

CONSTITUTIONAL AMENDMENTS, DISAPPROVED

CHAPTER 583

POLITICAL SUBDIVISION DEDICATED REVENUE BONDS

Senate Concurrent Resolution "PP", chapter 516, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota for an amendment to the Constitution of the state of North Dakota, relating to the issuance of dedicated revenue bonds by the political subdivisions of the state, and providing for the methods of repayment thereof.

Be It Enacted by the People of the State of North Dakota:

Section 1. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Notwithstanding sections 175, 176, 179, 183, 184, and 185, or other provisions of this Constitution, political subdivisions of the state of North Dakota may incur indebtedness by the issuance of dedicated bonds for such purposes, amounts, manner, and subject to such limitations as shall be prescribed by law.

A dedicated bond as used in this section means an instrument of indebtedness, either incurred or to be incurred, for which certain taxes, moneys, income or revenue, except ad valorem taxes on either personal or real property, or special assessments on personal or real property, are irrevocably pledged and dedicated for the retirement of said indebtedness. The legislature shall prescribe the manner and conditions under which payments from any fund may be made in the event the dedicated funds are inadequate to pay principal or interest when due, or when default is imminent, and the manner and conditions in which repayments shall be made to the funds drawn upon. The legislature may substitute other funds for dedicated funds but it shall not destroy the effect of the pledged or dedicated revenues, moneys or income for any bond issue.

Nothing herein shall affect the obligations of municipal bonds payable in whole or in part from special assessments, or other taxes levied on all taxable property for the payment of any deficiency in special assessment bonds, or other funds pledged to payment of such bonds.

Disapproved September 3, 1968. 39,892 to 61,940

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

CHAPTER 584

LOWERING OF VOTING AGE

Senate Concurrent Resolution "00", chapter 515, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota to provide for amendment of section 121 of the Constitution of the state of North Dakota, relating to the elective franchise and lowering of the voting age from twenty-one to nineteen years of age.

Be It Enacted by the People of the State of North Dakota:

Section 1. Amendment.) Section 121 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 121. Every person of the age of nineteen or upwards who is a citizen of the United States and who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be a qualified elector at such election. Provided, that where a qualified elector moves from one precinct to another within the state, he shall be entitled to vote in the precinct from which he moves until he establishes his residence in the precinct to which he moves.

Disapproved September 3, 1968. 59,034 to 61,813

Note: This was constitutional measure No. 4 on the primary election ballot.

CHAPTER 585

SELECTION OF JUDGES

Senate Concurrent Resolution "UU" chapter 517, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota to provide for the amendment of sections 85, 90, 94, and 100 of the Constitution of the state of North Dakota, relating to the powers of the judiciary, changing the selection of judges from an elective to an appointive-elective system, preserving the tenure of judges presently in office and of those who would take office prior to the effective date of these amendments; to provide for the retirement, discipline, and removal of supreme and district court judges; and to provide for requirements to declare a law unconstitutional; providing for judicial districts, the judicial council, and to repeal sections 88, 89, 92, 93, 95, 97, 98, 102, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, and 118, relating to the procedures of state courts, all of such sections amended and repealed being a part of the Constitution of the state of North Dakota.

Be It Enacted by the People of the State of North Dakota:

Section 1. Amendment.) Section 85 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 85. The judicial power of the state shall be vested in a supreme court, district courts and divisions thereof, county courts and other courts as provided by law.

The supreme court shall consist of five justices, one of whom shall be chief justice; a majority of whom shall be necessary to form a quorum or pronounce a decision, provided that in no case shall any law be declared unconstitutional unless at least four of the justices shall so decide.

The chief justice of the supreme court shall be selected by the supreme and district court judges as provided by law.

The chief justice shall be the chief administrative officer of the judicial system with supervisory administrative authority over the operation of all courts and assignment of justices and judges.

Section 2. Amendment.) Section 90 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 90. A vacancy occurring in the office of a justice of the supreme court or judge of the district court shall be filled by the governor from a list of three nominees presented to him by the judicial nominating committee. If the governor should fail to make an appointment from such list within thirty days from the date it is presented to him, the appointment shall be made by the chief justice of the supreme court from the same list within fifteen days. At the next general election after the expiration of three years from the date of appointment and every ten years thereafter, justices of the supreme court shall be subject to approval by a majority vote of the electorate voting upon the question. At the next general election after the expiration of three years from the date of appointment and every six years thereafter, judges of the district court shall be subject to approval by a majority vote of the electorate voting upon the question. In the case of a justice of the supreme court, the electorate of the state shall vote upon the question of approval. In the case of a judge of the district court only the electorate of that district shall vote on the question of approval. All justices and judges shall hold their offices until their successors are duly qualified and shall receive such compensation for their services as prescribed by law.

There shall be a judicial nominating committee which shall select the nominees for appointment to the office of justice of the supreme court and judge of the district court. The committee shall not nominate any person who is, or within a period of one year has been, a member of the committee. The membership of such committee shall consist of the chief justice of the supreme court, who shall act as chairman, one attorney licensed to practice law from each judicial district who shall be selected by the attorneys licensed to practice law residing within such district; and one citizen from each judicial district, not an attorney licensed to practice law, appointed by the majority decision of the attorney general, the secretary of state and the governor. No member of the judicial nominating committee shall hold any elective office in the state, federal or county governments or hold office in any political party. The terms of office and compensation for members of the committee shall be provided by law.

Section 3. Amendment.) Section 94 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 94. All justices and all judges shall be citizens of the United States. No person shall be eligible to an appointment as district judge unless such person shall be a resident of this state and of the judicial district in which he shall serve and shall have been licensed to practice law in this state for at least five years prior to such appointment; no person shall be eligible to an appointment as a justice of the supreme court unless such person shall be a resident of this state and have been licensed to practice law in the state for at least ten years prior to such appointment or is a district judge. The legislative assembly may prescribe by law additional qualifications for justices of the supreme court and judges of the district court. Judges of other courts shall be selected in a manner, for such terms, and with such qualifications as shall be prescribed by law.

No justice or judge of the supreme court or district courts shall engage in the practice of law, or directly or indirectly make any contribution to, or hold office in a political organization or file for elective office other than judicial.

Section 4. Amendment.) Section 100 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 100. If any justice or judge of the supreme or district court shall have an interest in a case in his court or be unable to hear a case because of being physically or mentally incapacitated or declares himself disqualified, the chief justice may assign a justice or judge in such cases.

Section 5. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

There shall be a judicial council whose membership shall consist of all supreme court justices, all district judges and other judges and attorneys licensed to practice law in this state as may be provided by law. Its powers and duties shall be as prescribed by this Constitution and by law.

Section 6. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Any judge of the supreme or district court elected or appointed to the office prior to the effective date of these amendments shall serve the balance of his term and shall be eligible to succeed himself as provided by this Constitution and by law.

Section 7. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

A justice or judge of the supreme or district court may be censured, retired, or removed from his judicial office by a two-thirds vote of the supreme and district court judges, and a justice or judge of any other court may be censured, retired, or removed from his judicial office by a two-thirds vote of the membership of the judicial council for, but not limited to, the following:

1. Conviction in a court of this or any other state, or of the United States, of a crime punishable as a felony or a crime involving moral turpitude; or
2. Willful misconduct in a judicial office; or
3. Failure to perform judicial duties with reasonable dispatch; or
4. Habitual intemperance; or
5. Ceasing to be a resident of the state; or
6. Disability or incapacity seriously interfering with the performance of his duties and which is likely to be of a permanent nature; or
7. Lack of judicial competence in the performance of his duties.

The supreme and district court judges or the judicial council, whichever the case may be, may, after such investigations as they or it deems necessary, order a hearing to be held before them or it concerning the censure, retirement, or removal of such justice or judge, or they or it may in their or its discretion request the supreme court to appoint three special masters, who shall be judges of courts of record, to hear and take evidence, in any such matter and to report thereon to them or it. If, after hearing or after considering the record and report of the masters, they or

it find good cause therefor, they or it shall order censure, retirement, or removal as the case may be, of the justice or judge. Upon an order for retirement, the justice or judge shall thereby be promptly removed from office and his salary shall cease from the date of such order. Retirement age, rights, privileges and benefits shall be as prescribed by law.

Section 8. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following:

The state shall be divided into judicial districts as provided by law.

Section 9. Repeal.) Sections 88, 89, 92, 93, 95, 97, 98, 102, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, and 118 of the Constitution of the state of North Dakota are hereby repealed.

Disapproved September 3, 1968. 45,926 to 58,230

Note: This was constitutional measure No. 5 on the primary election ballot.

CHAPTER 586

CONSTITUTIONAL REVISION

House Concurrent Resolution "A", chapter 518, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota to provide for the amendment of sections 124, 125, 127, and 129, relating to the voting franchise and to repeal sections 122, 123, 126, and 128, relating to the voting franchise; to amend and reenact section 130, relating to municipal corporations; to repeal sections 132, 133, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, and 146, relating to other corporations; to repeal section 151, relating to education; to amend and reenact sections 153, 154, 155, and 156, relating to school and public lands and to repeal sections 157, 158, 159, 160, 161, 162, and 164, relating to school and public lands; to amend and reenact sections 168, 170, 172, and 173, relating to county and township organization; and to repeal section 166, relating to county and township organization; to amend and reenact sections 176 and 179, relating to revenue and taxation; to amend and reenact sections 185 and 186, relating to public debt and public works; to repeal section 187 and Articles 59 and 65, relating to public debt and public works; to amend and reenact section 202, relating to methods of amending the state Constitution; to amend and reenact Article 33 of the Amendments, relating to recall provisions; to amend and reenact section 212, relating to the exchange "black lists"; to repeal sections 209 and 214, relating to the labor of children and original legislative apportionment; to amend and reenact section 215, relating to public institutions, and to repeal section 216 and Article 19 of the Amendments, relating to public institutions; to amend and reenact Article 54 of the Amendments, relating to the state board of higher education; to amend and reenact Article 56 of the Amendments, relating to gasoline taxes; and to repeal sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Schedule to the Constitution of the state of North Dakota; all such sections and Articles of Amendments amended and repealed, being a part of the Constitution of the state of North Dakota.

Be It Enacted by the People of the State of North Dakota:

Section 1. Amendment.) Section 124 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 124. A general election of the state shall be held biennially on the first Tuesday after the first Monday in November.

Section 2. Amendment.) Section 125 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 125. No elector shall be deemed to have lost his residence in this state solely by reason of his absence on business of the United States or of this state, or while serving as a member of the armed forces of the United States. Nor shall voting residence be gained solely in consequence of being stationed in this state as a member of the armed forces of the United States.

Section 3. Amendment.) Section 127 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 127. No person who is legally incompetent shall be qualified to vote at any election; nor shall any person convicted of a felony unless restored to civil rights.

Section 4. Amendment.) Section 129 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 129. All elections shall be by secret ballot, subject to such regulations as shall be provided by law.

Section 5. Amendment.) Section 130 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 130. Except in the case of home rule cities as provided in this section the legislative assembly shall provide by general law for the organization of municipal corporations, specifying their powers as to levying taxes and assessments, borrowing money, and contracting debts. Money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

The legislative assembly shall provide by law for the establishment of home rule in cities. Home rule cities shall have all powers of self government except:

1. Those powers withheld from them by law;
2. Those powers not accepted by the city by its home rule charter; and

3. Those powers prohibited by this Constitution or the law of the land; provided that the legislative assembly shall not be restricted in granting of home rule powers to home rule cities by section 183 of this Constitution.

Section 6. Amendment.) Section 153 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; property and the proceeds of property that shall fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual trust fund for the maintenance of the common schools of the state. Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, shall be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. Should a gift be made to an institution for a specific purpose, without designating a trustee, such gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide.

Section 7. Amendment.) Section 154 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 154. The interest and income of the common school fund together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be apportioned among the common school corporations of the state according to the number of children attending each public school within the state.

The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly each biennium to the exclusive use of the institution for which the funds were given.

Section 8. Amendment.) Section 155 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 155. The legislative assembly shall provide for the sale or lease of all properties held by the state in the school or other institutional trust funds at not less than fair market value; provided that in the sale of any such real estate 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 ores, and colloidal or other clays, shall be reserved and excepted to the state of North Dakota. Leases may be executed by the state for the extraction and sale of such materials in the manner and upon such conditions as the legislative assembly may provide. The proceeds of all sales and leases shall be credited to the fund from which the property was removed for sale purposes.

Section 9. Amendment.) Section 156 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 156. The superintendent of public instruction, governor, attorney general, secretary of state and state auditor, shall constitute a board of commissioners, which shall be denominated the "board of university and school lands", and, subject to the provisions of this Article and any law that may be passed by the legislative assembly, said board shall have control of the appraisalment, sale, rental and disposal of all school, university, and institutional lands held in trust by the state under the authority of this Article, and shall direct the investment of the funds governed by this Article in the hands of the state treasurer as provided by law.

Section 10. Amendment.) Section 168 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors

of the county or counties, to be affected thereby at a general or statewide election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

Section 11. Amendment.) Section 170 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 170. The legislative assembly shall provide by law for optional forms of government for counties in addition to the forms provided by sections 172 and 173 of the Constitution, and which may be adopted by a county when approved by the voters therein by a majority of the votes cast on the question.

Section 12. Amendment.) Section 172 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 172. Until one of the optional forms of county government provided by the legislative assembly be adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners.

Section 13. Amendment.) Section 173 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 173. There shall be elected in each county organized under the provisions of section 172 of the Constitution a register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold their office for a term of four years and until their successors are elected and qualified, or until such time as an optional form of government is accepted by the electorate and assumes the functions, and whose duties shall be provided by law; provided that in counties having fifteen thousand population or less, the county judge shall also be clerk of the district court; provided further that in counties having population of six thousand or less the register of deeds shall also be clerk of the district court and county judge.

Section 14. Amendment.) Section 176 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 176. 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 exempt any or all classes of personal property from taxation and all fixtures, buildings, and improvements upon land may be deemed personal property for exemption purposes. Property used exclusively for schools, religious, cemetery, charitable or other public purposes, unless held or used for profit, shall be exempt from taxation. Except as restricted by this Article, the legislative assembly may provide for raising revenue and fixing the situs of all property for the purpose of taxation.

Section 15. Amendment.) Section 179 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 179. All taxable property except as hereinafter in this section provided, shall be assessed in the taxing district in which it is situated. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in the manner provided by law. But should any railroad or public utility allow any portion of its railway or property to be used for any purpose other than the operation of a railroad or a public utility, such portion of its property, while so used shall be assessed in a manner provided for the assessment of other property.

Section 16. Amendment.) Section 185 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 185. The state or any of its political subdivisions may make internal improvements and may engage in any

industry, enterprise, or business, except the alcoholic beverage business. Neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation; except that the state and any of its political subdivisions may enter into joint enterprises with each other in carrying out their public projects to the extent authorized by law.

Section 17. Amendment.) Section 186 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 186. (1) All public moneys of this state, except as provided in section 153 of this Constitution, shall be paid over monthly by the person receiving the funds to the state treasurer and deposited by him in the state treasury, and shall be paid out only pursuant to annual or biennial appropriations first made by the legislative assembly; provided that this section shall not apply to moneys for financial transactions of the bank of North Dakota or the state mill and elevator association, and the legislative assembly may further exempt from this section the financial transactions of the commercial undertakings of the various state institutions. An appropriation need not be first made to allow disbursements from the state hail insurance fund, state bonding fund, state fire and tornado fund, workmen's compensation fund, or unemployment compensation fund, board of university and school lands investment funds or other funds authorized by law to be invested, retirement of bonds or other fixed obligations, public employees' retirement funds, allocation of state funds to political subdivisions, refunds authorized in any tax law, trust fund and trust fund income which is the result of private gifts if the terms of the gift provide for disbursement of the fund or its interest and income, and interest and income from retirement, insurance or similar trust funds, nor to license fees of any licensed trade or profession. When the provisions of this amendment become effective, all existing balances in funds not exempted from the provisions of this section shall be transferred to the state treasury.

(2) No bills, claims, accounts, or demands against the state or any county or other political subdivision shall be audited; allowed, or paid until a full itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit

the same, and then only upon warranty drawn upon the treasurer of such funds by the proper officer or officers.

Section 18. Amendment.) Section 202 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 202. Any amendment or amendments to the Constitution of the state may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house, it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall become a part of this Constitution.

Amendments to the Constitution of the state may also be proposed by an initiative petition of the electors; such petition shall be signed by electors at large totaling five percent of the population of North Dakota as determined by the latest federal decennial census and shall be filed with the secretary of state at least one hundred twenty days prior to the election at which they are to be voted upon, and any amendment, or amendments so proposed, shall be submitted to the electors and become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to the submission and adoption of measures by initiative petition, and on referendum petition shall apply to the submission and adoption of amendments to the Constitution of the state.

The electorate through an initiated measure or the legislative assembly may at any time provide by law for a constitutional convention to amend or revise the Constitution. Such law shall provide for the submission of the proposed amendments from such convention directly to the electorate for their approval or rejection, and upon approval shall become effective in the same manner as other constitutional amendments or as specified in the amendments or revision.

If conflicting constitutional measures are approved at the same election the one receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 19. Amendment.) Article 33 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

ARTICLE 33. The qualified electors of the state or of any county, or of any congressional, judicial, legislative, or commissioner district may petition for the recall of any elective congressional, state, county, judicial or legislative officer by filing a petition with the officer with whom the petition for nomination to such office in the primary election is filed, demanding the recall of such officer. Such petition shall be signed by at least thirty percent of the qualified electors who voted at the preceding election for the office of governor in the state, county or district from which such officer is to be recalled. The officer with whom such petition is filed shall call a special election to be held not less than forty nor more than forty-five days from the filing of such petition.

The officer against whom such petition has been filed shall continue to perform the duties of his office until the result of such special election shall have been officially declared. Other candidates for such office may be nominated in the manner as is provided by law in primary elections. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term. The name of the candidate against whom the recall petition is filed shall go on the ticket unless he resigns within ten days after the filing of the petition. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected. This Article shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the right of recall.

Section 20. Amendment.) Section 212 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 212. The exchange of "black lists" between corporations shall be prohibited.

Section 21. Amendment.) Section 215 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 215. The following public institutions of the state are permanently located at the places hereinafter named. Each institution shall have the lands heretobefore allocated to it by the United States, by the Constitution or laws of this state, or

by private donation, and shall be disposed of and used as the legislative assembly may prescribe subject to the provisions contained in the grants thereof or as provided in this Constitution.

First: The seat of government at the city of Bismarck.

Second: The state university and the school of mines at the city of Grand Forks.

Third: The North Dakota state university of agriculture and applied science at the city of Fargo.

Fourth: State colleges at the cities of Valley City, Mayville, Dickinson, and Minot.

Fifth: A school for the deaf at the city of Devils Lake.

Sixth: A state industrial school at the city of Mandan.

Seventh: An educational or other institution as the legislature may provide at the cities of Ellendale, Bottineau, and Wahpeton.

Eighth: A state hospital for the mentally ill at the city of Jamestown.

Ninth: A state school for the mentally deficient at the city of Grafton.

Tenth: A state soldiers' home or such other institution as the legislative assembly may determine, at the city of Lisbon.

Eleventh: A state school for the blind at Grand Forks.

Section 22. Amendment.) Article 54 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

ARTICLE 54. There shall be a state board of higher education which shall administer and control state-operated educational institutions of higher learning. The board shall consist of seven members, with staggered seven-year terms, appointed by the governor, and confirmed by the senate in the manner provided by law. The board shall, in accordance with law, admin-

ister and formulate policy for all state-operated educational institutions of higher learning and shall appoint a state commissioner of higher education, who shall be as executive officer of the board and perform such duties as may be prescribed by the board.

Section 23. Amendment.) Article 56 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

ARTICLE 56. The revenue from excise taxes on gasoline and other motor fuels consumed by motor vehicles using the public highways of this state and revenue from the license taxation, registration and license taxes from such vehicles, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

Section 24. Repeal.) Sections 122, 123, 126, 128, 132, 133, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 151, 157, 158, 159, 160, 161, 162, 164, 166, 187, 209, 214, and 216 of the Constitution of the state of North Dakota; Articles 19, 59, and 65 of the Amendments to the Constitution of the state of North Dakota; and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Schedule to the Constitution of the state of North Dakota are hereby repealed.

Disapproved November 5, 1968

82,400 to 116,813

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

CHAPTER 587

PARIMUTUEL WAGERING ON HORSERACES

An initiative petition to amend Amendment 1 of the Constitution of the state of North Dakota, relating to prohibition of legislative power to authorize lotteries or gift enterprises, except that persons may wager on the results of horseracing by the parimutuel method, limiting horseracing to sixty-five days a year, providing for a state horseracing commissioner, providing for the licensing of horseraces, providing for a penalty for violations, providing for payment and allocation of tax, establishing a North Dakota horsebreeders' racing fund, establishing a large animal diagnostic laboratory and clinic and fund, providing financial assistance for retarded and crippled children, providing for expenses of administration, and providing for protection of the public.

Be It Enacted by the People of the State of North Dakota:

Section 1. Amendment.) Amendment 1 of the North Dakota Constitution is hereby amended and reenacted to read as follows:

AMENDMENT 1. The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets; except nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel method on any calendar day sixty-five days a year.

A state horseracing commissioner shall be appointed by the governor within ninety days after this Act takes effect for a term to expire on December 31, 1971. The term of the North Dakota state horseracing commissioner shall be for three years but said commissioner may be removed from office by the governor for cause after a public hearing. Notice of said hearing shall fix the time and place of hearing and shall specify the charges. Notice of said hearing shall be served upon the commissioner by mailing same at least twenty days before the date fixed for said hearing. The commissioner may select and employ two horseracing stewards and a secretary. The commissioner shall establish an office at such place in the state as he may determine and may change the location of such office as he may decide from time to time. The commissioner shall have as his duty the licensing, regulating and supervising of all horseraces under the parimutuel system in this state and shall cause all horseracing tracks where horseraces under the parimutuel system are held to be

visited and inspected at least once a year. The commissioner may incur such costs, charges and expenses as are reasonably necessary in carrying out the intent and purposes of this article. The commissioner shall keep detailed records of all business transacted by him and of any and all meetings which he shall hold.

It shall be the duty of the commissioner as soon as possible after his appointment, to prepare and promulgate a complete set of rules and regulations to govern horseraces under the pari-mutuel system. It shall be the duty of every person holding a license under the authority of this article and every owner, trainer, jockey and attendant at any racetrack in this state to comply with this article and with all the rules and regulations promulgated and all orders issued by the commissioner.

It shall be unlawful for any person to hold any horserace under the parimutuel system in this state without first obtaining a license therefor. Every person making an application for a license to hold a horserace under the provisions of this article shall comply with the rules and regulations of the commissioner. All applications shall be submitted to the commissioner who will act upon such applications within thirty days. The commissioner shall be the sole judge of whether or not the horserace shall be licensed and the number of days that horseracing shall continue. The licensee shall pay in advance of the scheduled horserace, a fee, the amount of which shall be set by the commissioner which shall not exceed fifty dollars each day of racing, which fees shall be placed in the general fund of the state of North Dakota. Provided, however, that the commissioner may refund the license fee to the licensee if unforeseen circumstances prevent the holding or completion of any day of horseracing.

Any license held by any person who violates any of the provisions of this article or who fails to pay to the commissioner any or all the sums required under the provisions of this article shall be subject to cancellation and revocation by the commissioner. Such cancellation shall be made only after a summary hearing before the commissioner, of which the licensee, shall be given three days' notice in writing specifying the grounds for the proposed cancellation or revocation.

Any person holding a horserace or any owner, trainer or jockey participating in any horserace who violates the terms of this article is guilty of a misdemeanor. It shall be unlawful to

conduct any pool selling, bookmaking, or to bet or wager on a horserace other than by the parimutuel system; and it shall further be unlawful to knowingly permit any minor to use the parimutuel system. The commissioner shall have the power to exclude from any and all racetracks in this state any person whom the commissioner deems detrimental to the best interests of horseracing or any person who wilfully violates any of the provisions of this article or any rule, regulation or order of the commissioner.

Each licensee conducting the parimutuel system shall distribute all sums deposited in any pool to the winners thereof, less an amount which shall be equal to fifteen percent of the total deposits plus the odd cents of all the redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten, known as "breakage".

In addition to the license fees required by this article, the licensee shall pay to the state treasurer at the end of each day's racing, a sum equal to four percent of the gross receipts or money deposited under the parimutuel system. All moneys thus collected or received by the state treasurer shall be allocated to the following special funds in the following proportions and shall be used only for the purposes of each respective fund:

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received or collected by the state treasurer shall be transferred to the North Dakota horsebreeders' racing fund to be used as hereinafter provided.

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received or collected by the state treasurer shall be transferred to the large animal diagnostic laboratory and clinic fund to be used as hereinafter provided.

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received or collected by the state treasurer shall be transferred to the state welfare department to be used in treatment of and assistance to retarded and crippled children.

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received

or collected by the state treasurer shall be transferred to the horseracing administration fund to be used for the expenses of administration of this article including the expenses of the commissioner and his compensation, the expenses of the secretary and other employees hired by the commissioner and their compensation, and any other reasonable and necessary expenses for the proper administration of the office of the commissioner, except that at the end of the thirtieth day of June of each year, any money in excess of seventy-five thousand dollars shall be transferred to the state general fund.

In the event any government or governmental agency imposes a levy on the licensees by a special tax on the money so deposited under or the gross receipts of the parimutuel system, the said licensee may withhold in addition to the aforementioned percentage and breakage as provided in this article, the amount of the tax so levied.

For the purpose of encouraging the breeding, within this state, of valuable thoroughbred and registered horses, at least one race each day at each horseracing event shall be limited to the North Dakota bred or owned registered racehorses. However, if in the opinion of the commissioner, sufficient competition cannot be had among such class of horses, said race may be eliminated for said days and a substitute provided instead. The commissioner shall have discretion in providing additional money from the North Dakota horsebreeders' racing fund which shall be used exclusively for futurity and derby races for horses owned and bred by North Dakota citizens and residents.

The state horseracing commissioner shall in his discretion, as soon as there are sufficient funds in the large animal diagnostic laboratory and clinic fund, appoint a board of three directors for the terms hereinafter provided to establish and locate a large animal diagnostic laboratory and clinic which either may or may not be in conjunction with one of the state's institutions of higher learning. The members of the board of directors shall be appointed by the commissioner, one for a term to expire on December 31, in the year following his appointment, and one for a term to expire on December 31 two years following the year of his appointment and one for a term to expire on December 31 three years following the year of his appointment, and upon the expiration of the term of any of the members of the board of directors, the commissioner shall appoint a successor for a term of three years, except that the person filling a vacancy occurring

prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of the term. Any member of the board of directors may be removed from office by the governor for cause after a public hearing. Notice of said hearing shall fix the time and place of hearing and shall specify the charges. Notice of said hearing shall be served upon the director by mailing same at least twenty days before the date fixed for the said hearing.

The board of directors shall organize by electing one of the directors as chairman. Any two directors shall constitute a quorum for the transaction of any and all business of the board of directors. The board of directors shall appoint an executive officer to be known as the administrator of the large animal diagnostic laboratory and clinic. The large animal diagnostic laboratory and clinic shall be furnished with adequate real estate and buildings as may be necessary for conducting diagnostic research and treatment of large animals.

The board of directors of the large animal diagnostic laboratory and clinic shall have the following powers and duties:

1. Promulgate adequate rules and regulations for the large animal diagnostic laboratory and clinic.
2. Establish adequate facilities and equipment for the treatment of and research for new and improved methods for injuries to and diseases of large animals.
3. Establish adequate files and reference libraries for research concerning large animals.
4. Hire sufficient and qualified personnel necessary for the proper running and administering of the large animal diagnostic laboratory and clinic.

The administrator of the large animal diagnostic laboratory and clinic shall act as its secretary, shall be its chief administrative officer and shall supervise and direct the work of its employees.

The salary and expenses of the state horseracing commissioner and the salary and expenses of the members of the board of directors, the administrator and employees of the large ani-

mal diagnostic laboratory and clinic shall be determined by the legislative assembly.

For the protection of the public and all members thereof, the exhibitors and visitors, every person licensed to conduct horse-racing events under the provisions of this article shall carry public liability insurance in the amount and form of contract and with a company approved by the commissioner. Every licensee required to pay the license fee as provided in this article shall provide and deliver to the commissioner a bond signed by a surety company licensed to do business in this state in such form as shall be required by the commissioner, and in a sum of not less than twenty-five thousand dollars or such additional amount as may be required by the commissioner, conditioned that said licensee will pay to the state of North Dakota, all moneys due the state under the provisions of this article.

Disapproved November 5, 1968.

85,235 to 133,713

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