

Fifty-fifth  
Legislative Assembly  
of North Dakota

**SENATE CONCURRENT RESOLUTION NO. 4031**

Introduced by

Senators Andrist, Cook, Grindberg, Nething, B. Stenehjem

1 A concurrent resolution for the amendment of section 2 of article V, subsection 2 of section 6 of  
2 article VIII, and section 3 of article IX of the Constitution of North Dakota, relating to the  
3 elimination of the superintendent of public instruction and the tax commissioner as  
4 constitutionally elected officials, the nomination of candidates for the state board of higher  
5 education, and the composition of the board of university and school lands; to provide for  
6 application; and to provide an effective date.

**STATEMENT OF INTENT**

8 This amendment removes the superintendent of public instruction and the tax commissioner as  
9 constitutionally elected officials, removes the nomination procedure for selection of members of  
10 the state board of higher education, and designates the state auditor as a member of the board  
11 of university and school lands. This amendment becomes effective January 1, 2000.

**BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**

**REPRESENTATIVES CONCURRING THEREIN:**

14 That the following proposed amendments to section 2 of article V, subsection 2 of  
15 section 6 of article VIII, and section 3 of article IX of the Constitution of North Dakota are  
16 agreed to and must be submitted to the qualified electors of North Dakota at the primary  
17 election to be held in 1998, in accordance with section 16 of article IV of the Constitution of  
18 North Dakota.

19 **SECTION 1. AMENDMENT.** Section 2 of article V of the Constitution of North Dakota  
20 is amended and reenacted as follows:

21 **Section 2.** The qualified electors of the state at the times and places of choosing  
22 members of the legislative assembly shall choose a governor, lieutenant governor, agriculture  
23 commissioner, attorney general, auditor, insurance commissioner, three public service  
24 commissioners, secretary of state, ~~superintendent of public instruction, tax commissioner, and~~

1 treasurer. The legislative assembly may by law provide for a department of labor to be  
2 administered by a public official who may be either elected or appointed.

3 The powers and duties of the agriculture commissioner, attorney general, auditor,  
4 insurance commissioner, public service commissioners, secretary of state, ~~superintendent of~~  
5 ~~public instruction, tax commissioner,~~ and treasurer must be prescribed by law. If the legislative  
6 assembly establishes a labor department, the powers and duties of the officer administering  
7 that department must be prescribed by law.

8 **SECTION 2. AMENDMENT.** Subsection 2 of section 6 of article VIII of the Constitution  
9 of North Dakota is amended and reenacted as follows:

- 10 2. a. The state board of higher education consists of eight members. The governor  
11 shall appoint seven members who are qualified electors and taxpayers of the  
12 state, and who have resided in this state for not less than five years  
13 immediately preceding their appointments. These seven appointments are  
14 subject to confirmation by the senate.

15 The governor shall appoint as the eighth member of the board a  
16 full-time resident student in good academic standing at an institution under the  
17 jurisdiction of the state board. Except for the student member, no more than  
18 one person holding a bachelor's degree from a particular institution under the  
19 jurisdiction of the state board of higher education may serve on the board at  
20 any one time. Except for the student member, no person employed by any  
21 institution under the control of the board shall serve as a member of the board  
22 and no employee of any such institution may be eligible for membership on  
23 the state board of higher education for a period of two years following the  
24 termination of employment.

25 ~~The governor shall nominate from a list of three names for each~~  
26 ~~position, selected by action of four of the following five persons: the president~~  
27 ~~of the North Dakota education association, the chief justice of the supreme~~  
28 ~~court, the superintendent of public instruction, the president pro tempore of~~  
29 ~~the senate, and the speaker of the house of representatives and, with the~~  
30 ~~consent of a majority of the members elect of the senate, shall appoint from~~  
31 ~~the list to the state board of higher education seven members. The governor~~

1 shall ensure that the board membership is maintained in a balanced and  
2 representative manner. The term of office of members appointed to fill  
3 vacancies ~~at the expiration of said terms shall be for four years, and in the~~  
4 ~~case of vacancies otherwise arising, appointments shall be made only~~ is for  
5 the balance of the term of the members whose places are to be filled. A  
6 member may not be appointed to serve for more than two terms. If a member  
7 is appointed to fill a vacancy and serves two or more years of that term, the  
8 member is deemed to have served one full term.

9 b. ~~In the event~~ If any nomination made by the governor is not consented to and  
10 confirmed by the senate, the governor shall again nominate a candidate  
11 ~~selected from a new list.~~ The nomination ~~shall~~ must be submitted to the  
12 senate for confirmation and the proceedings ~~shall~~ must continue until an  
13 appointee has been confirmed by the senate or the session of the ~~legislature~~  
14 legislative assembly has adjourned.

15 c. If a term expires or a vacancy occurs when the ~~legislature~~ legislative  
16 assembly is not in session, the governor may appoint ~~from a list selected as~~  
17 ~~provided,~~ a member who shall serve until the opening of the next session of  
18 the ~~legislature~~ legislative assembly, at which time the appointment must be  
19 certified to the senate for confirmation. If the appointee is not confirmed by  
20 the thirtieth legislative day of the session, the office ~~shall be~~ is deemed vacant  
21 and the governor shall nominate another candidate for the office. The same  
22 proceedings ~~shall~~ must be followed as are set forth in this section. If the  
23 ~~legislature~~ legislative assembly is in session at any time within six months  
24 ~~prior to~~ before the date of the expiration of the term of any member, the  
25 governor shall nominate a successor ~~from a list selected as above set forth,~~  
26 within the first thirty legislative days of the session and upon confirmation by  
27 the senate the successor shall take office at the expiration of the incumbent's  
28 term. No person who has been nominated and whose nomination the senate  
29 has failed to confirm is eligible for an interim appointment. On or before July  
30 first of each year, ~~beginning in 1995,~~ the governor shall appoint a student  
31 member from a list of names recommended by the executive board of the

1 North Dakota student association for a term of one year, beginning on July  
2 first. A student member may not serve more than two consecutive terms.

3 **SECTION 3. AMENDMENT.** Section 3 of article IX of the Constitution of North Dakota  
4 is amended and reenacted as follows:

5 **Section 3.** The ~~superintendent of public instruction,~~ governor, attorney general,  
6 secretary of state, state auditor, and state treasurer comprise a board of commissioners, to be  
7 denominated the "board of university and school lands". Subject to ~~the provisions of~~ this article  
8 and any law that may be passed by the legislative assembly, the board has control of the  
9 appraisement, sale, rental, and disposal of all school and university lands, and the proceeds  
10 from the sale of ~~such~~ those lands ~~shall~~ must be invested as provided by law.

11 **SECTION 4. APPLICATION.** If approved by the voters, this measure does not affect  
12 any term of office to which an officer has been elected before the effective date of this Act.

13 **SECTION 5. EFFECTIVE DATE.** If approved by the voters, this measure becomes  
14 effective on January 1, 2000.