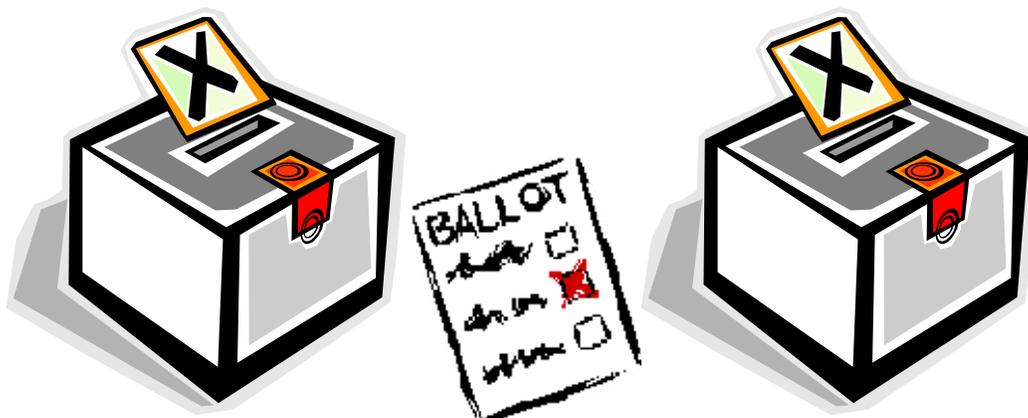


South Dakota

2010 Ballot Questions



For immediate election returns on November 2nd, 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 www.sdsos.gov. The text of this pamphlet is also available on that web page.

This pamphlet is available in large print, Braille, or on tape by calling the SD State Library at 1-800-423-6665.

SDCL 12-13-23 requires the Office of Secretary of State to prepare and distribute public information concerning constitutional amendments, initiatives and referred measures. This pamphlet is prepared by soliciting statements from the proponents and opponents of amendments and measures.

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.

Please feel free to photocopy and distribute this pamphlet.

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Secretary of State

Teresa Bray, Deputy Secretary of State
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Constitutional Amendment K

Title: An Amendment to Article VI of the South Dakota Constitution relating to the right of individuals to vote by secret ballot.

Attorney General Explanation

The proposed amendment to the Constitution would guarantee a right to vote by secret ballot to prevent others from knowing how a person voted. This right would apply to elections of public officers, adoption of initiated or referred measures, and elections to designate or authorize employee representation, such as elections concerning unions.

A vote "Yes" is for guaranteeing a right to vote by secret ballot.

A vote "No" is against the constitutional amendment.

Pro -- Constitutional Amendment K

There is no right more essential to American democracy than the right to vote and the right of our citizens to vote by secret ballot is indeed fundamental to the democratic process in America. Currently our State Constitution has only vague language about the people's right to vote by secret ballot in all elections. Existing constitutional language merely provides the Legislature should "ensure secrecy in voting." Amendment K would make our right to a secret ballot absolutely clear and unequivocal.

In addition to providing for the right of a secret ballot in political elections, Amendment K ensures the right for secret ballot elections in all questions relating to the designation or authorization of labor unions and other employee representation units. Existing federal law protects employees' ability to vote on union recognition by way of a secret ballot. However, that federal law is merely a statute, and there are proposals pending in Congress to eliminate that right to a secret ballot in union elections under certain conditions. Amendment K would protect this right of secret ballot in both political and labor elections by incorporating it into our South Dakota Constitution, where it belongs, as recognition of the importance of this fundamental right of our citizens.

Some critics claim that the impact of Amendment K will be minimal claiming that federal law will pre-empt state law on labor issues. However, it is not clear that federal labor law will pre-empt a state constitutional provision merely relating to the process by which labor unions are designated or authorized by employees.

It is important for South Dakota to adopt Amendment K so that this fundamental right of casting a secret ballot is provided to our citizens for both political and union elections.

Submitted by: Senator David Knudson, Senate Majority Leader,
2100 E. Slaten Court, Sioux Falls, SD 57103

Con -- Constitutional Amendment K

Amendment K is an attempt to undermine a possible change to federal law which is now being considered by the United States Congress and which Congress may or may not approve. A petition drive to place the measure on the ballot failed.

The right to a secret ballot is already provided for in Article 7 Section 3 of our State Constitution. Other states have refused to allow this issue on their ballot as written. An out-of-State organization is attempting to use our ballot process to move their anti Federal legislation agenda forward, disguised as a secret ballot issue.

If voters approve this measure, opponents of Amendment K will file a lawsuit in Federal Court and the taxpayers of South Dakota will pay to defend the Amendment. The United States Supreme Court has consistently ruled that states may not enact laws that conflict with the Federal law in question, the National Labor Relations Act, and opponents expect the Court will throw out Amendment K.

A no vote will leave your right to a secret ballot as it is currently provided for under South Dakota's state constitution and will avoid a costly federal lawsuit at taxpayer expense.

Submitted by: Mark Anderson, South Dakota Federation of Labor, 101 S. Fairfax, Sioux Falls, SD 57103

Constitutional Amendment L

Title: An Amendment to Article XIII of the South Dakota Constitution relating to the trust fund created from the proceeds of the state cement enterprise sales.

Attorney General Explanation

Constitutional Amendment L changes annual distribution amounts made from the cement plant trust fund to the State's general fund. The cement plant trust fund holds the proceeds from the sale of the state cement plant to benefit South Dakota citizens. The proposed amendment reduces the current \$12 million mandatory annual transfer to \$8 million over a four year period. Thereafter, the mandatory transfer is eliminated and the Legislature may transfer up to four percent of the trust fund to the State's general fund as long as the transfers do not cause the trust fund to fall below its original principal amount.

The amendment also eliminates a distribution from the trust fund to support education.

A vote "Yes" is for changing the annual distributions from the cement plant trust fund.

A vote "No" is against the constitutional amendment.

Pro -- Constitutional Amendment L

Please vote "Yes" on Amendment L. It will keep the cement plant trust fund viable for the long-term and avoid the potential self destruction that could exhaust its value in the future.

When the state's cement plant was sold and the proceeds used to form a trust fund, the Constitution mandated a \$12 million transfer to the state general fund each year as well as a 5% distribution of funds, if the market value of the fund had growth that would allow it.

When the stock market collapsed in 2008-2009, the market value of the trust fund diminished to a value less than when the trust was created. The mandatory \$12 million annual transfer reduced the fund even further.

These two events decreased the fund by nearly \$103 million over a short period of 21 months. If we were to have a sustained period of poor performance in the markets, the mandatory \$12 million might exhaust the value of the fund.

Two other state trust funds already have provisions to distribute 4% of the 16 quarter market value of those funds, but only if the market value is sufficient to support it, exactly what is being proposed in Amendment L.

Passage of Amendment L would not allow distributing more dollars from the fund than the fund's market value could support. It would also help protect the long term viability of the cement plant trust fund by preserving the principal value and purchasing power.

Please vote "Yes" on Amendment L.

Submitted by: Representative H. Paul Dennert, Democratic House Assistant Minority Leader, District 2, 11853 391st Ave., Columbia, SD 57433 and Jason Dilges, Commissioner, Bureau of Finance and Management, 500 East Capitol Ave., Pierre, SD 57501

Con -- Constitutional Amendment L

A vote NO on Amendment L prevents the repeal of the automatic withdrawal of \$12 million annually from the Cement Plant Trust Fund. A Yes vote breaks the agreement promised to citizens and the education community when the Cement Plant was sold and the proceeds were put in the trust.

The South Dakota Investment Council manages this fund and projects a return rate of 6.5% per year. If this projection holds, an annual \$12 million withdrawal from the trust fund is **certainly sustainable** because 6.5% in generated interest produces over \$12 million. This projection takes into account the current recession. Thus, the proposed repeal (a "yes" vote) is NOT necessary.

The trust fund was established to contribute \$12 million annually to the State's General Fund. Amendment L seeks to destroy that design in an effort to preserve the original principal from the sale, rather than honor the historic income-production of the Cement Plant Trust Fund.

The State's General Fund provides the necessary funds to operate South Dakota government. With reduced state tax revenue, Amendment L further inhibits payment for necessary state services—like education—to the citizens of South Dakota.

Most importantly, Amendment L cuts funding for education in two ways: by decreasing the annual \$12 million contribution to the State's General Fund and worse, by eliminating the Constitutional provision that allocates additional interest money above the \$12 million to education needs, "but not for the replacement of state aid to education or special education."

A NO vote ensures additional interest money will go towards education.

By voting "NO" in the 2010 session, 20 legislators said "Don't break the promise to the people and honor the original design of the trust fund." NO meant "prevent this unfounded and unreasonable sequestration of funds." Join them, Vote **NO**.

Submitted by: Senator Stan Adelstein (Dist. 32), 1999 West Boulevard, PO Box 2624, Rapid City SD 57709-2624

Referred Law 12

Title: An Act to prohibit smoking tobacco or carrying lighted tobacco products in certain places and to require certain persons to inform violators of the prohibition.

Attorney General Explanation

The referred law broadens the State’s ban on smoking to apply to all restaurants, bars, package liquor stores, Deadwood casinos and video lottery establishments. It requires owners, managers, and operators of places where smoking is prohibited to inform violators of the smoking ban. The ban does not apply to tobacco shops, hotel rooms designated as smoking rooms, and existing cigar bars.

A vote “Yes” is for broadening the State’s ban on smoking.

A vote “No” is against the referred law.

Pro – Referred Law 12

Everyone in South Dakota deserves the right to smoke-free air in public and at work.

Secondhand smoke is a serious health hazard proven to increase the risk of lung cancer, heart disease and chronic respiratory illness in nonsmokers. It contains more than 4,000 toxins and 60 known cancer causing chemicals, yet is still allowed inside South Dakota bars, restaurants, casinos and video lottery establishments.

By voting YES on Referred Law 12, you will give every worker in the state, including bartenders, wait staff and video lottery workers, the right to smoke-free air on the job. A YES vote will ensure no one in South Dakota has to choose between their health and their paycheck, and the health of all workers will be treated equally.

The vast majority of South Dakotans support going smoke-free and understand its importance to the physical and fiscal health of our state.

Each year South Dakota spends \$274 million dollars in tobacco-related health care costs, \$58 million of which comes directly from taxpayers in the form of Medicaid payments.

Strong public policies that restrict smoking in public places and workplaces reduce the health risks and associated costs of secondhand smoke exposure. The South Dakota Association of Healthcare Organizations estimates eliminating workplace smoking could result in 600 fewer heart attack hospitalizations in South Dakota for an annual healthcare savings of \$25 million in heart attack care alone.

Twenty-eight states have statewide smoke-free laws that cover all restaurants and bars. Research has consistently and conclusively shown that smoke-free laws have no adverse effects on restaurant or bar sales.

Vote YES on referred law 12 and give everyone in South Dakota the right to smoke-free air in public and at work!

Jennifer Stalley, American Cancer Society, 221 S. Central, Pierre, SD 57501 on behalf of the It’s Time. A Smoke Free South Dakota Campaign.

Con – Referred Law 12

Referred Law 12 was placed on the general election ballot after the 2009 legislature passed an expansion of an existing smoking prohibition that eliminated exceptions for bars and casinos. The petition circulators believed that a ban on smoking in bars and casinos is an unnecessary restriction that infringes on property owners rights to operate their businesses. Business owners enter into business ventures based on rules and regulations in place at the time they make significant investments in licenses, capital improvements, and personnel. The action taken by the legislature to change the rules in the middle of the game puts many businesses at risk of major losses or even closure of their establishments. The result of a ban will result in huge losses, not only to the business owners, but to the taxpayers of South Dakota. Other jurisdictions around the United States that have imposed similar smoking restrictions have witnessed serious impacts to tax revenue that drops quickly and does not return to previous revenue levels. This hurts taxpayers by requiring a source of revenue to replace lost taxes.

Video lottery taxes are the second largest source of revenue to the state, contributing nearly \$112 Million to the general fund. If South Dakota video lottery revenues respond like they have in other states that banned smoking, the state general fund could suffer a loss of \$25 Million or more. Video lottery revenues are used as the major source of revenue to the Property Tax Reduction Fund that provided tax relief ten years ago. That tax reduction must be funded every year. If the fund suffers significant losses, one option to restore the funding could result in an increase in local property taxes. A result which may include tax increases to cover potential losses. Please vote No on Referred Law 12.

Submitted by Don Rose, PO Box 51, Tea, SD 57064.
Treasurer for Citizens for Individual Freedom.

Initiated Measure 13

Title: An Initiated Measure to authorize the possession, use and cultivation of marijuana by and for persons with specified debilitating medical conditions registered with the Department of Health.

Attorney General Explanation

The proposed initiated measure would change state law to legalize marijuana possession, use, distribution and cultivation by persons registered with the South Dakota Department of Health. These activities remain illegal under federal law.

Registration to use, possess and cultivate marijuana would require a certification from a physician that the registrant has a debilitating medical condition and that the potential benefits of the marijuana use would likely outweigh the health risks. Minors may be registered with parental consent. The registrant may designate another person to cultivate, possess, and distribute marijuana for the registrant's use. The designee must register with the Department and may provide only a limited amount of marijuana for a maximum of five registrants.

Schools, employers and landlords may not refuse to enroll, employ, or lease based upon marijuana registration unless required by federal law. The proposed law does not require that a registrant be allowed to use marijuana in a workplace or on property owned by another.

A vote "Yes" is for legalizing marijuana for registrants and designees.

A vote "No" is against the proposed law.

Pro – Initiated Measure 13

As an oncology nurse, I help cancer patients going through chemotherapy.

I've seen amazing recoveries, tragic losses, and a lot of regular people fighting for the chance to live another day.

Often, It's hard to stick with chemo because the nausea can be intense. Patients lose weight and strength. Some quit treatment.

We have anti-nausea drugs, but few work well. That's why some patients use marijuana as a medicine. **Scientific studies prove that it can stop the nausea and reduce pain.**

Nurses and doctors know it helps. Harvard University surveyed cancer doctors and found almost one-half would prescribe marijuana to some patients if it were legal.

It should be up to a doctor and patient to decide which medicines to use, but right now the government gets in the way. Doctors prescribe many powerful drugs, but this option is prohibited. Patients can be arrested for using it.

Why deny patients an effective medicine?

Measure 13 would give seriously and terminally ill patients the same rights as patients in 14 other states – including Montana and Michigan. It allows medical use of marijuana, with strict controls:

- A patient must have a serious disease or condition, such as cancer.
- The patient's doctor must approve its use.
- Patients and their caregivers must register with the Department of Health for special identification cards.
- Police may arrest anyone who uses the drug without an ID card, exceeds the small amounts allowed, or abuses the law.

As a nurse and as a mother, I want to make sure patients get the compassionate treatment they need, while ensuring that this drug is strictly for medical use.

That's why I support Measure 13, and I hope you will, too.

Learn more at: www.VoteYesOn13.org. Please vote YES on Measure 13!

Submitted by: Christine Johnson has been an oncology nurse in Sioux Falls for the past eight years. 312 North Marquette, Sioux Fall, SD 57110

Con -- Initiated Measure 13

South Dakota does not need to legalize the growth, possession and usage of marijuana for medical purposes. If this law passed, medical marijuana would still be a violation of federal law.

For patients seeking help for medical conditions through the use of marijuana, there is already a legal and FDA-approved medical marijuana-like medicine, dronabinol, available for doctors to prescribe. Dronabinol (sold as Marinol) pills contain the synthetic form of THC (the psychoactive ingredient contained in marijuana) and are legally available for prescription by physicians whose patients suffer from pain and chronic illness.

Research has not demonstrated that smoked marijuana is helpful as medicine. In fact, smoked marijuana is dangerous. It contains more than 400 chemicals, including carcinogens that may cause lung damage and lead to poor pregnancy outcomes, and smoked marijuana contains three to five times more tar and carbon monoxide than comparable amounts of tobacco.

More young people are now in treatment for marijuana dependency than for alcohol or for all other illegal drugs combined. Marijuana abusers are four times more likely to report symptoms of depression and have more suicidal thoughts than those who never used the drug.

Medical marijuana laws also create an increase in drug-related violence. Since the first medical marijuana law passed in the United States, as many as 20 "legal" medical marijuana providers have been killed around the country, mostly in robberies. States that have passed medical marijuana laws have witnessed widespread abuse of the system. In Montana, where medical marijuana was legalized in 2004, a beating death, an assault and two fire bombings linked to the state's growing and largely unregulated medical marijuana trade have called law enforcement officials to change how the drug is regulated.

Submitted by: Thomas J. Huber, MD, President - South Dakota State Medical Association, Sanford Clinic-Pierre, 640 E. Sioux Avenue Pierre, SD 57501-3300 and Art Mabry, President -South Dakota Police Chiefs' Association, Chief of Police, City of Vermillion, 15 Washington Street, Vermillion, SD 57069