



## **ISSUE BRIEF:**

**Constitution Amendment X** would increase the number of votes to approve a constitutional amendment.

Approved by the Board of Directors: July 25, 2018

***The Sioux Falls Area Chamber of Commerce has taken a position to remain neutral on Constitutional Amendment X for the 2018 general election.***

### **Background**

In South Dakota, the legislature may propose and submit to the electors at the next general election an amendment to the Constitution of South Dakota. In the 93<sup>rd</sup> Legislative Session, the legislature passed a joint resolution<sup>1</sup> that proposed and submitted to the electors an amendment that would increase the number of votes from a majority to 55 percent.

### **CA-X Proposed Changes to the South Dakota Constitution**

Constitutional Amendment X<sup>2</sup> (CA-X) would require increasing the number of votes needed to approve an amendment from a majority to 55% of the votes cast.

### **Proponent Rationale:**

Proponents assert amending the South Dakota Constitution should no longer be a simple majority, rather it should require a more arduous standard to indicate a broader consensus of voter approval. In addition, proponents assert that a modest adjustment of a five percent increase in votes cast will protect our state constitution from unneeded changes by well-funded out-of-state special interests who have become more active in South Dakota elections. Moreover, proponents emphasize that the standard of establishing a higher bar of voter approval is required for both the United States Constitution or even a school bond issue. The U.S. Constitution requires a two-thirds passage by each chamber in congress or by a constitutional convention called for by two-thirds of the State legislatures and a school bond requires a 60 percent approval to pass in South Dakota.

The CA-X is a result of a bi-partisan initiative and referendum task force, that met<sup>3</sup> in 2017. This measure was approved by the task force and ultimately the legislature. The amendment is patterned after a similar proposal, approved by voters<sup>4</sup> in Colorado in 2016.

### **Opponent Rationale:**

The CA-X fails to solve the problem of preventing out-of-state special interests from amending the South Dakota Constitution.

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<sup>1</sup> Senate Joint Resolution one, prime sponsors were Sen. Jim Bolin and Rep. Tim Reed. The Senate and House voted to approve 26/9 and 55/9 respectively. [http://www.sdlegislature.gov/Legislative\\_Session/Bills/Bill.aspx?Session=2018](http://www.sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Session=2018) (July 2018).

<sup>2</sup> <http://www.sdlegislature.gov/docs/legsession/2018/Bills/SJR1P.pdf> (July 2018).

<sup>3</sup> <http://www.sdlegislature.gov/Interim/Documents.aspx?Committee=189&Session=2017> (July 2018).

<sup>4</sup> In 2016, General Election results for the passage of Amendment 71 were 55.69 percent (1,476,948) to 44.31 percent (1,175,324). <https://www.sos.state.co.us/pubs/elections/Results/Archives.html>  
<https://www.sos.state.co.us/pubs/elections/Results/2016/2016bluebook.pdf> (July 2018).

There are two ways to amend the South Dakota Constitution. The bar set is tough enough:

- The legislature cannot unilaterally amend it;
  - Legislative amendments need approval of the House and Senate to be on the ballot; and
  - Voters must approve.
- Citizens can bypass the Legislature but an initiated amendment to the Constitution requires twice as many valid signatures<sup>5</sup> as an initiated law.

Moreover, opponents assert there is no epidemic of “bad” amendments from out-of-state special interests. But even if the ballot were overrun with “bad” amendments, CA-X would not protect South Dakota. The Legislature and the petition process effectively filter amendments as citizens place far fewer amendments on ballot than Legislature, and by comparison citizens reject more legislative amendments. Citizens have only been able to directly propose changes to the Constitution since 1980, but the number of amendments is relatively less than changes proposed by the legislature.

In addition, the historical trend line<sup>6</sup> indicates both the legislature and/or voters have chosen to approve less ballot measures over our state’s history:

<b>Amendments, Source &amp; Period</b>	<b>On the Ballot</b>	<b>Approved</b>	<b>Approval Rate</b>
Legislative, 1890-2016	224	114	51%
Legislative, 1980-2016	55	27	<b>49%</b>
Citizen Initiative 1980-2016	16	6	<b>38%</b>

*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:<sup>7</sup>**

***The Sioux Falls Area Chamber of Commerce has taken a position to remain neutral on Constitutional Amendment X for the 2018 general election.***

#### **Rationale:**

There is an underlying concern and frustration that South Dakota elections have become a target by out-of-state well-funded special interest groups to test the waters of their political agenda. Because Constitutional Amendment X requires a higher voter approval rate of 55 percent, some of the proposed amendments by out-of-state interests will not pass. However, the 55 percent threshold is not a barrier for all well-funded out-of-state special interest groups. The Chamber chose to stay neutral because there are concerns that this change may ultimately make it more challenging for South Dakotans to amend our state constitution rather than the well-funded out-of-state special interest groups.

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<sup>5</sup> <https://sdsos.gov/elections-voting/assets/HowToCirculate2018BQPetition.pdf> (July 2018).

<sup>6</sup> <https://sdsos.gov/elections-voting/assets/BallotQuestions.pdf> (July 2018).

<sup>7</sup> Issues Management Council adopted their recommendation to the Board: July 12, 2018. The Chamber Board of Directors adopted: July 25, 2018. Both the Issues Management Council and the Chamber Board voted to remain neutral.