

1972

EC72-838 1972 Proposed Constitutional Amendments

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1972 PROPOSED CONSTITUTIONAL AMENDMENTS

by

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On November 7, Nebraskans will vote on 16 amendments to the Nebraska Constitution. The following explanations of the proposed amendments are presented to help the voter understand the issues involved. Some of the proposed amendments received a considerable amount of opposition in the Legislature. Others are mainly "house cleaning" or modernizing provisions. In any case, the proposed amendments all make some change in Nebraska law and should be carefully considered.

To make an informed decision on each of the proposed amendments, the voter should study each issue in advance of election day and decide how he or she will vote. With such a large number of amendments on the ballot, the voter may wish to mark a sample ballot at home and take it with him when he votes. A voter may carry a marked sample ballot into the voting booth.

The information was obtained largely from transcripts of the Legislative hearings and debates and from the Summary of Constitutional Amendments prepared by the Nebraska Legislative Council.

The amendments are presented in the form and order that they will appear on the ballot. The exact constitutional wording of some amendments is reproduced in this pamphlet but will not appear on the ballot.

Proposed Amendment No. 1

QUALIFICATIONS OF MEMBERS OF THE LEGISLATURE

A vote FOR this proposal will require that a person elected or appointed to the Legislature must be a registered voter and twenty-one years of age on the date of the general election at which he is elected or on the date of his appointment; in addition, it will make corrections in terminology in the provisions concerning the impeachment of public officers necessitated by the change from a two-house legislature to the unicameral legislature.

A vote AGAINST this proposal will have the effect of establishing the age of eighteen as the age at which persons would be eligible for election or appointment as members of the Legislature; and it would retain the present outdated terminology in the impeachment section referring to a two-house legislature.

☐ For

☐ Against

Constitutional amendment providing for the qualifications of members of the Legislature and correcting provisions of the Constitution

E.C.-72-838

This proposed amendment would make changes in Sections 8, 17, and 27 of Article III (Legislative). The main change would be in Section 8 which sets forth the qualifications for membership in the State Legislature. This section now reads:

No person shall be eligible to the office of Senator, or member of the House of Representatives, who shall not be an elector and have resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States or of this state. And no person elected as aforesaid shall hold his office after he shall have removed from such district.

If this proposition is adopted, Section 8 will be changed to read:

No person shall be eligible to the office of ~~Senator, or member of the House of Representatives, who shall not be an elector~~ member of the Legislature unless on the date of the general election at which he is elected or on the date of his appointment he is a registered voter, has attained the age of twenty-one years and ~~have~~ has resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States or of this State. And no person elected as aforesaid shall hold his office after he shall have removed from such district.

The purpose of this amendment is to set the minimum age required for membership in the Legislature at 21. At present the minimum age is set by the requirement that a legislator must be "an elector". Formerly, this clearly meant that the minimum age for membership was 21 since the minimum voting age was 21. However, in 1971 the 26th amendment of the U.S. Constitution was ratified and the voting age in all elections was lowered to 18. The law in Nebraska was brought into conformity with the 26th amendment so minimum voting age is now 18.

Passage of this amendment will re-establish the minimum age for state senators at 21 years. The Constitutional Revision Commission, which recommended the bill, felt that this should remain at 21 even though the voting age had been lowered because there never had been any intent to lower it along with the voting age.

Opponents of this age provision argue that, if a person is old enough to vote he or she should also be old enough to hold elected office in Nebraska. They say that there is no rational reason for requiring an individual to be three years older before he or she can hold elected office.

Those who favor this restriction point out that people are more mature at 21, and that 18-year-olds do not have full legal responsibilities in Nebraska.

This proposed amendment also adds the requirement that the person be a registered voter, as well as 21 years of age. The person must be registered to vote on the date of the general election at which he is elected, or on the

date of the general election at which he is elected, or on the date of his appointment. This latter provision is included to take care of those who first come to the Legislature as appointees of the Governor whenever vacancies occur. This will make the qualifications of elected and appointed state senators the same.

The changes in Sections 17 and 27 of Article III are simply corrections in language referring to a two-house legislature.

Proposed Amendment No. 2

NUMBER OF DISTRICT COURT JUDGES AND BOUNDARIES OF JUDICIAL DISTRICTS

A vote FOR this proposal will reduce the vote required to change the number of judges of the district court and alter the boundaries of judicial districts from two-thirds to a majority of the members of the Legislature, and will remove obsolete language referring to the former bicameral legislature.

A vote AGAINST this proposal will retain the present requirement of a two-thirds vote of the members of the Legislature to change the number of judges of the district court and alter the boundaries of judicial districts, and will retain the obsolete language referring to the former bicameral legislature.

☐

For

☐

Against

Constitutional amendment to provide that a simple majority of the members of the Legislature may change the number of judges of the district court and alter boundaries of judicial districts.

This would amend Section 11 of Article V (Judicial). The section now reads:

The concurrence of two-thirds of the members elected to each house of the Legislature shall be required to change the number of judges of the district courts, or to alter the boundaries of judicial districts. Such change in number or alterations in boundaries shall not vacate the office of any judge. Such districts shall be formed of compact territory bounded by county lines.

If this proposition is adopted, Section II will be changed to read:

~~The concurrence of two-thirds of the members elected to each house of the legislature shall be required to~~ The Legislature may change the number of judges of the district courts, ~~or to~~ and alter the boundaries of judicial district. Such change in number or alterations in boundaries shall not vacate the office of any judge. Such districts shall be formed of compact territory bounded by county lines.

The main effect would be to allow the Legislature to make changes in number of district court judges and in judicial boundaries by a simple majority vote of the Legislature rather than by a 2/3 majority. This is in line with the recommendations of the Constitutional Revision Commission.

The adoption of this amendment would also remove obsolete language referring to the former bicameral legislature.

Proposed Amendment No. 3

COMPENSATION OF LEGISLATORS:

A vote FOR this proposal will remove the constitutional provision that the salary of members of the Legislature shall not exceed four hundred dollars per month and will substitute therefor a provision authorizing the Legislature to fix the salary.

A vote AGAINST this proposal will retain the present provision in the constitution providing that the salary of members of the Legislature shall not exceed four hundred dollars per month

☐

For

Constitutional amendment providing that the salary of members of the Legislature shall be as set by law.

☐

Against

This proposal would amend Section 7 of Article III (Legislative). Section 7 provides for term of office, nonpartisan election, and compensation of members of the Legislature. The amendment affects only the portion relating to salary paid to State Senators. The section now reads:

.....Each member of the Legislature shall receive a salary of not to exceed four hundred dollars per month during the term of his office. In addition to his salary, each member shall receive an amount equal to his actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than said salary and expenses.

If Amendment No. 3 is adopted, this part of Section 7 would be changed to read:

.....Each member of the Legislature shall receive a salary ~~of not to exceed four hundred dollars per month~~ during the term of his office which shall be as set by law. In addition to his salary, each member

shall receive an amount equal to his actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than ~~said~~ such salary and expenses.

The proposal would delete the present limit of \$400 per month salary paid to the legislators. In its place would be a provision authorizing the salary to be set by law, passed by the Legislature and signed by the Governor.

The present salary of \$400 per month during the four-year term is the result of an amendment adopted in 1968. Proponents argue that many competent persons are hesitant, or unwilling to file for election to the Legislature because of the relatively low pay, and that some Senators do not seek reelection for the same reasons. The cost of living has increased sharply since 1968, and future increases are probable. This change would facilitate cost-of-living adjustments without having to amend the Constitution. Also, annual sessions have added to the work load of state Senators. Those who support Amendment No. 3 point out that the citizens of Nebraska have given the Legislature the responsibility for establishing duties and compensation of other important public officials, and that the public should have confidence in the integrity of their elected representatives to set their own salaries at a reasonable level.

Some citizens and Senators have expressed opposition because the amendment would give the Legislature too much power in determining its own compensation. They argue that most senators have income from other sources and that serving in the Legislature is not a full-time job. Some people feel that public service rather than salary should be the main motive for seeking public office.

This proposal should be considered along with Proposed Amendment No. 9 which also relates to legislators compensation. If both are approved, a question of constitutionality may arise.

Proposed Amendment No. 4

RIGHT OF APPEAL IN FELONY CASES

A vote FOR this proposal will remove the constitutional reference to the writ of error as being the legal procedure for bringing appeals of felony convictions to the Supreme Court, and will substitute therefor a simple declaration that defendants in felony cases shall have the right of appeal to the Supreme Court. It will make no substantive change in the right of felony defendants to have their appeals heard by the Supreme Court.

A vote AGAINST this proposal will retain the reference to the writ of error as the method of having appeals in felony convictions brought before the Supreme Court.

☐

For

Constitutional amendment to guarantee the right of appeal in all felony cases.

☐

Against

This proposed amendment would amend Section 23 of Article I (Bill of Rights). The adoption of this amendment would bring the wording of the Constitution in conformity with actual practice, and would make no substantive change in the right of felony defendants to have their convictions reviewed by the State Supreme Court.

Proposed Amendment No. 5

FILLING VACANCIES AND REMOVALS FROM OFFICE

A vote FOR this proposal will rearrange and clarify provisions for the filling of vacancies in office, the power of the Governor to remove appointed officers, except judges, the filling of vacancies in office, other than judgeships, and providing the line of succession to the Office of Governor and the exercise of the powers and duties thereof, all without substantive change, and will provide for filling of the Office of Governor in case of the death of the Governor-elect.

A vote AGAINST this proposal will retain the existing provisions.

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|----------------------------------|--|
| <input type="checkbox"/> For | Constitutional amendment transferring provisions respecting vacancies in office from the legislative to the executive article, changing provisions for removing officers and for filling vacancies in office, providing for succession to the office of Governor, and repealing Article III, section 23, and Article IV, sections 18 and 21 of the Constitution of Nebraska. |
| <input type="checkbox"/> Against | |

This amendment proposes several changes in Article III (Legislative) and Article IV (Executive). It is recommended by the Constitutional Revision Commission as an attempt "to gather together in one central spot appointments, removals, and vacancy provisions with respect to all elected and appointed officials other than those covered by the Judicial Article. No major change has been intended, but rather clarifications and consolidation have been attempted."

The present line of succession from the Governor to the Lieutenant Governor to the Speaker of the Legislature and then as prescribed by law would be retained. A new provision would be added providing that, in the case of death of the Governor-elect, the Lieutenant Governor-elect, the Speaker of the Legislature and such other persons designated by law would become Governor in that order at the commencement of the Governor-elect's term.

Other changes proposed by this amendment relate to the appointive and removal powers of the Governor in Section 10. The power is retained to appoint public officials whose offices are created by law or the constitution and whose appointment or election is not otherwise provided for. A new provision would be added granting the Governor power to remove, for cause and after a public hearing, any person he appoints (not including judges) for a specific term of office, and to fill the vacancy as otherwise provided for. Other persons he appoints for indefinite terms of office could be removed by the Governor at any time and for any reason. This would consolidate all of the constitutional provisions on the Governor's appointive and removal powers. If this proposition

is not approved, inadequate provisions would be retained for succession in case a Governor-elect dies, or for succession of the Governor beyond the Lieutenant-Governor. The Governor would retain present power to remove state officers only for incompetence, neglect of duty or malfeasance in office.

On final vote, this proposal received 10 opposing votes and 7 abstaining votes. Perhaps the main reason for this opposition is the fact that the proposal is complicated and difficult to understand. Possible arguments against Amendment No. 5 are: the granting of additional power to the Governor; and lack of clear definition of "cause" for removal from office of appointed state officials.

Proposed Amendment No. 6

INELIGIBILITY FOR PUBLIC OFFICE

A vote FOR this proposal will clarify language in Article XV, Section 2, of the Constitution concerning the ineligibility of persons for public office for certain offenses, but will make no substantive changes.

A vote AGAINST this proposal will retain the present language of Article XV, Section.

☐

For

Constitutional amendment providing for the clarification of Article XV, section 2.

☐

Against

If this amendment is adopted there will be minor changes made in Section 2 of Article XV (Miscellaneous). Section 2 now reads:

Any person who is in default as collector and custodian of public money or property shall not be eligible to any office of trust or profit under the constitution or laws of this state; nor shall any person convicted of felony be eligible to office unless he shall have been restored to civil rights.

Proposed Amendment No. 6 would change Section 2 to read:

~~Any~~ No person who is in default as collector and custodian of public money or property shall ~~not~~ be eligible to any office of trust or profit under the constitution or laws of this state. ~~nor shall~~ any No person convicted of a felony shall be eligible to any such office unless he shall have been restored to civil rights.

This amendment would clarify existing wording. Adoption of the provision basically will state the provisions of the Constitution in a positive rather than negative manner by substituting the phrase "no person" for "any person."

Proposed Amendment No. 7

VALUATION OF AGRICULTURAL LAND FOR TAXATION

A vote FOR this proposal will enable the Legislature to enact legislation providing that land actually being used for agricultural or horticultural purposes shall be valued for tax purposes on the basis of such use, regardless of the value such lands might have for other purposes, such as their potential development for residential use.

A vote AGAINST this proposal will retain the present requirement that land, even though being used for agricultural or horticultural purposes, be valued for tax purposes at its actual value which may be increased because of its potential non-farm use.

☐

For

Constitutional amendment authorizing the Legislature to fix the value of land actively devoted to agricultural and horticultural use.

☐

Against

The proposal would amend Section 1 of Article VIII (Revenue). Section 1 requires uniformity in the levying of property taxes, authorizes the Legislature to provide for a different method of taxing motor vehicles and livestock, allows the Legislature to establish a separate class for commercial vehicles operating in interstate commerce and provide for their reciprocal and proportionate taxation, and enables the Legislature to prescribe standards and methods for determining the value of tangible property.

The portion of Section 1 affected by this proposed amendment now reads:

.....The Legislature may prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values.

If this proposition is adopted, the above provision would be changed to read (new wording underlined):

.....The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall, for property tax purposes, be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses, and prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values.

The situations leading to this proposed amendment involve the taxation of farm land in the rural-urban fringe. As cities expand into rural areas, values of farm lands are bid up, assessed values are raised, and taxes increase on farm real estate. However, the income from farming does not rise with higher land values so net farm income is reduced because of higher property taxes. The

farmers affected feel that their land should be taxed on the basis of its agricultural use, rather than on its value for other possible uses so long as they continue farming.

This amendment was proposed because the Constitution now prohibits granting preferential tax treatment to any class of property except those specifically mentioned in Section 1 of Article VIII.

Proposed Amendment No. 7 would permit but not require the Legislature to enact laws so that real estate "actively devoted to agricultural or horticultural use" would be valued for tax purposes on that basis, and not on site value or potential for other uses.

Proponents of this amendment say that farmers in urban-fringe areas are now paying property taxes which bear little relation to ability to pay taxes as measured by net income. This forces them to accept a reduced level of family living or sell out to land developers creating urban sprawl. They argue that many other states have adopted methods for handling this problem. One method involves the payment of deferred or "roll-back" taxes when farm land passes into non-agricultural uses.

Those opposed argue against granting of preferential tax treatment to additional special interest groups. They also point out that this would aggravate the problem of "leap-frog" development around cities. They contend that the higher property taxes paid by farmers in rural-urban fringe situations are offset by capital gains from rising land values. Opponents also feel that this proposal would weaken local zoning regulations, provide a tax concession to land speculators, and result in windfall gains to present land owners.

Proposed Amendment No. 8

RETIREMENT SYSTEM FOR SENATORS AND LEGISLATIVE EMPLOYEES

A vote FOR this proposal will allow employees and members of the Legislature to be included in an existing retirement system covering state officers and employees.

A vote AGAINST this proposal will continue the constitutional restriction barring members and employees of the Legislature from being included in the existing retirement system covering other state officers and employees.

☐

For

Constitutional amendment to provide that members and employees of the Legislature may be included in an existing retirement system for state officers and employees at any time.

☐

Against

This is a proposal to amend a portion of Section 7 of Article III (Legislative) which now reads: ".....Members of the Legislature shall receive no pay nor perquisites other than said salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem." To this would be added: "....., except that each member and employee may be included in an existing retirement system for state officers and employees at any time."

The Attorney General has ruled that there are serious constitutional problems in either establishing a new retirement system for state senators or in including them in the existing one for general state employees because of present wording of Section 7. The adoption of this amendment would remove the constitutional question and validate their coverage under an existing retirement system. The amendment does not authorize the establishment of a new retirement system for senators or legislative employees.

Proposed Amendment No. 9

COMPENSATION OF LEGISLATORS FOR INTERIM BUSINESS

A vote FOR this proposal will retain the present provision for a salary of not to exceed four hundred dollars per month for members of the Legislature during their term of office, which salary would be designated for service during legislative sessions. In addition, a vote FOR this amendment would authorize an additional per diem (per day) compensation, as determined by the Legislature, for service in the conduct of legislative business between sessions of the Legislature.

A vote AGAINST this proposal will retain the present provision for a salary of not to exceed four hundred dollars per month for members of the Legislature during their term of office, which salary would remain the total authorized for all legislative duties, and would disallow the authorizing of additional per diem (per day) compensation while conducting legislative business between sessions of the Legislature.

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| <input type="checkbox"/> For | Constitutional amendment providing for a per diem compensation for members of the Legislature as provided by law for services when the Legislature is not in session. |
| <input type="checkbox"/> Against | |

Another change in the Senator's compensation part of Section 7 of Article III (Legislative) is proposed by this amendment. See discussion under No. 3 for present wording. If approved by voters, this portion would read:

.....Each member of the Legislature shall receive ~~a~~ an annual salary of not to exceed four hundred dollars per month during the term of his office for services while attending sessions of the Legislature. In addition to his salary, each member shall receive an amount equal to his actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive ~~no pay nor perquisites other than said salary~~ a per diem compensation as provided by law for such services when they are on legislative business when the Legislature is not in session and expenses,

This amendment would alter the language of the Constitution so that the present Senator's salary of \$400 a month would be for services rendered while attending annual and special legislative sessions. He would still receive \$4800 a year during his four-year term. In addition, he would be paid a per diem allowance (a daily payment) for services in connection with legislative responsibilities performed while the Legislature is not in session, plus actual expenses in performing these duties. The amount of the per diem allowance would be set by law. The measure is mainly designed for compensation to the senators for interim duties such as serving on committees. The additional compensation would be paid only for actual days spent on interim legislative duties.

Those who favor this proposal argue that \$4800 per year is barely enough salary for time spent by State Senators in legislative sessions. This amendment would provide additional pay for legislative work done during the remainder of the year. Those Senators who do the most interim work would receive the most compensation. Such additional pay might also encourage greater participation by more Senators in interim legislative activities.

Opponents say that present rate of compensation is adequate. Additional payment is not needed because actual expenses incurred on interim legislative duties are now reimbursed. They also cite the risk associated with authorizing the Legislature to establish its own per diem allowance.

If Amendments No. 3 and No. 9 are both approved by voters in November, one or the other would probably be unconstitutional because No. 3 retains the provision that Senators shall receive no pay other than the \$400-per-month salary and actual expenses for one round trip to each session.

Proposed Amendment No. 10

REVISION, AND CLARIFICATION OF ARTICLE VII (Education)

A vote FOR this proposal will generally rearrange the provisions of the Article on Education into a more logical sequence and clarify the language thereof, will clarify the authority of the Legislature respecting the education in public institutions of persons other than those between the ages of five and twenty-one years, and will eliminate certain obsolete language.

A vote AGAINST this proposal will retain the present arrangement, language, and provisions of the Article on Education.

☐

For

Constitutional amendments to recodify, revise, and clarify provisions of Article VII of the Constitution of Nebraska.

☐

Against

This Article contains 17 sections and all but 5 of the sections would be altered according to recommendations of the Constitutional Revision Commission.

The purpose of this amendment is to modernize terminology and clarify the provisions of Article VII, by rearranging its sections into a more logical sequence. It would strengthen the existing prohibition of distributing state funds to inoperative school districts.

Proposed Amendment No. 11

MUNICIPAL OFF-STREET PARKING FACILITIES

A vote FOR this proposal will authorize the Legislature to grant power to municipalities to provide for and maintain facilities for off-street parking, and to finance the same through special assessments or through the assessment of special taxes within off-street parking districts created by such municipalities.

A vote AGAINST this proposal will withhold from the Legislature authority to grant power to municipalities to provide for and finance off-street parking facilities.

- | | |
|----------------------------------|---|
| <input type="checkbox"/> For | Constitutional amendment to permit the Legislature to allow cities and villages to provide off-street parking by special |
| <input type="checkbox"/> Against | assessment and special taxation of property benefited or within off-street parking districts and to allow maintenance, repair and reconstruction of such off-street parking by special assessments. |

This proposed Amendment would authorize the Legislature to expand the local improvement power of cities, towns and villages, as provided in Section 6, Article VIII (Revenue). If adopted Section 6 will be changed by the addition of the underlined wording:

The Legislature may vest the corporate authorities of cities, towns and villages with power to make local improvements, including facilities providing off-street parking for vehicles, by special assessments, or by special taxation of property benefited, and to redetermine and reallocate from time to time the benefits arising from the acquisition of such off-street parking facilities, and the Legislature may vest the corporate authorities of cities and villages with power to levy special assessments for the maintenance, repair and reconstruction of such off-street parking facilities. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same, except that cities and villages may be empowered by the Legislature to assess and collect separate and additional taxes within off-street parking districts created by and within any city or village on such terms as the Legislature may prescribe.

The purpose of this proposed amendment is to authorize municipalities to establish, finance, and maintain off-street parking facilities. Under our federal system of government, municipalities have only those powers granted to them by the States; this amendment will make it clear that those in Nebraska may develop off-street parking facilities.

Financing would be by special assessments levied on the properties benefited by the parking facilities. In addition, cities and villages could create special parking districts and levy taxes to finance the parking facilities. These taxes would be in addition to normal property taxes but would be levied only on property included within the special parking district. This amendment does not establish such districts and municipal plans; it merely allows the Legislature to implement proper legislation as it sees fit.

The basic problem leading to the proposal is the shortage of downtown parking space which contributes to the physical and economic deterioration of "Main Street."

Proponents of the measure argue that downtown areas are an essential part of orderly urban growth. Businessmen who benefit from off-street parking will pay the taxes and assessments for construction and maintenance of municipally owned parking facilities.

Opponents argue that private business should erect parking structures to fill the need. They are concerned that some people who do not receive any benefit would have to pay part of the cost because they happen to live in the special parking district. Others say that this amendment is unnecessary because municipalities already have such authority under the present Constitution.

Proposed Amendment No. 12

CHANGES IN JUDICIAL NOMINATING COMMISSIONS

A vote FOR this proposal will enlarge the judicial nominating commissions from seven to nine members, will provide that judges of the supreme court who serve on these commissions as chairmen shall not be entitled to vote, will increase from three to four the number of commission members designated by the members of the bar and citizen members appointed by the Governor, will require that no more than four of the voting members of said commissions shall be of the same political party, will require the names of candidates for appointment as judges to be made public prior to a public hearing, will require a roll call vote by the commissions and will require a candidate to receive a majority of the voting members of the nominating commission in order to have his name submitted to the Governor.

A vote AGAINST this proposal will leave the composition and procedures of the judicial nominating commissions as presently provided for.

- | | |
|----------------------------------|--|
| <input type="checkbox"/> For | Constitutional amendment increasing the number of members on the judicial nominating commission to provide certain qualifications; to provide that a Judge of the Supreme Court shall not be entitled to vote on the commission; to provide for release of names of candidates and the number of votes required to be nominated. |
| <input type="checkbox"/> Against | |

This amendment would change Section 21 of Article V (Judicial) which deals mainly with the selection process for judges. The Governor appoints judges to fill vacancies from nominees submitted by appropriate judicial nominating commissions. At the end of their terms their right to remain on the bench must be approved by voters at the general election. This method applies to the State Supreme Court, Municipal and Juvenile Courts of Lincoln and Omaha and the Workmen's Compensation Court and District Courts.

Although the selection process would not be affected, approval of Amendment No. 12 would change the size and procedures of the nominating commissions. Presently, these include three members of the Bar Association, three members of the public appointed by the Governor, and one Supreme Court Justice who serves as Chairman. Under the proposal, there would be four members of the Bar, four members of the public, and one Supreme Court Justice, but the Supreme Court justice would lose his vote. This would equalize the number of votes on the commission between lawyer and non-lawyer members.

Another proposed change is that not more than four of the eight voting members of the commissions could be of the same political party. The effect of this would be to balance political views of the commission members.

Two additional changes would be made by this amendment. The names of all candidates for nomination would be made public before a commission holds a public hearing. These hearings are for the purpose of receiving information on candidates qualified for the vacancy. Finally, the commissions would be required to hold roll call votes; a majority vote would be necessary before a nominee's name is submitted to the Governor for appointment.

Arguments for approval of this amendment are: less partisan political influence on commission members; stronger voice for "public" members of commissions; and more opportunity for citizens to participate in selection of judges.

Opponents raise two objections: detrimental effect on a candidate's law practice if he is not nominated; and denial of a vote to the Supreme Court Judges on the commission.

Proposed Amendment No. 13

ADJUSTMENT OF RETIREMENT BENEFITS

A vote FOR this proposal will allow the Legislature to enact legislation authorizing the adjustment of retirement benefits paid to retired public employees to reflect changes in cost of living and wage levels occurring since their retirement dates, and will allow local governments to review and adjust vested pension benefits of their retired employees periodically as provided by ordinance.

A vote AGAINST this proposal will prevent the state and local governments from adjusting retirement benefits of retired public employees because of conditions occurring after the dates of retirement.

- | | |
|----------------------------------|--|
| <input type="checkbox"/> For | Constitutional amendment to authorize the Legislature to provide that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of |
| <input type="checkbox"/> Against | living and wage levels that have occurred subsequent to the date of retirement and to permit local governing bodies to review and adjust vested pension benefits. |

This amendment to Section 19 of Article III (Legislative) would permit the Legislature to make cost-of-living adjustments in retirement payments to retired public employees. Such adjustments are now prohibited under Section 19 which says:

The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into.

If this proposed amendment is adopted, this clause would be inserted:

....., except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

This sentence would be added at the end of the Section:

.....Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

The problem leading to the proposal of this amendment is that many retired public employees, especially those who retired several years ago, are trying to subsist on incomes which are inadequate because of inflation.

The proposal would allow, but not require, the legislature to adjust retirement benefits to former public employees. This adjustment could be either upward or downward, depending upon changes in cost of living and wage rates.

Proponents say that society has an obligation to retired public servants whose pensions become inadequate due to economic forces beyond their control. They note many pension plans (Federal Civil Service, Social Security, and others) provide for automatic adjustment to cost of living increases.

Opponents are concerned about the cost to state government because retired persons no longer pay into retirement funds. The additional cost of higher benefits would have to come from the tax-supported state general fund.

Proposed Amendment No. 14

DUTIES OF TAX COMMISSIONER AND MEMBERSHIP OF STATE BOARD OF EQUALIZATION AND ASSESSMENT

A vote FOR this proposal will remove the State Tax Commissioner from the State Board of Equalization and Assessment, but will assign him as an advisor to the Board, leaving the membership of the Board to be composed of the Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, plus a new member to be chosen as the Legislature may provide by law.

A vote AGAINST this proposal will retain the State Tax Commissioner as a member of the State Board of Equalization and Assessment, along with the Governor, Secretary of State, Auditor of Public Accounts, and State Treasurer, and will omit the adding of an additional member to be chosen as the Legislature would provide by law.

☐

For

Constitutional amendment harmonizing the provisions with previous amendments, changing the duties of the Tax Commissioner, and changing the membership of the State Board of Equalization and Assessment.

☐

Against

This is a proposed amendment to Section 28 of Article IV (Executive) which provides for the appointment and duties of the Tax Commissioner. The section now reads:

A Tax Commissioner shall be appointed by the Governor with the advice and consent of the Senate. He shall have jurisdiction over the administration of the revenue laws of the state, and together with the Governor, Secretary of State, State Auditor, and State Treasurer shall have power to review and equalize assessments of property for taxation within the state. He shall have such other powers and perform such other duties as the Legislature may provide. His term of office and compensation shall be provided by law.

If this proposed amendment is approved, this Section would read:

A Tax Commissioner shall be appointed by the Governor with the advice and consent of the Senate Legislature. He shall have jurisdiction over the administration of the revenue laws of the state, ~~and together with the Governor, Secretary of State, State Auditor and State Treasurer shall have power to review and equalize assessments of property for taxation within the state,~~ and advise the State Board of Equalization and Assessment whose membership shall consist of the Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, and a fifth member chosen as the Legislature may provide by law. Such board shall review and equalize assessments of property for taxation within the state. He shall have such other powers and perform such other duties as the Legislature may provide. His term of office and compensation shall be as provided by law.

The substitution of "Legislature" for "Senate" is merely to update the Constitution with terminology appropriate to the Unicameral.

The main change would be that the Tax Commissioner would no longer serve as a member of the State Board of Equalization and Assessment. This proposal was recommended by the Interim Tax Study Committee. The reason given is the special relationship existing between the Commissioner and the Board.

The primary task of the Board is to equalize the assessment of local property taxes in the state. The Board makes decisions on the basis of information received from counties by the Tax Commissioner, and relies heavily upon his recommendations in making its decisions. Therefore, the Commissioner should not be a Board member and thus vote on his own recommendations, but would serve in an advisory capacity. A fifth member of the Board would be selected as the Legislature provides by law.

New language in the proposal would make it mandatory for the Board to review and equalize property assessments in the state, as compared with present wording which says the Board "shall have the power to review and equalize....."

In addition to reasons for change given by the Interim Tax Study Committee, proponents point out that, since the Tax Commissioner is appointed by the Governor, his membership on the Board gives the Governor a political advantage.

Opponents contend that the Tax Commissioner should continue as a Board member because he's more knowledgeable and has more responsibility in tax matters than any other member. They also express concern over the possibility of choosing a fifth member with a conflict of interest in regard to assessment and equalization.

Proposed Amendment No. 15

STANDARDS FOR CONFLICTS OF INTEREST

A vote FOR this proposal will delete certain exceptions to the provision setting forth ineligibility for membership in the Legislature, will eliminate the words "during the term for which he was elected" from the provision that no member of the Legislature shall receive any civil appointment to a state office, will prohibit any member of the Legislature or any state officer from having any conflict of interest directly in any contract with the state or any county or municipality thereof, and will require the Legislature to provide standards and definitions for determining the existence of such conflicts and to provide for enforcement.

A vote AGAINST this proposal will retain the existing provisions for eligibility for membership in the Legislature, civil appointments to state offices, and the present prohibition against being interested either directly or indirectly in any contract with the state or any county or municipality thereof.

- | | | |
|--------------------------|---------|--|
| <input type="checkbox"/> | For | Constitutional amendment providing for prescribing standards and definitions for determining conflicts of interest and the effect thereof. |
| <input type="checkbox"/> | Against | |

This proposal would revise Sections 9 and 16 of Article III (Legislative) to clarify the wording of the Constitution in regard to questions of conflict of interest. Such questions have arisen when Legislators or other state employees including University professors, are appointed to state boards or other offices.

Approval of Amendment No. 15 would add these statements to Section 16: "No member of the Legislature or any state officer shall have a conflict of interest, as defined by the Legislature, directly in any contract with the state or any county or municipality;" and "The Legislature shall prescribe standards and definitions for determining the existence of such conflicts of interest in contracts, and it shall prescribe sanctions for enforcing this section."

This amendment would retain the present prohibition (although it would be moved from Section 16 to Section 9) against Legislators receiving civil appointments to state office while serving in the Legislature, but an important change would be made. Present wording prohibits a State Senator from accepting an appointment to another state office during his entire four-year term even though he resigns from the Legislature. The phrase "during the term for which he was elected" would be deleted so that a Senator could be appointed if he gives up his legislative seat.

Arguments given in favor of Amendment No. 15 are: present wording of the Constitution is unclear and causes confusion as to what is permitted and what is prohibited; the most qualified person may not be available for an appointment

because of possible conflict of interest; and the interests of the State would be better served if some state employees could function in more than one capacity.

Opponents argue that: the wording proposal is still too vague; the Legislature would have too much authority in defining conflict of interest and determining its existence; and the present Constitution is adequate for this purpose.

Proposed Amendment No. 16

CHANGE NAME OF STATE RAILWAY COMMISSION

A vote FOR this proposal will change the name of the State Railway Commission to the Public Service Commission.

A vote AGAINST this proposal will retain the name State Railway Commission.

☐

For

Constitutional amendment changing the name of the State Railway Commission to Public Service Commission.

☐

Against

Section 20 of Article IV (Executive) provides for the State Railway Commission, the election of its members, and its duties. Adoption of this amendment would be change the name of the State Railway Commission to Public Service Commission to represent more accurately its scope of responsibilities. The Commission now regulates telephone and telegraph companies, motor transportation, express companies, electric transmission lines, and public storage warehouses in addition to railroads.

The membership and powers of the Commission would not be affected in any way by approval of this Amendment.

LIST OF PROPOSED CONSTITUTIONAL AMENDMENTS

GENERAL ELECTION - November 7, 1972

Ballot Order	Description	Vote in Legislature:			Your Vote:	
		For	Opposed	Abstained	For	Against
1	Qualifications of Legislators	40	4	5	—	—
2	Judicial districts and boundaries	46	0	3	—	—
3	Legislators' salaries	34	11	4	—	—
4	Right of appeal in felony cases	48	0	1	—	—
5	Filling vacancies and removal of officials	32	10	7	—	—
6	Ineligibility for public office	41	0	8	—	—
7	Valuation of agricultural land for taxation	36	7	6	—	—
8	Retirement system for Legis- lators and employees	44	0	5	—	—
9	Per diem allowances to Legis- lators	30	14	5	—	—
10	Clarify Article VII (Education)	44	1	4	—	—
11	Authorization for municipal off-street parking	37	6	6	—	—
12	Judicial nominating commissions	45	0	4	—	—
13	Adjustment of retirement benefits	42	1	6	—	—
14	Membership of State Board of Equalization & Assessment	37	3	9	—	—
15	Conflicts of interest	39	3	7	—	—
16	Railway Commission to Public Service Commission	44	1	4	—	—

Detach this page, mark your vote on each amendment and take this with you when you go into the voting booth.