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Constitutional Amendments

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Constitutional Amendments

Perhaps You've
Just Begun

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CONSTITUTIONAL AMENDMENTS

Perhaps you've just begun!

Wanda M. Leonard, assistant professor in Economics
and Extension specialist--public policy

Does it seem like you are asked to vote on amendments to the state's Constitution every time you go to the polls? Maybe so, especially if you tend to be a voter who votes only in the general elections.

This year you will be presented six Constitutional amendments to approve or disapprove. In 1972, there were four replacement articles; in 1974, there were two replacement articles.

HOW MUCH LONGER WILL WE BE VOTING ON AMENDMENTS TO THE CONSTITUTION?

That's a question no one can really answer. It's possible that we will be voting on amendments to the Constitution for as long as any of us will live. You see, since the original Constitution was adopted in 1889, we've voted on 163 amendments to the Constitution of which 85 have been approved.

ISN'T THERE A DIFFERENCE IN THE THINGS WE'RE VOTING ON NOW?

Yes and no. Prior to 1972, you were generally asked to vote on single questions or single issues. The last six amendments--1972 and 1974--were entire articles. This year you will be voting on combinations--three replacement articles, the preamble, a separate question and on an addition to an article.

JUST WHAT IS THE VOTER TO DECIDE THIS ELECTION?

Six different amendments, which means you will have six times to vote "yes" or "no." You'll have to examine each amendment separately. All the information that you need will not be found in this brief review, but it will show you the broad range of subjects you will be voting on.

AMENDMENT A

YES NO

Amendment A will determine if South Dakota will keep the present preamble or replace it. There have been some changes in wording and some more specific goals added that the first writers of the Constitution weren't concerned about in 1889. The proposed preamble retains the basic concepts of the one we have now, and in addition recognizes that South Dakota is part of the federal system of government. It reaffirms our adherence to the U.S. Constitution, it states that we as a people want to make laws that will help us develop ourselves to our fullest potential, and that will help eliminate poverty and inequality. The proposed preamble also recognizes our thankfulness for our political liberties.

The proposed preamble is longer--117 words in comparison to the present 63 words.

AMENDMENT B

YES NO

Amendment B proposes a new Bill of Rights Article. Many of our rights are retained; however, there are additions and deletions. The proposal recognizes both sexes by changing the words "all men are born free and independent" to "all persons are born free and independent."

We would not be compelled to support any particular religion but there is a limitation placed on our freedom of religious expression in that we cannot practice our religion in any way that interferes with "peace, safety or security" of people as a whole.

Items protected under the search and seizure provisions would be extended to include communications--telephone, computers, and other electronic devices.

The proposal retains our current eminent domain provision and adds a provision which provides, for example, that if the city or county needed to take property to finish a highway, and the owner of the property and the government couldn't come to an agreement, the government could go ahead and take the property before the courts decide the amount of money that would be paid to the owner.

The proposed article also includes a section on discrimination. Currently, we do not have such a section. The new one would prohibit discrimination by the government, much as we already have by federal law. In addition the proposal would prohibit private discrimination in the areas of employment and the sale or rental of property with the legislature retaining the right to make exemptions.

Some of the items to be deleted include: definition of treason--that's in the federal Constitution; libel provisions--that could be provided for by statute; election rights--these are in the Elections Article; resident aliens be treated like other citizens--that is covered under due process and equal protection; and a section on the rights of married women.

AMENDMENT C

YES NO

Amendment C will determine if the current Legislative Article is replaced. Several features of our current article are retained. There are, however, changes, deletions and additions. We would keep the 2-house legislature, 2-year terms, and prohibit either house from becoming larger than it is today.

We would keep the initiative and referendum; however, the application would change. Session lengths would last 40 days in place of the current 30- and 45-day sessions. Each house would be allowed to elect its presiding officer, while now only the House can.

Qualifications of legislators would be changed to any qualified voter in the district, provisions for redistricting would change, and legislators would be allowed to write laws to determine how vacancies in the legislature were to be filled--now the governor has that power.

The Supreme Court could handle contested elections; immunity of legislators would be reduced; right of individual to sue his government would be extended to all levels of state and local government; and the Militia and Impeachment articles would be incorporated into the Legislative Article.

A legislative committee to act between sessions with regard to contingency funds and a committee to temporarily suspend administrative rules would be created. The gambling section would remain exactly as it is, but other items would be deleted, for example, bribery provisions, and allowing legislators to act in emergency situations.

AMENDMENT D

YES NO

Amendment D will determine if we keep Section 26 of the Legislative Article in either the current or the proposed article. Section 26 prohibits the government from passing laws that would create commissions that could interfere with the functions of municipal governments.

The Amendment will ask if you want the section repealed, in which case you will vote "yes" if you don't want the section, and "no" if you do.

AMENDMENT E

YES NO

Amendment E will determine if a replacement article is or is not accepted for a portion of the Education and School Lands Article. You will not be asked to make any decisions on the education portion, but only on those sections dealing with school lands and funds. Many of the proposed provisions incorporate the laws of the Enabling Act, which is the act that allowed South Dakota to become a state. The Act stated how many acres the federal government would give to the state for schools and other institutions and how this land was to be sold and what was to become of the money once the land had been sold. While there is nothing in the proposed article that goes against the intent of the Enabling Act; there are provisions that go beyond the requirements of the act, and also some deletions from the current article that are not a part of the Act.

The proposal keeps the current provisions that require all land sales money be kept in a permanent fund, and that the interest income from the permanent fund along with lease money shall go to support public schools.

Two of the new provisions cover the disposition of funds that would normally go to an institution that ceases operations and the sale of lands by public auction at fair market value. This last provision is included in the Enabling Act, but is not a part of the current Constitution. The current Constitution states that the land shall be leased at the current rental prevailing in the county and sold for the appraised value or no less than \$10 an acre. The proposal treats lessees a little differently than does the current Constitution.

There is a new provision that would reserve the gas, oil, coal and mineral rights to the state when land is sold. We have this rule now, but it's in the form of a statute rather than in the Constitution.

More flexibility is allowed in the investment of the trust funds. Now the investment is restricted to government bonds and securities. The proposal, while allowing greater flexibility, also creates stability in that all funds are guaranteed by the state against loss or diversion.

Several provisions of the current Constitution would be deleted if the proposed Amendment E is approved. The Constitutional Revision Commission and the Legislature thought some of the provisions were obsolete and that others could be handled by statutes. Some of the deletions include: (1) dispersion of fines collected from violations of state law; (2) what land was to be sold first, beginning in 1889; (3) appraisal boards, one of the officers listed is no longer existent; (4) 60-day notice of upcoming sale of school land and terms for purchaser; (5) size of tracts leased or sold; (6) allowing bonds to be sold at a loss; and (7) county investment of school and endowment funds.

AMENDMENT F

<input type="checkbox"/>	<input type="checkbox"/>
YES	NO

Amendment F will determine whether we do or do not add a fourth section to the Amendments and Revision Article. The proposed section would direct the legislature to delete obsolete portions and rearrange other parts of the Constitution every ten years. The main difference between this proposed section and the way we do it now is that the deletions considered obsolete or the rearrangement would not have to be approved by you the voter, unless you wanted it decided by vote. In that case a voter would have to circulate a petition and secure not more than 5% of the eligible voters' signatures. The question would then be a referred measure, and brought to the vote of the people.

DO THE AMENDMENTS SEEM MIND BOGGLING?

If they do, don't feel alone. There are many people who have not yet had the opportunity to study the issues.

IS THERE STILL TIME TO STUDY THE AMENDMENTS?

You bet there is. You have from now to November 2, 1976, to make your decision. If you are a conscientious voter and citizen, the decisions you make will not be easy. There are probably features of the current Constitution that you would just as soon get rid of, and some you like pretty well. The same goes with the proposals, there are probably some ideas you like, some that go completely against your grain, and probably some you are not sure about.

The amendments up for approval or disapproval are very important. The questions you will have to answer concern everything from your rights as a citizen of this state to the rights of the legislature who writes the rules. How much freedom or restraint do you wish to impose upon the legislature? Under the proposal some provisions are stripped away while others are expanded. What's your feeling on the school lands and funds portion of the Constitution? Do you like the new proposal, or are you satisfied with the current arrangement and wording? And the preamble-- does the current one reflect your aspirations as a South Dakotan or does the proposed one reflect your beliefs and feelings? Perhaps neither one really is what you want, but surely one comes closer than the other--so again you must weigh the current with the proposed and make an independent decision.

Your vote is very important too. It matters that you vote what you honestly believe is right. Then you're not throwing your vote away.

You will probably want more information on some or all of the amendments. You can obtain a copy of EC715 "Constitutional Change--1976" from your county Extension office. It provides the exact wording of the current and proposed changes and commentary on each amendment. If you still have questions, you are encouraged to write to "Constitution," Economics Department, South Dakota State University, Brookings, South Dakota 57006.

All the questions you pose may not have a clear cut answer. That is, the answer may be dependent on a court case for interpretation or on a pending statute. Nevertheless we'll do our best to answer you either personally or through newspapers and radio.

The goal of the Cooperative Extension Service is to have an informed voting public. The Cooperative Extension Service does not and will not take a stand either for or against anything as personal to you as your state Constitution.

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