

Beyond the Big One

A CITIZEN'S GUIDE to ALBERTA'S OTHER NINE

REFERENDUM QUESTIONS

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Foreword

On October 19, 2026 Albertans will have to make a number of difficult choices on a list of questions presented to them. This Guide is a product of requests from friends and family, for background information to help them understand the implications of these intimidating questions.

As the title suggests, I'm avoiding the Separation Question because people are very passionate on both sides of this existential question and it is not possible to do justice to the subject in a few pages.

I would suggest that voters seek out a variety of sources before they enter the polling booth, so they can make an informed choice. Sadly, the political climate is fraught due to systematic campaigns of misinformation and disinformation within and outside the country, that are skewing the debate. Inflaming passions is unhelpful.

Leaving aside all the noise surrounding the main event, my goal is to scrutinize each of the other nine questions being posed to voters. My intention is to help readers get objective facts around the topics, as a sort of Poli Sci 101, to de-mystify the content of the referendum questions.

The coming weeks are going to be emotional as opposing sides make their case. I hope the debate will be civil because I strongly believe that courtesy is a building block of democracy. The stakes are very high and this is a testing time for Albertans, but I am optimistic that we will engage in a typically Canadian, polite discussion on a decision that will have far-reaching effects on our country.

I'd like to thank colleagues for comments and suggestions on the draft.

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In addition to the referendum questions Albertans will have to answer in October, there are many others swirling around the province. These relate to the motivation driving the Smith government's initiative, the impact it will have on the province's future and on its economy. Regardless what prompted this exercise, the task is to decide whether to vote for or against each of the following questions.

Q.1 Increased control over immigration

- *Do you support the Government of Alberta taking increased control over immigration for the purposes of decreasing immigration to more sustainable levels, prioritizing economic migration and giving Albertans first priority on new employment opportunities?*

Under the constitution, immigration is a shared responsibility with federal primacy: Although both federal and provincial governments can pass legislation in this area, if there is a conflict, federal legislation will prevail. The provinces already play a significant role on this file with the province of Quebec having more control than others.

Federal powers include setting annual immigration targets, rules around citizenship, permanent resident status and deportation. Ottawa determines immigration categories, who is admissible and who can be deported.

Every province has negotiated an agreement on immigration with Ottawa that reflects its unique economic and social needs. Given regional disparities, it is not surprising that the scope of these varies considerably.

Through the Provincial Nominee Programs, each province can nominate immigrants to meet provincial labour-market needs. Depending on the labour shortages present in the province, the need might range from engineers and nurses, to individuals in skilled trades.

Quebec has signed a separate agreement with Ottawa which explicitly recognizes Quebec's objective of preserving its language and culture. It allows Quebec to set its own immigration targets and utilize its own points system¹ which emphasizes French language ability, education and work experience.

¹ Canada pioneered the points system which, primarily, determines the eligibility of individuals who wish to immigrate to this country. It replaced the race-based policy that prevailed until 1967. Criteria include education, language skills, connection with the country, a job offer and age.

The suggestion that Albertans should have first priority on new employment opportunities is problematic for two reasons. Firstly, it would discriminate against Canadians from other provinces provoking retaliatory measures, but it might also violate mobility rights which are protected by the Charter. Secondly, under the Provincial Nominee Program, Alberta entices individuals with specific skills to come to the province. They are courted because we are lacking these skills, so wouldn't giving priority to Albertans be counter-productive?

Q.2–4 Eligibility

- *Do you support the Government of Alberta introducing a law mandating that only Canadian citizens, permanent residents and individuals with an Alberta-approved immigration status will be eligible for provincially-funded programs, such as health care, education and other social services?*
- *Assuming that all Canadian citizens and permanent residents continue to qualify for social support programs as they do now, do you support the Government of Alberta introducing a law requiring all individuals with a non-permanent legal immigration status to reside in Alberta for at least 12 months before qualifying for any provincially-funded social support programs?*
- *Assuming that all Canadian citizens and permanent residents continue to qualify for public health care and education as they do now, do you support the Government of Alberta charging a reasonable fee or premium to individuals with a non-permanent immigration status living in Alberta for their and their family's use of the healthcare and education systems?*

The next three questions relate to eligibility of individuals in the country on a temporary basis, to receive benefits like health care, education and other social services. Question 2 asks whether these services should be provided to them at all. Question 3 relates to whether they should qualify to receive these services only after residing in the province for at least 12 months. Question 4 seeks guidance about requiring such individuals to pay a premium for the health care and education they receive.

It is notable that proposals to deny or delay coverage for these programs would only apply to those with a non-permanent immigration status. In other words, none of the proposals will apply to permanent residents, i.e. recent immigrants to Canada who have to wait 3 years to become citizens. The target is temporary residents: mainly temporary

foreign workers and international students with work or study permits who have entered the country legally. Currently, the pattern across the country including in Alberta, is that these individuals can access coverage, albeit after a specified waiting period. In some provinces there is broader eligibility than in others.

Another point that needs to be emphasized is that these temporary residents do pay taxes which contribute to government revenue, unless they earn less than the taxable threshold.

No doubt, people will have different opinions on these issues but it is highly likely that there will be legal challenges to the Alberta government's proposed changes, based on Canada's Charter of Rights & Freedoms. Section 15² lists protected Equality Rights which may not be violated by any government. The Alberta Human Rights Act similarly prohibits discrimination.

The Supreme Court has ruled that an "individual" in section 15 covers any person physically present in Canada, not just citizens. This would make status-based exclusion from core services vulnerable to a legal challenge. While Questions 3 and 4 are defensible, it appears that denying international students, temporary foreign workers and their children access to education and health care might be less easy to defend.

Q.5 Proof of Citizenship

- *Do you support the Government of Alberta introducing a law requiring individuals to provide proof of citizenship, such as a passport, birth certificate, or citizenship card, to vote in an Alberta provincial election?*

The Alberta government is proposing that voters in provincial elections should provide proof of citizenship at polling stations prior to casting a ballot. This is a puzzling and redundant question given that from July 1, 2026, drivers' licences will include the "CAN" marker which denotes Canadian citizenship.

In the United States, there is a heated debate on this very topic. Supporters believe that asking voters to show proof of citizenship will ensure that electoral fraud will be eliminated. There is ample evidence that fraud is extremely rare and that the unstated

² Section 15 of the Charter applies to Equality Rights. It prohibits discrimination based on characteristics that include race, ethnic origin, colour, religion, age or sex.

motivation is voter suppression. Marginalized people in the US, generally do not have passports, birth certificates or documentation with their current legal names on them, so they would be ineligible to vote. Critics point out that voter suppression is supported by the Republican Party because these groups are not likely to vote Republican.

The only evidence of voter fraud in Alberta in the last decade is an American citizen who voted in 2019 and two people who helped an ineligible voter to cast a ballot. This is hardly a major problem and reinforces the confidence we have in the voter's list and the electoral process. In the absence of fraud, is voter suppression the unstated objective?

Not everyone has a driver's license, so they would have to go through the onerous process that marginalized people in the US experience.

Constitutional Questions

The four questions in this section involve changes to Canada's constitution which Alberta cannot amend unilaterally. All the Smith government can do is to try to persuade the other nine provinces to embark on the process of constitutional change. The amending process, which was adopted in 1982, has two formulas: Major amendments require unanimous consent of all the provinces and the federal government, whereas the rest require the 7/50 formula, i.e. the consent of 7 of the 10 provinces which contain 50+ percent of the population as determined in the most recent census, to be successful. Changes to the Senate fall within the first category, while the other questions in this section relate to matters that could be achieved through the 7/50 formula.

In other words, answering "Yes" to these questions gives the Alberta government a green light to put forward proposals on these matters. Whether other provincial governments will be willing to join in Alberta's campaign is an open question.

Q.6 Appointment of Judges

- *Do you support the Government of Alberta working with the governments of other willing provinces to amend the Canadian Constitution to have provincial governments, and not the federal government, select the justices appointed to provincial King's Bench and Appeal courts?*

At the moment, the federal government appoints judges to the Supreme Court of Canada and Federal Courts. It also appoints judges to Provincial Superior Courts such

as the Court of King's Bench and Courts of Appeal. The Alberta government is proposing that provincial governments take on this responsibility.

The federal government makes such appointment based on the advice of an independent, non-partisan Judicial Advisory Committee that includes provincial input. The Committee is composed of representatives from the Canadian Bar Association, the Law Society, the Chief Justice and both federal and provincial nominees.

Other provinces have criticized Ottawa for not filling vacancies on the bench in a timely manner, leading to backlogs in the judicial process. They have also called for formal consultation with the provinces when judicial appointments are made. In 2024, an Advisory Committee on Constitutional issues in Quebec called for, in addition to other amendments, a change in the judicial appointments process. Quebec's argument is grounded in the constitutional legitimacy of the process in a federal state. In contrast, the Smith government has argued that the decisions of federally appointed judges do not reflect the values of Albertans. The Premier has also questioned the legitimacy of "unelected" judges, echoing complaints from Ontario Premier Doug Ford.

Q.7 Abolishing the Senate

- *Do you support the Government of Alberta working with the governments of other willing provinces to amend the Canadian Constitution to abolish the unelected federal Senate?*

Senate reform is a hardy perennial in Canadian political discourse. For over a century, critics have been calling for change. Whether it is complete abolition, electing members of the Upper House or changing the way Senators are appointed, it is an institution that has often come under scrutiny. The question is, why has the Senate elicited so much attention?

As a part of the scaffolding of the constitutional structure, it plays an important role in the political system. Every piece of legislation goes through three readings in the House of Commons and three in the Senate, regardless where it originates, before it receives Royal Assent and becomes law.

The Senate was modelled on the House of Lords in Britain which has evolved considerably over the years, while the Canadian Senate remains unchanged. It should be noted that because we have a federal system of government and a written constitution, any change to the powers of the Senate has to go through a formal

amending process. In Britain, revision of the powers of the House of Lords can be accomplished by votes in the House of Commons and the House of Lords.

Theoretically, the Senate's powers are equal to those of the House of Commons, apart from the fact that the former cannot initiate "money bills" i.e. bills that appropriate public revenue or impose taxation. So, on paper, the Senate has a full, unconstrained legal veto and amendment power over essentially all legislation (short of money bills it cannot originate), while the Lords has been reduced to a delaying chamber. One other constraint inserted in the 1982 Constitution Act, was that it cannot veto a bill coming from the House that is designed to reform the Senate.

In reality, the Senate exercises self-restraint because its members are appointed rather than elected and therefore, lack democratic legitimacy. In the last decade, there has been a development that appears to have emboldened the Upper House and should give us pause.

In an attempt to bring about modest reform, the Trudeau government changed the appointment process in 2016. An Independent Advisory Board makes recommendation to the Prime Minister and the appointments are no longer made on a partisan basis. There is now a new category of "Independent Senators" who are not subject to party discipline and do not sit in any formal party caucus. (In fact, only Conservative Senators submit to party discipline.³

In this climate, the Senate has proposed several amendments to legislation including the Cannabis Act and the Canada Elections Act.

The foregoing discussion illustrates that tinkering with the current Senate can have serious consequences for the Canadian political system and yet, there is no appetite to embark on amendment to the constitution. Equally daunting is the prospect of abolition because it removes an albeit imperfect, check on the almost unlimited power of a majority government in the Westminster-style parliamentary system.

Q.8 Opting Out of Federal Programs

- *Do you support the Government of Alberta working with the governments of other willing provinces to amend the Canadian Constitution to allow provinces to opt out of federal programs that intrude on provincial jurisdiction such as health care,*

³ Recently, Mark Carney has made some partisan appointments.

education, and social services, without a province losing any of the associated federal funding for use in its social programs?

What is interesting about this question is that opting out of federal programs does not require constitutional change and it has been an option since 1965. So far, only Quebec has availed itself of this mechanism.

Three decades ago, the Chretien government reiterated that provinces could opt out of future programs, with compensation, if they set up an equivalent program. This measure has never been constitutionalized, but is a matter of political practice.

At that time, Prime Minister Chretien also pledged that it would only create new shared-cost programs in areas of provincial jurisdiction, if it obtained agreement from a majority of the provinces.

Therefore, if a province chooses to opt out of a shared cost program, it must demonstrate that it is already delivering, or has plans to deliver, one that is comparable/equivalent to the federal proposal. It must also meet the objectives that the proposed program seeks to achieve.

Some scholars have argued that it is highly unlikely that Ottawa will embark on another pan-Canadian program like health care, in the future. In the 21st century, new programs relating to Childcare and Pharmacare have been established but they are built on a framework agreed to in principle, then implemented through separate bilateral deals negotiated individually with each province and territory.

Q.9 Provincial Primacy

- *Do you support the Government of Alberta working with the governments of other willing provinces to amend the Canadian Constitution to better protect provincial rights from federal interference by giving a province's laws dealing with provincial or shared areas of constitutional jurisdiction priority over federal laws when the province's laws and federal laws conflict?*

In a federal system, the constitution sets out the division of powers/jurisdiction assigned to the national (federal) and sub-national (provincial) governments. Most powers are exclusive to either government, but some are shared: in Canada, agriculture and immigration. Although the environment is not mentioned in the constitution, it is treated as an area of shared jurisdiction.

As mentioned at the outset, both federal and provincial governments can pass legislation on these shared powers, and in most federal systems, national legislation has primacy. In the Canadian case, federal legislation will prevail. However, this is not automatic as the Courts play a role in determining the breadth of federal authority.

This is another puzzling question because it also mentions areas under provincial jurisdiction. The federal government would not pass legislation in areas that fall within provincial authority.

While the beauty of a federal system is that it can accommodate differences among provinces, uniform, nation-wide rules and institutions make sense in some areas: For instance, critics argue that Canada would benefit from a national securities regulator, national standards for safe drinking water and a national agency to address increasingly destructive wildfires.

Let's suppose each province designed its own immigration policy. The outcome might be a patchwork of rules which would be confusing, triggering competition between provinces. This could distort and skew the labour market causing serious economic consequences.

Conclusion

By their very nature, referendums are divisive and the fissures they create will endure. However, in the current geo-political climate, the October 19 referendum will be polarizing in unprecedented ways. There is evidence from researchers at the University of Regina and the University of Alberta, that foreign actors, are targetting political discourse in the province. They are actively and intentionally spreading disinformation and creating false narratives to influence voters. Whether they originate from Russia, the US or elsewhere, there are sophisticated and systematic campaigns to amplify the grievances or perceived grievances of Albertans.

In this era of truth decay, the challenge will be to distinguish between neutral, objective information and "alternative facts". It is evident that the eyes of the world will be focused on Alberta as we make a decision that will reverberate far into the future.

Good luck Alberta!