



# South Dakota Legislative Research Council

## Issue Memorandum 98-07

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### SUCCESSFUL AMENDMENTS TO THE LEGISLATIVE ARTICLE

Article III has 32 sections outlining the power and authority of the Legislature as granted by the South Dakota Constitution. Nine constitutional amendments have been approved and eight have been rejected over the last twenty-four years pertaining to Article III. No amendments to Article III were approved from 1972 to 1978, including the two major revisions proposed by the 1972 Constitutional Revision Commission. These proposals failed in 1974 and 1976 by significant margins.

In the 1980s, there were nine constitutional amendments to Article III submitted to the voters and six of these were approved. Thus far, in the 1990s, eight constitutional amendments to Article III have been submitted to the voters and three have been approved, and three will be voted on in the 1998 election.

#### **1980--Length of Session and Powers of the Legislature**

Joint Resolution proposed by the Legislature  
Yes--156,630 (56%)  
No---120,703 (44%)

□ 6. The 1980 proposal substituted “forty legislative days” for “forty-five legislative days” in the second paragraph and “thirty-five legislative days” for “thirty legislative days” in the third paragraph of this section.

□ 7. The 1980 proposal deleted “in the year 1963 and in the year 1964 and each even numbered year thereafter, and on the first

Tuesday after the third Monday of January at 12 o'clock m. in the year 1965 and each odd numbered year thereafter” after “12 o'clock m.”

□ 30. The 1980 proposal added this section to the Constitution. *“The Legislature may by law empower a committee comprised of members of both houses of the Legislature, acting during recesses or between sessions, to suspend rules and regulations promulgated by any administrative department or agency from going into effect until July 1 after the Legislature reconvenes.”*

#### **1982--Appointment and Establishment of Single-Member Districts**

Initiatives proposed by the Voters of the State  
Yes--122,704 (52%)  
No---112,188 (48%)

□ 5. The 1982 proposal repealed and reenacted this section which read: *“The Legislature shall apportion its membership in accordance with the last federal census prior to the legislative session at which such apportionment shall be made. Such apportionment shall be made by the regular session of the Legislature in 1951 and every ten years thereafter and at no other time. If any Legislature whose duty it is to make an apportionment shall fail to make the same as herein provided that it shall be the duty of the Governor, superintendent of public instruction, presiding judge of the Supreme*

*Court, attorney general and secretary of state within thirty days after the adjournment of the Legislature to make such apportionment and when so made a proclamation issued by the Governor announcing such apportionment the same shall have the same force and effect as though made by the Legislature.”*

The section now reads: “*§ 5. The Legislature shall apportion its membership by dividing the state into as many single-member, legislative districts as there are state senators. House districts shall be established wholly within senatorial districts and shall be either single-member or dual-member districts as the Legislature shall determine. Legislative districts shall consist of compact, contiguous territory and shall have population as nearly equal as is practicable, based on the last preceding federal census. An apportionment shall be made by the Legislature in 1983 and in 1991, and every ten years after 1991. Such apportionment shall be accomplished by December first of the year in which the apportionment is required. If any Legislature whose duty it is to make an apportionment shall fail to make the same as herein provided, it shall be the duty of the Supreme Court within ninety days to make such apportionment.”*

### **1982--Opening Day of the State Legislature**

Joint Resolution proposed by the Legislature  
Yes--137,264 (58%)  
No---98,995 (42%)

□ 7. The 1982 proposal substituted “second Tuesday of January” for “first Tuesday after the first Monday of January.”

### **1986--Authorization of the State Lottery**

Joint Resolution proposed by the Legislature  
Yes--163,005 (60%)  
No---110,153 (40%)

□ 25. The 1986 proposal added the second and third sentences to this section which provided authorization of the State Lottery.

### **1988--Remove the Legislature from the Initiative Process**

Joint Resolution proposed by the Legislature  
Yes--153,168 (52%)  
No---140,188 (48%)

□ 1. The 1987 proposal deleted a provision requiring the Legislature to enact proposed measures and made minor changes in phraseology.

### **1988--Allow the Legislature to Authorize Deadwood Gambling**

Initiative proposed by the Voters of the State  
Yes--191,745 (64%)  
No---106,444 (36%)

□ 25. The 1988 initiated proposal added the last two sentences which allowed the Legislature to authorize Deadwood gambling.

### **1990--Special Sessions of the Legislature**

Joint Resolution proposed by the Legislature  
Yes--117,969 (52%)  
No---110,468 (48%)

□ 31. The 1990 proposal added this section: “*In addition to the provisions of Article IV, § 3, the Legislature may be convened in special session by the presiding officers of both houses upon the written request of two-thirds of the members of each house. The petition of request shall state the purposes of the session, and only business encompassed by those purposes may be transacted.”*

## 1992--Term Limits

Initiative proposed by the Voters of the State

Yes--205,074 (64%)  
No---117,702 (36%)

¶ 6. The 1992 initiated amendment added the second paragraph. *“No person may serve more than four consecutive terms or a total of eight consecutive years in the senate and more than four consecutive terms or a total of eight consecutive years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed or to legislative service before January 1, 1993.”*

¶ 32. The 1992 initiated amendment added this section: *“Commencing with the 1992 election, no person may be elected to more than two consecutive terms in the United States senate or more than six consecutive terms in the United States house of representatives.”*

## 1994--State Lottery and Video Games of Chance

Supreme Court Decision and Joint Resolution proposed by the Legislature  
Yes--165,185 (53%)  
No---147,680 (47%)

¶ 25. The 1994 proposal rewrote this article. In June 1994, the Supreme Court ruled that the video lottery system was a “game of chance” which was prohibited by the constitution. The amendment allowed the lottery system to continue to operate.

### Unsuccessful Amendments to the Legislative Article

## 1974--Legislative Department

The Commission and Joint Resolution proposed by the Legislature  
Yes---86,293 (38%)  
No--138,590 (62%)

The 1974 proposal rewrote this entire article and repealed articles XV and XVI, ¶¶ 2 and 3 of article XXI, and the first sentence of ¶ 5 of article IV. In rewriting this article, the proposal would have added to new ¶ 6 a provision requiring a special session of the Legislature on written request of two-thirds of the members of each house; would have added to new ¶ 7 provisions for the selection of the presiding officer of each house from its membership and authorizing each house to discipline or expel members by a three-fourths vote; would have added to new ¶ 8 provision for the carry-over of bills from an odd-numbered year to the next even-numbered year; would have incorporated in new ¶ 13 provisions similar to those now contained in ¶¶ 1 to 4, inclusive, of Article XVI; would have incorporated in new ¶ 15 provisions similar to those now contained in ¶¶ 2 to 5, inclusive, of Article XV; would have added a new ¶ 16 authorizing a joint committee of the Legislature with power to suspend administrative rules and regulations pending the next session of the Legislature; and would have added a new ¶ 17 authorizing a joint committee of the Legislature with power to allocate contingency funds and to approve or reject federal moneys not appropriated in the general appropriation act.

## 1976--Legislative Department

The Commission and Joint Resolution proposed by the Legislature  
Yes---56,538 (22%)  
No--198,447 (78%)

The 1975 proposal replaced ¶¶ 1 to 24 and 27 to 29 of this article with new provisions

designated as §§ 1 to 16, and repealed articles XV and XVI and the first sentence of § 5 of Article IV. The proposal would have let §§ 25 and 26 of this article stand unchanged; however, another proposal, submitted separately and also rejected, would have repealed § 26. The proposal would have omitted the new § 8 provision for carry-over which was contained in the 1974 proposal; would have repealed the section prohibiting games of chance; would have redesignated proposed §§ 15, 16, and 17 as §§ 14, 15, and 16; and would have inserted in new § 16, concerning budgetary control by a joint committee, language limiting an intersession contingency fund to one percent of the general fund moneys appropriated in the last general appropriations act.

### **1978--Length of Session**

Joint Resolution proposed by the Legislature  
Yes--104,367 (46%)  
No---122,429 (54%)

§ 6. The 1978 proposal would have removed from the first paragraph the limitation on the mileage rate and changed the legislative session to a maximum of forty legislative days annually.

§ 7. The 1978 proposal would have changed the time of convening to the second Tuesday after the first Monday in January every year.

### **1980--Prohibit the Legislature from Changing or Reenacting Any Initiated or Referred Law**

Initiative proposed by the Voters of the State  
Yes--126,181 (47%)  
No---140,632 (53%)

§ 1. This 1980 proposal would have added provisions to restrict the Legislature from changing laws voted on by the people.

### **1980--Legislative Prerogative to Amend Initiated or Referred Laws**

Joint Resolution proposed by the Legislature  
Yes---77,225 (35%)  
No---140,406 (65%)

§ 1. This 1980 proposal would have added provisions to restrict the Legislature from changing laws voted by the people.

### **1982--Authorization of Certain Games of Chance**

Joint Resolution proposed by the Legislature  
Yes--107,555 (42%)  
No---147,147 (58%)

§ 25. The 1982 proposal would have deleted the provision for legislative authorization of games of chance by public-spirited organizations and substituted authorization to permit wagering on coin-operated gaming machines, bingo, lotteries, and card games under local option licenses by a county, municipality, or combination thereof.

### **1990--Eligibility for Legislative Office (Contracts)**

Joint Resolution proposed by the Legislature  
Yes---82,358 (35%)  
No----152,175 (65%)

§12. The 1989 proposal would have added "except any contract let upon the basis of competitive bidding" at the end of this section.

### **1994--Length of Session and Powers of the Legislature**

Joint Resolution proposed by the Legislature

Yes---51,458 (17%)  
No--255,166 (83%)

□ 3. The 1994 proposal would have deleted the words “*and who shall not have attained the age of twenty-five years*” in the first and second paragraphs and made minor phraseological changes.

### **1998 Proposed Amendments to the Legislative Article**

#### **1998--Transfer of Appropriated Funds**

Joint Resolution proposed by the Legislature

□ 33. The proposed amendment requires a legislative committee to approve or disapprove transfers of appropriated funds during recesses or between sessions.

#### **1998--Legislative Conflicts of Interest**

Joint Resolution proposed by the Legislature

□ 12. The proposed amendment requires that this section also apply to any person who is appointed as a member of the Legislature. The proposed amendment allows a legislator to be indirectly interested in a contract with state during the legislator’s term; however, no legislator may be directly interested in a contract during the legislator’s term for which elected or appointed and for one year thereafter.

#### **1998--Qualifications for Legislative Office**

Joint Resolution proposed by the Legislature

□ 3. The proposed amendment changes the age qualifications for legislators from twenty-five to twenty-one. The proposed amendment also amends Article IV, section 2, by requiring the Governor and lieutenant governor to be at least twenty-one years of age.

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**This issue memorandum was written by Fred Baatz, Senior Research 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.**