

CONSTITUTIONAL AMENDMENTS, PROPOSED

CHAPTER 480

SENATE CONCURRENT RESOLUTION "C" (Lashkowitz, Lips, Redlin, Reichert)

HOME RULE FOR CITIES AND VILLAGES

A concurrent resolution for amendment of section 130 of the Constitution of the state of North Dakota, relating to home rule for cities and villages.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendment to section 130 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the general election to be held in November, 1966 in accordance with the provisions of section 202 of the Constitution of the state of North Dakota.

§ 1. 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 and villages as provided in this section the legislative assembly shall provide by general law for the organization of municipal corporations, restricting 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 and villages. It may authorize such cities and villages to exercise all or a portion of any power or function which the legislative assembly has power to devolve upon a non-home rule city or village, not denied to such city or village by its own home rule charter and which is not denied to all home rule cities and villages by statute. The legislative assembly shall not be restricted in granting of home rule powers to home rule cities and villages by section 183 of this Constitution.

Filed March 4, 1965.

CHAPTER 481

SENATE CONCURRENT RESOLUTION "P"
(Committee on State and Federal Government)
(From LRC Study)

SELECTION OF JUDGES

A concurrent resolution for the amendment of section 90 of the Constitution of the state of North Dakota changing the selection of judges from an elective to an appointive-elective system and to preserve the tenure of the judges presently in office and those who would take office prior to the effective date of this amendment.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

The following proposed new section and amendment of section 90 of the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the general election to be held in November 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. **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 as defined by law occurring in the office of judge of the supreme court or district court shall be filled by the governor from a list of three nominees presented to him by the judicial nominating commission. If the governor should fail to make an appointment from the list within thirty days from the day 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, judges 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 courts shall be subject to approval by a majority vote of the electorate voting upon the question. In the case of a judge of the supreme court, the electorate of the state shall vote on the question of approval. In the case of a judge of the district court, only the electorate of that judicial district shall vote on the question of approval. The chief justice shall be selected as provided by law. All judges shall hold their offices until

their successors are duly qualified and shall receive such compensation for their services as may be prescribed by law.

There shall be a judicial nominating commission which shall select the nominees for appointment to the office of judge of the supreme court and district courts. The membership of such commission shall consist of the chief justice of the supreme court, who shall act as chairman; one member of the North Dakota state bar association from each judicial district, who shall be appointed by such association; and one citizen, not a member of the bar, appointed by the governor for staggered terms of six years from each judicial district. No member of the judicial nominating commission appointed by the governor shall hold an elective office in the state, federal, or county governments.*

§ 2.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Any person elected or appointed to an office of judge of the supreme court or district court of this state prior to the effective date of section 90 of the North Dakota Constitution, as amended at the general election held in November 1966, shall serve the term for which he was elected or appointed and shall be eligible to succeed himself for reelection by submitting his name to the electorate for approval or rejection as provided by law and this Constitution unless he shall die, resign, or be removed from office prior to the expiration of his term, whereupon the office shall be filled as prescribed by law and this Constitution.

Filed March 10, 1965.

*Note: See section 21, chapter 225, 1965 S.L.

CHAPTER 482
SENATE CONCURRENT RESOLUTION "L"
(Larson)

TAX LEVIES

A concurrent resolution for the amendment of section 175 of the Constitution of the state of North Dakota, relating to the levy of taxes and to the adoption of federal definitions of income, deductions from income, and taxable income for purposes of state personal income, unincorporated business and corporation taxation and to the adoption of federal definitions of gross estate and deductions from gross estate for purposes of state estate taxation.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendment to section 175 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota at the primary election in June, 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

***§ 1. Amendment.)** Section 175 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied. Notwithstanding the foregoing or any other provisions of this Constitution, the legislative assembly, in any law imposing a tax or taxes on, in respect to or measured by income, may define the income on, in respect to or by which such tax or taxes are imposed or measured or may define the tax itself by reference to any provision of the laws of the United States as the same may be or become effective at any time or from time to time, and may prescribe exceptions or modifications to any such provision.

Filed March 10, 1965.

***Note:** Senate Concurrent Resolution "A", chapter 483, 1965 S.L., proposes the repeal of section 175 of the North Dakota Constitution.

CHAPTER 483
SENATE CONCURRENT RESOLUTION "A"
(Reichert, Longmire, Sinner)
(From LRC Study)

CONSTITUTIONAL REVISION

A concurrent resolution for amendment of sections 2, 7, 9, and 10, relating to the declaration of rights and to repeal sections 8, 21, and 24, relating to the declaration of rights; to provide that the legislature may prescribe the form and numbering of the Constitution and to amend and reenact sections 25, 26, 29, 37, 42, 48, 51, 53, 55, 56, 58, 62, 64, 65, 66, 67, 68, 148, 155, 167, 174, and 188, relating to the organization, procedure, operation, and authority of the legislature and to repeal sections 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 44, 45, 46, 47, 49, 52, 54, 57, 59, 60, 61, 63, 69, 70, 77, 139, 163, 165, 175, 177, 180, 181, 189, 190, 191, 192, 193, and Article 14 of the Amendments, relating to the organization, procedure, operation, and authority of the legislature; and to amend and reenact sections 71, 72, 73, 75, and 80, relating to constitutionally created elected offices, elections, and general powers and duties placed within the executive branch of government and to repeal Article 51 of the Amendments, relating to appointments; to provide for two-thirds of the supreme court members to declare a law unconstitutional, judicial districts, judicial council, removal of supreme court and district court judges and to amend and reenact sections 85, 94, and 100, relating to the powers of the judiciary, and to repeal sections 88, 89, 92, 93, 95, 96, 97, 98, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, and 120, relating to procedures of state courts; all such sections amended and repealed being a part of the Constitution of the state of North Dakota.

*Be It Resolved by the Senate of the State of North Dakota,
the House of Representatives Concurring Therein:*

That the following proposed new sections, amendments, and repeals to the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the general election to be held in November, 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

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

SECTION 2. All political power is inherent in the people. Government is instituted for the equal protection, security and mutual benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

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

SECTION 7. The right of trial by jury shall remain inviolate, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. The legislative assembly may make provision for a verdict in civil cases by not less than three-fourths of the jury and in courts not of record may provide for a jury of not less than six nor more than twelve.

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

SECTION 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends.

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

SECTION 10. The right of the people peaceably to assemble and to petition the government shall never be abridged.

§ 5. Amendment.) Section 25 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 25. The legislative power of this state shall be vested in a senate and a house of representatives which jointly shall be designated as the legislative assembly of the state of North Dakota. The people, however, reserve to themselves the power, first, to propose measures and to enact or reject the same at the polls, which power is the initiative; and second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislative assembly, except measures or portions of measures appropriating public funds, which power is the referendum.

The legislative assembly shall provide by law for the use of the initiative and the referendum, for the effective date of initiated and referred measures, and for resolving conflicts between such measures. Electors at large totaling three percent of the population of North Dakota as determined by the latest federal decennial census may propose any measure by initiative petition. Electors at large totaling two percent of

the population of North Dakota as determined by the latest federal decennial census may by petition exercise the power of referendum.

The veto power of the governor shall not extend to the measures initiated by or referred to the electors. No measure enacted or approved by a vote of the electors shall be repealed or amended by the legislative assembly within five years of its enactment or approval, except upon an affirmative vote of two-thirds of all the members elected to each house.*

§ 6. Amendment.) Section 26 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 26. Members of the senate shall be elected for a term of four years. Members of the house of representatives shall be elected for a term of two years. The term of service of members of the legislative assembly shall begin on the first day of December following their election, or at such other time as may be prescribed by law. No person shall be a senator or representative who is not a qualified elector of the district in which he may be chosen, who has not been a resident of the state for two years preceding his election, and who has not attained the age of twenty-five years in the case of a senator and twenty-one years in the case of a representative, but each house shall be the judge of the election returns and the qualifications of its own members.

§ 7. Amendment.) Section 29 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 29. The legislative assembly shall as soon as possible after each federal decennial census proceed to fix by law the number of senators at not less than thirty, which shall constitute the senate of North Dakota, and the number of representatives at not less than sixty, which shall constitute the house of representatives of North Dakota. The legislative assembly shall divide the state into legislative districts and apportion to each district the number of senators or representatives so that as nearly as possible all inhabitants of this state entitled to representation shall be equally represented in the legislative assembly. The legislative assembly may provide for single member districts, multi-member districts, or both. Each district shall be composed of contiguous territory and the districts as thus ascertained shall continue until changed by law.

***Note:** See chapter 162, 1965 S.L.

§ 8. Amendment.) Section 37 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 37. No member of the legislative assembly shall concurrently hold another office of the state other than of its political subdivisions, or of the United States, which offices may be prescribed by law.

§ 9. Amendment.) Section 42 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 42. The members of the legislative assembly shall in all cases except felony, be privileged from restraint resulting from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house or at any session of any committee or interim committee thereof, they shall not be held for slander or libel in any court.

§ 10. Amendment.) Section 48 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 48. Each house shall have the power to determine the rules of proceedings, to punish its members and others for contempt or disorderly behavior in its presence; to protect its members against violence, offers of bribery or private solicitation, to expel a member upon concurrence of two-thirds of its members, and in addition shall have all other power necessary and usual in the legislative assembly of a state. Imprisonment by either house shall not exceed thirty days and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

§ 11. Amendment.) Section 51 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 51. Neither house shall, without the consent of the other, adjourn at any time for more than three days nor to any other place than that in which the two houses shall be sitting.

§ 12. Amendment.) Section 53 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 53. The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation pur-

poses as provided by law and shall thereafter recess until January third or at such other time as may be prescribed by law. If January third shall be a Sunday or legal holiday, the legislative assembly shall convene on the succeeding day.*

*Note: See chapter 342, 1965 S.L.

§ 13. Amendment.) Section 55 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 55. The sessions of the legislative assembly shall be biennial, except as otherwise provided by law. Special sessions may be called by the governor or by the legislative assembly itself. Special sessions may be called by the legislative assembly only if such calling is approved by two-thirds of all its members in the manner provided by law.*

*Note: See chapter 341, 1965 S.L.

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

SECTION 56. Each session of the legislative assembly shall not exceed sixty legislative days, except in case of impeachment. However, by joint resolution, approved by a majority of the members of both houses after the fiftieth day of any session, the session may be extended not to exceed ten legislative days. The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such sixty legislative days.

§ 15. Amendment.) Section 58 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 58. No law shall be passed except by a bill adopted by both houses of the legislative assembly. Every bill shall be read two times in each house, but the first and second reading may not be upon the same legislative day. Each reading may be by title only unless a reading at length is demanded by any member.

§ 16. Amendment.) Section 62 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 62. General appropriation bills shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one

subject. The bills prepared by the budget agency provided by law shall be passed or rejected by the house of the legislative assembly in which they were introduced before that house passes any other appropriation bill except bills supplementing appropriations for the current fiscal period's operation. The legislative assembly shall provide for estimates of income and balances to be available for appropriation during the succeeding fiscal period, and the total of all appropriations for such period shall not exceed the estimate of balances and income.

§ 17. Amendment.) Section 64 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 64. No bill shall be revised or amended nor the provisions thereof extended or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions, but so much thereof as is revised, amended or extended or so incorporated shall be reenacted and published at length.

§ 18. Amendment.) Section 65 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 65. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and recorded in the journal at the request of one-sixth of those present. No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote be recorded by yeas and nays, and the names of those voting be entered on the journal.

§ 19. Amendment.) Section 66 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 66. The presiding officer of each house shall sign all bills and joint resolutions passed by the legislative assembly, and the fact of signing shall be entered on the journal.

§ 20. Amendment.) Section 67 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 67. All Acts of the legislative assembly shall become effective on July first after the close of the session or subsequent thereto if specified in the measure, unless the legislature by a vote of two-thirds of the members present and voting, in each house, shall declare it an emergency measure, which declaration shall be set forth in the Act.

An emergency measure shall take effect and be in force from and after its passage and approval by the governor.

In the event a referendum petition is filed before July first following a legislative session, the legislative Act or parts thereof subject to the referendum shall not become effective until the sufficiency of the referendum petition has been determined as prescribed by law, or in the event such petitions are determined sufficient until the measure has been upheld at an election.

§ 21. Amendment.) Section 68 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 68. The legislative assembly shall pass all laws necessary to carry into effect the provisions of this Constitution. No local or special laws shall be enacted nor shall the legislative assembly indirectly enact such special or local laws by the partial repeal of a general law, but laws repealing local or special Acts may be passed.

§ 22. Amendment.) Section 148 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 148. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education; provided, however, that the legislative assembly may authorize fees and service charges in public schools of higher education.

§ 23. 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 of all lands granted to the state from the United States for the support of the common schools. In such sales all 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 clay, 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 minerals in the manner and upon such conditions as the legislative assembly may provide.

§ 24. Amendment.) Section 167 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 167. The legislative assembly shall provide by general law for the consolidation of counties, and for their dissolution, but no counties shall be consolidated without a majority vote of those voting on the question in each county affected, and no county shall be dissolved without a majority vote of the electors of such county voting on such question.

§ 25. Amendment.) Section 174 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 174. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year when raising revenues based upon an ad valorem tax on property, four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

§ 26. Amendment.) Section 188 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 188. The legislative assembly shall provide for the establishment, organization, and maintenance of a state militia. The members of the militia shall in all cases, except a felony, be privileged from arrest while in the performance of their official duties as such militiamen.

§ 27.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

The legislative assembly may prescribe or provide for the form, style, numerical sequence, and arrangement of this Constitution, for the purpose of its publication in an integrated and logical form.

§ 28. Amendment.) Section 71 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 71. The executive power shall be vested in a governor, who shall reside at the seat of government and shall hold his office for the term of four years and until his successor is elected and qualified. No person shall be eligible for the office of governor for more than two terms, and the holding of the office or exercising the powers and performing the duties for more than two years of any term shall be considered as the holding of the office for one term under this limitation.

§ 29. Amendment.) Section 72 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 72. A lieutenant governor shall be elected at the same time and for the same term as the governor. In case of the death, impeachment, resignation, failure to qualify, removal from office, or the disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability be removed, shall devolve upon the lieutenant governor and during the period of the exercise of the powers and the performance of the duties he shall be acting governor. In the event of the absence of the governor from the state, the powers and duties of the office shall devolve upon the lieutenant governor only to the extent that the governor shall specify in writing.

§ 30. Amendment.) Section 73 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 73. No person shall be eligible to the office of governor or lieutenant governor unless he is a citizen of the United States, and a qualified elector of the state, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the state, nor shall he be eligible to any other office of the state or its political subdivisions during the term for which he shall have been elected.

§ 31. Amendment.) Section 75 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 75. The governor shall be commander-in-chief of the military forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the legislative assembly on extraordinary occasions. He shall at the commencement of each session, and may at other times, communicate to the legislative assembly by message, information of the condition of the state, and recommend such measures as he shall deem expedient. He may in his discretion supervise all necessary business with the officers of the government of the United States, and other states thereof. He shall expedite all such measures as may be resolved upon by the legislative assembly and shall take care that the laws be faithfully executed.

§ 32. Amendment.) Section 80 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 80. The governor shall have power to disapprove or reduce any item or items or part or parts of any bill making appropriations of money or property embracing distinct items except any bill making appropriations of money or property for the operation of the legislative assembly or its permanent or interim agencies. The part or parts of the bill approved or approved as reduced shall be the law, and the item or items and part or parts disapproved or reduced shall be void, unless enacted in the following manner: If the legislative assembly be in session he shall transmit to the house in which the bill originated a copy of the item or item, or part or parts thereof disapproved or reduced together with his objections thereto, and the items or parts objected to or reduced shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 33. 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 of not less than five judges one of whom shall be chief justice, district courts, county courts, and such other courts as may be provided by law.

§ 34.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

No law or legislative enactment of the state of North Dakota shall be declared unconstitutional by the supreme court unless at least two-thirds of the judges so decide.

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

SECTION 94. Supreme court judges, district court judges, and judges of county courts of increased jurisdiction shall be citizens of the United States and of this state, licensed to practice law in the state, and possess any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

§ 36. 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 judge of the supreme court shall have an interest in a case brought before such court or be unable to hear a case because of being physically or mentally incapacitated, the chief justice of said court shall call one of the district judges to sit with them on the hearing of such case.

§ 37.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

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

§ 38.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

There shall be maintained a judicial council whose membership, powers, and duties shall be those prescribed as by this Constitution and by law.

§ 39.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Whenever the judicial council certifies to the governor that a supreme court judge appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a board of three persons to inquire into the circumstances, and may on the board's recommendation retire the judge. Whenever a judge of a district court appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the judicial council shall certify such fact to the supreme court and recommend to the supreme court that the judge be placed under early retirement. After notice and hearing, the supreme court by majority vote of its members may retire the judge.

§ 40. Repeal.) Sections 8, 21, 24, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 44, 45, 46, 47, 49, 52, 54, 57, 59, 60, 61, 63, 69, 70, 77, 139, 163, 165, *175, 177, 180, 181, 189, 190, 191, 192, 193, 88, 89, 92, 93, 95, 96, 97, 98, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 120, and Articles 14 and 51 of the Amendments to the Constitution of the state of North Dakota are hereby repealed.

Filed March 19, 1965.

*Note: Senate Concurrent Resolution "L", chapter 482, 1965 S.L., proposes the amendment of section 175 of the North Dakota Constitution.

CHAPTER 484

HOUSE CONCURRENT RESOLUTION "M"
(Fossum, Haugland, Larsen (Grand Forks), Stockman,
(Montplaisir, Rosendahl, Sanstead, Schoenwald)ISSUANCE OF BONDS BY THE STATE AND
ITS SUBDIVISIONS

A concurrent resolution for an amendment to the Constitution of the state of North Dakota, relating to the indebtedness of the state, state agencies, and county, township, municipal, school, and other public corporations and political subdivisions; authorizing and defining self-liquidating bonds secured by the pledge of the full faith and credit of the issuer, or payable solely from special taxes, assessments, charges, fees, or rentals; limiting other indebtedness of the state; and repealing section 182 of the Constitution of the state of North Dakota.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment to the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in 1966, or at any special statewide election called prior thereto, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1.) The Constitution of the state of North Dakota shall be amended by adding thereto the following article:

Notwithstanding any other provision in the Constitution, the state and any state agency and any county, township, municipal, school, or other public corporation or political subdivision of any kind may incur self-liquidating indebtedness for such purposes and in such amounts as may now or hereafter be authorized by law, provided that such indebtedness is evidenced by the issuance of bonds secured as provided in this article.

Self-liquidating bonds may be made primarily payable from any special tax or assessment, other than an ad valorem tax upon property, or from any charge, fee, or rental established for the use, availability, occupancy, or purchase of any service, commodity, building, or facility, or from any combination of these sources; including, but without limitation, excise, privilege, occupation, or income taxes, fees and charges for state parks and other public facilities, and building fees charged to students at institutions of higher learning and vocational education.

*9 Bond
shorter*

The law, ordinance, resolution, indenture, or other instrument or instruments under which such bonds are issued shall define clearly the taxes, assessments, charges, fees, or rentals designated as the primary source of revenues for the payment of the bonds, and shall state what other payments or expenses, if any, are to be deducted from the gross revenues collected from this source to determine the net revenues available for bond service, and shall irrevocably pledge and appropriate these revenues to a special fund or funds to the extent necessary to pay the bonds and interest thereon when due and to accumulate and maintain such reserves securing these payments as may be required in such instruments.

The legislative assembly may delegate to the governing board of the agency, corporation, or subdivision authorized to issue such bonds the power to determine the specific uses of the proceeds and the specific covenants to be made by the issuer to assure the segregation and sufficiency of the pledged revenues, in accordance with such provisions on these matters as may be made by law.

The full faith and credit of the issuer may be pledged, when authorized by law, for the prompt and full payment of any self-liquidating bonds issued under this article. In this event, if a deficiency exists at any time in the bond reserve required to be maintained, the proper administrative officers of the issuer shall levy an ad valorem tax, without limitation as to rate or amount, upon all taxable property within its governmental or corporate limits in the amount required, with any other funds immediately available, appropriated, and transferred by the governing board to the reserve, to restore the deficiency; and the property tax or other funds placed in the reserve shall be reimbursed to the issuer from the next pledged revenues received which are not required to pay principal and interest on the bonds and to maintain the reserve.

Alternatively, when authorized by law, self-liquidating bonds may be made payable solely from the revenues pledged for their payment. In this event, if a deficiency exists at any time in the bond reserve, the obligation of the issuer shall be limited to the increase of the rate or amount of the special taxes, assessments, charges, fees, or rentals, pledged, to such extent and in such manner as may be required by the instruments under which the bonds are issued, and compliance with other covenants contained therein.

An issue of bonds may be made partially self-liquidating, when authorized by law. In this event, that portion of the principal amount of the issue from time to time outstanding, for the payment of which revenues from the special sources

herein described are not pledged, shall be subject to limitations on the indebtedness of the issuer which are contained elsewhere in the Constitution.

The provisions of sections 183 and 184 of this Constitution shall not apply to the self-liquidating indebtedness of the public corporations and political subdivisions referred to therein.

Except for self-liquidating indebtedness, as defined in the preceding paragraphs of this article, the state shall not incur indebtedness at any time in an amount exceeding five percent of the assessed value of all taxable property in the state. "Assessed value" means the full and true value of such property, as last finally determined by the officers and boards directed by law to value it for the purpose of taxation, without regard to any reduction of such value which may be required by law to establish a valuation or amount upon which rates of taxation are to be computed and extended. "Indebtedness" so limited means the principal amount of all bonds issued at any time and all bonds outstanding at the same time, excluding self-liquidating bonds, less the amount on hand at the same time, in cash or investments authorized by law, and the amount of taxes then levied and in the process of collection, which are irrevocably appropriated for the payment of such indebtedness. No such indebtedness shall be incurred by the state unless evidenced by a bond issue, which shall be authorized by a law providing for the levy of an annual ad valorem tax, or shall make other provision, sufficient to pay the interest semiannually and the principal within thirty years from the date of the issue of such bonds and shall specially appropriate the proceeds of such tax or of such other provisions to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax or other provisions discontinued until such debt, both principal and interest, shall have been paid.

This article is self-executing, and shall become effective without the necessity of legislative action, except to the extent that such action is specifically referred to herein. Existing laws shall have the full force and effect which is permitted under this article. All actions taken pursuant to existing laws which would have been valid if this article had been in effect when they were taken are validated.

§ 2. Repeal.) Section 182 of the Constitution of the state of North Dakota is hereby repealed.

Filed March 19, 1965.

✓

CHAPTER 485
HOUSE CONCURRENT RESOLUTION "O"
(Olson)

OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS

A concurrent resolution for the amendment of section 150 of the Constitution of the state of North Dakota, relating to the office of the county superintendent of schools.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment of section 150 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in June, 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Amendment.) Section 150 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 150. A superintendent of schools for each county shall be elected every four years beginning in the year 1964, whose qualifications, duties, powers and compensation shall be fixed by law. Provided, however, a superintendent of schools may be elected by and serve two or more counties or parts of counties as provided by law.

Filed March 19, 1965.

CHAPTER 486
HOUSE CONCURRENT RESOLUTION "Z"
(Meschke, Hauf, Backes)

LIMITATION ON INDEBTEDNESS OF POLITICAL
SUBDIVISIONS

A concurrent resolution for the amendment of sections 183 and 184 of the Constitution of the state of North Dakota, relating to the limit on the amount of indebtedness that may be incurred by any county, township, city, town, school district or any other political subdivision and to the payment of the interest and principal of any such indebtedness.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendments to sections 183 and 184 of the Constitution of the state of North Dakota are agreed to and shall be submitted except as herein provided, to the qualified electors of the state of North Dakota at the primary election in 1966 in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended. In the event that the provisions of House Bill No. 698* as enacted by the Thirty-ninth Legislative Assembly, are not in full force and effect at such time as the secretary of state prepares the ballot for the primary election to be held in 1966, the question of amending sections 183 and 184 of the Constitution of the state of North Dakota, as herein provided, shall not be placed upon the ballot for the approval or disapproval of the electorate.

§ 1. Amendment.) Section 183 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 183. The debt of any county, township, city, town, school district or any other political subdivision, shall never exceed seven per centum upon the assessed value of the taxable property therein; provided that any incorporated city may, by a two-thirds vote, increase such indebtedness four per centum on such assessed value beyond said seven per centum limit, and a school district, by a majority vote may increase such indebtedness six percent on such assessed value beyond said seven per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment

*Note: See chapter 386, 1965 S.L.

thereof, in amounts not exceeding the physical value of such utility, industry or enterprise.

In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue producing utilities, whether contracted prior or subsequent to the adoption of this Constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding five per centum of such assessed value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purposes whatever. All bonds and obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, town, school district, or any other political subdivision shall be void.

§ 2. Amendment.) Section 184 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 184. Any city, county, township, town, school district or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide a sufficient amount for the payment of the interest and also the principal when due by the collection of an annual tax or from the distribution to it of any moneys allocated to it out of the state treasury by the legislative assembly or by a combination of both such sources of moneys as may be provided by the legislative assembly, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

Filed March 20, 1965.