

# CONSTITUTIONAL AMENDMENTS, APPROVED

## CHAPTER 718

### POLITICAL SUBDIVISION ARTICLE

Senate Concurrent Resolution No. 4002, chapter 665, 1981 Session Laws, proposed by the Forty-seventh Legislative Assembly of the State of North Dakota, creating a new article VII to the Constitution of the State of North Dakota, relating to political subdivisions; and to repeal the present article VII of the Constitution of the State of North Dakota, relating to municipal corporations, the election of a superintendent of schools for each county, and county and township organization.

#### STATEMENT OF INTENT

This amendment creates a new article on political subdivisions to provide for home rule to county and city government. A political subdivision could, by mutual agreement, transfer functions to the county in which it is located, and could revoke the transfer. County functions, rather than officers, would be stated in the Constitution.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,  
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed creation of a new article VII and the repeal of the present article VII of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the primary election to be held in 1982, in accordance with the provisions of section 45 of article IV of the Constitution of the State of North Dakota.

SECTION 1. A new article VII to the Constitution of the State of North Dakota is hereby created to read as follows:

#### ARTICLE VII POLITICAL SUBDIVISIONS

Section 1. The purpose of this article is to provide for maximum local self-government by all political subdivisions with a minimum duplication of functions.

Section 2. The legislative assembly shall provide by law for the establishment and the government of all political subdivisions. Each political subdivision shall have and exercise such powers as provided by law.

Section 3. The several counties of the state of North Dakota as they now exist are hereby declared to be counties of the state of North Dakota.

Section 4. The legislative assembly shall provide by law for relocating county seats within counties, but it shall have no power to remove the county seat of any county.

Section 5. Methods and standards by which all or any portion of a county or counties may be annexed, merged, consolidated, reclassified, or dissolved shall be as provided by law. No portion of any county or counties shall be annexed, merged, consolidated, or dissolved unless a majority of the electors of each affected county voting on the question so approve.

Section 6. The legislative assembly shall provide by law for the establishment and exercise of home rule in counties and cities. No home rule charter shall become operative in any county or city until submitted to the electors thereof and approved by a majority of those voting thereon. In granting home rule powers to cities, the legislative assembly shall not be restricted by city debt limitations contained in this constitution.

Section 7. The legislative assembly shall also provide by law for optional forms of government for counties, but no optional form of government shall become operative in any county until submitted to the electors thereof at a special or general election, and approved by a majority of those voting thereon.

Until one of the optional forms of county government is adopted by any county, the fiscal and administrative affairs of the county shall be governed by a board of county commissioners as provided by law.

Section 8. Each county shall provide for law enforcement, administrative and fiscal services, recording and registration services, educational services, and any other governmental services or functions as may be provided by law. Any elective county office shall be for a term of four years.

Section 9. Questions of the form of government to be adopted by any county or on the elimination or reinstatement of elective county offices may be placed upon the ballot by petition of electors of the county equal in number to twenty-five percent of the votes cast in the county for the office of governor at the preceding gubernatorial election.

Section 10. Agreements, including those for cooperative or joint administration of any powers or functions, may be made by any

political subdivision with any other political subdivision, with the state, or with the United States, unless otherwise provided by law or home rule charter. A political subdivision may by mutual agreement transfer to the county in which it is located any of its powers or functions as provided by law or home rule charter, and may in like manner revoke the transfer.

Section 11. The power of the governing board of a city to franchise the construction and operation of any public utility or similar service within the city shall not be abridged by the legislative assembly.

SECTION 2. REPEAL. Article VII of the Constitution of the State of North Dakota is hereby repealed.

Approved June 8, 1982

44,963 to 39,040

NOTE: This was measure No. 1 on the primary election ballot.

## CHAPTER 719

## SCHOOL TRUST FUND DEPOSIT AND USE

House Concurrent Resolution No. 3069, chapter 667, 1981 Session Laws, proposed by the Forty-seventh Legislative Assembly of the State of North Dakota, providing for the amendment of sections 1 and 2 of article IX of the Constitution of the State of North Dakota, relating to the deposit of bonus moneys received from mineral activities on common school lands in the appropriate permanent trust funds, and to the disposition of the interest and income of the common school trust fund and fines collected for violation of state laws.

## STATEMENT OF INTENT

The purpose of these amendments is to require any bonuses paid for mineral leases on state lands held in trust for the common schools or for state institutions to be deposited in the appropriate permanent trust fund; and to allow the common school trust fund distribution.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendments to sections 1 and 2 of article IX of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the primary election to be held in 1982, in accordance with the provisions of section 45 of article IV of the Constitution of the State of North Dakota.

SECTION 1. AMENDMENT. Section 1 of article IX of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 1. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise

appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual trust fund for the maintenance of the common schools of the state. Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, shall be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. Should a gift be made to an institution for a specific purpose, without designating a trustee, such gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide.

The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly to the exclusive use of the institution for which the funds were given.

The proceeds of all bonuses, or similar payments, made upon the leasing of coal, gas, oil, or any other mineral interests under, or reserved after sale of, grant lands for the common schools or institutional lands shall be deposited in the appropriate permanent trust fund as created by this section.

SECTION 2. AMENDMENT. Section 2 of article IX of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 2. The interest and income of this fund together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state, provided however, that if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund as provided by law.

Approved June 8, 1982

50,813 to 33,170

NOTE: This was measure No. 3 on the primary election ballot.

## CHAPTER 720

## COMPENSATION OF ELECTED OFFICIALS

Senate Concurrent Resolution No. 4088, chapter 668, 1981 Session Laws, proposed by the Forty-seventh Legislative Assembly of the State of North Dakota, creating a new section of the Constitution of the State of North Dakota, relating to compensation for services for elected members or officials of all three branches of government; and to repeal section 46 of article IV and section 14 of article V of the Constitution of the State of North Dakota, relating to the salaries of legislators and public officers.

## STATEMENT OF INTENT

This amendment provides that elected members of the legislature, elected state officials, and judges of the supreme court shall be paid for their services only such amount as may be set by law. Payment for travel and meals may not exceed the amounts allowed for other state employees.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,  
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed creation of a new section of the Constitution of the State of North Dakota, and the repeal of section 46 of article IV and section 14 of article V of the Constitution of the State of North Dakota, are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the primary election to be held in 1982, in accordance with the provisions of section 45 of article IV of the Constitution of the State of North Dakota.

SECTION 1. A new section of the Constitution of the State of North Dakota is hereby created to read as follows:

The legislative, executive, and judicial branches are co-equal branches of government. Elected members and officials of each branch shall receive as compensation for their services only such amounts as may be specifically set by law. Payment for necessary expenses shall not exceed those allowed for other state employees.

SECTION 2. REPEAL. Section 46 of article IV and section 14 of article V of the Constitution of the State of North Dakota are hereby repealed.

Approved June 8, 1982

45,470 to 38,362

NOTE: This was measure No. 4 on the primary election ballot.

## CHAPTER 721

## EMINENT DOMAIN PAYMENT CHOICE

Senate Concurrent Resolution No. 4027, chapter 670, 1981 Session Laws, proposed by the Forty-seventh Legislative Assembly of the State of North Dakota, providing for the amendment of section 16 of article I of the Constitution of the State of North Dakota, relating to eminent domain.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,  
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to section 16 of article I of the Constitution of the State of North Dakota is agreed to and shall be submitted to the qualified electors of the State of North Dakota at the general election to be held in 1982, in accordance with the provisions of section 45 of article IV of the Constitution of the State of North Dakota.

SECTION 1. AMENDMENT. Section 16 of article I of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 16. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, unless the owner chooses to accept annual payments as may be provided for by law. No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, unless the owner chooses annual payments as may be provided by law, irrespective of any benefit from any improvement proposed by such corporation, ~~which compensation.~~ Compensation shall be ascertained by a jury, unless a jury be waived, provided however, that when. When the state or any of its departments, agencies or political subdivisions seeks to acquire right of way, it may take possession upon making an offer to purchase and by depositing the amount of such offer with the clerk of the district court of the county wherein the right of way is located. The clerk shall immediately notify the owner of such deposit. The owner may thereupon appeal to the court in the manner provided by law, and may have a jury trial, unless a jury be waived, to determine the damages, which damages the owner may choose to accept in annual payments as may be provided for by law. Annual payments shall not be subject to escalator clauses but may be supplemented by interest earned.

Approved November 2, 1982

176,464 to 57,203

NOTE: This was measure No. 2 on the general election ballot.

## CHAPTER 722

## OBSOLETE CONSTITUTIONAL REFERENCES

Senate Concurrent Resolution No. 4004, chapter 671, 1981 Session Laws, proposed by the Forty-seventh Legislative Assembly of the State of North Dakota, providing for the amendment of sections 7, 10, and 13 of article IX and section 9 of article X of the Constitution of the State of North Dakota, relating to obsolete references in sections concerning appraisal and sale of institutional lands, the location of the school for the blind, and the tax levy to insure owners of growing crops against losses by hail.

## STATEMENT OF INTENT

This amendment removes obsolete references in sections concerning appraisal and sale of institutional lands, the location of the school for the blind, and the tax levy to insure owners of growing crops against losses by hail. It also transfers power to determine the location of the school for the blind from the former board of administration to the legislative assembly.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,  
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendments to sections 7, 10, and 13 of article IX and section 9 of article X of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the general election to be held in 1982, in accordance with the provisions of section 45 of article IV of the Constitution of the State of North Dakota.

SECTION 1. AMENDMENT. Section 7 of article IX of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 7. All lands mentioned in the preceding section received by the state for any specific educational or charitable institution shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above in this constitution for the appraisal

and sale of lands for the benefit of common schools; ~~but.~~ However, a distinct and separate account shall be kept by the proper officers of each of said funds; ~~provided, that~~ and the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

SECTION 2. AMENDMENT. Section 10 of article IX of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 10. The legislative assembly shall have authority to may provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the state for purposes other than set forth and named in article IX, section 17 and section 159. And the. The legislative assembly in providing for the ~~appraisement~~ appraisal, sale, rental, and disposal of this the same shall not be subject to the provisions and limitations of this article IX, sections 1 through 11.

SECTION 3. AMENDMENT. Section 13 of article IX of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 13. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is allotted by law; namely:

1. A soldiers' home, when located, or such other charitable institution as the legislative assembly may determine, at the city of Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.
2. The blind asylum shall be known as the North Dakota school for the blind and may be removed from the county of Pembina to at the city of Grand Forks in the county of Grand Forks or at such other location as may be determined by the board of administration legislative assembly to be in the best interests of the students of such institution and the state of North Dakota.
3. A school of forestry, or such other institution as the legislative assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.
4. A scientific school of science or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton, in the county of Richland, with a grant of forty thousand acres.

5. A state ~~normal school~~ college at the city of Minot in the county of Ward.
6. a- A state ~~normal school~~ college at the city of Dickinson, in the county of Stark.
- b- 7. A state hospital for the ~~insane~~ mentally ill at such place within this state as shall be selected by the legislative assembly, ~~provided, that no~~ provided, that no.

No other institution of a character similar to any one of those located by article IX, section 12, or this article section shall be established or maintained without a ~~revision~~ an amendment of this constitution.

SECTION 4. AMENDMENT. Section 9 of article X of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 9. The legislative assembly may by law provide for the levy of a tax upon ~~such~~ lands as may be ~~provided~~ by law ~~of~~ within the state for the purpose of creating a fund to insure the owners of growing crops against losses by hail, ~~provided, that such tax shall not affect the tax of four mills levied by the constitution.~~ The legislative assembly may classify ~~such~~ lands ~~of~~ within the state as may be ~~provided~~ by law, and divide the state into districts on such basis as shall seem just and necessary, and may vary the tax rates in such districts in accordance with the risk, in order to secure an equitable distribution of the burden of ~~such~~ the tax among the owners of such land as may be ~~provided~~ by law lands.

Approved November 2, 1982

150,236 to 70,491

NOTE: This was measure No. 3 on the general election ballot.