2012 VOTERS' GUIDE

EXPLAINING
TWO AMENDMENTS TO THE
NEW HAMPSHIRE CONSTITUTION
PROPOSED BY THE LEGISLATURE

TO THE VOTERS OF NEW HAMPSHIRE:

At the November 6, 2012 general election, your ballot will include two questions which propose amendments to the New Hampshire Constitution. If *two-thirds* of the people who vote on either question vote YES, then the Constitution will be amended as indicated in the question.

Question No. 3 appears on your ballot because Part 2, Article 100 of the Constitution requires the Secretary of State to submit to the voters the following question if this question has not been on the ballot in the past ten years: "Shall there be a convention to amend or revise the Constitution?" If a simple *majority* of the people who vote on the question vote YES, then a constitutional convention will be held at some future date.

Each question has been proposed by the New Hampshire Legislature which has the authority to consider and recommend changes to our Constitution. This Voters' Guide was prepared at the direction of the Speaker of the House and the President of the Senate with the approval and assistance of the appropriate policy committees of both houses of the Legislature and the Joint Committee on Legislative Facilities.

The Guide includes the constitutional amendment questions exactly as they will appear on the ballot, and it explains the effects of the proposed amendments. Each of the issues presented by Questions 1 and 2 are important and deserve your study and vote.

QUESTION NO. 1:

Are you in favor of amending Part 2, Article 5-b of the New Hampshire Constitution by adding Article 5-c ?:

Notwithstanding any general or special provision of this constitution, the general court shall not have the power or authority to impose and levy any assessment, rate, or tax upon income earned by any natural person; however, nothing in this Article shall be construed to prohibit any tax in effect on January 1, 2012, or adjustment to the rate of such a tax.

EXPLANATION:

Explicitly forbids the Legislature from imposing any new income tax on personal income.

QUESTION NO. 2:

Are you in favor of amending Part 2, Article 73-a of the New Hampshire Constitution ?:

[Art.] 73-a. [Supreme Court, Administration.] The chief justice of the supreme court shall be the administrative head of all the courts. The chief justice shall, with the concurrence of a majority of the supreme court justices, make rules governing the administration of all courts in the state and the practice and procedure to be followed in all such courts. The rules so promulgated shall have the force and effect of law. The Legislature shall have a concurrent power to regulate the same matters by statute. In the event of a conflict between a statute and a court rule, the statute, if not otherwise contrary to this constitution, shall prevail over the rule.

EXPLANATION:

AT THE PRESENT TIME

As a result of Part 2, Article 73-a, which was amended to our Constitution in 1978, the Supreme Court makes rules governing the administration of all courts in the state and the practice and procedure followed in the courts. Those rules have the force and effect of law. This article has caused confusion over whether court rules or legislative statute shall have priority.

IF THIS AMENDMENT IS ADOPTED

The rulemaking authority of the Supreme Court will remain in place. However, the Legislature will have concurrent power to regulate the administration of the courts, and further, if there is a conflict between a law and a court-established rule, the law prevails unless it is contrary to provisions of the Constitution.

QUESTION NO. 3:

Shall there be a convention to amend or revise the Constitution?

EXPLANATION:

The New Hampshire Constitution may be amended in two ways. The Legislature may submit proposed amendments to the Constitution to the people for their approval, or a specially elected constitutional convention may submit proposed amendments to the people for their approval. The Constitution requires that the question of whether to hold a constitutional convention must be submitted to the people no less than every ten years. Since the last time the question was voted on was in 2002, it must be placed on the ballot at this election.

If a simple *majority* of the voters who vote on this question vote YES, the 2013 Legislature will set a time for election of delegates to the convention. Delegates will then be elected in the same manner and in the same number as the members of the New Hampshire House of Representatives.

Should the voters elect to hold a convention, delegates may, by a *three-fifths* vote, propose amendments to the Constitution. However, just like proposals for amendments made by the Legislature, such amendments only become effective if they are adopted at a later election by *two-thirds* of the voters.