases handled by the state, a median case costs approximately \$78,322.

Vote "Yes" to adopt the amendment.

Vote "No" to leave the Constitution as it is.

The text of this amendment is 3 pages long containing 4 sections.

Pro – Constitutional Amendment W

Vote YES on Amendment W, the South Dakota Anti-Corruption Amendment. Corruption, government waste, and misuse of office have taken a clear toll on our state costing taxpayers millions of dollars. Be part of the solution, hold politicians accountable, and give voters the final say.

Amendment W responds to the failure of politicians to address our growing concerns. Lobbyists can still give politicians unlimited gifts like food, alcohol, and entertainment. We remain one of the only states with no independent accountability for swaths of political rulebreakers.

Clearly special interests and lobbyists have too much influence over state government. We must demand integrity by putting the power where it belongs: with the people.

Here are the facts. Amendment W will crack down on self-dealing politicians, the corrupting influence of big money, secrecy, and lack of accountability by:

- Restricting unlimited lobbyist gifts to politicians.
- Prohibiting the personal use of campaign funds and stopping politicians from using their office for personal gain.
- Banning foreign, corporate, and union donations to politicians.
- Toughening ethics law enforcement to hold rulebreakers accountable.
- Protecting voter-approved laws by giving voters the final say.

Amendment W was written by South Dakotans for South Dakotans.

Conservatives, progressives, students, retirees, small business owners, and many others came together to demand integrity from our state government with over 50,000 South Dakotans signing petitions to put Amendment W on the ballot.

Special interest lobbyists and establishment politicians oppose Amendment W because they profit off of the status quo. But that is precisely why we, the voters, need to start setting the rules. Voting Yes on Amendment W will send a clear message: we stand by our state's motto, "Under God, the People Rule."

Vote Yes on Amendment W. Hold politicians accountable. Give voters the final say.

**Mitch Richter, Republican small business owner
Co-Chair, Represent South Dakota
Darrell Solberg, Democratic small business owner
Co-Chair, Represent South Dakota**

Con – Constitutional Amendment W

Amendment W is Wrong.

It creates a new branch of government that is not elected by the people, has powers that can't be limited by the legislature, courts, or the Governor.

Amendment W will require a statewide vote to fix mistakes. It is too risky to put in the state constitution, too confusing and too long (8 pages/3,329 words).

The Amendment bluntly states "any conflicts with other parts of the constitution-this article controls". It uses the phrase "notwithstanding any other part of the constitution" three other times.

Amendment W creates a non-elected, seven member tribunal, with two appointed by the Supreme Court, two appointed by the Governor and those four choosing three others. This tribunal is empowered to create rules for 11 sections of law. This group will have unchecked power to create rules that could require disclosure of tax returns for every elected official and public employee including teachers and law enforcement.

Amendment W forces an annual expenditure of \$389,000 to be given to the board that is increased annually for inflation. Beyond that mandatory expenditure the amendment gives the tribunal authority to intervene in civil lawsuits including challenging "the sufficiency of resources provided for the board's implementation and operation". Much of this large appropriation could be better spent on schools and law enforcement.

Amendment W is being promoted by a Ballot Question Committee that exists only to pass this amendment using out of state money. As of the latest financial reports, they have not received a single donation from South Dakota.

Amendment W is too confusing, takes a statewide vote to change, takes control over every other part of the constitution, and creates a non-elected tribunal and forces tax money to fund it.

W is Wrong – Vote NO on Amendment W.

**David Owen, President
South Dakota Chamber of Commerce and Industry**

Constitutional Amendment X

Title: An amendment to the South Dakota Constitution increasing the number of votes needed to approve a constitutional amendment.

Attorney General Explanation: The South Dakota Constitution may only be amended by a vote of the people. Currently, the Constitution provides that a proposed amendment must receive a majority of the votes cast in order to be approved. Constitutional Amendment X changes the Constitution, increasing the number of votes needed to approve an amendment from a majority to 55% of the votes cast on the amendment.

Vote "Yes" to adopt the amendment.

Vote "No" to leave the Constitution as it is.

The text of this amendment is 2 pages long containing 2 sections.

Pro – Constitutional Amendment X

Amendment X is the result of a bipartisan, multi-group task force, that met in the summer of 2017. It made recommendations concerning the use of the initiative process to change our codified laws and the constitution of our state. This measure, approved overwhelmingly by the task force, would establish a 55% majority to change our constitution. It is patterned after a similar proposal, overwhelmingly approved by voters in Colorado in 2016. Our state constitution is the foundational political document of South Dakota. We should require more than a simple majority for approval of amendments to our state constitution. Think of the high standard that is needed to adjust the United States constitution. Amendments to that document require a two thirds vote of each chamber of our congress and then ratification by three quarters of the states. What Amendment X proposes is a modest adjustment that will protect our state constitution from efforts for unneeded changes, these efforts often promoted and funded by out of state special interests. Finally, think of school bond issues. They require a 60% majority for passage. If a bond issue needs 60%, should not passage of amendments to our state constitution require a higher standard than a simple majority??

Please vote Yes on Amendment X.

It will protect our constitution from unwarranted efforts for changes, often promoted and funded by out of state special interests.

**State Senator Jim Bolin - Lincoln and Union counties.
Vice Chair of the Bi-Partisan and Multi Group Task
Force that Recommended Amendment X be approved
and placed on the ballot.**

Con – Constitutional Amendment X

The legislators pushing X claim, "Our constitution needs protection against a wide range of efforts to change it." This claim makes three false assumptions.

Falsehood #1: Legislators pushing X assume we voters propose too many amendments. In 129 years of statehood, 244 amendments have appeared on our ballots. Of these, 227, including X, have come from the state legislature. Only 17 have come from voter initiative. Legislators have proposed 93% of the amendments we've voted on. If legislators want to protect the constitution from change, they need simply stop proposing so many amendments instead of trying, again, with X, to change the constitution.

Falsehood #2: Legislators pushing X assume it's too easy for us voters to amend our constitution. Yet from 1980 to 2016, the difficult, costly amendment petition process placed only 16 citizen amendments on the ballot, compared to 55 Legislative amendments. During the same period, voters passed 38% of citizen amendments and 49% of Legislative amendments. Those numbers show that citizens face greater hurdles in proposing and passing amendments. We don't need X to make the process harder.

Falsehood #3: Legislators pushing X assume a 55% vote threshold would protect us from "bad" amendments. Of the six citizen amendments passed since 1980, X would have stopped only one. In 2016, X would have stopped the amendment that improved vo-tech governance, a good amendment proposed by the Legislature and backed by the vo-techs and business. At the same time, X would not have stopped Marsy's Law, a flawed and costly California amendment that legislators threatened to repeal.

Legislators claim X will solve a problem. That problem doesn't exist.

Even if the problem did exist, X wouldn't solve it.

The real problem is X. Keep X and its false assumptions out of our constitution.

**Senator Reynold Nesiba
District 15
Sioux Falls, SD**

**Cory Allen Heidelberger
Journalist, Candidate for District 3 Senate Aberdeen, SD**

Constitutional Amendment Z

Title: An amendment to the South Dakota Constitution establishing that a proposed constitutional amendment may embrace only one subject, and requiring proposed amendments to be presented and voted on separately.

Attorney General Explanation: By law, any proposed amendment to the South Dakota Constitution must first be submitted to and approved by a vote of the people.

Constitutional Amendment Z changes the Constitution to add the requirement that a proposed amendment may not embrace more than one subject. In addition, multiple amendments proposed at the same election must be individually presented and voted on separately.

Vote "Yes" to adopt the amendment.

Vote "No" to leave the Constitution as it is.

The text of this amendment is 2 pages long containing 2 sections.

Pro – Constitutional Amendment Z

Amendments to South Dakota's constitution should be limited to a single subject. This ensures that each idea presented to South Dakota voters for their consideration is most clearly presented.

In addition, requiring amendments to be separately considered prevents unfavorable but lower profile amendments from being combined with more popular favorable amendments and forcing voters to choose all or none.

The language in this amendment is found in other states' constitutions.

Please vote yes on Amendment Z.

G. Mark Mickelson
Speaker, South Dakota House of Representatives

Con – Constitutional Amendment Z

Changing the constitution shouldn't be easy--**and it isn't.**

While Amendment Z affects all constitutional amendments, including those proposed by the legislature, legislators only need a few dozen votes to get an amendment (like this one) on the ballot--citizens must collect tens of thousands of petition signatures for each one.

Citizen-initiated constitutional amendments often contain multiple subjects to achieve the desired effect. For example, an anti-corruption amendment might contain campaign finance reform and an ethics commission. If voters agree, they vote yes. If they don't, they vote no.

Under Amendment Z, an opponent could claim that campaign finance reform and an ethics commission are two subjects, and ask a judge throw the whole amendment out, rather than letting South Dakota voters decide.

Forcing citizens to separate obviously related subjects into multiple amendments (and gather signatures for each one) is a waste of time and money and only benefits those with deep pockets who can pay for multiple campaigns.

South Dakota's motto is, "Under God, The People Rule." Amendment Z takes away the people's power and gives it to judges and wealthy special interests. Vote NO.

Anthony Helland, Board Secretary
Dakota Rural Action

Initiated Measure 24

Title: An initiated measure prohibiting contributions to ballot question committees by non-residents, out-of-state political committees, and entities that are not filed with the Secretary of State.

Attorney General Explanation: This measure prohibits contributions to statewide ballot question committees by non-residents, by political committees organized outside South Dakota, and by any entity that is not filed as an entity with the Secretary of State for the four years prior to making a contribution. It requires the Secretary of State to impose a civil penalty on any ballot question committee that accepts a prohibited contribution. The civil penalty is double the amount of the contribution. The measure requires the Secretary of State to investigate alleged contribution violations prohibited by this measure.

Currently, there are state laws regulating other kinds of election-related contributions, disclaimers, and disclosures. Violations of these laws are classified as misdemeanors and are subject to criminal penalties. The measure allows a court to impose a civil penalty (up to \$5,000 per violation) in addition to the criminal penalty. Under the measure, the Secretary of State must investigate alleged violations of these particular election-related laws.

All civil penalties collected under this measure will be placed in the State general fund.

The measure is likely to be challenged on constitutional grounds.

Fiscal Note: The only likely fiscal impact related to this Initiated Measure will be if the measure is challenged on constitutional grounds. Based on previous court cases handled by the state, a median case costs approximately \$78,322.

Vote "Yes" to adopt the initiated measure.

Vote "No" to leave South Dakota law as it is.

The text of this amendment is 1 page long containing 2 sections.

Pro – Initiated Measure 24

It is our right, as South Dakotans, to petition our government. If we gather enough signatures, the public will vote on the quality of our ideas. This is an appropriate check on our representative form of democracy. It's a South Dakotan's right to exercise direct democracy.

In 2016, there were seven initiated measures on our ballot, including four that proposed to re-write our constitution.

- Six of those seven ideas were brought to us by out-of-state interests.
- Nearly \$9.6 million was spent on these ballot measures; 97% of the money was from out-of-state.

That year, out-of-state interests used South Dakota's low signature requirements and cheap media markets as a testing ground for their ideas. They have turned our state founders' intent completely on its head.

Let's send their political business model somewhere else. Support initiated measure 24 to ban out-of-state financial contributions to ballot committees. Let's protect a SOUTH DAKOTAN's right to petition the people, but deny that privilege to New York, Massachusetts and California business interests. They don't have kids in our schools, they don't attend our churches, and you won't see them at the football game this weekend. That's because they don't live here. Let's limit their involvement unless they can demonstrate either residency or a legitimate business interest in South Dakota.

Please vote yes on initiated measure 24.

Dennis Daugaard

Con – Initiated Measure 24

IM 24 limits out of state contributions to ballot question committees and puts it in law. And while it sounds good, similar bills died in the past two legislatures because the idea can't survive a closer look. And it won't survive a court challenge.

The problems are easy to see. It doesn't ban independent expenditures. It doesn't limit state entities from receiving and spending out of state contributions. Out of staters could easily avoid the law, spend what they want, and report even less. It doesn't accomplish its goal.

It assumes people outside of South Dakota don't have an interest or a stake in our elections. That's just wrong. Ask tobacco and the tech schools.

Do you belong to, or work for an organization or association or business or union with a national or regional affiliate? Unless registered, they can't give money to a committee. No more offers or calls for help.

Industries that move to South Dakota from out of state can't contribute to a committee for four years. It doesn't matter if their new enterprise is affected. That's bad business.

And that's the short list.

We've had first amendment attorneys review IM24. They tell us that it's not defensible. It denies people and companies and organizations outside South Dakota their constitutional rights. We think they're right.

And finally. In any election, you choose whom to listen to and you choose how to vote. We all do. We decide. An out of state message or messenger doesn't decide anything. It's just noise. And we can ignore it. That's better than banning out of state voices by law. It's better than censoring noise that we don't agree with. That's how bad things begin. Please vote no on 24.

Steve Willard, President
South Dakota Broadcasters Association

Initiated Measure 25

Title: An initiated measure increasing the State tobacco tax and creating a postsecondary technical institute fund for the purposes of lowering student tuition and providing financial support to the State postsecondary technical institutes.

Attorney General Explanation: This measure increases the State tax on tobacco products sold in the state. The tax on packs containing 20 cigarettes would increase \$1.00 per pack, and 25-cigarette packs would increase \$1.25 per pack. Tax on other types of tobacco products such as cigars, roll-your-own, and chewing tobacco would change from the current rate (35% of the wholesale price) and be increased to 55% of the wholesale price.

The measure also creates a postsecondary technical institute tuition reduction and workforce training fund that will be administered by the State Board of Technical Education, which oversees the State postsecondary technical institutes. Currently there are four: Lake Area Technical Institute, Mitchell Technical Institute, Southeast Technical Institute, and Western Dakota Technical Institute. The fund's purposes include lowering tuition and providing financial support for these technical institutes.

Under current law, the first \$30 million of tobacco tax revenue collected annually is deposited into the State general fund, and the next \$5 million is deposited into the existing tobacco prevention and reduction trust fund. This measure would require the next \$20 million to be deposited into the technical institute fund created by this measure.

Fiscal Note: Based on previous cigarette tax increases, a 65.4% increase in price should produce a smoking reduction of 16.4%. Based on the previous tobacco tax increase, a 57.1% tax increase is unlikely to affect demand.

The resulting revenue increases would be as follows:

General Fund: \$4,942,542

Tobacco Trust: \$0

Technical Institutes: \$20,000,000

Total: \$24,942,542

Vote "Yes" to adopt the initiated measure.

Vote "No" to leave South Dakota law as it is.

The text of this amendment is 1 page long containing 4 sections.

Pro – Initiated Measure 25

South Dakota could keep more students in state to learn, work and raise a family if we had more competitive tuition at our four two-year post-secondary schools (Lake Area Tech, Mitchell Tech, Southeast Tech and Western Dakota Tech).

Did you know that the tuition at these two-year schools is the **third highest in the country**? Our cost of \$235 a credit hour is double the cost of attending a two-year school in Nebraska, Wyoming and Montana and significantly higher than the cost of attending a two-year school in our other neighboring states.

Despite high tuition, total spending per student in South Dakota is the lowest in the 7-state region, averaging about \$3,000 less per student per year than the regional average.

This is no way to retain and grow a trained work force.

To lower this tuition to be competitive in the region and to provide funding necessary to address needed training, a \$1 increase in the tax on a pack of cigarettes (and a corresponding tax increase on other tobacco products) is proposed. State budget officials estimate this will raise a total of \$25 million in *new* revenue for the state of South Dakota. \$20 million of this will be given to the state board of post-secondary technical schools to lower tuition to fund additional courses and training.

The American Cancer Society Cancer Action Network estimates that raising this proposed tax increase will prevent 3,200 youth from starting smoking and save \$148 million in health care costs.

Please vote yes on initiated measure 25.

Dick Muth, CEO, Muth Electric, Mitchell, SD

Allen E. Nord, MD, volunteer advocate, American Cancer Society Cancer Action Network

Dana Dykhouse, CEO, First Premier Bank

Paul Amundson, MD, family practice physician, Sioux Falls, SD

Mark Mickelson, President, Mickelson & Company

Con – Initiated Measure 25

Workforce development is important, but IM-25 is a flawed measure that raises \$35 million in new tax revenues and gives government officials a blank check.

PIERRE'S HISTORY OF DIVERTING FUNDS

Pierre has a history of raising taxes for one thing and diverting those funds for something else. The last time South Dakota voters increased tobacco taxes, elected officials said it would be used for property tax relief and education. Then, they diverted that money to the General Fund.

Government officials have mismanaged public funds and diverted dedicated tax dollars. Look at what happened with the GEAR-UP education grant program and money from the video lottery. Three years ago, politicians siphoned a half-million dollars from the state's tobacco prevention fund for mosquito control!

NOTHING IN IM-25 PROTECTS TAXPAYERS FROM ANOTHER DIVERSION

The same politician behind IM-25 voted to divert funds from property tax relief to the general fund, and there's nothing in IM-25 to stop the same thing from happening again.

If we are going to raise taxes, South Dakotans need real protections that ensure our tax dollars will go where we want them and not end up in a slush fund for government officials to spend however they want.

IGNORES OTHER EDUCATIONAL NEEDS

IM-25 raises taxes to fund the state's four technical institutes but doesn't include necessary protections against waste, fraud or abuse. And IM-25 ignores other important educational needs. Preschools, K-12 schools, colleges and universities in South Dakota will be shut out of this new tax money.

VOTE NO ON IM-25

IM-25 lacks taxpayer protections, fails to rein in technical schools' wasteful spending and could lead to closed businesses and lost jobs. It's so bad organizations and individuals across the state, including both the South Dakota Republican and Democratic parties, recommend a NO vote on IM-25.

Steve Westra

Chair, South Dakotans Against Higher Taxes

Past Assistant Majority Leader, South Dakota House of Representatives