

CONSTITUTIONAL AMENDMENTS, DISAPPROVED

CHAPTER 789

REFERRED MEASURE AMENDMENT OR REPEAL VOTE

Senate Concurrent Resolution No. 4005, chapter 781, 1987 Session Laws, proposed by the Fiftieth Legislative Assembly of the State of North Dakota, for the amendment of section 8 of article III of the Constitution of the State of North Dakota, relating to the requirement that a measure approved by the electors may not be repealed or amended by the legislative assembly for seven years except by a two-thirds vote.

STATEMENT OF INTENT

An initiated or referred measure approved by the electors may not be repealed or amended by the legislative assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house. This amendment would remove that prohibition for referred measures.

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

That the following proposed amendment to section 8 of article III 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 first statewide special election held following the passage of this resolution or, if no special election is held prior to it, at the primary election to be held in 1988, in accordance with the provisions of section 16 of article IV of the Constitution of the State of North Dakota.

SECTION 1. AMENDMENT. Section 8 of article III of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 8. If a majority of votes cast upon an initiated or a referred measure are affirmative, it shall be deemed enacted. An initiated or referred measure which is approved shall become law thirty days after the election, and a referred measure which is rejected shall be void immediately. If conflicting measures are approved, the one receiving the highest number of affirmative votes shall be law. ★ An initiated measure approved by the electors may not be repealed or amended by the legislative assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

Disapproved June 14, 1988

29,803 to 67,477

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

CHAPTER 790

EXECUTIVE BRANCH ARTICLE

House Concurrent Resolution No. 3029, chapter 782, 1987 Session Laws, proposed by the Fiftieth Legislative Assembly of the State of North Dakota, to create a new article V of the Constitution of the State of North Dakota, relating to the executive branch of government, to the election, qualification, and compensation of executive officials, to the powers and duties of the governor, and to gubernatorial succession; to repeal the present article V of the Constitution of the State of North Dakota, relating to the executive branch of government, to the election and qualification of executive officials, to the powers and duties of the governor, and to gubernatorial succession; and to provide an effective date.

STATEMENT OF INTENT

This measure creates a new executive branch article for the constitution that retains all the current elected state officials. The amendment provides for the election and qualification of executive officials, for the powers and duties of the governor, and for gubernatorial succession. The amendment also repeals the present article V of the Constitution of the State of North Dakota, and provides that these changes will take effect on July 1, 1989.

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

That the following proposed creation of a new article V and the following proposed repeal of the present article V of the Constitution of the State of North Dakota are agreed to and must be submitted to the qualified electors of the State of North Dakota at the primary election to be held in 1988, in accordance with section 16 of article IV of the Constitution of the State of North Dakota.

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

The executive power is vested in a governor, who shall reside at the seat of government and shall hold office for the term of four years beginning in the year 1992, and until a successor is elected and qualified. The term begins on December fifteenth following the governor's election.

SECTION 2. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The qualified electors of the state at the times and places of choosing members of the legislative assembly shall choose a governor, lieutenant governor, agriculture commissioner, attorney general, auditor, insurance

commissioner, three public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer. The legislative assembly may by law provide for a department of labor to be administered by a public official who may be either elected or appointed.

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

SECTION 3. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The governor and the lieutenant governor must be elected on a joint ballot. Each vote cast for a candidate for governor is deemed cast also for the candidate for lieutenant governor running jointly with the candidate for governor. The joint candidates having the highest number of votes must be declared elected, but if two or more joint candidates have an equal and highest number of votes for governor and lieutenant governor, the legislative assembly at its next regular session shall in joint session choose one pair of such joint candidates for the offices. The returns of the election for governor and lieutenant governor must be made in the manner prescribed by law.

SECTION 4. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

To be eligible to hold an elective office established by this article, a person must be a qualified elector of this state, must be at least twenty-five years of age on the day of the election, and must have been a resident of this state for the five years preceding election to office. To be eligible to hold the office of governor or lieutenant governor, a person must be at least thirty years old on the day of the election. The attorney general must be licensed to practice law in this state.

SECTION 5. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The qualified electors shall choose the elected state officials at a time designated by the legislative assembly. The elected state officials shall serve until their successors are duly qualified. Terms of office are four years, except that terms of the public service commissioners are six years, so arranged that one of them is elected every two years. The terms of the governor and lieutenant governor begin on December fifteenth following their election.

If two or more candidates for any executive office receive an equal and highest number of votes, the legislative assembly in joint session shall choose one of them for the office.

SECTION 6. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The elected state officials and the chief executive officers of the principal departments shall hold office in the state capital.

SECTION 7. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The governor is the chief executive of the state. The governor shall have the responsibility to see that the state's business is well administered and that its laws are faithfully executed.

The governor is commander-in-chief of the state's military forces, except when they are called into the service of the United States, and the governor may mobilize them to execute the laws and to maintain order.

The governor shall prescribe the duties of the lieutenant governor in addition to those prescribed in section 11 of this article.

The governor may call special sessions of the legislative assembly.

The governor shall present information on the condition of the state, together with any recommended legislation, to every session of the legislative assembly.

The governor shall transact and supervise all necessary business of the state with the United States, the other states, and the officers and officials of this state.

The governor may grant reprieves, commutations, and pardons. The governor may delegate this power in a manner provided by law.

SECTION 8. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The governor may fill a vacancy in any office by appointment if no other method is provided by this constitution or by law. If, while the senate is recessed or adjourned, a vacancy occurs in any office that is filled by appointment with senate confirmation, the governor shall make a temporary appointment to the office. When the senate reconvenes the governor shall make a nomination to fill the office. Except on request of the senate, no nominee rejected by the senate may again be nominated for that office at the same session, nor may the nominee be appointed to that office during a recess or adjournment of the senate.

SECTION 9. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

Every bill passed by the legislative assembly must be presented to the governor for the governor's signature. If the governor signs the bill, it becomes law.

The governor may veto a bill passed by the legislative assembly. The governor may veto items in an appropriation bill. Portions of the bill not vetoed become law.

The governor shall return for reconsideration any vetoed item or bill, with a written statement of the governor's objections, to the house in which it originated. That house shall immediately enter the governor's objections upon its journal. If, by a recorded vote, two-thirds of the members elected to that house pass a vetoed item or bill, it, along with the statement of the governor's objections, must immediately be delivered to the other house. If,

by a recorded vote, two-thirds of the members elected to the other house also pass it, the vetoed item or bill becomes law.

While the legislative assembly is in session, a bill becomes law if the governor neither signs nor vetoes it within three legislative days after its delivery to the governor. If the legislative assembly is not in session, a bill becomes law if the governor neither signs nor vetoes it within fifteen days, Saturdays and Sundays excepted, after its delivery to the governor.

SECTION 10. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

Any governor of this state who asks, receives, or agrees to receive any bribe upon any understanding that the governor's official opinion, judgment, or action shall be influenced thereby, or who gives or offers, or promises the governor's official influence in consideration that any member of the legislative assembly shall give the member's official vote or influence on any particular side of any question or matter upon which the member may be required to act in the member's official capacity, or who menaces any member by the threatened use of the governor's veto power, or who offers or promises any member that the governor will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give the member's official vote or influence on any matter pending or thereafter to be introduced into either house of the legislative assembly, or who threatens any member that the governor will remove any person or persons from office or position with intent in any manner to influence the action of that member, must be punished in the manner now, or that may hereafter be, provided by law, and upon conviction thereof forfeits all right to hold or exercise any office of trust or honor in this state.

SECTION 11. A new section to a new article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

The lieutenant governor shall serve as president of the senate, and may, if the senate is equally divided on a question, vote on procedural and substantive matters. The lieutenant governor shall succeed to the office of governor when a vacancy occurs in the office of governor. If, during a vacancy in the office of governor, the lieutenant governor is unable to serve because of death, impeachment, resignation, failure to qualify, removal from office, or disability, the secretary of state shall act as governor until the vacancy is filled or the disability removed.

SECTION 12. REPEAL. The present article V of the Constitution of the State of North Dakota is hereby repealed.

SECTION 13. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on July 1, 1989.

Disapproved June 14, 1988

27,125 to 67,530

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

CHAPTER 791

REFERENDUM SUSPENSION OF TAX MEASURES

House Concurrent Resolution No. 3034, chapter 783, 1987 Session Laws, proposed by the Fiftieth Legislative Assembly of the State of North Dakota, for the amendment of section 5 of article III of the Constitution of the State of North Dakota, relating to the placement on an election ballot and suspension of operations of a referred tax measure.

STATEMENT OF INTENT

This amendment would provide that submission of a petition to refer a tax measure would not suspend its operation until the referred tax measure has been voted upon and successfully referred by a vote of the electorate.

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

That the following proposed amendment to section 5 of article III 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 1988, in accordance with the provisions of section 16 of article IV of the Constitution of the State of North Dakota.

SECTION 1. AMENDMENT. Section 5 of article III of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 5. An initiative petition ~~shall~~ must be submitted not less than ninety days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures, tax measures, and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

Disapproved November 8, 1988

104,832 to 157,783

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

CHAPTER 792

BOARD OF HIGHER EDUCATION

House Concurrent Resolution No. 3044, chapter 784, 1987 Session Laws, proposed by the Fiftieth Legislative Assembly of the State of North Dakota, for the amendment of subsections 2 through 8 of section 6 of article VIII of the Constitution of the State of North Dakota, relating to the appointment of members to and the powers and duties of the state board of higher education.

STATEMENT OF INTENT

This amendment updates the language relating to the appointment of members to and the powers and duties of the state board of higher education and removes the prohibition against having more than one graduate from the same institution on the state board of higher education.

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

That the following proposed amendments to subsections 2 through 8 of section 6 of article VIII 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 1988, in accordance with the provisions of section 16 of article IV of the Constitution of the State of North Dakota.

SECTION 1. AMENDMENT. Subsections 2 through 8 of section 6 of article VIII of the Constitution of the State of North Dakota are hereby amended and reenacted to read as follows:

2. a. The state board of higher education shall consist of seven members, with staggered seven-year terms continuing as those terms currently exist, all of whom shall be qualified electors and taxpayers of the state, and who shall have resided in this state for not less than five years immediately preceding their appointment, to be appointed by the governor, by and with the consent of and confirmed by the senate, from a list of names selected as hereinafter provided.

~~There shall not be on said board more than one graduate of any one of the institutions under the jurisdiction of the state board of higher education at any one time.~~ No person employed by any institution under the control of the board ~~shall may~~ serve as a member of the board, nor ~~shall may~~ any employee of any ~~such~~ institution be eligible for membership on the state board of higher education for a period of two years ~~following the termination of his after~~ employment.

~~On or before the first day of February, 1939, the~~ The governor shall nominate members to the board of higher education from a list of three names for each position, selected by the unanimous action of the president of the North Dakota educational association, the chief justice of the supreme court, and the superintendent of public instruction, ~~and, with the consent of a majority of the members elect of the senate, shall appoint from such list as such state board of higher education seven members, whose terms.~~ Terms shall commence on the first day of July, 1939, one of which terms and shall expire on the thirtieth day of June, 1940, and one on the thirtieth day of June in each of the years 1941, 1942, 1943, 1944, 1945, and 1946. The term of office of members appointed to fill vacancies at the expiration of said terms shall be each member is for seven years, and in the case of vacancies ~~otherwise arising, appointments shall may~~ be made only for the balance of the term of the members whose places are to be filled.

- b. In the event any nomination made by the governor is not consented to and confirmed by the senate as hereinbefore provided, the governor shall again nominate a candidate for ~~such the office, selected from a new list, prepared in the manner hereinbefore provided, which.~~ The nomination shall must be submitted to the senate for confirmation, and ~~said the proceedings shall must~~ be continued until such all appointments have been confirmed by the senate, or the session of the ~~legislature shall have~~ legislative assembly has adjourned.
- c. When any term expires or a vacancy occurs when the ~~legislature legislative assembly~~ is not in session, the governor may appoint from a list selected as hereinbefore provided, a member who shall serve until the opening of the next session of the ~~legislature legislative assembly, at which time his the~~ appointment shall must be certified to the senate for confirmation, as above provided; and if the appointment ~~be is~~ not confirmed by the thirtieth legislative day of ~~such the~~ session, ~~his the~~ office ~~shall be is~~ deemed vacant and the governor shall nominate from a list selected as hereinbefore provided, another candidate for ~~such the office and the same proceedings shall must~~ be followed as are above set forth; provided further, that when the ~~legislature shall be legislative assembly~~ is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate ~~his a~~ successor from a list selected as above set forth, within the first thirty days of ~~such the~~ session, and upon confirmation by the senate ~~such the~~ successor shall take office at the expiration of the term of the incumbent. No person ~~who has been nominated and whose nomination the senate has failed to confirm, shall be is~~ eligible for an interim appointment.
3. The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner ~~and according to the procedure~~ provided for the removal of the governor by impeachment proceedings.

4. Each appointive member of the state board of higher education shall receive ~~such~~ compensation as may be determined by the legislative assembly for the time actually spent devoted to the duties of ~~his~~ office; and, ~~in addition, shall receive his~~ necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of ~~his~~ office.
5. The ~~legislature~~ legislative assembly shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.
6. a. The state board of higher education shall ~~hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939; and shall organize and elect one of its members as president of such the board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall to hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.~~
b. The ~~said~~ state board of higher education ~~shall have~~ has full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. ~~In furtherance of its powers, the~~ The state board of higher education ~~shall have~~ has the power to delegate to its employees details of the administration of the institutions under its control. The ~~said~~ state board of higher education ~~shall have~~ has full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and to do ~~each and~~ everything necessary and proper for the efficient and economic administration of ~~said~~ state ~~educational~~ institutions of higher education.
- c. ~~Said~~ The board shall prescribe for all of ~~said~~ institutions of higher education standard systems of accounts and records and shall ~~biennially, and within six (6) months immediately preceding the regular session of the legislature, legislative assembly~~ make a report to the governor, covering in detail the operations of the educational institutions under its control.
- d. It shall be the duty of the heads of the several state institutions ~~hereinbefore mentioned, of higher education~~ to submit the budget requests for the ~~biennial~~ appropriations for ~~said the~~ institutions to ~~said the~~ state board of higher

education, ~~and said.~~ The state board of higher education shall consider ~~said~~ the budgets and shall revise the same as in its judgment ~~shall be for~~ will serve the best interests of the educational system of the state ~~and thereafter the.~~ The state board of higher education shall prepare and present to the ~~state budget board~~ governor and to the ~~legislature~~ legislative assembly a single unified budget covering the needs of all the institutions under its control. ~~"Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a."~~ The appropriations for all of ~~said~~ institutions of higher education shall be contained in one legislative measure, except as otherwise allowed by law. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

- e. The ~~said~~ state board of higher education ~~shall have~~ has the control of the expenditure of the funds belonging to, and allocated to such institutions and also those, or appropriated by the ~~legislature,~~ legislative assembly for the institutions of higher education in this state, ~~provided, however, except~~ that funds appropriated by the ~~legislature~~ legislative assembly and specifically designated for any one or more of such institutions, ~~shall~~ institution may not be used for any other institution.
7. a. The state board of higher education shall, ~~as soon as practicable,~~ appoint for a term of not to exceed three ~~(3)~~ years, a state commissioner of higher education, whose principal office ~~shall~~ must be at the state capitol, in the city of Bismarck. ~~Said~~ The commissioner of higher education ~~shall be~~ is responsible to the state board of higher education and ~~shall be~~ removable by ~~said~~ the board for cause.
 - b. The ~~state commissioner of higher education shall be a graduate of some reputable college or university,~~ and who by training and experience is familiar with the problems peculiar to higher education.
 - ~~c.~~ Such commissioner of higher education shall be the chief executive officer of ~~said~~ the state board of higher education, and shall perform such duties as shall be prescribed by the board.
8. This constitutional provision ~~shall be~~ is self-executing and ~~shall become~~ is effective without the necessity of legislative action.

Disapproved November 8, 1988

115,605 to 146,325

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