



## ISSUE BRIEF:

**Constitutional Amendment Z** would establish that a proposed constitutional amendment may embrace only one subject.

Approved by the Board of Directors: Sept. 26, 2018

***Sioux Falls Area Chamber of Commerce has taken a position to support Constitutional Amendment Z (CA-Z) and encourages a “YES” vote on the November 6 ballot***

### Background

During the 2016 general election, South Dakotans voted on nine citizen-initiated measures—the most since 2006. Following this increase in citizen initiatives, the South Dakota legislature authorized an interim task force to consider and recommend changes to the state’s initiative and referendum process. This task force ultimately recommended 10 bills designed to make substantive changes to the process.

Included in those 10 bills was House Joint Resolution 1006<sup>1</sup> (HJR 1006) sponsored by 47 senators and representatives from across South Dakota. To put a legislatively referred constitutional amendment before voters, a simple majority vote is required in both the South Dakota State Senate and the South Dakota House of Representatives. HJR 1006 passed the House of Representatives 56 yeas to 11 nays and the Senate 28 yeas to 6 nays putting it on the 2018 November general election ballot.

The Attorney General’s 2018 ballot explanation<sup>2</sup> of CA-Z states the following:

*“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.”*

CA-Z amends section 1 of Article XXIII of the SD constitution by adding the following underlined text:

*“A proposed amendment may amend one or more articles and related subject matter in other articles as necessary to accomplish the objectives of the amendment, however no proposed amendment may embrace more than one subject. If more than one amendment is submitted at the same election, each amendment shall be so prepared and distinguished that it can be voted upon separately.”*

In short, CA-Z would establish a single-subject law for all proposed constitutional amendments. This requirement would apply to both initiated constitutional amendments and legislatively referred constitutional amendments. If approved, South Dakota would be the 16<sup>th</sup> state<sup>3</sup> with a process for initiatives, referendums, or both to adopt a single subject rule.

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<sup>1</sup> SD Legislative Research Council: [https://sdlegislature.gov/Legislative\\_Session/Bills/Bill.aspx?Bill=HJR1006&Session=2018](https://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=HJR1006&Session=2018)

<sup>2</sup> [South Dakota Attorney General 2018 Ballot Explanation of Constitutional Amendment Z](#) (2018).

<sup>3</sup> There are 26 states with a process for initiatives, referendums, or both. Of those, 15 have a single-subject rule or separate vote-requirement provisions.

### **Proponent Rationale:**

For proponents, it's about simplicity and clarity. Initiatives that address only one subject are much easier for voters to understand. Some recent initiatives that have made it on to South Dakota's ballot are long and complicated. For example, Constitutional Amendment W (CA-W) covers over six different issues. Additionally, CA-Z allows voters to express a clear intent on a single issue. It would prevent a very popular initiative being combined with another, unrelated provision to garner approval.

Proponents further argue there is precedent for single subject changes to law. Under the South Dakota constitution, laws brought to the Legislature are not to "embrace more than one subject, which shall be expressed in its title"<sup>4</sup>. The Legislature has operated under this rule since its inception and, by most accounts, it has worked quite well. States like Montana operate under this rule and it has prevented measures such as Marsy's Law from making its way to the ballot.

### **Opponent Rationale:**

Opponents believe CA-Z is legislation rife with issues. Their primary concern is who will be the arbiter deciding what constitutes "one subject?" Take for example Initiated Measure 25 (IM-25), which proposes to increase the tax on cigarettes to help fund technical schools. Is the subject of IM-25 technical schools, cigarette tax, or both? If the subject is both, does that mean its two subjects or just one?

Due to a lack of sound definition, opponents are concerned every imitated measure and constitutional amendment will be challenged in court. Not only will this slow down the process, but it will likely turn it political. In other words, if someone doesn't agree with a measure, they can simply challenge it in court on the basis of single subject rule.

Finally, opponents revert back to the common theme surrounding bills associated with the imitative and referendum process. They believe it is an attack on the process and designed to limit its use.

*Note: Detailing "Proponents" and "Opponents" rationale is designed to provide the reader with an understanding of the opinions and talking points from each perspective. They are not intended to reflect any position of the Sioux Falls Area Chamber of Commerce.*

### **Chamber Position:**

***The Sioux Falls Area Chamber of Commerce has taken a position to support Constitutional Amendment Z and encourages a "YES" vote on the November 6 ballot.***

### **Rationale<sup>5</sup>:**

The Chamber's Board of Directors voted to support Constitutional Amendment Z due to concern that initiatives are becoming increasingly difficult to understand for the common voter—case in point, CA-W. They are confident CA-Z will fix this issue by keeping each initiative to one subject and making South Dakota's ballot less confusing to voters once again.

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<sup>4</sup> <https://sdlegislature.gov/Statutes/Constitution/DisplayStatute.aspx?Type=Statute&Statute=0N-3-21> (September 2018).

<sup>5</sup> Issues Management Council adopted their recommendation to the Board: Sept. 20, 2018. The Chamber Board of Directors adopted: Sept. 26, 2018. Both the Issues Management Council and the Chamber Board voted to support CA-Z.