

Written Testimony for the  
**Senate Government and Veterans Affairs**

March 4, 2021

Erika White, Burleigh County Election Manager



**RE: OPPOSITION for HB 1173**

Greetings, Chairman Veda, and members of the Committee. My name is Erika White and I am the Election Manager in the Burleigh County Auditor/Treasurer's office. I'm submitting testimony in opposition of HB 1173.

I understand the basis for this bill and agree that voters should be educated on the material presented on the ballot. I disagree that measures should be stated in full on the ballot. This can and will lead to substantial and significant issues when it comes to executing an election.

Space on a ballot is limited due to size restrictions the tabulating equipment can handle. The current tabulation equipment can scan ballots 8.5 inches wide and up to 19 inches in length. While this may seem like a sizeable area, there are restrictions for the amount of text that can be placed in a singular column. In addition, space is further restricted due to header and footer information, required by law, as well as border space for the tabulators to correctly scan each ballot.

If the information can not fit on a one-page, double-sided ballot, the only option is to have a multiple-page, double-sided ballot. Having a multiple-page ballot opens up a myriad of issues. Voters will forget or even choose to only send back a singular page in their absentee envelope. Scanning one page versus two or more pages will create discrepancies with the number of absentee voters checked-in to our Central Voter File versus the quantity of ballots scanned on the tabulator. Having these discrepancies in the count will lead to increased voter distrust and election integrity concerns.

In addition, we will see the issue of a multiple absentee voter household sending in two of the first page in a single absentee envelope and two of the second page in a separate absentee envelope. The counties don't have a way to rectify this situation because the secrecy envelope containing the ballot is separated from the signature/affidavit envelope to maintain voter secrecy. We cannot tabulate two ballots sent in by one voter – that is voter fraud. The only way we can rectify this issue is to reject and not count either ballot.

Having a two-page ballot will also lead to early vote and Election Day problems. The dedicated election workers who are at the polls will have more to manage with a multiple-page ballot.

Voter wait times at the polls will increase with the undue burden on election workers needing to verify the voter receives the proper pages and initial all pages of the ballot. It sounds unlikely, but a voter will decide not to vote after the first page of the ballot and leave the remaining pages in the voting booth. This will cause additional difficulties in completing the ballot certification which balances the totals of the ballots, electronic poll books and tabulators. These situations will lead to a great delay in closing the polls and reporting the election results.

We understand the desire for voter education but believe printing the entirety of the measure on the ballot may unintentionally have the opposite effect. Alternatively, many states across the nation send voter information packets to their electorate. These packets are mailed or made available to the public by the Secretary of State prior to absentee ballots being mailed. These information packets can be as robust or lean as desired for the ballot measure information.

Voter education is on the priority list of many Auditors throughout North Dakota. We agree that transparency and communication is key when executing successful elections. However, there are great alternatives established by other states that could be adopted that would increase voter education while at the same time maintaining the current one-page two-sided ballot. This will allow us to confidently uphold the integrity of North Dakota Elections.

Thank you for your time and I urge a DO NOT PASS on HB 1173.

BALLOT CERTIFICATION

Sample

We, George Washington, Inspector, and John Adams and Thomas Jefferson

Judges of this General Election duly held on Tuesday the 3rd day of November, 2020 in the election precinct known as Good Shepherd Church in the County of Burleigh in the State of North Dakota, do hereby certify that the number of ballots in our possession at the opening of the polls was:

	<u>4600</u>	Ballots	
	<u>400</u>	ExpressVote Ballots	SEAL 441568
(1)	<u>5000</u>	TOTAL BALLOTS	441541
			441534

and that after the polls closed we had:

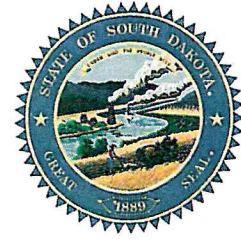
(2)(+)	<u>0</u>	Void Ballots
(3)(+)	<u>25</u>	Spoiled Ballots
(4)(+)	<u>2960</u>	Unvoted Ballots
(5)(+)	<u>2000</u>	Voted Ballots (Includes write-in ballots)
(6)(+)	<u>15</u>	Set-Aside Ballots
(=)	<u>5000</u>	TOTAL (Lines 2, 3, 4, 5, & 6 MUST equal line 1)

and that the number of voted ballots is equal to the number of voters who were registered in our poll books.

<u>2000</u>	=	<u>2000</u>
(# registered in PollPad)		(total voted ballots)

G Washington, Inspector  
J Adams, Judge  
T Jefferson, Judge

# South Dakota



## 2020 Ballot Questions

### 2020 Ballot Question Pamphlet compiled by the Office of the Secretary of State

For immediate election returns on November 3rd, call the Secretary of State toll free at 1-888-703-5328 or browse the results on the Secretary of State's web page at [electionresults.sd.gov](http://electionresults.sd.gov). The text of this pamphlet is available on our website at [www.sdsos.gov](http://www.sdsos.gov) and also available in large print, braille, or on tape by calling the South Dakota 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 Secretary of State or Attorney General.

The information was compiled by the Secretary of State as supplied by the authors, was not verified by the Secretary of State and does not reflect the position of the Secretary of State's office 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 authors in this brochure.

12-13-23. Distribution of public information. The secretary of state shall distribute public information on any amendment to the Constitution, initiated measure, or referred law submitted to the electors for approval. The secretary of state shall compile the public information by printing a statement in support of the amendment to the Constitution, initiated measure, or referred law written by its proponents, if any can be identified, and a statement against the amendment to the Constitution, initiated measure, or referred law written by its opponents, if any can be identified. No statement written by a proponent or an opponent may exceed three hundred words in length. 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.**

*Steve Barnett*

**Secretary of State**

Kea Warne, Director, Division of Elections  
500 E. Capitol Avenue • Pierre, SD 57501-5070  
605-773-3537

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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)**

30,000 copies of this publication were printed by the Office of the Secretary of State at a cost of \$0.0697 each.

## 2020 Ballot Question Contact Information

PRO	CON
<p><b>Initiated Measure 26</b> – An initiated measure on legalizing marijuana for medical use.</p>	
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<p><b>Constitutional Amendment A</b> – An amendment to the South Dakota Constitution to legalize, regulate, and tax marijuana; and to require the Legislature to pass laws regarding hemp as well as laws ensuring access to marijuana for medical use.</p>	
<p>Drey Samuelson 1711 S. Phillips Ave. Sioux Falls, SD 57105 Phone: 605.906.2023</p>	<p>Benjamin Aaker, MD SDSMA President 2600 W 49<sup>th</sup> Street, Suite 200 Sioux Falls, SD 57105 Phone: 605.336.1965 Email: <a href="mailto:membership@sdsma.org">membership@sdsma.org</a></p>
<p><b>Constitutional Amendment B</b> – An amendment to the South Dakota Constitution authorizing the Legislature to allow sports wagering in Deadwood.</p>	
<p>Senator Bob Ewing State Senator, District 31</p>	<p>Steven Haugaard Speaker of the House South Dakota House of Representatives Phone: 605.941.1434 Email: <a href="mailto:Steve@Haugaardlaw.com">Steve@Haugaardlaw.com</a></p>

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

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

<https://sdsos.gov/elections-voting/upcoming-elections/general-information/2020-ballot-questions.aspx>

## Initiated Measure 26

**Title:** An initiated measure to legalize marijuana for medical use.

**Attorney General Explanation:** This measure legalizes medical use of marijuana by qualifying patients, including minors. "Medical use" includes the use, delivery, manufacture – and for State residents, cultivation – of marijuana and marijuana-based products to treat or alleviate debilitating medical conditions certified by the patients' practitioners.

South Dakota patients must obtain a registration card from the State Department of Health. Non-residents may use out-of-state registration cards. Patients may designate caregivers to assist their use of marijuana; the caregivers must register with the Department.

Cardholders may possess 3 ounces of marijuana and additional amounts of marijuana products. Additionally, if a resident cardholder is allowed to grow marijuana plants the cardholder may possess a minimum of 3 plants, as well as marijuana and products made from those plants.

The measure legalizes marijuana testing, manufacturing, and cultivation facilities, as well as marijuana dispensaries. These establishments must register with the Department.

The measure legalizes some substances that are considered felony controlled substances under current State law. Marijuana remains illegal under Federal law. The measure limits State and local law enforcement's ability to assist Federal law enforcement authorities.

The 95-section measure contains numerous other provisions not described here. It will likely require judicial or legislative clarification.

**Fiscal Note:** Legalizing cannabis for medical use would have an initial cost to the state of \$677,309. Once the medical cannabis program is operational, it is expected that ongoing program revenues would cover program costs for a net to zero. This measure will likely have minimal impact on prison and jail costs.

Vote "Yes" to adopt the initiated measure.

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

**The text of this initiated measure is 26 pages long containing 95 sections.**

Pro – Initiated Measure 26	Con – Initiated Measure 26
<p>South Dakotans should vote "Yes" on Measure 26 so that those with serious health conditions, including veterans, children with seizures, and cancer patients, are treated with compassion and allowed to make the best medical decisions for themselves and their loved ones. Measure 26 will:</p> <p>Establish a well-regulated program administered by the Department of Health to allow patients diagnosed with serious medical conditions to access medical cannabis upon the recommendation and advice of their physician.</p> <p>Allow families, patients, and physicians to make the best decision about the patient's health without fear of arrest.</p> <p>Create an additional tool for healthcare professionals to alleviate suffering and help patients in cases where other medications are ineffective or less safe.</p> <p>Align South Dakota's cannabis laws with those already established in 33 other states.</p> <p>South Dakota we pride ourselves on trusting our citizens to make individual choices that are best for us and our families. Governor Noem often praises South Dakotans for being responsible and hardworking and recently emphasized our "commitment to that American ideal, to freedom, and to trusting our citizens to exercise their personal responsibility to do what's best for themselves and their loved ones."</p> <p>This trust should extend to medical cannabis. Patients and families should be empowered to make their own health decisions. It is our duty as voters to support freedom and these fundamental South Dakota values of compassion and personal responsibility.</p> <p>Measure 26 was put before South Dakota voters thanks to the dedication of hundreds of volunteers who believed that seriously ill patients deserve this choice. We humbly ask for a "Yes" vote on Measure 26.</p> <p><b>Melissa Mentele, campaign manager, mother, small business owner, executive director for New Approach South Dakota, advocate</b></p> <p><b>George Hendrickson, father of a child with Dravet Syndrome, former police officer, small business owner, advocate</b></p> <p><b>Kristin Hendrickson, mother, MSN, RN, disability rights advocate</b></p>	<p>South Dakota State Medical Association urges a "no" vote and maintains that marijuana is a hazardous drug and a public health concern. The use of non-FDA approved marijuana for medical purposes carries serious safety risks by circumventing FDA processes.</p> <p>Marijuana for medical purposes is federally classified as schedule I, meaning there is no accepted medical use and a high potential for abuse. The majority of clinical research has failed to identify a medical use for the drug while showing marijuana to be highly addictive and to have negative consequences with both short- and long-term use, including impaired short-term memory, decreased concentration and attention span. Alterations in motor control, coordination, judgement and reaction time have also been documented as well as having a negative impact on lung function. Studies have also linked marijuana use with higher rates of psychosis in patients with a predisposition to schizophrenia. In addition, marijuana use has the potential to cause brain atrophy and permanently change the structure and physiology of the developing brain.</p> <p>Unstandardized prescribing and documenting, along with the inability to rapidly and effectively detect use or overuse creates a significant barrier to good patient care. Moreover, non-standardized medical use creates health risks including the possibility of death due to toxicity, drug interaction or unrecognized adverse effects.</p> <p>Marijuana does not possess characteristics to be considered legitimate medication.</p> <p>The United States' drug approval process for evaluating potential medicines has worked effectively for over 50 years – it is a thorough, deliberate, and exacting process grounded in science, and properly so, because safety relies on it. Marijuana is not FDA approved and should not be used as treatment for medical conditions. This measure seeks to undermine the FDA process. It is important to vote "no" to ensure that patients have a right to safe and properly approved drugs.</p> <p><b>Benjamin Aaker, MD-SDSMA President</b></p>

# Constitutional Amendment A

**Title:** An amendment to the South Dakota Constitution to legalize, regulate, and tax marijuana; and to require the Legislature to pass laws regarding hemp as well as laws ensuring access to marijuana for medical use.

**Attorney General Explanation:** This constitutional amendment legalizes the possession, use, transport, and distribution of marijuana and marijuana paraphernalia by people age 21 and older. Individuals may possess or distribute one ounce or less of marijuana. Marijuana plants and marijuana produced from those plants may also be possessed under certain conditions.

The amendment authorizes the State Department of Revenue (“Department”) to issue marijuana – related licenses for commercial cultivators and manufacturers, testing facilities, wholesalers, and retailers. Local governments may regulate or ban the establishment of licensees within their jurisdictions.

The Department must enact rules to implement and enforce this amendment. The amendment requires the Legislature to pass laws regarding medical use of marijuana. The amendment does not legalize hemp; it requires the Legislature to pass laws regulating the cultivation, processing, and sale of hemp.

The amendment imposes a 15% tax on marijuana sales. The tax revenue will be used for the Department’s costs incurred in implementing this amendment, with remaining revenue equally divided between the support of public schools and the State general fund.

Judicial clarification of the amendment may be necessary. The amendment legalizes some substances that are considered felony controlled substances under current State law. Marijuana remains illegal under Federal law.

**Fiscal Note:** Legalizing cannabis would provide revenues from licensing fees, sales tax, and a 15% excise tax. After regulatory costs, the State would distribute 50% of net revenues annually to public schools and 50% to the general fund. Incarceration costs would decrease due to a decriminalization of several current laws.

Estimated Net Revenues:

FY2021: \$355,705      FY2023: \$19,589,466  
 FY2022: \$10,765,004      FY2024: \$29,372,397

Vote “Yes” to adopt the amendment.

Vote “No” to leave the Constitution as it is.

The text of this amendment is 7 pages long containing 15 sections.

<b>Pro – Constitutional Amendment A</b>	<b>Con – Constitutional Amendment A</b>
<p>Amendment A will legalize, regulate, and tax marijuana for adults 21 and older and require that patients be protected for medical use.</p> <p>Amendment A is designed specifically for South Dakota to work for South Dakotans. <b>Amendment A:</b></p> <ul style="list-style-type: none"> <li>• <b>Includes strong protections for children.</b> Marijuana will only be sold to adults age 21 or older in regulated, licensed businesses that check I.D. before every single sale.</li> <li>• <b>Protects health.</b> When marijuana is sold on the illicit market it can be contaminated with chemicals or laced with other drugs. Amendment A will ensure that consumers know what they are buying and consuming and that products are safe.</li> <li>• <b>Creates jobs:</b> All marijuana sold in South Dakota must be grown and packaged inside our borders, which will lead to hundreds of jobs for construction workers, plumbers, electricians, HVAC workers, laborers, and retail workers.</li> <li>• <b>Creates new revenue:</b> According to the Legislative Research Council, Amendment A will generate \$60M by 2024, including millions of dollars for schools.</li> <li>• <b>Saves law enforcement resources.</b> By reducing prosecutions and arrests for minor marijuana-related offenses, law enforcement will save money and be able to focus on serious crime.</li> <li>• <b>Protects patients:</b> Amendment A will require that South Dakota protect patients whose doctors recommend marijuana, including veterans who need marijuana as an alternative to opioids to treat PTSD and pain.</li> <li>• <b>Rebuilds lives:</b> South Dakota’s current marijuana laws can ruin a person’s life. One youthful mistake for minor conduct can result in a criminal record preventing someone from going to school or getting a job. Amendment A will stop this.</li> </ul> <p>South Dakota’s current approach to marijuana just doesn’t make sense. It’s time to put an end to our broken system and implement proven reforms so marijuana will be safe, legal, controlled, and taxed for adults, and patients will be protected for medical use.</p> <p><b>ndan Johnson, former South Dakota U.S. Attorney</b>  <b>Chuck Parkinson, former Associate Commissioner, U.S. Customs Service,</b>  <b>Presidents Ronald Reagan and George H.W. Bush</b>  <b>Bill Stocker, retired Marine, disabled veteran, retired Sioux Falls Police Officer</b>  <b>Drey Samuelson, Campaign Manager</b></p>	<p>The South Dakota State Medical Association urges a “no” vote and maintains that marijuana is a hazardous drug and a public health concern. As such, the SDSMA believes the sale and possession of marijuana – especially for recreational purposes – should not be legalized.</p> <p>At the time of this writing, the DEA has more than doubled the number of individuals and institutions allowed to conduct research on marijuana, as well as increasing the amount of marijuana to study due to public demand – this includes over 90 researchers registered to conduct CBD research on humans.</p> <p>Marijuana remains classified by the federal government as a schedule 1 drug – meaning there is no accepted medical use and a drug with a high potential for abuse. Research has shown marijuana to be highly addictive with well documented negative consequences with both short- and long-term use. Consequences include impaired short-term memory and decreased concentration, attention span, and problem solving. Alterations in motor control, coordination, judgement, reaction time and tracking ability have also been documented.</p> <p>Negative health effects on lung function associated with smoking marijuana have also been documented, and studies have linked marijuana use with higher rates of psychosis in patients with a predisposition to schizophrenia. Marijuana use has the potential to cause brain atrophy and permanently change the structure and physiology of the developing brain.</p> <p>Furthermore, it is important to understand that marijuana use harms more than just the person using the drug. Societal costs of marijuana use include paying for increased emergency room visits, medical care, and addiction treatment for the uninsured; more victims of drugged driving accidents; increased crime; and a negative impact on the health of those exposed to secondhand smoke. The SDSMA further believes marijuana will create a steep cost for society and taxpayers that far outweighs its tax revenues. Vote no.</p> <p><b>Benjamin Aaker, MD- SDSMA President</b></p>

## Constitutional Amendment B

**Title:** An amendment to the South Dakota Constitution authorizing the Legislature to allow sports wagering in Deadwood.

**Attorney General Explanation:** The constitution currently authorizes the Legislature to allow certain types of gaming in the City of Deadwood: roulette, keno, craps, limited card games, and slot machines. The constitution amendment authorizes the Legislature to also include wagering on sporting events as a type of gaming allowed in Deadwood.

Under federal law, any gaming authorized by the Legislature to be offered in Deadwood would also be allowed at on-reservation tribal casinos upon amendments to current tribal gaming compacts.

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 B	Con – Constitutional Amendment B
<p>Deadwood is in my district and as such I've willingly carried legislative bills as the prime sponsor in the SD Senate. While some do not gamble or support gaming, I have always supported gaming in Deadwood as it is permissive. No one has to participate. Whether one chooses to wager is solely their own decision. With that said My sponsorship of bills for the Deadwood gaming industry has been successful in adding Keno, Craps, and Roulette. This past session I was successful in helping to add Sports Wagering to be voted on in the upcoming General Election. If passed will add another option for people to support and wager on sporting events. Deadwood will then be on a level playing field competing with other states that allow sports wagering. The tax dollars raised by Deadwood gaming are enjoyed by local cities, schools and the State of South Dakota. I am a proponent of adding sports wagering to assist Deadwood in attracting more people to the beautiful Black Hills which has become a destination city. The whole state enjoys the dollars spent by tourist traveling across South Dakota on their way to Deadwood.</p> <p><b>Senator Bob Ewing – State Senator, District 31</b></p>	<p>Lots of people gamble and you see it every day at the gas station and corner casinos. Conservative estimates indicate nearly 15,000 South Dakotans are PROBLEM GAMBLERS. Many of those are ADDICTED to gambling. That's equal to the population of Mitchell, Spearfish, Huron, Yankton or Pierre. Many are suffering and some take their own life. Addiction brings deep regret and shame. Many of our friends, family and neighbors are overwhelmed by their gambling addiction. You know them personally. If their pain is too great, they will use a gun, a rope, or pills. That addiction is partly due to the fact that we, the State of South Dakota, cared more about revenue than human lives. Suicides are happening every week across our state.</p> <p>Sports betting would be a stumbling block for many people. The pandemic has taught us that we need to respect and care for our fellow man.</p> <p>Some say that you cannot legislate morality. If this was true, then we wouldn't have any laws. It would simply be survival of the fittest, but that isn't who we are. We do make laws for the public good. South Dakotans care for one another.</p> <p>This isn't a liberty issue or a revenue issue, this is a life issue. Sports can already be an obsession. It shouldn't be a training ground for young people to develop a gambling addiction. The few dollars that would come from sports betting pales in comparison to the damage it causes. We are the second most gambling dependent state in the nation. We don't need to make that worse.</p> <p>No one should take advantage of vulnerable people. Don't vote for a new form of suffering. Join me in voting for families free from addiction.</p> <p><u>VOTE NO</u> on Sports Betting.</p> <p><b>Steve Haugaard – Representative, District 10</b> <b>Speaker of the House</b></p>



**NOTICE OF ELECTION TO INCREASE  
TAXES ON A REFERRED MEASURE**

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**2020 State Ballot  
Information Booklet**

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**STATEWIDE ELECTION DAY  
is Tuesday, November 3, 2020**

Voter service and polling centers are open 7 a.m. to 7 p.m. on Election Day.  
Ballots are mailed to all registered voters between October 9 and October 16, 2020.

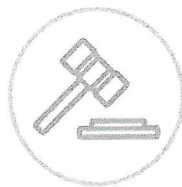




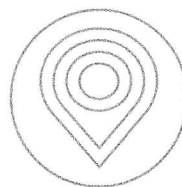
A full fiscal impact statement for each measure can be found at:  
<https://leg.colorado.gov/2020bluebookfiscalnotes>



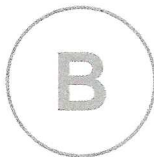
An audio version of the book is available through the Colorado Talking Book Library at:  
<https://myctbl.cde.state.co.us/legislative-blue-book>



Find judicial performance evaluations for statewide, district, and county judges up for retention in your judicial district at:  
<http://www.ojpe.org>



Local election offices can provide voter information, including where to vote, how to register to vote, and what is on your ballot. Find contact information for local election offices on the inside back cover of this book.



## Amendment B: Repeal Gallagher Amendment

*Placed on the ballot by the legislature • Passes with a majority vote*

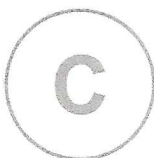
### Ballot Title

Without increasing property tax rates, to help preserve funding for local districts that provide fire protection, police, ambulance, hospital, kindergarten through twelfth grade education, and other services, and to avoid automatic mill levy increases, shall there be an amendment to the Colorado constitution to repeal the requirement that the general assembly periodically change the residential assessment rate in order to maintain the statewide proportion of residential property as compared to all other taxable property valued for property tax purposes and repeal the nonresidential property tax assessment rate of twenty-nine percent?

### What Your Vote Means

**YES** A “yes” vote on Amendment B repeals sections of the Colorado Constitution that set a fixed statewide ratio for residential and nonresidential property tax revenue. Assessment rates for all property types will remain the same as they are now, projected future decreases in the residential assessment rate will not be required, and any future increases in assessment rates would require a vote of the people.

**NO** A “no” vote on Amendment B leaves constitutional provisions related to property taxes in place, maintaining current requirements for setting the assessment rates used to calculate property taxes. This is expected to result in a decreasing residential assessment rate over time and in automatic local mill levy increases in jurisdictions where required by law.



## Amendment C: Conduct of Charitable Gaming

*Placed on the ballot by the legislature • Passes with 55 percent of the vote*

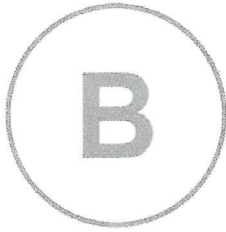
### Ballot Title

Shall there be an amendment to the Colorado constitution concerning the conduct of charitable gaming activities, and, in connection therewith, allowing bingo-raffle licensees to hire managers and operators of games and reducing the required period of a charitable organization’s continuous existence before obtaining a charitable gaming license?

### What Your Vote Means

**YES** A “yes” vote on Amendment C allows nonprofit organizations operating in Colorado for three years to apply for a bingo-raffle license, permits these games to be conducted by workers who are not members of the organization, and allows workers to receive compensation up to minimum wage.

**NO** A “no” vote on Amendment C maintains the current requirements that nonprofit organizations must operate in Colorado for five years prior to applying for a bingo-raffle license, and that workers must be unpaid volunteers who are members of the nonprofit organization.



# Repeal Gallagher Amendment

*Placed on the ballot by the legislature • Passes with a majority vote*

## Amendment B proposes amending the Colorado Constitution to:

- repeal the Gallagher Amendment requiring residential and nonresidential property tax revenues to make up the same portion of total statewide property taxes as when the Gallagher Amendment was adopted in 1982, including the requirement that sets the nonresidential assessment rate at 29 percent.

## What Your Vote Means

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**YES** A “yes” vote on Amendment B repeals sections of the Colorado Constitution that set a fixed statewide ratio for residential and nonresidential property tax revenue. Assessment rates for all property types will remain the same as they are now, projected future decreases in the residential assessment rate will not be required, and any future increases in assessment rates would require a vote of the people.

**NO** A “no” vote on Amendment B leaves constitutional provisions related to property taxes in place, maintaining current requirements for setting the assessment rates used to calculate property taxes. This is expected to result in a decreasing residential assessment rate over time and in automatic local mill levy increases in jurisdictions where required by law.

## Summary and Analysis for Amendment B

In Colorado, property taxes fund local government services, including services provided by cities, counties, and special districts, such as local police and fire protection, hospitals, transportation, and the local share of K-12 education. The Gallagher Amendment sets statewide rules for property taxes funding these local services. This analysis first summarizes what Amendment B does, then describes how property taxes are calculated, and finally discusses how the measure affects taxpayers and governments.

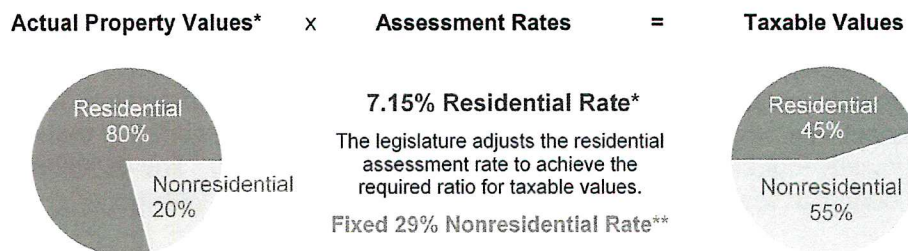
### What does Amendment B do?

Amendment B removes provisions related to the residential and nonresidential assessment rates from the constitution, including the provisions commonly known as the Gallagher Amendment.

The Gallagher Amendment currently requires that residential and nonresidential property make up constant portions of total statewide taxable property over time. Since adoption in 1982, these provisions have required that the taxable value of residential property make up about 45 percent, and the taxable value of nonresidential property about 55 percent of statewide taxable property. Actual property values have not matched the required ratios over time because residential property values have generally grown faster than nonresidential property values. Since the taxable portion of most nonresidential property values is fixed at 29 percent, the state legislature adjusts the residential assessment rate to maintain the required ratio, as shown in Figure 1.

Amendment B removes these provisions from the constitution, leaving the residential and nonresidential assessment rates at their current rates in state statute. Under current law, the residential assessment rate is expected to decrease in future years, reducing the amount of property taxes paid by property owners and collected by local governments. Amendment B would eliminate automatic tax increases adopted by some local jurisdictions to offset revenue losses from the Gallagher Amendment. In jurisdictions that have not adopted automatic tax increases, Amendment B eliminates projected future decreases in the residential assessment rate, and any increase in nonresidential or residential assessment rates would require voter approval.

**Figure 1**  
**Assessment Rate Adjustments Under Current Law**



\* Actual property values are for 2019. The residential assessment rate is for 2019 and 2020. This assessment rate has fallen over time to maintain the fixed ratio for taxable values of about 45 percent residential and 55 percent nonresidential.

\*\* Assessment rate for most nonresidential property.

### How are property taxes calculated?

Property taxes are paid by residential homeowners and nonresidential property owners, including farmers, ranchers, oil and gas operators, and other businesses. Property taxes are paid on a portion of a property's actual value. The actual value of property is determined by the county assessor or state property tax administrator. The portion of the actual value on which taxes are paid is known as taxable value. Taxable value is also known as assessed value.

Taxable value is calculated by multiplying the actual value by an assessment rate. The assessment rate is currently 7.15 percent for residential properties and is fixed at 29 percent for most nonresidential properties. Mines and lands that produce oil and gas are assessed at different rates than other nonresidential property.

Taxable value is then multiplied by the tax rate, called a mill levy, to determine the property taxes owed. One mill equals \$1 for each \$1,000 dollars of taxable value. For example, 100 mills is equal to a tax rate of 0.1 (100/1,000), or 10 percent. The tax rate varies for each property based on the local taxing districts in which it is located. Figure 2 provides an example of how property taxes are calculated.

**Figure 2**  
**Property Tax Calculation**

*Example: Property valued at \$300,000 and taxed at 100 mills*

<b>Taxable value = Property value x Assessment rate</b>				
Residential	\$300,000	x	7.15%	= \$21,450 taxable value
Nonresidential	\$300,000	x	29%	= \$87,000 taxable value
<b>Property taxes = Taxable value x Tax rate (Mills/1000)</b>				
Residential	\$21,450	x	0.100	= \$2,145 owed
Nonresidential	\$87,000	x	0.100	= \$8,700 owed

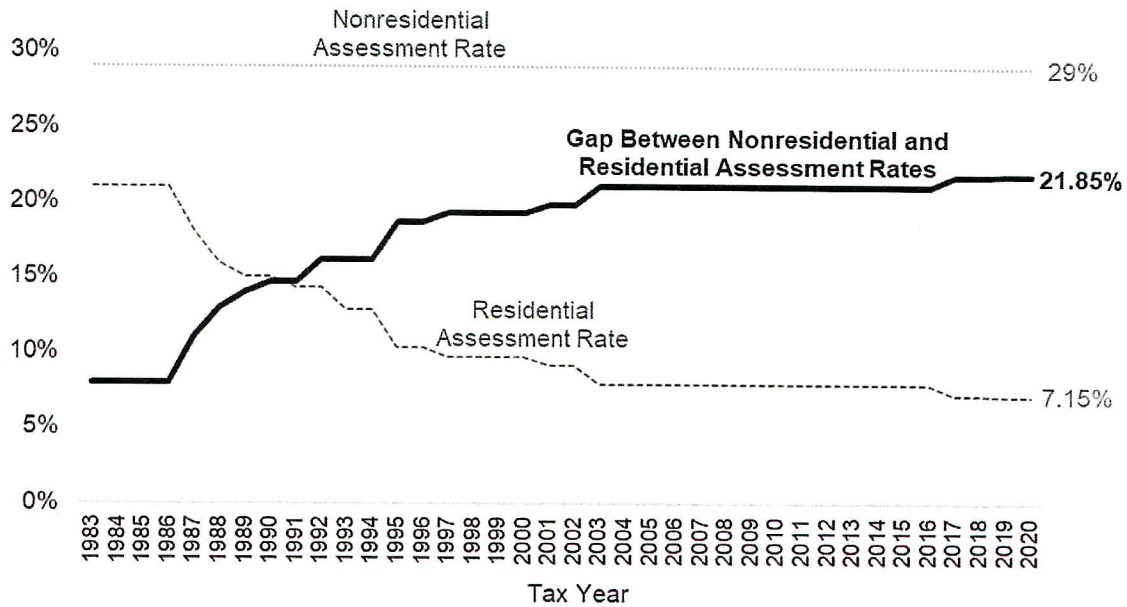
### How has the residential assessment rate changed over time?

In most years, residential property values have grown faster than nonresidential values, causing the residential assessment rate to be lowered so that residential properties continue to make up about 45 percent of statewide taxable value. As shown in Figure 3, the residential assessment rate has been reduced from 21 percent when these provisions went into effect in 1983 to a current rate of 7.15 percent. With the fixed nonresidential assessment rate at 29 percent, and the current 7.15 percent residential assessment rate, nonresidential property owners pay an effective tax rate that is approximately four times higher than residential property owners. The downward shift of the residential assessment rate is expected to continue in future years.

# B

## Repeal Gallagher Amendment

**Figure 3  
Gap in Assessment Rates Since 1983**



When nonresidential property values grow faster than residential property values, the residential assessment rate must increase to maintain the constant ratio; however, other constitutional provisions require that voters approve such an increase. As a result, the state legislature may decrease, hold flat, or ask voters to approve an increase in the residential assessment rate. Since 1999, there have been six instances when the residential assessment rate would have increased, but the legislature did not refer a measure to voters and the rate instead stayed flat.

### What factors impact property taxes?

Property taxes paid by a property owner are dependent on three components: actual property value, the applicable assessment rate, and the mill levy. Changes to any of these components impact the amount of property taxes paid and thus, the amount of revenue collected by a local government. Amendment B concerns only residential and nonresidential assessment rates; however, other changes to property values or tax rates also impact the amount of property taxes owed.

### What are the automatic mill levy increases that some local governments have adopted?

In response to the shift between residential and nonresidential assessment rates, many local governments have adopted laws that automatically increase local mill levies to offset the revenue losses from the Gallagher Amendment. These automatic increases counteract the reduction in the residential assessment rate and result in a net property tax increase for nonresidential property owners. These automatic mill levy increases would not be triggered if Amendment B passes.

**How does Amendment B affect residential property taxpayers?**

Under Amendment B, the residential assessment rate will remain at the current 7.15 percent for residential property. Without the measure, the residential assessment rate is projected to decrease in future years due to the relative growth of residential property values compared to nonresidential property values. As a result, Amendment B is expected to eliminate projected future reductions in the residential assessment rate, and thus, could result in higher property taxes paid by residential taxpayers, if property values increase and if automatic mill levy increases do not offset assessment rate reductions.

**How does Amendment B affect nonresidential taxpayers?**

Under Amendment B, the assessment rate will remain in state law at 29 percent for most nonresidential property. Amendment B will have no impact on the amount of taxes paid by most nonresidential property owners.

In the local governments that have approved automatic mill levy increases to offset revenue reductions from the Gallagher Amendment, Amendment B will prevent property tax increases for businesses, farmers, and other nonresidential property owners, as the higher mill levies that would have been triggered by decreases in the residential assessment rate under the Gallagher Amendment will no longer be required.

**How does Amendment B impact local government revenue?**

Under the current system, the decline in the residential assessment rate has constrained property tax revenue to local governments. The impact varies across the state, with the largest impacts occurring in areas without much nonresidential property or with only slow growth in home prices. These areas are generally small and rural; however, metropolitan areas with slow growth in home values are also impacted. Amendment B prevents further decreases in the residential assessment rate, thus preventing declines in local government property tax revenue used to provide local services.

**How does Amendment B impact state government spending for schools?**

Schools are funded through a combination of state and local revenue, with the state making up the difference between an amount of school district funding identified through a formula in state law and the amount of local tax revenue generated. By preventing future decreases in the residential assessment rate, Amendment B increases local property tax collections for school districts and reduces the amount the state must pay to make up the difference.

**If Amendment B passes, can the state legislature change the assessment rates?**

Under Amendment B, the state legislature may decrease the assessment rates, but cannot increase them without voter approval. Currently, assessment rates are set in state law at 7.15 percent for residential property and 29 percent for most nonresidential property.



## B

## Repeal Gallagher Amendment

*For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<https://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

### Arguments For Amendment B

- 1) The Gallagher Amendment is outdated and full of unintended consequences. If the Gallagher Amendment is not repealed, owners of high-end homes in Denver's wealthiest neighborhoods would get a tax cut next year, while small businesses and farmers would pay a larger share of property taxes. The Gallagher Amendment causes small businesses to be taxed at a rate four times higher than residential property owners, and penalizes rural and low-income communities that lack a significant commercial tax base.
- 2) Colorado has some of the lowest residential property taxes in the nation, and Amendment B fixes property tax assessment rates at their current levels. Amendment B is not a tax increase. Under Amendment B, the property tax rates homeowners and businesses pay could only be increased by a vote of the people.
- 3) Amendment B will prevent deep cuts to schools, hospitals, fire protection, and other local services in many areas of the state. Declines in the residential assessment rate caused by the Gallagher Amendment have resulted in significant reductions in vital services provided by local governments, particularly in rural and low-income communities. Amendment B allows local governments to continue providing services that their communities expect.

### Arguments Against Amendment B

- 1) Amendment B results in higher property taxes for homeowners by preventing future drops in the residential assessment rate. Increasing home values have already resulted in higher property taxes for many homeowners. Higher taxes mean that homeowners will have less money to spend or save, and landlords may increase rents, at a time when many are already struggling to make ends meet.
- 2) The current property tax system keeps residential property taxes low, and prevents special interests from obtaining tax breaks at the expense of homeowners. Amendment B removes an important protection for homeowners from the constitution. Without these protections, homeowners may end up paying an increasing share of property taxes.
- 3) There are better alternatives to amending the constitution. Local governments can instead ask their voters to raise tax rates or seek other solutions to provide services such as fire protection, schools, and libraries. These alternatives would allow voters in each local jurisdiction to decide for themselves how to best fund services for their community.

## Estimate of Fiscal Impact for Amendment B

**Local revenue and spending.** For many local governments, including counties, cities, school districts, and special districts, Amendment B will result in increased property tax revenue. The amount of any increase will depend on what the residential assessment rate would have been in the future without the measure, as well as whether voters have already approved local tax increases to counteract future potential decreases in the residential assessment rate.

**State spending.** To the extent that Amendment B increases property tax revenue to school districts, additional funding will be available for the local share of the state's system of school finance, reducing the amount the state must pay to make up the difference between local revenue and the school district funding amount identified through a formula in state law.

**Taxpayer impacts.** Maintaining the current residential assessment rate results in higher property taxes for many residential property owners compared to what they would owe if residential assessment rates were lowered in the future. The impact on property owners from holding the residential assessment rate constant in the future will vary based on several factors, including what future decreases in the residential assessment rate would have been required without the measure, the actual value of the property, and the tax rates of the local taxing districts. The measure does not impact the assessment rate for most nonresidential taxpayers.



## Amendment B Repeal Gallagher Amendment

The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

### Ballot Title:

Without increasing property tax rates, to help preserve funding for local districts that provide fire protection, police, ambulance, hospital, kindergarten through twelfth grade education, and other services, and to avoid automatic mill levy increases, shall there be an amendment to the Colorado constitution to repeal the requirement that the general assembly periodically change the residential assessment rate in order to maintain the statewide proportion of residential property as compared to all other taxable property valued for property tax purposes and repeal the nonresidential property tax assessment rate of twenty-nine percent?

### Text of Measure:

*Be It Resolved by the Senate of the Seventy-second General Assembly of the State of Colorado, the House of Representatives concurring herein:*

**SECTION 1.** At the election held on November 3, 2020, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, section 3 of article X, amend (1)(b) as follows:

**Section 3. Uniform taxation - exemptions.** (1) (b) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not include hotels and motels, shall be valued for assessment. ~~at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. In determining the adjustment to be made in the ratio of valuation for assessment for residential real property, the aggregate statewide valuation for assessment that is attributable to residential real property shall be calculated as if the full actual value of all owner-occupied primary residences that are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation.~~ All other taxable property shall be valued for assessment. ~~at twenty-nine percent of its actual value.~~ However, The valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation.



## Titles and Text

**SECTION 2.** Each elector voting at the election may cast a vote either “Yes/For” or “No/Against” on the following ballot title: “Without increasing property tax rates, to help preserve funding for local districts that provide fire protection, police, ambulance, hospital, kindergarten through twelfth grade education, and other services, and to avoid automatic mill levy increases, shall there be an amendment to the Colorado constitution to repeal the requirement that the general assembly periodically change the residential assessment rate in order to maintain the statewide proportion of residential property as compared to all other taxable property valued for property tax purposes and repeal the nonresidential property tax assessment rate of twenty-nine percent?”

**SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if a majority of the electors voting on the ballot title vote “Yes/For”, then the amendment will become part of the state constitution.

### **Amendment C Conduct of Charitable Gaming**

The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

#### **Ballot Title:**

Shall there be an amendment to the Colorado constitution concerning the conduct of charitable gaming activities, and, in connection therewith, allowing bingo-raffle licensees to hire managers and operators of games and reducing the required period of a charitable organization’s continuous existence before obtaining a charitable gaming license?

#### **Text of Measure:**

*Be It Resolved by the House of Representatives of the Seventy-second General Assembly of the State of Colorado, the Senate concurring herein:*

**SECTION 1.** At the election held on November 3, 2020, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, section 2 of article XVIII, amend (2) and (4) as follows:

**Section 2. Lotteries prohibited - exceptions.** (2) No game of chance pursuant to this subsection (2) and subsections (3) and (4) of this section shall be conducted by any person, firm, or organization, unless a license as provided for in this subsection (2) has been issued to the firm or organization conducting such games of chance. The secretary of state shall, upon application therefor on such forms as shall be prescribed by the secretary of state and upon the payment of an annual fee as determined by the general assembly, issue a license for the conducting of such games of chance to any bona fide chartered branch or lodge or chapter of a national or state organization or to any bona fide religious, charitable, labor, fraternal, educational, voluntary firemen’s, or veterans’ organization which THAT operates without profit to its members and which THAT IS REGISTERED WITH THE SECRETARY OF STATE AND has been in existence continuously for a period of ~~five~~ THREE years immediately prior to the making of ~~said~~ ITS application for such license OR, ON AND AFTER JANUARY 1, 2024, FOR SUCH DIFFERENT PERIOD AS THE GENERAL ASSEMBLY MAY ESTABLISH PURSUANT TO SUBSECTION (5) OF THIS SECTION, and has had during the entire ~~five-year~~ period OF ITS EXISTENCE a dues-paying membership engaged in carrying out the objects of said corporation or organization, such license to expire at the end of each calendar year in which it was issued.

STATE OF NORTH DAKOTA

COUNTY

Precinct #

## MEASURES BALLOT

Vote by darkening the oval next to the word "YES" or "NO" following the explanation of each measure.

### Constitutional Measure No. 1 (SENATE CONCURRENT RESOLUTION NO. 4016, 2019 Session Laws, Ch. 536)

A concurrent resolution to amend and reenact subsections 2 and 6 of section 6 of article VIII of the Constitution of North Dakota, relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

#### STATEMENT OF INTENT

This measure increases the number of individuals who serve on the state board of higher education from eight to fifteen, increases the term of board membership from four years to six years, requires the board to meet at least annually with the heads of each institution under the board's control, and prohibits state legislators, elected state officials,

### Constitutional Measure No. 1 (SENATE CONCURRENT RESOLUTION NO. 4016, 2019 Session Laws, Ch. 536) continued

balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two full terms; however, the terms may not be served consecutively. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

~~b. In the event~~

e. On or before July first of each year, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.

f. If any nomination made by the governor is not consented to and confirmed by the senate, the governor again shall again nominate a candidate selected from a new list. The nomination shall must be submitted to the senate for

### Constitutional Measure No. 1 (SENATE CONCURRENT RESOLUTION NO. 4016, 2019 Session Laws, Ch. 536) continued

~~the several institutions. In furtherance of its powers, the state board of higher education shall have the power to may delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to may organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. The board shall meet at least annually with the head of each institution under its control.~~

e.b. Said The board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature legislative assembly, shall make a report to the governor, covering in detail the operations of the educational

