



# *South Dakota Legislative Research Council*

## *Issue Memorandum 94-36*

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### CONSTITUTIONAL AMENDMENT B

#### VOTING AGE

##### *Introduction*

One source of pride in South Dakota is the number of voters who participate in elections. The rate of participation has reached as high as seventy-five percent in general elections and almost fifty percent in primary elections, placing South Dakota in the top half-dozen states in the nation for voter participation. Passage of Constitutional Amendment B could be expected to encourage additional voting in primary elections.

##### *Legislative History*

Beginning in 1889, the voting age was specified in the South Dakota Constitution as twenty-one. The first efforts to change the voting age from twenty-one to eighteen failed to receive the approval of the electorate in 1952 and 1958. A 1970 proposal to allow nineteen-year-olds to vote also failed when it came to a vote of the people that same year. Amendment 26 to the United States Constitution lowered the voting age to eighteen effective July 5, 1971, and superseded the twenty-one-year-old voting age still in the South Dakota Constitution. In 1972, the voters overwhelmingly adopted an amendment offered by the Constitutional Revision Commission which rewrote the elections and suffrage provisions of the state Constitution and established the minimum voting age as

eighteen.

Voting age did not become an issue again for another twenty years. The seniors of West Central High School in Hartford asked Representative Michael Wagner (R-Baltic) to introduce legislation to allow seventeen-year-olds who would reach eighteen by the general election to vote in the primary election of the same year. In response, Representative Wagner introduced HJR 1001 in the 1993 Legislature. Its passage brought Constitutional Amendment B to the voters in the 1994 general election.

##### *Effect of Amendment*

If approved, Constitutional Amendment B would amend Article VII, § 2 of the South Dakota Constitution to allow persons who reach their eighteenth birthday by the time set for the general election to vote in any election held in that calendar year. This would allow voting by seventeen-year-olds in municipal and school district elections as well as primary elections held any time in the year before the general election. Registration requirements in SDCL 12-3-1 would have to be met.

Because of the supremacy of the United States Constitution, the Elections Department in the Office of the Secretary of State believes that voters who reach eighteen by the date of a local election held after the

general election can vote in the local election if they meet registration requirements for that election. This view is also held by the Attorney General of Nebraska in Opinion 92085 dated February 19, 1992, concerning electors under eighteen years of age. The language concerning voting age in Nebraska's constitution is similar to the language in Constitutional Amendment B.

### ***Voting Age in Other States***

If South Dakotans approve Constitutional Amendment B, this state will join twenty-one other states that allow seventeen-year-olds to vote in similar circumstances.

According to the Federal Elections Commission, these states are Alabama, Colorado, Delaware, Hawaii, Indiana, Kentucky, Maine, Maryland, Mississippi, Montana, Nebraska, New Hampshire, North Carolina, Ohio, Oregon, South Carolina, Utah, Virginia, Washington, West Virginia, and Wyoming.

### ***Pros***

Points in favor of Constitutional Amendment B include the following:

- C Participation in voting in the primary election allows the voter to cast a ballot in the general election for a candidate who is truly of the voter's choosing.
- C Voting in the primary election determines the race in the general election if a candidate from another political party does not run.
- C Passage of the amendment will encourage greater participation in primary elections.

- C Expansion of voting age is consistent with South Dakota's voting tradition, which encourages involvement in government.

### ***Cons***

Points against the amendment include the following:

- C The amendment goes too far because it would allow seventeen-year-olds to vote in any earlier election in the calendar year, not just the primary election that precedes the general election.
- C A specific starting date for voting, with no exceptions, eliminates confusion among voters, election boards, and registration officials.
- C Setting a voting age earlier than eighteen years would set a precedent that might be extended to the drinking age.

### ***Conclusion***

Passage of Constitutional Amendment B would show that the people of South Dakota believe that voters who are eligible to vote in the general election should have the right to choose candidates in the primary and that they trust seventeen-year-olds to exercise their voting rights responsibly.

A vote against the amendment would show that the people think that the exercise of the right to vote should remain at age eighteen without exception. Such a vote would not necessarily mean that seventeen-year-olds lack responsibility or the ability to grasp political issues, but only that the current voting age should not be changed.

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**This issue memorandum was written by Rosemary F. Quigley, Administrative Rules Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.**

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