

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 622

SENATE CONCURRENT RESOLUTION NO. 4012

(Senators Mathern, Triplett)

(Representative DeKrey)

STATE MILITIA

A concurrent resolution for the amendment of section 16 of article XI of the Constitution of North Dakota, relating to the definition of this state's militia; and to provide an effective date.

STATEMENT OF INTENT

This measure defines reserve and active militia and removes obsolete language in regard to age and gender in the reserve militia and removes residency requirements for membership in the active militia that is defined as the National Guard of North Dakota.

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

That the following proposed amendment to section 16 of article XI of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2006, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 16 of article XI of the Constitution of North Dakota is amended and reenacted as follows:

Section 16. The reserve militia of this state shall consist ~~consists~~ of all able-bodied ~~male persons~~ individuals eighteen years of age and older ~~residing in the state, between the ages of eighteen and forty-five years, except such as may be unless~~ exempted by the laws of the United States or of this state. ~~Persons~~ The active militia is the national guard of this state and consists of individuals who volunteer and are accepted unless exempted by the laws of the United States or of this state. An individual whose religious tenets or conscientious scruples forbid them that individual to bear arms shall may not be compelled to do so in times of peace, but that individual shall pay an equivalent for a personal service.

SECTION 2. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on August 1, 2006.

Filed April 7, 2005

NOTE: This will be measure No. 1 on the 2006 primary election ballot.

CHAPTER 623

HOUSE CONCURRENT RESOLUTION NO. 3055

(Representatives N. Johnson, Ekstrom, Keiser)

(Senators Klein, Krebsbach, Triplett)

CORPORATION VOTING AND REGULATION

A concurrent resolution for the amendment of sections 1, 2, and 6 of article XII of the Constitution of North Dakota, relating to regulation of corporations and to cumulative voting by corporate members or shareholders; to repeal sections 3, 4, 7, 8, 9, 11, 12, 13, 14, 15, and 17 of article XII of the Constitution of North Dakota, relating to regulation of business corporations; and to provide an effective date.

STATEMENT OF INTENT

This measure removes outdated or unnecessary provisions in the Constitution of North Dakota relating to business corporations and authorizes the legislative assembly to provide by law for regulation of corporations. This measure would take effect on July 1, 2006.

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

That the following proposed amendments to sections 1, 2, and 6 of article XII of the Constitution of North Dakota and the proposed repeal of sections 3, 4, 7, 8, 9, 11, 12, 13, 14, 15, and 17 of article XII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2006, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 1 of article XII of the Constitution of North Dakota is amended and reenacted as follows:

Section 1. The term "corporation", as used in this article, ~~shall not be understood as embracing~~ does not embrace municipalities or political divisions ~~subdivisions~~ of the state unless otherwise expressly stated; ~~but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.~~

SECTION 2. AMENDMENT. Section 2 of article XII of the Constitution of North Dakota is amended and reenacted as follows:

Section 2. ~~No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the state; but the~~ All corporations existing or hereafter chartered hold the charter subject to the provisions of this constitution. The legislative assembly shall may provide by general laws for the organization and regulation of all corporations hereafter to be created, and any such law, so passed enacted, shall be ~~is~~ subject to future repeal or ~~alteration~~ amendment.

SECTION 3. AMENDMENT. Section 6 of article XII of the Constitution of North Dakota is amended and reenacted as follows:

Section 6. ~~¶~~ Unless otherwise provided in the articles of incorporation, in all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his the member's or shareholder's votes for one candidate, or distribute them upon two or more candidates, as he the member or shareholder may prefer, provided, any cooperative corporation may adopt bylaws limiting the voting power of its stockholders.

SECTION 4. REPEAL. Sections 3, 4, 7, 8, 9, 11, 12, 13, 14, 15, and 17 of article XII of the Constitution of North Dakota are repealed.

SECTION 5. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on July 1, 2006.

Filed April 11, 2005

NOTE: This will be measure No. 2 on the 2006 primary election ballot.

CHAPTER 624

HOUSE CONCURRENT RESOLUTION NO. 3037

(Representatives R. Kelsch, Boucher, Kasper)
(Senators Grindberg, O'Connell)

COMMON SCHOOLS TRUST FUND

A concurrent resolution for the amendment of sections 1 and 2 of article IX of the Constitution of North Dakota, relating to distributions from and management of the common schools trust fund and the trust funds of other educational or charitable institutions; and to provide a contingent effective date.

STATEMENT OF INTENT

This measure requires that the permanent trust funds be managed to preserve their purchasing power, to provide stable distributions to fund beneficiaries, and to benefit fund beneficiaries. The measure changes trust fund distributions from interest and income earned by a fund to distributions based on a fund's average value, requires that all revenue produced by a trust fund be deposited in the fund, and provides for paying the costs of administration.

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

That the following proposed amendments to sections 1 and 2 of article IX of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2006, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 1 of article IX of the Constitution of North Dakota is amended and reenacted 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 must~~ 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 must~~ 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~~ If a gift be is made to an institution for a specific purpose, without designating a trustee, ~~such the~~ gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide. Revenues earned by a perpetual trust fund must be deposited in the fund. The costs of administering a perpetual trust fund may be paid out of the fund. The perpetual trust funds must be managed to preserve their purchasing power and to maintain stable distributions to fund beneficiaries.

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 North Dakota is amended and reenacted as follows:

Section 2. The interest and income of this fund Distributions from the common schools trust 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~~ must be faithfully used and applied each year for the benefit of the common schools of the state and no part of the fund ~~shall~~ must ever be diverted, even temporarily, from this purpose or used for any other purpose ~~whatever~~ other than the maintenance of common schools as provided by law. Distributions from an educational or charitable institution's trust fund must be faithfully used and applied each year for the benefit of the institution and no part of the fund may ever be diverted, even temporarily, from this purpose or used for any purpose other than the maintenance of the institution, as provided by law.

For the biennium during which this amendment takes effect, distributions from the perpetual trust funds must be the greater of the amount distributed in the preceding biennium or ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. Thereafter, biennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets' ending value for the fiscal year that ends one year before the beginning of the biennium and the assets' ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium.

SECTION 3. CONTINGENT EFFECTIVE DATE. If approved by the voters, this measure becomes effective on the July first following the date on which the attorney general certifies to the secretary of state that the United States Congress has by amendment removed all inconsistent provisions found in the 1889 Enabling Act [Act of Feb. 22, 1889, ch. 180, 25 Stat. 676] and the 1862 Morrill Act [Act of July 2, 1862, ch. 130, 12 Stat. 503; 7 U.S.C. §§ 301- 308].

Filed April 7, 2005

NOTE: This will be measure No. 1 on the 2006 general election ballot.