

# 1972 CONSTITUTION, DISAPPROVED

## CHAPTER 529

### 1972 CONSTITUTION AND ALTERNATE PROPOSITIONS

House Concurrent Resolution No. 16, chapter 595, 1969 Session Laws, proposed by the Forty-first Legislative Assembly of the State of North Dakota, provided for an amendment to the Constitution of the State of North Dakota, relating to the calling of a Constitutional Convention. This measure was approved by the electors on September 1, 1970. The second Constitutional Convention convened on January 3, 1972, and adopted the following proposed 1972 Constitution and alternate propositions on February 17, 1972:

#### PREAMBLE

We, the people of North Dakota, grateful to Almighty God and desiring to secure the blessings of civil and religious liberty for ourselves and our posterity, do ordain and establish this constitution.

#### ARTICLE I DECLARATION OF RIGHTS

##### Section 1. INALIENABLE RIGHTS.

All people are endowed with certain inalienable rights; among these are life, liberty and the pursuit of health and happiness.

##### Section 2. PURPOSE OF GOVERNMENT.

All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

### Section 3. RELIGIOUS FREEDOM.

The free exercise of religious belief and worship shall be forever guaranteed in this state.

### Section 4. FREEDOM OF SPEECH.

Freedom of the press and of all individuals to write, speak and publish their opinions on all subjects is guaranteed, and each must be responsible for the abuse of these freedoms.

### Section 5. FREEDOM TO ASSEMBLE.

The right of the people peaceably to assemble and to petition or address the government shall never be abridged.

### Section 6. SEARCHES AND SEIZURES.

All people have the right to be secure in their persons, houses, papers and other possessions against unreasonable search, seizure, invasion of privacy or unreasonable interception of communications by artificial sensory device. No warrant shall be issued but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

### Section 7. TRIAL BY JURY.

The right of trial by jury shall be secured to all and shall remain inviolate. A person accused of a crime for which he may be confined for a period of more than one year has the right of trial by a jury of twelve. The legislative assembly may determine the size of the jury for all other cases.

### Section 8. OPEN COURTS.

Courts shall be open to all, and every person shall have remedy by due process of law for any injury to his lands, goods, person, privacy or reputation. Right and justice shall be administered without denial or delay.

### Section 9. RIGHT TO KEEP ARMS.

The right of the citizens to keep arms for self defense, lawful hunting, recreational use and other lawful purposes shall not be abridged, but nothing herein shall be held to permit the unlawful carrying of concealed weapons.

### Section 10. INDICTMENT OR INFORMATION.

No person shall be proceeded against for a felony other than by indictment or information, except in cases arising in the military forces. In misdemeanor cases, offenses may be prosecuted by indictment, information or complaint. The legislative assembly may change, regulate or abolish the grand jury system.

### Section 11. SPEEDY TRIAL.

In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

### Section 12. BAIL.

All persons shall be bailable. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted. Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are imprisoned.

### Section 13. NO DEATH PENALTY.

Death shall not be prescribed as a penalty for any crime.

**Section 14. TREASON.**

Treason against the state shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

**Section 15. HABEAS CORPUS.**

The privilege of release from unlawful detention or unlawful imprisonment shall not be suspended unless, in case of rebellion or invasion, the public safety may require.

**Section 16. UNLAWFUL ACTS.**

No bill of attainder, ex post facto law or law impairing the obligations of contracts shall ever be enacted.

**Section 17. RIGHTS OF DEBTORS.**

The legislative assembly shall provide for the protection of the rights of debtors and shall provide that homesteads of heads of families or single persons and reasonable amounts and kinds of their personal property, as defined by law, shall be exempt from a forced sale. This section shall not be construed to prevent liens against a homestead for labor done and materials furnished for its improvement, in such manner as may be provided by law.

**Section 18. NO IMPRISONMENT FOR DEBT.**

No person shall be imprisoned for debt.

**Section 19. GRANTING PRIVILEGES OR IMMUNITIES.**

No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

**Section 20. UNIFORM OPERATION OF LAWS.**

All laws of a general nature shall have a uniform operation.

**Section 21. EMINENT DOMAIN.**

Private property shall not be taken or damaged for necessary public use without protecting the rights of the owner and without just compensation having first been made to the owner for all damages.

However, the legislative assembly may provide by law for the taking of property for right-of-way purposes for transportation, communication, and transmission of power for public service, by depositing estimated just compensation for all damages into court for the owner. The legislative assembly shall provide the procedure and fix the time limit for determination of damages, necessity and public use in such cases.

**Section 22. SUITS AGAINST THE STATE.**

Suits may be brought against the state and its political subdivisions for negligent injury to a person or his property, but the legislative assembly may provide for reasonable limitations.

**Section 23. NONDISCRIMINATION IN ACCOMMODATIONS.**

All persons are entitled to the full and equal enjoyment of the goods, services, privileges, advantages and facilities of any public accommodation, without discrimination based on race, sex, color, religion or national origin.

**Section 24. SERVICEMEN AND SERVICEWOMEN.**

The people of North Dakota declare that North Dakota servicemen and servicewomen may be given special considerations as determined by the legislative assembly.

**Section 25. NONDISCRIMINATION IN EMPLOYMENT.**

There shall be no discrimination against a qualified natural person's right to practice a trade or profession or a citizen's right to obtain or hold employment because of race, color, sex, creed, or membership or nonmembership in a trade, labor or professional organization.

**Section 26. CIVIL POWER SUPREME.**

The military shall be subordinate to the civil power.

**Section 27. SUPREME LAW.**

The Constitution of the United States is the supreme law of the land.

**Section 28. RIGHTS RETAINED.**

To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

**ARTICLE II  
ELECTIVE FRANCHISE**

**Section 1. ELECTIONS, VOTER QUALIFICATIONS.**

The general election of the state shall be held biennially as provided by law.

Every citizen of the United States, who has attained the age of eighteen years and who has been a resident of the state six months, of the county ninety days and of the precinct thirty days preceding an election, shall be a qualified elector. When an elector moves within the state he shall be entitled to vote in the precinct from which he moves until he establishes voting residence in another precinct. The legislative assembly shall provide by law for the determination of residence for voting eligibility, other than physical presence. No elector shall lose his residency for voting eligibility solely by reason of his absence from the state.

The legislative assembly shall provide by law for secrecy in voting, for absentee voting, for administration of elections and for the nomination of candidates.

**Section 2. VOTER DISQUALIFICATIONS.**

No person who has been declared mentally incompetent by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote; nor shall any person be qualified to vote if he is confined in a correctional institution or jail, or while under sentence for a crime punishable by confinement exceeding one year.

**Section 3. FAIR ELECTORAL SYSTEM.**

Every candidate for public office shall have a justiciable right to an electoral system that is not prejudicial to his candidacy.

**ARTICLE III  
POWERS RESERVED TO THE PEOPLE**

**If the electors approve alternate proposition 2A, then Alternate Proposition 2A of the Adoption Schedule containing Article III, Powers Reserved to the People, shall be placed in this constitution as Article III.**

**If the electors approve alternate proposition 2B, then Alternate Proposition 2B of the Adoption Schedule con-**

taining Article III, Powers Reserved to the People, shall be placed in this constitution as Article III.

#### ARTICLE IV LEGISLATIVE BRANCH

If the electors approve alternate proposition 1A, then Alternate Proposition 1A of the Adoption Schedule containing Article IV, Legislative Branch, shall be placed in this constitution as Article IV.

If the electors approve alternate proposition 1B, then Alternate Proposition 1B of the Adoption Schedule containing Article IV, Legislative Branch, shall be placed in this constitution as Article IV.

#### ARTICLE V EXECUTIVE BRANCH

##### Section 1. EXECUTIVE OFFICIALS AND OFFICERS.

The elected state officials shall be the governor, lieutenant governor, secretary of state, attorney general and three public service commissioners.

The governor and lieutenant governor shall be elected on a joint ballot. Each vote cast for a candidate for governor shall be deemed cast also for the candidate for lieutenant governor nominated jointly with him.

The chief executives of the principal departments, other than those elected or those chosen in a manner otherwise provided for in this constitution, shall be appointed by the governor and shall serve at his pleasure. They shall be confirmed or rejected by the senate upon a recorded vote of a majority of the members elected. Any nomination not confirmed or rejected by the senate within twenty session days after being received shall be deemed confirmed.

The legislative assembly may periodically review the principal executive departments and may by law change and prescribe the manner of selecting those chief executive officers appointed by the governor under the provisions of this article.

##### SECTION 2. ELECTIONS AND TERMS OF EXECUTIVE OFFICIALS.

The elected state officials shall be chosen by the electors at a time designated by the legislative assembly, and shall serve until their successors are duly qualified. Terms of office shall be four years, except that terms of the public service commissioners shall be six years, so arranged that one of them is elected every two years.

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 3. QUALIFICATIONS.

To be eligible to hold an elective office established by this article, a person must be an elector of this state, at least twenty-one years old, and must have been a resident of this state for the two years preceding his election. The attorney general must be licensed to practice law in this state.

##### Section 4. COMPENSATION.

The compensation of elected officials shall be as provided by

law, but shall not be diminished during the term for which they were elected.

#### Section 5. PLACE OF HOLDING OFFICE.

Elected state officials and the chief executive officers of the principal departments shall hold office at the seat of government.

#### Section 6. EXECUTIVE ORGANIZATION.

The legislative assembly shall allocate the executive power among not more than fifteen principal state departments, which shall be organized along broad functional lines. The executive power of each department shall be vested in one person unless otherwise provided by this constitution or by law. The legislative assembly shall prescribe the duties of and periodically reorganize the executive departments, provided any reorganization or change in duties shall not affect the organization and powers granted to the boards of education in this constitution.

The governor may, for more effective administration, make changes in the statutory allocation of functions, powers and duties among and within the executive departments, other than those headed by constitutionally elective officials. Any change shall be set forth in an executive order and submitted to both houses of the legislative assembly on the same day. The legislative assembly shall have thirty session days to disapprove the order. If not disapproved by a majority of the members elected to either house, the order shall have the force of law when filed with the secretary of state or on a later date specified therein.

#### Section 7. STATE PLANNING COUNCIL.

The chief executives of the principal state departments shall constitute the state planning council. The governor shall be chairman of the council and the lieutenant governor shall be vice chairman. The council shall prepare a comprehensive state plan based on the comprehensive plan for each department.

#### Section 8. POWERS AND DUTIES OF THE GOVERNOR.

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

He shall present the comprehensive state plan, and his own recommendations, to the legislative assembly at the beginning of each session and at any other time he chooses.

He may call special sessions of the legislative assembly.

He may require information in writing from all executive officials and officers concerning the performance of their respective duties.

He shall prescribe the duties of the lieutenant governor.

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

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

He may supervise business with the United States and other states.

#### Section 9. GOVERNOR — VETO POWER.

Every bill passed by the legislative assembly shall be presented to the governor for his signature. If the governor signs the bill it shall become law.

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

The governor shall return for reconsideration any vetoed item or bill, with a statement of his 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 shall 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 shall become law. An item reduced in amount shall follow the same procedure as a vetoed item or bill, except that it shall be restored to its original amount if passed by a majority of the members elected to each house. If a reduced item is not restored, it shall become law in the reduced amount.

While the legislative assembly is in session, a bill shall become law if the governor neither signs nor vetoes it within five days, Sundays excepted, after its delivery to him. If the legislative assembly is not in session, a bill shall become law if the governor neither signs nor vetoes it within fifteen days, Sundays excepted, after its delivery to him.

#### Section 10. VACANCIES.

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 which is filled by appointment with senate confirmation, the governor shall make a temporary appointment to the office. When the senate reconvenes he shall make a nomination to fill the office. Except on request of the senate, no nominee rejected by the senate shall again be nominated for that office at the same session, nor shall he be appointed to that office during a recess or adjournment of the senate.

#### Section 11. GUBERNATORIAL SUCCESSION.

In the event of a vacancy, the order of succession to the office of governor shall be the elected lieutenant governor and thereafter as provided by law.

If the governor is unable to serve because of death, impeachment, resignation, failure to qualify, removal from office, or disability, the powers and duties of the governor shall devolve upon the official next in line of succession for the remainder of the term, or until the governor is acquitted or his disability removed.

If the governor-elect dies, resigns, or fails to qualify, the lieutenant governor-elect shall succeed to the office of governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor-elect shall serve as acting governor, and he shall succeed to the office of governor if the governor-elect does not assume his office within six months after the beginning of the term.

The legislative assembly shall by law specify by whom and by what procedures the ability of the governor, or anyone acting as governor, to serve or to resume office may be questioned and determined. The supreme court shall have original, exclusive and final jurisdiction to determine absence and disability of the governor or governor-elect, and to determine the existence of a vacancy in the office of governor and all questions concerning succession to the office or to its powers and duties.

## ARTICLE VI JUDICIAL BRANCH

### Section 1. JUDICIAL POWER.

The judicial power of the state is vested in a unified judicial sys-

tem consisting of a supreme court, a district court and other courts as may be provided by law.

#### Section 2. SUPREME COURT JURISDICTION.

The supreme court shall be the highest court of the state. It shall have appellate jurisdiction and the authority to issue, hear, determine and enforce such writs as are necessary to the proper exercise of its jurisdiction. The supreme court shall consist of five justices, one of whom shall be designated chief justice as provided by law. The supreme court shall make rules for the governing of, and prescribe procedures for, all courts. The chief justice shall exercise general superintending control over all courts.

#### Section 3. UNCONSTITUTIONALITY.

No legislative enactment of the state shall be declared unconstitutional unless at least four of the supreme court justices so decide.

#### Section 4. SUPREME COURT DECISIONS.

When a judgment or order is reversed, modified or confirmed by the supreme court, the reasons shall be concisely stated in writing, signed by the justices concurring, filed in the office of the clerk of the supreme court and preserved with a record of the case. Any justice dissenting may give the reason for his dissent in writing over his signature.

#### Section 5. APPEALS.

Appeals shall be allowed from decisions of lower courts to the supreme court under procedures as may be provided by law or by rule of court.

#### Section 6. ELECTION AND TERMS OF JUSTICES.

The justices of the supreme court shall be chosen by the electors of the state for ten-year terms, so arranged that one justice is elected every two years. They shall hold office until their successors are duly qualified and shall receive compensation as provided by law.

#### Section 7. DISTRICT COURT JURISDICTION.

The district court shall have original jurisdiction of all justiciable causes, except as otherwise provided by law, and such appellate jurisdiction as may be provided by law or by rule of the supreme court. The district court shall have authority to issue such writs as are necessary to the proper exercise of its jurisdiction.

#### Section 8. ELECTION AND TERMS OF DISTRICT COURT JUDGES.

The state shall be divided into judicial districts by order of the supreme court. In each district one or more judges shall be chosen by the electors of the district to be served. The term of office shall be six years. They shall hold office until their successors are duly qualified and shall receive compensation as provided by law.

#### Section 9. QUALIFICATIONS.

Supreme court justices and district court judges shall be citizens of the United States and residents of this state, shall be admitted to the bar in this state, and shall possess any additional qualifications prescribed by law. Judges of other courts shall be selected for such terms and shall have such qualifications as may be prescribed by law.

#### Section 10. RESTRICTIONS.

No supreme court justice or district court judge shall engage in the practice of law or hold any public office, elective or appointive, not judicial in nature.

**Section 11. DISQUALIFICATIONS.**

When any justice or judge is interested in any way in a pending cause or is unable to sit in court because he is physically or mentally incapacitated, the supreme court shall assign a judge, or retired justice or judge, to hear the cause.

**Section 12. REMOVAL.**

The legislative assembly shall establish by law a procedure for removal of justices and judges for misconduct in office or inability to perform the duties of office, whether willful or because of physical or mental disability or incompetency. Except for impeachment proceedings, the supreme court shall have original, exclusive and final jurisdiction in judicial removal proceedings. A supreme court justice being proceeded against shall be disqualified from acting in the proceedings, and a district court judge selected by the remaining justices shall act in his stead.

**Section 13. RETIREMENT.**

The legislative assembly may provide by law for the retirement of supreme court justices, district court judges and judges of other courts.

**Section 14. VACANCIES.**

A judicial nominating committee shall be established by law. Any vacancy in the office of supreme court justice or district court judge shall be filled by appointment by the governor from a list of candidates nominated by the committee, unless the governor calls a special election to fill the vacancy for the remainder of the term. An appointment shall continue until the next general election, when the office shall be filled by election for the remainder of the term.

**Section 15. CONFIRMATION.**

If no candidate other than the incumbent supreme court justice or district court judge has been nominated for that office, the ballot at the general election shall contain the question: "Shall (name of justice or judge) be retained in the office of (supreme court justice or district court judge)?" Unless a majority of votes cast on the question are affirmative, the office shall be deemed vacant at the end of the term and shall be filled as provided in this article.

## ARTICLE VII POLITICAL SUBDIVISIONS

**Section 1. PURPOSE.**

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

**Section 2. POLITICAL SUBDIVISIONS.**

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

**Section 3. COUNTIES.**

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

**Section 4. COUNTY SEATS.**

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

### Section 5. BOUNDARIES.

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

### Section 6. HOME RULE.

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

### Section 7. OPTIONAL FORMS.

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

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

### Section 8. COUNTY SERVICES.

Each county shall provide for law enforcement, administrative and fiscal services, recording and registration services, educational services and any other governmental services or functions as may be provided by law.

All elective county offices or any combinations thereof as they now exist shall continue to be elective county offices with four-year terms; however, any such county office or offices may be eliminated either by adoption of a home rule charter, or at a county-wide referendum by a majority of the electors voting on the question.

A referendum on elimination of county offices shall be provided for by law, and shall be mandatory in each county at the first statewide election held not less than two years after the effective date of this constitution and at least every ten years thereafter.

Whenever an office is eliminated, the county governing board may provide for any service rendered by that office.

### Section 9. REFERENDUM.

Questions on the form of government to be adopted by any county or on the elimination of county offices may be placed upon a referendum ballot either by a two-thirds vote of the members of the county governing board or by petition of electors of the county equal in number to fifteen percent of the votes cast in the county for the office of governor at the preceding general election, or as otherwise provided by law.

### Section 10. SERVICE AGREEMENTS.

Agreements, including those for cooperative or joint administration of any powers or functions, may be made by any political subdivision with any other political subdivision, with the state or with the United States, unless otherwise provided by law or home rule charter. A political subdivision may transfer to the county in which it is located any of its powers or functions unless prohibited by law or home rule charter, and may in like manner revoke the transfer.

### Section 11. UTILITY FRANCHISES.

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

## ARTICLE VIII EDUCATION

### Section 1. PUBLIC EDUCATION.

The legislative assembly shall provide for a uniform system of free public education.

The legislative assembly shall take other steps necessary to prevent illiteracy and to provide for special education and vocational education.

Schools and institutions so established shall be free from sectarian control. No money raised for support of public schools of the state shall be appropriated to or used for support of any sectarian school.

### Section 2. BOARD OF PUBLIC EDUCATION.

The state board of public education shall supervise a uniform system of elementary and secondary public education. The board shall perform other duties as provided by law.

The board shall consist of nine members, with staggered seven-year terms, appointed by the governor and confirmed by the senate in a manner provided by law.

The board shall appoint an executive officer, whose term and duties shall be prescribed by the board.

### Section 3. BOARD OF HIGHER EDUCATION.

The state board of higher education shall have full power, responsibility and authority to supervise, operate and control state institutions of higher learning. The board shall perform other duties as provided by law.

The legislative assembly may authorize tuition, fees and service charges to assist in financing state institutions of higher learning.

The board shall consist of nine members, with staggered seven-year terms, appointed by the governor and confirmed by the senate in a manner provided by law.

The board shall control the expenditure of all funds belonging to and appropriated to state institutions of higher learning and shall present a single unified budget request to the legislative assembly. Appropriations for all the institutions and for the board shall be contained in one legislative measure. The legislative assembly shall not reduce appropriations by the amount of any gift.

The budget and appropriation measure for the agricultural experiment stations and their substations and the cooperative extension divisions may be separate from that of the state educational institutions.

The board shall have the power to delegate to its employees details of administration of the institutions under its control.

The board shall appoint an executive officer, whose term and duties shall be prescribed by the board.

### Section 4. OPEN MEETINGS.

All meetings of the board of public education and the board of higher education shall be open and public unless a person whose rights are being considered requests that the meeting be closed

## ARTICLE IX TRUST LANDS

### Section 1. PUBLIC SCHOOL TRUST.

All lands granted by the United States for the support of elementary and secondary public schools of the state, and the proceeds from the sale of those lands, the proceeds of property that falls to the state by escheat and all other property acquired for the schools, except gifts and donations otherwise appropriated or qualified, shall be and remain a perpetual trust fund for the maintenance of the elementary and secondary public schools of the state.

The principal of this fund shall be retained and devoted to the trust purpose. The interest and income of this fund shall be used and applied each year for the benefit of the elementary and secondary public schools, apportioned as provided by law.

### Section 2. INSTITUTIONAL TRUSTS.

All lands granted by the United States for the support of educational or other public institutions of the state, and the proceeds from the sale of those lands, shall be and remain a perpetual trust fund for the maintenance of each institution, and may be commingled with similar funds for the same institution only, in a manner provided by law. The public institutions which received lands by the enabling act of Congress approved on February 22, 1889, shall retain such lands, but the trust fund of any institution which the state ceases to operate shall be apportioned among other existing educational or public institutions within the provisions of the enabling act.

The principal of these funds shall be retained and devoted to the trust purpose. The interest and income of each institutional trust fund held by the state shall be appropriated by the legislative assembly to the exclusive use of the institution to which the fund was allocated.

### Section 3. SALE OR LEASE.

The legislative assembly shall provide for the sale or lease at public auction of all properties held by the state in the school or other institutional trust funds, except that lands needed for public use may be sold at public sale for their fair market value. No interest in trust lands may be created by adverse possession or by occupation in the nature of adverse possession. In the sale of trust lands, the minerals, including but not limited to oil, gas, coal, cement materials, sodium sulphate, sand and gravel, road material, building stone, chemical substances, metallic ores, uranium ore and colloidal or other clays, shall be reserved and excepted to the state. Leases may be executed by the state for the extraction and sale of such materials in the manner and upon conditions which the legislative assembly may provide. The proceeds of all sales and mineral leases shall be credited to the trust fund from which the property was removed for sale purposes. Any trust lands may be exchanged for lands of the United States, or of the State of North Dakota or its political subdivisions, as provided by law.

### Section 4. PROTECTION.

The legislative assembly shall provide for the investment, safekeeping, transfer and disbursement of these trust funds.

## ARTICLE X FINANCE AND PUBLIC DEBT

### Section 1. RAISING OF REVENUES.

The legislative assembly shall provide for raising revenue

sufficient to defray the expenses of the state for each year. By a two-thirds vote of the members elected to each house, the legislative assembly may provide for an annual property tax based on value, for state purposes, for no longer than two years unless reenacted.

#### Section 2. NO SURRENDER OF TAX POWER.

Except as provided in this constitution, the power of taxation shall never be surrendered or suspended by any grant or contract to which the state, any political subdivision or any public agency is a party.

#### Section 3. LEGAL BASIS FOR TAXES.

No tax shall be levied except in pursuance of law. Every law imposing a tax shall state distinctly the object of the tax, to which only it shall be applied. Notwithstanding any provision of this constitution, taxes imposed on income or measured by income may be defined, measured and imposed by reference to the provisions of the laws of the United States as they may be or may become effective at any time, and the state laws may prescribe exceptions or modifications to any such provisions.

#### Section 4. PROPERTY ASSESSMENT.

All taxable property, except as provided in this section, shall be taxed or assessed in the taxing district in which it is situated as provided by law. While used for its intended purposes and unless otherwise provided by law, the property of railroads and public and private utilities, except property of highway common carriers, shall be taxed or assessed by a state board of equalization or its successor.

#### Section 5. TAX UNIFORMITY AND EXEMPTIONS.

Taxes shall be uniform upon the same class of property, including franchises, within the territorial limits of the authority levying the tax. The legislative assembly may by law define and exempt any or all classes of property. Property used exclusively for school, religious, cemetery, charitable or other public purposes shall be exempt from taxation. All taxes and exemptions in force when this constitution is adopted shall remain in force until otherwise provided by law.

#### Section 6. HIGHWAY FUND.

Revenue derived from excise and license taxation on gasoline, fuel and other energy sources, used to propel vehicles on public highways, and revenue derived from vehicle registration and license taxes imposed for the use of public highways, shall be used solely for payment of obligations incurred for construction, reconstruction, repair, operation and maintenance of public highways; except the legislative assembly shall provide for the deduction of funds from these revenues for enforcement of highway safety, driver education and tourist promotion, and for administrative and collection costs.

#### Section 7. STATE MONEYS.

Except as otherwise provided by this constitution or by law, all state moneys from whatever source derived shall be paid over monthly into the state treasury by the person responsible for the moneys and shall be deposited to the credit of the state, and shall be paid out and disbursed only as provided by law.

#### Section 8. STATE DEBT.

The state may issue debt obligations and guarantee the payment of such obligations and interest thereon. These debt obligations shall be payable from a source other than a statewide property

tax based on value, but the full faith and credit and taxing powers of the state may be pledged for the payment of these obligations if the primary source of revenue is not sufficient for that purpose.

Each issue and guarantee of debt obligations, for which the full faith and credit and taxing powers of the state are pledged, shall require approval by a three-fifths vote of the members elected to each house of the legislative assembly.

Except as otherwise provided in this constitution, any tax levied or other provision made to retire a debt obligation shall be irrepealable until the debt is paid.

#### Section 9. POLITICAL SUBDIVISION DEBT.

Any political subdivision may incur indebtedness not to exceed eight percent of the assessed value of the taxable property therein. By a sixty percent vote of the electors voting thereon, the debt limit may be increased an additional seven percent of the assessed value. The debt limits in this section shall not apply to obligations primarily payable from sources other than property taxes whether or not the full faith and credit and taxing power of the issuer is also pledged for the payment of the obligation and interest thereon. For purposes of this section "assessed value" shall be determined by methods or factors established by law.

Any political subdivision incurring indebtedness for which its full faith and credit and taxing power are pledged shall, at or before the time the debt is incurred, provide for an annual tax sufficient to pay the principal and interest thereon, and all laws or ordinances providing for the payment of the principal and interest of any debt shall be irrepealable until the obligation is paid.

#### Section 10. PUBLIC BUSINESS.

As provided by law the state or any of its political subdivisions, or any combination thereof, may undertake any business or enterprise, but only for the purpose of providing public services. Unless otherwise provided by law, any form of business or enterprise in operation when this constitution is adopted may be continued. Neither the state nor any political subdivision shall otherwise loan or give its credit to or in aid of any individual, association or corporation except as otherwise authorized in this constitution, and except for reasonable support of the indigent and for payment of adjusted compensation for veterans of the armed services as may be provided by law; nor shall the state or any of its political subdivisions subscribe to or become the owner of capital stock in any private association or corporation.

### ARTICLE XI GENERAL PROVISIONS

#### Section 1. NAME.

The name of this state is "North Dakota."

#### Section 2. BOUNDARY.

The State of North Dakota shall consist of all the territory included within the following boundary: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence southward up the main channel of the Red River of the North and the Bois de Sioux River to a point where the Bois de Sioux River intersects the seventh standard parallel north (approximately forty-five degrees fifty-six minutes north latitude); thence westward along said parallel to a point where it intersects twenty-seven degrees of longitude west of Washington, D. C. (approximately

one hundred four degrees three minutes west longitude); thence northward on said longitude to a point where it intersects the forty-ninth degree of north latitude; thence eastward along said latitude to the place of beginning. The boundary on the ground is more exactly defined by astronomical measurements at points on the boundary and surveys between boundary markers.

### Section 3. GREAT SEAL.

The following described seal is declared to be the Great Seal of the State of North Dakota: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left, a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo toward the setting sun; the foliage of the tree arched by a half-circle of forty-two stars, surrounded by the motto "Liberty and Union Now and Forever, One and Inseparable"; the words "Great Seal" at the top; the words "State of North Dakota" at the bottom; "October 1st" on the left and "1889" on the right. The seal shall be two and one-half inches in diameter.

### Section 4. STATE CAPITAL.

The seat of government of the State of North Dakota shall be at the city of Bismarck in the county of Burleigh.

### Section 5. ENVIRONMENT.

The public policy of the state and the duty of each person is to conserve, develop and utilize natural resources and public lands in order to provide a pleasant and healthful environment for the benefit of present and future generations. The legislative assembly shall provide by law for the implementation and enforcement of this policy.

Each person has the right to a healthful environment and may enforce this right against any party, governmental or private, through appropriate legal proceedings, subject to reasonable limitation and regulation as the legislative assembly may provide by law.

### Section 6. OMBUDSMAN.

The legislative assembly shall provide by law for an independent governmental agency to receive complaints against state agencies, officials and officers from aggrieved persons, to investigate and, in cases of justified complaints, to offer recommendations for remedy.

### Section 7. CORPORATIONS.

The legislative assembly shall provide by general laws for the organization of all corporations. No charter of incorporation shall be granted, modified or amended by special law, except in the case of municipal corporations or other corporations under the control of the state.

### Section 8. WATERS.

All surface and subsurface water shall forever remain the property of the people and be subject to appropriation for beneficial uses as provided by law.

### Section 9. OATH OR AFFIRMATION.

All elected officials, before they assume the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly (swear) (affirm) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability, (so help me God) (under pains and penalties of

perjury).” No other oath or declaration shall be required as a qualification for any office or public trust.

#### Section 10. CODE OF ETHICS.

A code of ethics for all nonjudicial state officials, officers, legislators and state employees, prohibiting conflict between public duty and private interest, shall be prescribed by law.

#### Section 11. IMPEACHMENT.

All judicial officials elected to represent more than one political subdivision and all elected state officials shall be subject to impeachment for crimes, corrupt conduct, malfeasance, or for continuing willful failure to perform the duties of office. The house of representatives shall have the sole power of impeachment by vote of a majority of the elected representatives. The senate shall have the sole power of trial in impeachment cases. A two-thirds vote of the elected senators shall be required for conviction.

No official shall exercise the duties of his office after he has been impeached and before his acquittal. No person shall be tried on impeachment before he has been served with a copy of the charge, at least twenty days previous to the day set for trial. No person shall be liable to impeachment twice for the same offense.

#### Section 12. REMOVAL FROM OFFICE.

All elected officials and appointed officers of the state and its political subdivisions, other than judicial officials, shall be subject to removal from office, as provided by law, for crimes, corrupt conduct, malfeasance, or because of chronic and continuing inability or willful failure to perform the duties of office.

The supreme court shall have original, exclusive and final jurisdiction of proceedings for removal of elected state officials and chief executive officers as provided by law.

#### Section 13. MILITARY FORCES.

The legislative assembly shall provide by law for establishment of the state's military forces.

### ARTICLE XII COMPACT WITH THE UNITED STATES

#### Section 1. RELIGIOUS SENTIMENT.

Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

#### Section 2. COMPACT.

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 203 of Article XVI of the North Dakota Constitution of 1889 as amended, are hereby continued in full force and effect as though fully herein recited and shall continue to be irrevocable without the consent of the United States and the people of this state.

#### Section 3. MILITARY RESERVATIONS.

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, civil and criminal legal process of this state shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States and over crimes

not committed within the limits of such reservations. The legislative assembly 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.

#### Section 4. LAND GRANTS.

Section 205 of Article XVI of the North Dakota Constitution of 1889, relating to land grants, is hereby continued in full force and effect as though fully herein recited.

### ARTICLE XIII TRANSITION SCHEDULE

#### Section 1. SCHEDULE TO BE REMOVED AS EXECUTED.

The following schedule provisions shall remain a part of this constitution only until their respective terms have been executed. On or before July 10 of each year the attorney general shall review the provisions of this schedule and shall certify to the secretary of state those that have been executed since the preceding review. Provisions so certified shall be removed from the schedule and no longer published as part of this constitution.

#### Section 2. GENERAL TRANSITION.

The rights and duties of all public bodies shall remain as if this constitution had not been adopted, with the exception of such changes as are contained in this constitution. All statutes, ordinances, administrative rules and regulations, and court rules not contrary to, or inconsistent with, the provisions of this constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this constitution. The validity of all public and private bonds, debts and contracts, and of all suits, actions and rights of action, shall continue as if no change had taken place. All officers filling any office by election or appointment shall continue to exercise the duties thereof, until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or laws enacted pursuant thereto.

#### Section 3. PROSPECTIVE OPERATION OF NEW PROCEDURAL AND SUBSTANTIVE RIGHTS.

Any procedural or substantive rights created for the first time by this constitution shall be prospective and not retroactive.

#### Section 4. GENERAL EFFECTIVE DATE.

Except as may be otherwise established by this schedule, the provisions of this constitution shall become effective on July 1, 1973, and the provisions of the constitution of 1889, as amended, shall be repealed, and of no further force and effect.

#### Section 5. ACCELERATED EFFECTIVE DATE.

1. The following provisions of the constitution of 1889 as amended shall be repealed, and of no further force and effect, on July 1, 1972:
  - A. The third paragraph of section 216 of Article XIX as follows:

"Third: An industrial school and school for manual training or such other educational or charitable institution as the legislative assembly may provide at the town of Ellendale, in the county of Dickey, with a grant of forty thousand acres."

B. Subsection 5 of section 1 of article 54 of the amendments as follows:

“(5) The Normal and Industrial School, at Ellendale.”

2. The following provisions of this constitution shall become effective on January 1, 1973, and provisions of the Constitution of 1889 as amended which are in conflict with these sections shall be deemed repealed as of January 1, 1973:
  - A. Sections 5, 6, 7, 8, 9, 10, 11 and 14 of Article IV, Legislative Branch.
  - B. Section 9 of Article V, Executive Branch.
  - C. Sections 6, 8 and 9 of Article X, Finance and Public Debt.
  - D. Article III, Powers Reserved to the People.

#### Section 6. DELAYED EFFECTIVE DATE.

The provisions of section 22 of Article I, Declaration of Rights, shall become effective on July 1, 1976. Section 1 of Article IV of the Unicameral Proposal, as in Alternate Proposition 1B, if adopted, shall become effective July 1, 1974.

#### Section 7. EXCEPTIONS AND PROVISOS.

The provisions of Article V, Executive Branch, shall become effective as set out in this schedule, provided that all executive officials elected in 1972, shall complete the term of office for which they were elected. The legislative assembly shall by law provide for continuity in the transition from the system of executive government in operation prior to adoption of this constitution, to that now prescribed, in a way which will assure orderliness and an effective program of executive organization under the terms of this article.

The provisions of Article VIII, Education, shall become effective as set out in this schedule, provided that the superintendent of public instruction elected in 1972 shall continue in office until the completion of his term. The board of public education shall not have the power to appoint an executive officer, until his term expires, unless a vacancy occurs after the board has been created.

The provisions of Article IV, Legislative Branch, sections 5, 6, 7, 8, 9, 10, 11 and 14 shall become effective as set out in this schedule, provided that the lieutenant governor shall preside over the senate for the entire session of the legislative assembly beginning in January, 1973.

### ARTICLE XIV ADOPTION SCHEDULE AND BALLOT

This article contains the text of the alternate propositions and the ballot form.

The alternate propositions approved by a majority of the electors voting separately thereon shall become a part of the 1972 constitution upon adoption. Alternate propositions rejected by a majority of the electors voting thereon shall not become a part of the 1972 constitution. This article shall not be published as a part of the constitution after adoption.

#### ALTERNATE PROPOSITION 1A. Two-house legislature (Bicameral)

If the electors approve alternate proposition 1A and also approve

the proposed constitution of 1972 then the following shall comprise Article IV, Legislative Branch:

**Section 1. LEGISLATIVE ASSEMBLY.**

The legislative power of the state is vested in a legislature consisting of a senate, composed of not more than forty-nine members, and a house of representatives, composed of not more than ninety-eight members, which jointly are designated as the Legislative Assembly of the State of North Dakota.

**Section 2. TERMS OF OFFICE.**

Members of the legislative assembly shall be elected for terms of four years.

**Section 3. QUALIFICATIONS.**

Each person elected to the legislative assembly must be, on the day of his election, an elector in the district from which he is chosen.

**Section 4. RESTRICTIONS.**

While serving in the legislative assembly, no member may hold any full-time elective state or political subdivision office nor any full-time appointive state office established by this constitution or designated by law. During the term for which he was elected, no legislator shall be appointed to any full-time office which has been created, or for which the compensation has been increased, by the legislative assembly during that term.

**Section 5. REAPPORTIONMENT.**

A legislative reapportionment commission, consisting of electors appointed by the district judges in a number and manner as shall be established by the district judges, shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The commission shall guarantee, as nearly as practicable, that every voter is equal to every other voter in the state in the casting of ballots for legislative candidates. One senator and at least two representatives shall be apportioned to each senatorial district and be elected at large or from subdistricts thereof. The commission may combine two senatorial districts and provide for the election of senators at large and representatives at large or from subdistricts thereof.

The commission shall prescribe its own procedures. Upon agreement by a majority of its members, the commission shall file its reapportionment plan with the secretary of state, and it shall become effective sixty days after the date of filing; provided, the supreme court, in the exercise of original jurisdiction, may review any plan adopted by the commission. If the plan fails to meet state or federal constitutional requirements, the court shall direct the commission to revise the plan within a stated time.

Commission members shall be appointed following adoption of this constitution and immediately following the 1980 general election and every ten years thereafter. No member of the legislative assembly shall be eligible, during his term of office, for appointment to the commission. Commission members shall serve until each reapportionment plan becomes finally effective, and shall be compensated as provided by law. Vacancies shall be filled in the same manner as for original appointment.

**Section 6. LEGISLATIVE ELECTIONS.**

The legislative assembly shall establish by law a procedure whereby one-half of the members of each house, as nearly as practicable, are elected biennially.

### Section 7. SESSIONS.

The terms of legislators shall begin on the first Tuesday after the third day of January following their election. The legislative assembly shall meet to organize on the same day and may meet in plenary session no more than eighty natural days during the biennium. The days need not be consecutive, and meetings for the purpose of impeachment or on call of the governor shall not count against the eighty-day limitation. The legislative assembly may authorize its committees to meet at any time during the biennium. Neither house may recess or adjourn for more than three days without consent of the other.

### Section 8. PROCEDURES.

The senate and the house of representatives shall each elect one of its members presiding officer at the beginning of each regular session.

A majority of the members elected to each house shall constitute a quorum. A smaller number may adjourn from day to day and may compel attendance of absent members in a manner, and under a penalty, as may be provided by law.

Each house is the judge of the qualifications of its members, but election contests shall be subject exclusively to judicial review as provided by law. If two or more candidates for the same office receive an equal and highest number of votes, the secretary of state shall choose one of them by lot.

Each house shall determine its rules of procedure, and may punish its members or other persons for contempt or disorderly behavior in its presence. With the concurrence of two-thirds of its elected members, either house may expel a member.

### Section 9. ENACTMENT OF LAWS.

Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those present. No bill shall become a law except by a recorded vote of a majority of the members elected to each house.

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

Every bill shall 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 shall 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 on the journal.

Every law enacted by the legislative assembly shall take effect on July first after its filing with the secretary of state or ninety days after its filing, whichever comes later, or on a subsequent date if specified in the law; unless, by a separate 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 shall take 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 shall take 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 shall be enacted, nor shall 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 10. OPEN SESSIONS.

All sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees, shall be open and public.

#### Section 11. IMMUNITIES.

Members of the legislative assembly shall be immune from arrest during their attendance at the sessions, and in going to or returning from the same, except in cases of felony or breach of the peace. For words used in any speech or debate in legislative proceedings, they shall not be questioned in any other place.

### SECTION 12. CONSTITUTIONAL AMENDMENTS, CONVENTIONS.

Any constitutional amendment may be proposed by the legislative assembly and, if agreed upon by a recorded vote of three-fifths of the members elected to each house, it shall be submitted to the electors at the next general election. If a majority of votes cast thereon are affirmative, the amendment shall be effective thirty days after the election.

The legislative assembly may by law submit to the electors the question: "Shall a constitutional convention be called?" If the question has not been submitted once in any thirty-year period, the secretary of state shall place it on the ballot at the next general election. If a majority of votes cast thereon are affirmative, the legislative assembly shall provide for the election of delegates and the holding of the convention.

#### Section 13. AUDITOR GENERAL.

The legislative assembly shall provide for the appointment of an auditor general. He shall audit the receipt, expenditure and use of public funds, as provided by law, and shall be responsible to the legislative assembly in the performance of those duties.

#### Section 14. COMPENSATION.

Each member of the legislative assembly shall receive a salary and expense allowances as provided by law, but no increase in the amounts thereof shall apply to the legislative assembly which enacts the increase.

#### ALTERNATE PROPOSITION 1B. One-house legislature (Unicameral)

If the electors approve alternate proposition 1B and also approve the proposed constitution of 1972 then the following shall comprise Article IV, Legislative Branch:

#### Section 1. LEGISLATIVE ASSEMBLY.

The legislative power of the state is vested in a single house, composed of no fewer than ninety-nine members, and designated as the Legislative Assembly of the State of North Dakota.

#### Section 2. TERMS OF OFFICE.

Members of the legislative assembly shall be elected for terms of four years.

#### Section 3. QUALIFICATIONS.

Each person elected to the legislative assembly must be, on the day of his election, an elector in the district from which he is chosen.

#### Section 4. RESTRICTIONS.

While serving in the legislative assembly, no member may hold any full-time elective state or political subdivision office nor any full-time appointive state office established by this constitution or designated by law. During the term for which he was elected, no legislator shall be appointed to any full-time office which has been created, or for which the compensation has been increased, by the legislative assembly during that term.

#### Section 5. REAPPORTIONMENT.

A legislative reapportionment commission, consisting of electors appointed by the district judges in a number and manner as shall be established by the district judges, shall fix the number of legislators and divide the state into legislative districts of compact and contiguous territory. No district shall elect more than four legislators, and the commission shall guarantee, as nearly as practicable, that every voter is equal to every other voter in the state in the casting of ballots for legislative candidates.

The commission shall prescribe its own procedures. Upon agreement by a majority of its members, the commission shall file its reapportionment plan with the secretary of state, and it shall become effective sixty days after the date of filing; provided, the supreme court, in the exercise of original jurisdiction, may review any plan adopted by the commission. If the plan fails to meet state or federal constitutional requirements, the court shall direct the commission to revise the plan within a stated time.

Commission members shall be appointed following adoption of this constitution and immediately following the 1980 general election and every ten years thereafter. No member of the legislative assembly shall be eligible, during his term of office, for appointment to the commission. Commission members shall serve until each reapportionment plan becomes finally effective, and shall be compensated as provided by law. Vacancies shall be filled in the same manner as for original appointment.

#### Section 6. LEGISLATIVE ELECTIONS.

The legislative assembly shall establish by law a procedure whereby one-half of the legislators, as nearly as practicable, are elected biennially.

#### Section 7. SESSIONS.

The terms of legislators shall begin on the first Tuesday after the third day of January following their election. The legislative assembly shall meet to organize on the same day and may meet in plenary session no more than eighty natural days during the biennium. The days need not be consecutive, and meetings for the purpose of impeachment or on call of the governor shall not count against the eighty-day limitation. The legislative assembly may authorize its committees to meet at any time during the biennium.

#### Section 8. PROCEDURES.

The legislative assembly shall elect one of its members presiding officer at the beginning of each regular session.

A majority of the members elected to the legislative assembly shall constitute a quorum. A smaller number may adjourn from day to day and may compel attendance of absent members in a manner, and under a penalty, as may be provided by law.

The legislative assembly is the judge of the qualifications of its members, but election contests shall be subject exclusively to judicial review as provided by law. If two or more candidates for the same office receive an equal and highest number of votes, the secretary of state shall choose one of them by lot.

The legislative assembly shall determine its rules of procedure, and may punish its members or other persons for contempt or disorderly behavior in its presence. With the concurrence of two-thirds of its elected members, it may expel a member.

#### Section 9. ENACTMENT OF LAWS.

The legislative assembly shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those present. No bill shall become a law except by a recorded vote of a majority of the elected members.

No bill shall embrace more than one subject, which shall be expressed in its title; but a law violating this provision shall be invalidated only to the extent the subject is not so expressed.

Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for each member. To be enacted or adopted, every bill or resolution shall have a public hearing and two considerations.

No bill shall 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 shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once on the journal.

Every law enacted by the legislative assembly shall take effect on July first after its filing with the secretary of state or ninety days after its filing, whichever comes later, or on a subsequent date if specified in the law; unless, by a separate vote of two-thirds of the members elected, the legislative assembly declares it an emergency measure and includes the declaration in the act. An emergency measure shall take 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 shall take 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 shall be enacted, nor shall 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 10. OPEN SESSIONS.

All sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees, shall be open and public.

#### Section 11. IMMUNITIES.

Members of the legislative assembly shall be immune from arrest during their attendance at the sessions, and in going to or returning from the same, except in cases of felony or breach of the peace. For words used in any speech or debate in legislative proceedings, they shall not be questioned in any other place.

#### Section 12. CONSTITUTIONAL AMENDMENTS, CONVENTIONS.

Any constitutional amendment may be proposed by the legislative assembly and, if agreed upon by a recorded vote of three-fifths of the elected members, it shall be submitted to the electors at the next general election. If a majority of votes cast thereon are affirmative, the amendment shall be effective thirty days after the election.

The legislative assembly may by law submit to the electors the question: "Shall a constitutional convention be called?" If the

question has not been submitted once in any thirty-year period, the secretary of state shall place it on the ballot at the next general election. If a majority of votes cast thereon are affirmative, the legislative assembly shall provide for the election of delegates and the holding of the convention.

Section 13. AUDITOR GENERAL.

The legislative assembly shall provide for the appointment of an auditor general. He shall audit the receipt, expenditure and use of public funds, as provided by law, and shall be responsible to the legislative assembly in the performance of those duties.

Section 14. COMPENSATION.

Each member of the legislative assembly shall receive a salary and expense allowances as provided by law, but no increase in the amounts thereof shall apply to the legislative assembly which enacts the increase.

ALTERNATE PROPOSITION 1B CONTINUED.

If the electors approve alternate proposition 1B then the following changes shall be made in the following articles and sections of the constitution prior to promulgation and publication.

Article III — Powers Reserved to the People.

Section 8.

The words "to each house" shall be deleted

Article V — Executive Branch.

Section 1.

The word "senate" appearing twice in the third paragraph shall be deleted and the words "legislative assembly" shall be substituted therefor

Section 2.

The words "in joint session" shall be deleted from the second paragraph

Section 6.

The second paragraph shall be deleted and the following paragraph shall be substituted therefor:

"The governor may, for more effective administration, make changes in the statutory allocation of functions, powers and duties among and within the executive departments, other than those headed by constitutionally elective officials. Any change shall be set forth in an executive order and submitted to the legislative assembly, which shall have thirty session days to disapprove the order. If not disapproved by a majority of the elected members, the order shall have the force of law when filed with the secretary of state or on a later date specified therein."

Section 9.

The first four sentences of paragraph three shall be deleted and the following shall be substituted therefor: "The governor shall return for reconsideration any vetoed item or bill, with a statement of his objections, to the legislative assembly, which shall immediately enter the governor's objections upon its journal. If, by a recorded vote of two-thirds of its elected members, the legislative assembly passes a vetoed item or bill, it shall become law."

The words "to each house" shall be deleted from the fifth sentence of paragraph three

## Section 10.

The second sentence shall be deleted and the following shall be substituted therefor: "If, while the legislative assembly is recessed or adjourned, a vacancy occurs in any office which is filled by appointment with confirmation by the legislative assembly, the governor shall make a temporary appointment to the office."

The word "senate" shall be deleted from the third sentence and the words "legislative assembly" shall be substituted therefor

The fourth sentence shall be deleted and the following shall be substituted therefor: "Except on request of the legislative assembly, no nominee rejected shall again be nominated for that office at the same session, nor shall he be appointed to that office during a recess or adjournment of the legislative assembly."

## Article VIII — Education.

## Section 2 and 3

The word "senate" appearing in the second paragraph of section 2 and in the third paragraph of section 3 shall be deleted and the words "legislative assembly" shall be substituted therefor

## Article X — Finance and Public Debt.

## Section 1.

The words "members elected to each house" shall be deleted and the words "elected members" shall be substituted therefor

## Section 8.

The words "each house of" shall be deleted from the second paragraph

## Article XI — General Provisions.

## Section 11.

The second, third and fourth sentence of paragraph one shall be deleted and the following shall be substituted therefor: "The legislative assembly shall have the power of impeachment by a vote of a majority of the members elected, but a vote of two-thirds of the members elected shall be required for conviction."

## ALTERNATE PROPOSITION 2A.

If the electors approve alternate proposition 2A and also approve the proposed constitution of 1972 then Article III, Powers Reserved to the People will provide as follows:

## Section 1. POWERS RESERVED.

Notwithstanding any other provision in this constitution, the people reserve these powers: to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict or impair these powers.

## Section 2. PETITION.

A petition to initiate or to refer a measure shall be presented to the secretary of state for approval as to form. A request for approval shall be presented over the names and signatures of

twenty-five or more electors as sponsors, one of whom shall be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

### Section 3. CIRCULATION.

The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

### Section 4. SIGNATURE REQUIREMENT.

The petition may be submitted to the secretary of state if signed by electors equal in number to two percent of the resident population of the state at the last federal decennial census.

### Section 5. SUBMISSION.

An initiative petition shall be submitted not less than ninety days before the general 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 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 general election or at a special election called by the governor.

### Section 6. CERTIFICATION.

The secretary of state shall determine the validity and sufficiency of the signatures. If he finds irregularities, he shall notify the sponsoring committee and allow twenty days for corrections, but this time shall not be used for the addition of signatures. If the secretary of state finds a petition valid and sufficient, he shall certify it and prepare a ballot containing the full text of the measure and a ballot title summarizing the measure. If he finds a referendum petition insufficient, the suspension of the measure shall end and it shall not be referred.

### Section 7. JUDICIAL REVIEW.

All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. If his decision is being reviewed at the time the ballot is prepared, he shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

### Section 8. ENACTMENT.

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. A 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.

**Section 9. INITIATED CONSTITUTIONAL AMENDMENT.**

A constitutional amendment may be proposed by initiative petition. If signed by electors equal in number to four percent of the resident population of the state at the last federal decennial census, the petition may be submitted to the secretary of state. All other provisions relating to initiative measures apply hereto.

**Section 10. RECALL.**

Any elected nonjudicial official of the state, of any county or of any legislative or county commissioner district shall be subject to recall by petition of electors equal in number to twenty-five percent of those who voted at the preceding general election for the office of governor in the state, county or district in which the official is to be recalled.

The petition shall be filed with the official with whom a petition for nomination to the office in question is filed, who shall call a special election if he finds the petition valid and sufficient. No elector may remove his name from a recall petition.

The name of the official to be recalled shall be placed on the ballot unless he resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which he was elected.

**ALTERNATE PROPOSITION 2B.**

If the electors approve alternate proposition 2B and also approve the proposed constitution of 1972 then Article III, Powers Reserved to the People will provide as follows:

**Section 1. POWERS RESERVED.**

Notwithstanding any other provision in this constitution, the people reserve these powers: to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict or impair these powers.

**Section 2. PETITION.**

A petition to initiate or to refer a measure shall be sponsored by at least five electors, who shall represent and act for the petitioners as the sponsoring committee. No law shall prohibit any person from giving or receiving compensation for circulating a petition, nor interfere with freedom in securing signatures.

**Section 3. CIRCULATION.**

The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

**Section 4. SIGNATURE REQUIREMENT.**

The petition may be submitted to the secretary of state if signed by ten thousand electors in the case of an initiated measure and seven thousand electors in the case of a referred measure.

**Section 5. SUBMISSION.**

An initiative petition shall be submitted not less than ninety days

before the general 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 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 general election or at a special election called by the governor.

#### Section 6. CERTIFICATION.

The secretary of state shall determine the validity and sufficiency of the signatures. If he finds irregularities, he shall notify the sponsoring committee and allow twenty days for corrections, but this time shall not be used for the addition of signatures. If the secretary of state finds a petition valid and sufficient, he shall certify it and prepare a ballot containing the full text of the measure and a ballot title summarizing the measure. If he finds a referendum petition insufficient, the suspension of the measure shall end and it shall not be referred.

#### Section 7. JUDICIAL REVIEW.

All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. If his decision is being reviewed at the time the ballot is prepared, he shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

#### Section 8. ENACTMENT.

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. A 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.

#### Section 9. INITIATED CONSTITUTIONAL AMENDMENT.

**A constitutional amendment may be proposed by initiative petition. If signed by twenty thousand electors, the petition may be submitted to the secretary of state. All other provisions relating to initiative measures apply hereto.**

#### Section 10. RECALL.

Any elected nonjudicial official of the state, of any county or of any legislative or county commissioner district shall be subject to recall by petition of electors equal in number to twenty-five percent of those who voted at the preceding general election for the office of governor in the state, county or district in which the official is to be recalled.

The petition shall be filed with the official with whom a petition for nomination to the office in question is filed, who shall call a special election if he finds the petition valid and sufficient. No elector may remove his name from a recall petition.

The name of the official to be recalled shall be placed on the ballot unless he resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be

deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which he was elected.

**ALTERNATE PROPOSITION 3.**

If the electors approve alternate proposition 3 and also approve the proposed constitution of 1972 then the following changes shall be made in the following article of the constitution prior to promulgation and publication:

Another section shall be added to Article I with the following wording:

“Section 28. ADULTS.

Persons eighteen years of age or older are declared to be adults for all purposes.”

Section 28 relating to “Rights Retained” shall be renumbered section 29.

**ALTERNATE PROPOSITION 4.**

If the electors approve alternate proposition 4 and also approve the proposed constitution of 1972 then the following change shall be made in the following article of the constitution prior to promulgation and publication:

Another section shall be added to Article XI with the following wording:

“Section 14. LOTTERIES.

The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall enact laws to prohibit the sale of lottery or gift enterprise tickets.”

**B A L L O T**

**Instructions to Voters**

1. The full text of the proposed 1972 constitution and the alternate propositions are available for inspection in the polling place.
2. Place an “X” in the boxes opposite the propositions for which you desire to vote.
3. The main proposition calls for a vote on the proposed 1972 constitution. If a majority of the voters vote “yes”, it shall be adopted. If a majority of the voters vote “no”, the proposed 1972 constitution shall not be adopted. You may vote on any or all of the alternate propositions. If the main proposition fails, the vote on the alternate propositions shall have no effect.

**MAIN PROPOSITION**

Shall the proposed 1972 Constitution be adopted? Yes

No

**ALTERNATE PROPOSITION NO. 1**

Which of the following provisions shall the proposed 1972 constitution contain concerning the legislative assembly? (Vote for one only)

- 1A Two-house legislature (Bicameral)
- 1B One-house legislature ((Unicameral)

ALTERNATE PROPOSITION NO. 2

Which of the following provisions shall the proposed 1972 constitution contain concerning the initiative and referendum? (Vote for one only)

- 2A Signatures of 2% of population (about 12,350) required for initiative and referendum; signatures of 4% of population (about 24,700) required for initiated constitutional amendment; 25 sponsors required; petition form must be approved by the secretary of state before petitions are circulated.
- 2B 10,000 signatures required for initiative; 7,000 signatures required for referendum; 20,000 signatures required for initiated constitutional amendment; 5 sponsors required.

ALTERNATE PROPOSITION NO. 3

Shall the proposed 1972 constitution contain the following provision?

- "Persons eighteen years of age or older are declared to be adults for all purposes." Yes
- No

ALTERNATE PROPOSITION NO. 4

Shall the proposed 1972 constitution contain the following provision?

- "The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall enact laws to prohibit the sale of lottery or gift enterprise tickets." Yes
- No

Disapproved April 28, 1972. 64,073 to 107,643

The vote on the alternate propositions was as follows:

Alternate Proposition No. 1	
1A.....	Approved 109,146
1B.....	Disapproved 48,217
Alternate Proposition No. 2	
2A.....	Approved 76,585
2B.....	Disapproved 71,062
Alternate Proposition No. 3 ..... Disapproved 63,223 to 102,151	
Alternate Proposition No. 4 ..... Disapproved 68,148 to 93,137	

NOTE: The 1972 Constitution was voted upon in a special election.