

# CONSTITUTIONAL AMENDMENTS, PROPOSED

## CHAPTER 643

### SENATE CONCURRENT RESOLUTION NO. 4013

(Legislative Council)  
(Interim Judiciary Committee)  
(Senators Redlin, W. Stenehjem, Traynor)  
(Representatives Kretschmar, Brown)

### LIEUTENANT GOVERNOR LEGISLATIVE DUTIES ELIMINATED

A concurrent resolution for the amendment of sections 8 and 13 of article IV, section 7 of article V, and section 9 of article XI of the Constitution of North Dakota, relating to election of presiding officers of the legislative assembly, legislative procedures, powers and duties of the lieutenant governor, and impeachment proceedings; and to repeal section 13 of article XI of the Constitution of North Dakota, relating to impeachment proceedings.

#### STATEMENT OF INTENT

This amendment removes the lieutenant governor as presiding officer of the senate and provides that the presiding officer of the senate must be elected from the membership of the senate.

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

That the following proposed amendments to sections 8 and 13 of article IV, section 7 of article V, section 9 of article XI, and repeal of section 13 of article XI 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 1996, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 8 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 8.** ~~The Each~~ house of ~~representatives~~ shall elect one of its members to act as presiding officer at the beginning of each organizational session.

**SECTION 2. AMENDMENT.** Section 13 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 13.** Each house shall keep a journal of its proceedings, and a recorded ~~voted~~ vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a

majority of the members elected to each house; ~~and the lieutenant governor is considered a member elect of the senate when the lieutenant governor votes.~~

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly during its eighty natural meeting days takes effect on August first after its filing with the secretary of state, or if filed on or after August first and before January first of the following year ninety days after its filing, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

**SECTION 3. AMENDMENT.** Section 7 of article V of the Constitution of North Dakota is amended and reenacted as follows:

**Section 7.** The powers and duties of the lieutenant governor shall be ~~to serve as president of the senate; and he may, when the senate is equally divided, vote on procedural matters; and on substantive matters if his vote would be decisive.~~ ~~Additional duties shall be~~ prescribed by the governor. If, during the vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, or die, or from mental or physical disease, or otherwise become incapable of performing the duties of ~~his~~ office, the secretary of state shall act as governor until the vacancy ~~shall be~~ is filled or the disability removed.

**SECTION 4. AMENDMENT.** Section 9 of article XI of the Constitution of North Dakota is amended and reenacted as follows:

**Section 9.** All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. ~~When the governor or lieutenant governor is on trial, the presiding judge of the supreme court shall preside.~~

**SECTION 5. REPEAL.** Section 13 of article XI of the Constitution of North Dakota is repealed.

Filed March 24, 1995

NOTE: This will be measure No. 1 on the 1996 primary election ballot.

**CHAPTER 644**

**SENATE CONCURRENT RESOLUTION NO. 4018**

(Senator Heinrich)  
(Representative Rydell)

**STATE LAND AND MINERAL INTEREST EXCHANGES**

A concurrent resolution for the amendment of section 6 of article IX of the Constitution of North Dakota, relating to exchanges of state land and mineral rights.

**STATEMENT OF INTENT**

This amendment allows for the exchange of land and mineral interests between the board of university and school lands and private owners and Indian tribes and eliminate the requirement that the board of university and school lands reserve mineral rights in all land transfers.

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

That the following proposed amendment to section 6 of article IX 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 June 1996, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 6 of article IX of the Constitution of North Dakota is amended and reenacted as follows:

**Section 6.** No original grant school or institutional land shall be sold for less than the fair market value thereof, and in no case for less than ten dollars (\$10.00) per acre, provided that when lands have been sold on contract and the contract has been canceled, such lands may be resold without reappraisal by the board of appraisal. The purchaser shall pay twenty (20) percent of the purchase price at the time the contract is executed; thereafter annual payments shall be made of not less than six (6) percent of the original purchase price. An amount equal to not less than three (3) percent per annum of the unpaid principal shall be credited to interest and the balance shall be applied as payment on principal as credit on purchase price. The purchaser may pay all or any installment or installments not yet due to any interest paying date. If the purchaser so desires, he may pay the entire balance due on his contract with interest to date of payment at any time and he will then be entitled to proper conveyance.

All sales shall be held at the county seat of the county in which the land to be sold is situated, and shall be at public auction and to the highest bidder, and notice of such sale shall be published once each week for a period of three weeks prior to the day of sale in a legal newspaper published nearest the land and in the newspaper designated for the publication of the official proceedings and legal notices within the county in which said land is situated.

No grant or patent for such lands shall issue until payment is made for the same; provided that the land contracted to be sold by the state shall be subject to taxation from the date of the contract. In case the taxes assessed against any of said

lands for any year remain unpaid until the first Monday in October of the following year, the contract of sale for such land shall, if the board of university and school lands so determine, by it, be declared null and void. No contract of sale heretofore made under the provisions of this section of the constitution as then providing shall be affected by this amendment, except prepayment of principal may be made as herein provided.

Any of said lands that may be required for townsite purposes, schoolhouse sites, church sites, cemetery sites, sites for other educational or charitable institutions, public parks, airplane landing fields, fairgrounds, public highways, railroad right of way, or other railroad uses and purposes, reservoirs for the storage of water for irrigation, irrigation canals, and ditches, drainage ditches, or for any of the purposes for which private lands may be taken under the right of eminent domain under the constitution and laws of this state, may be sold under the provisions of this article, and shall be paid for in full at the time of sale, or at any time thereafter as herein provided. ~~Any of said lands and any other~~ lands controlled by the board of university and school lands, including state ~~coal~~ mineral interests, may, with the approval of ~~said~~ the board, be exchanged for lands and ~~coal~~ mineral interests of the United States, the state of North Dakota or any county or municipality thereof ~~as the legislature may provide, Indian tribe, or any private individual or entity,~~ and the lands so acquired shall be subject to the trust to which the lands exchanged therefor were subject; ~~and the state shall reserve all mineral and water power rights in land so transferred, except coal mineral interests approved for exchange by the board of university and school lands under this section.~~

When any of said lands have been heretofore or may be hereafter sold on contract, and the purchaser or his heirs or assigns is unable to pay in full for the land purchased within twenty years after the date of purchase and such contract is in default and subject to being declared null and void as by law provided, the board of university and school lands may, after declaring such contract null and void, resell the land described in such contract to such purchaser, his heirs or assigns, for the amount of the unpaid principal, together with interest thereon reckoned to the date of such resale at the rate of not less than three (3%) percent, but in no case shall the resale price be more than the original sale price; such contract of resale shall be upon the terms herein provided, provided this section shall be deemed self-executing insofar as the provisions for resale herein made are concerned.

Filed March 28, 1995

NOTE: This will be measure No. 2 on the 1996 primary election ballot.

## CHAPTER 645

HOUSE CONCURRENT RESOLUTION NO. 3030  
(Representative Maragos)

## COMPACT WITH UNITED STATES

A concurrent resolution to create and enact a new section to article XIII of the Constitution of North Dakota, relating to the compact with the United States; and for the amendment of sections 1 and 2 of article XIII of the Constitution of North Dakota, relating to jurisdiction over certain military reservations.

## STATEMENT OF INTENT

This amendment creates a new section to article XIII of the Constitution of North Dakota to incorporate by reference provisions of the Enabling Act of 1889 and eliminates language made unnecessary by the new section.

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

That the following proposed new section to article XIII and amendment to sections 1 and 2 of article XIII 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 June 1996, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

## Section 1.

- 1- Perfect toleration of religious sentiment shall must be secured, and no inhabitant of this state shall may ever be molested in person or property on account of his or her that person's mode of religious worship.
- 2- The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof; and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; provided, however, that the legislative assembly of the state of North Dakota may, upon such terms and conditions as it shall adopt, provide for the acceptance of such jurisdiction as may be delegated to the state by Act of Congress; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein, belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed;

any lands owned or held by any Indian who has severed his tribal relations; and has obtained from the United States or from any person; a title thereto; by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any Acts of Congress containing a provision exempting the lands thus granted from taxation; which last mentioned lands shall be exempt from taxation so long; and to such an extent; as is; or may be provided in the Act of Congress granting the same:

3. In order that payment of the debts and liabilities contracted or incurred by and on behalf of the territory of Dakota may be justly and equitably provided for and made; and in pursuance of the requirements of an Act of Congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota; South Dakota; Montana and Washington to form constitutions and state governments and to be admitted into the union on an equal footing with the original states; and to make donations of public lands to such states;" the states of North Dakota and South Dakota; by proceedings of a joint commission; duly appointed under said Act; the sessions whereof were held at Bismarck in said state of North Dakota; from July 16, 1889, to July 31, 1889, inclusive; have agreed to the following adjustment of the amounts of the debts and liabilities of the territory of Dakota which shall be assumed and paid by each of the states of North Dakota and South Dakota; respectively; to wit:

This agreement shall take effect and be in force from and after the admission into the union; as one of the United States of America; of either the state of North Dakota or the state of South Dakota:

The words "State of North Dakota" whenever used in this agreement; shall be taken to mean the territory of North Dakota in case the state of South Dakota shall be admitted into the union prior to the admission into the union of the state of North Dakota; and the words "State of South Dakota;" whenever used in this agreement; shall be taken to mean the territory of South Dakota in case the state of North Dakota shall be admitted into the union prior to the admission into the union of the state of South Dakota:

The said state of North Dakota shall assume and pay all bonds issued by the territory of Dakota to provide funds for the purchase; construction; repairs or maintenance of such public institutions; grounds or buildings as are located within the boundaries of North Dakota; and shall pay all warrants issued under and by virtue of that certain Act of the legislative assembly of the territory of Dakota; approved March 8; 1889; entitled "An act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

The said state of South Dakota shall assume and pay all bonds issued for the territory of Dakota to provide funds for the purchase; construction; repairs or maintenance of such public institutions; grounds or buildings as are located within the boundaries of South Dakota:

That is to say: The state of North Dakota shall assume and pay the following bonds and indebtedness; to wit:

Bonds issued on account of the hospital for the insane at Jamestown, North Dakota; the face aggregate of which is \$266,000; also bonds issued on account of the North Dakota university at Grand Forks, North Dakota; the face aggregate of which is \$96,700; also; bonds issued on account of the penitentiary at Bismarck, North Dakota; the face aggregate of which is \$93,600; also; refunding capitol building warrants dated April 1, 1889; \$83,507.46:

And the state of South Dakota shall assume and pay the following bonds and indebtedness; to wit:

Bonds issued on account of the hospital for the insane at Yankton, South Dakota; the face aggregate of which is \$210,000; also; bonds issued on account of the school for deaf mutes; at Sioux Falls, South Dakota; the face aggregate of which is \$51,000; also; bonds issued on account of the university at Vermillion, South Dakota; the face aggregate of which is \$75,000; also; bonds issued on account of the penitentiary at Sioux Falls, South Dakota; the face aggregate of which is \$94,300; also; bonds issued on account of the agricultural college at Brookings, South Dakota; the face aggregate of which is \$97,500; also; bonds issued on account of the normal school at Madison, South Dakota; the face aggregate of which is \$49,400; also; bonds issued on account of the school of mines at Rapid City, South Dakota; the face aggregate of which is \$33,000; also; bonds issued on account of the reform school at Plankinton, South Dakota; the face aggregate of which is \$30,000; also; bonds issued on account of the normal school at Spearfish, South Dakota; the face aggregate of which is \$25,000; also; bonds issued on account of the soldiers' home at Hot Springs, South Dakota; the face aggregate of which is \$45,000.

The states of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred; except those heretofore or hereafter incurred on account of public institutions; grounds or buildings; except as otherwise herein specifically provided:

The state of South Dakota shall pay to the state of North Dakota \$46,500; on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota; and in full of the undivided one-half interest of North Dakota in the territorial library; and in full settlement of unbalanced accounts; and of all claims against the territory; of whatever nature; legal or equitable; arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands; and the payment of said amount shall discharge and exempt the state of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had; which liability would be a liability of the territory of Dakota had such territory remained in existence; and which liability shall grow out of matters connected with any public institutions; grounds or buildings of the territory situated or located within the boundaries of the other state:

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of



the public institutions; grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889; and South Dakota shall be charged with all sums paid on account of public institutions; grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed state of North Dakota; shall be credited to the state of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed state of South Dakota shall be credited to the state of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations; since the 8th day of March, 1889; based upon earnings of years prior to 1888; under and by virtue of the Act of the legislative assembly of the territory of Dakota; approved March 7, 1889; and entitled; "An act providing for the levy and collection of taxes upon property of railroad companies in this territory," being chapter 107 of the Session Laws of 1889 (that is; the part of such sums going to the territory); shall be equally divided between the states of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into said treasury under and by virtue of the Act last mentioned; based on the gross earnings of the year 1888; shall be distributed as already provided by law; except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed state of North Dakota; and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed state of South Dakota; each state shall be credited also with all balances of appropriations made by the seventeenth legislative assembly of the territory of Dakota for the account of the public institutions; grounds or buildings situated within its limits remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned; each state shall at the time of such final adjustment of accounts; assume its share of said indebtedness as determined by the amount paid on account of the public institutions; grounds or buildings of such state in excess of the receipts from counties; municipalities; railroad corporations or persons within the limits of said state; as provided in this article; and if there should be a surplus at the time of such final adjustment; each state shall be entitled to the amounts received from counties; municipalities; railroad corporations or persons within its limits over and above the amount charged it.

And the state of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the territory of Dakota as is declared by the foregoing agreement to be its proportion thereof; the same as if such proportion had been originally created by said state of North Dakota as its own debt or liability.

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

Section 2. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina, and Fort

Totten, heretofore declared by the president of the United States; provided, legal process, civil and criminal, of this state, ~~shall extend~~ extends over ~~such~~ those reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of ~~such~~ those reservations. The legislative assembly may provide, upon the terms and conditions it adopts, for the acceptance of any jurisdiction as may be delegated to the state by act of Congress.

SECTION 3. A new section to article XIII of the Constitution of North Dakota is created and enacted as follows:

All other provisions of the Enabling Act of Congress approved on February 22, 1889, 25 United States Statutes at Large 676, chapter 180, and section 1 of this article of the Constitution of North Dakota, as section 1 existed immediately before the adoption of this section, are continued in effect as though fully recited and continue to be irrevocable without the consent of the United States and the people of this state.

Filed April 3, 1995

NOTE: This will be measure No. 3 on the 1996 primary election ballot.

**CHAPTER 646****HOUSE CONCURRENT RESOLUTION NO. 3009**

(Legislative Council)  
(Interim Judiciary Committee)  
(Representatives Brown, Klein)  
(Senator W. Stenehjem)

**EXECUTIVE BRANCH ARTICLE**

A concurrent resolution to create and enact a new article V of the Constitution 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 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 of North Dakota 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 North Dakota and provides that these changes will take effect on July 1, 1997.

**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 North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 1996, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

The executive power is vested in the governor, who shall reside in the state capital and shall hold the office for the term of four years beginning in the year 2000, and until a successor is elected and qualified.

**SECTION 2.** A new section to a new article V of the Constitution of North Dakota is created and enacted 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 North Dakota is created and enacted 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. If two or more joint candidates have an equal and highest number of votes for governor and lieutenant governor, the legislative assembly in joint session at its next regular session shall choose one pair of 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 North Dakota is created and enacted 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 North Dakota is created and enacted 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 other than for governor and lieutenant governor 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 North Dakota is created and enacted 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 North Dakota is created and enacted 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 maintain order.

The governor shall prescribe the duties of the lieutenant governor in addition to those prescribed in 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 regular and special 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 North Dakota is created and enacted 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 North Dakota is created and enacted 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 North Dakota is created and enacted as follows:

A governor 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 North Dakota is created and enacted as follows:

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.** If Senate Concurrent Resolution No. 4013 is not approved by the fifty-fourth legislative assembly, or if Senate Concurrent Resolution No. 4013 is approved by the fifty-fourth legislative assembly but is not approved by the qualified electors at the primary election held in 1996, then the following new section to a new article V of the Constitution of North Dakota is created and enacted as follows:

The lieutenant governor shall serve as president of the senate. If the senate is equally divided on a question, the lieutenant governor may vote on procedural matters and on substantive matters if the lieutenant governor's vote would be decisive.

**SECTION 13. REPEAL.** The present article V of the Constitution of North Dakota is repealed.

**SECTION 14. EFFECTIVE DATE.** If approved by the voters, this measure becomes effective on July 1, 1997.

Filed April 4, 1995

NOTE: This will be measure No. 4 on the 1996 primary election ballot.

**CHAPTER 647****SENATE CONCURRENT RESOLUTION NO. 4023**

(Senators Holmberg, W. Stenehjelm, Traynor)  
(Representative Kretschmar)

**BOARD OF HIGHER EDUCATION MEMBERSHIP**

A concurrent resolution for the amendment of subsection 2 of section 6 of article VIII of the Constitution of North Dakota, relating to the appointment and terms of members of the state board of higher education.

**STATEMENT OF INTENT**

This amendment reduces the term of office for members of the board of higher education from seven to four years and provides that members may not serve more than two terms. The amendment requires that the membership of the board be maintained in a balanced and representative manner, that no more than one person holding a bachelor's degree from a particular institution serve on the board at any one time, and that the president pro tempore of the senate and the speaker of the house be added to the nominating committee for the board of higher education.

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

That the following proposed amendment to subsection 2 of section 6 of article VIII of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1996, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Subsection 2 of section 6 of article VIII of the Constitution of North Dakota is amended and reenacted as follows:

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

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

The governor shall nominate from a list of three names for each position, selected by ~~the unanimous~~ action of four of the

following five persons: the president of the North Dakota ~~educational~~ education association, the chief justice of the supreme court, ~~and~~ the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for ~~seven~~ four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

- b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.
- c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature 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 a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.

Filed March 28, 1995

NOTE: This will be measure No. 1 on the 1996 general election ballot.



**CHAPTER 648****SENATE CONCURRENT RESOLUTION NO. 4014**

(Legislative Council)

(Interim Sovereign Immunity Committee)

(Senators Nething, Redlin, W. Stenehjem)

(Representatives Kretschmar, Aarsvold)

**SOVEREIGN IMMUNITY**

A concurrent resolution to create and enact a new section to the Constitution of North Dakota, relating to suits against the state and state employees; and to amend and reenact section 9 of article I of the Constitution of North Dakota, relating to suits against the state and state employees.

**STATEMENT OF INTENT**

This measure reinstates the doctrine of sovereign immunity.

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

That the following proposed new section and proposed amendment to section 9 of article I of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1996 in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 9 of article I of the Constitution of North Dakota is amended and reenacted as follows:

**Section 9.** All courts ~~shall~~ must be open, and every ~~man~~ person for any injury done ~~him in his~~ to lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial, or delay. ~~Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.~~

**SECTION 2.** A new section to the Constitution of North Dakota is created and enacted as follows:

Notwithstanding any other provision of the constitution, no suit may be brought against the state or an employee of the state acting within the employee's official capacity unless the legislative assembly provides by law the type of claims and the procedure through which those claims may be brought against the state or its employees.

Filed March 28, 1995

NOTE: This will be measure No. 2 on the 1996 general election ballot.

**CHAPTER 649**

**HOUSE CONCURRENT RESOLUTION NO. 3010**

(Legislative Council)  
(Interim Judiciary Committee)  
(Representatives Brown, Coats, Klein)

**HOUSE MEMBER TERMS**

A concurrent resolution for the amendment of sections 3 and 4 of article IV of the Constitution of North Dakota, relating to the term of members of the house of representatives; and to provide an effective date.

**STATEMENT OF INTENT**

These amendments change the term of members of the house of representatives from two years to four years and authorize the legislative assembly to establish a procedure whereby one-half of the members of the house of representatives are elected biennially. The amendments will take effect on July 1, 1997.

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

That the following proposed amendments to sections 3 and 4 of article IV 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 1996, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 3 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 3.** The legislative assembly shall establish by law a procedure whereby one-half of the members of the senate and one-half of the members of the house of representatives, as nearly as is practicable, are elected biennially.

**SECTION 2. AMENDMENT.** Section 4 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

**Section 4.** Senators and representatives must be elected for terms of four years ~~and representatives for terms of two years~~.

**SECTION 3. EFFECTIVE DATE.** If approved by the voters, this measure becomes effective on July 1, 1997.

Filed April 3, 1995

NOTE: This will be measure No. 3 on the 1996 general election ballot.