

# CONSTITUTIONAL AMENDMENTS, PROPOSED

## CHAPTER 610

SENATE CONCURRENT RESOLUTION NO. 4002

(Reiten, Strand)

(From Legislative Council Study)

### EDUCATION BOARDS

A concurrent resolution for a constitutional amendment providing for a board of public education and a board of higher education; for the amendment of sections 82 and 83 of the Constitution of the state of North Dakota, relating to public education and to remove the superintendent of public instruction as a constitutional officer; for the repeal of Article 54 of the Amendments to the Constitution of the state of North Dakota, relating to the board of higher education; and providing an effective date.

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

That the following proposed amendments 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 at the primary election to be held in September, 1976, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

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

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

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

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

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

The state board of higher education shall have full power,

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

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

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

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

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

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

SECTION 3. AMENDMENT.) Section 82 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 82. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, commissioner of insurance, an attorney general, a commissioner of agriculture, a tax commissioner, and three public service commissioners, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of four years, except the public service commissioners who shall be elected for six-year terms, and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms.

The tax commissioner shall be elected on a no-party ballot and he shall be nominated and elected in the manner provided by law.

The legislative assembly may by law provide for a department of labor, which, if provided for, shall be administered by a public official who may be either elected or appointed, whichever the legislative assembly shall declare.

SECTION 4. AMENDMENT.) Section 83 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 83. The powers and duties of the secretary of state, auditor, treasurer, commissioner of insurance, public service commissioners, attorney general, and commissioner of agriculture shall be prescribed by law. In the event that the legislative assembly shall establish a separate and distinct department of labor, the powers and duties of the officer administering such department of labor shall be prescribed by law.

SECTION 5. REPEAL.) Article 54 of the Amendments to the Constitution of the state of North Dakota is hereby repealed.

SECTION 6. EFFECTIVE DATE.) The provisions of this resolution shall, if adopted, be effective on July 1, 1977, and the superintendent of public instruction elected in the general election in 1976 shall serve only through June 30, 1977.

Filed April 15, 1975

## CHAPTER 611

SENATE CONCURRENT RESOLUTION NO. 4023  
(Holand, L. Christensen, Melland, Lips)

## LEGISLATIVE SESSIONS AND TERMS

A concurrent resolution for the amendment of sections 53 and 56, and the repeal of section 55, of the Constitution of the State of North Dakota, relating to commencement of the terms of office of legislators, and to the length and status of legislative sessions.

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

That the following proposed amendments to sections 53 and 56, and the following proposed repeal of section 55, of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the primary election to be held in September, 1976, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. 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 purposes as provided by law and shall thereafter recess until twelve o'clock noon on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January.

SECTION 2. AMENDMENT.) Section 56 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 56. Each regular session of the legislative assembly shall not exceed eighty natural days during the biennium. The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such eighty natural days, nor shall days spent in session at the call

of the governor pursuant to section 75, or while engaged in impeachment proceedings, be counted. Days spent in regular session need not be consecutive, and the legislative assembly may authorize its committees to meet at any time during the biennium. As used in this section, a "natural day" means a period of twenty-four consecutive hours.

SECTION 3. REPEAL.) Section 55 of the Constitution of the State of North Dakota is hereby repealed.

Filed April 15, 1975

## CHAPTER 612

SENATE CONCURRENT RESOLUTION NO. 4027  
(Thane)

BOARD OF HIGHER EDUCATION  
QUALIFICATIONS AND COMPENSATION

A concurrent resolution for the amendment of subsection 2 and subsection 4 of article 54 of the amendments to the Constitution of the State of North Dakota, relating to the qualifications and to the compensation of the members of the State Board of Higher Education.

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

That the following proposed amendments to subsection 2 and subsection 4 of article 54 of the amendments 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 at the general election to be held in 1976, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended, if Senate Concurrent Resolution 4002, having been submitted to the voters, is not adopted in the preceding primary election.

SECTION 1. AMENDMENT.) Subsection 2 of article 54 of the amendments to the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

2. (a) The State Board of Higher Education shall consist of seven members, all of whom shall be qualified electors and taxpayers of the State, and who shall have resided in this State for not less than five years immediately preceding their appointment, to be appointed by the Governor, by and with the consent of the Senate, from a list of names selected as hereinafter provided.

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

On or before the first day of February, 1939, the Governor shall nominate from a list of three names for each position, selected by the unanimous action of the President of the North Dakota Educational Association, the Chief Justice of the Supreme Court, and the Superintendent of Public Instruction, and, with the consent of a majority of the members-elect of the Senate, shall appoint from such list as such State Board of Higher Education seven members, whose terms shall commence on the first day of July, 1939, one of which terms shall expire on the thirtieth day of June, 1940, and one on the thirtieth day of June in each of the years 1941, 1942, 1943, 1944, 1945, and 1946. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for seven years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled.

(b) In the event any nomination made by the Governor is not consented to and confirmed by the Senate as hereinbefore provided, the Governor shall again nominate a candidate for such office, selected from a new list, prepared in the manner hereinbefore provided, which nomination shall be submitted to the Senate for confirmation, and said proceedings shall be continued until such appointments have been confirmed by the Senate, or the session of the legislature shall have adjourned.

(c) When any term expires or a vacancy occurs when the legislature is not in session, the Governor may appoint from a list selected as hereinbefore provided, a member who shall serve until the opening of the next session of the legislature, at which time his appointment shall be certified to the Senate for confirmation, as above provided; and if the appointment be not confirmed by the thirtieth legislative day of such session, his office shall be deemed vacant and the Governor shall nominate from a list selected as hereinbefore provided, another candidate for such office and the same proceedings shall be followed as are above set forth; provided further, that when the legislature shall be in session at any time within six months prior to the date of the expiration of the term of any member, the Governor shall nominate his successor from a list selected as above set forth, within the first thirty days of such session, and upon confirmation by the Senate such successor shall take office at the expiration of the term of the incumbent. No person who has been nominated and whose nomination the Senate has failed to confirm, shall be eligible for an interim appointment.

SECTION 2. AMENDMENT.) Subsection 4 of article 54 of the amendments to the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

4. Each appointive member of the State Board of Higher Education shall receive such compensation as may be determined by the Legislative Assembly for the time actually spent devoted to the duties of his office, and, in addition, shall receive his necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of his office.

Filed May 5, 1975

## CHAPTER 613

SENATE CONCURRENT RESOLUTION NO. 4046  
(Rait, Wright)

## LEGISLATIVE ARTICLE AMENDMENTS

A concurrent resolution for the amendment of sections 26, 29, 32, and 35 of the Constitution of the State of North Dakota, relating to the composition of the legislative assembly, and to repeal section 45 of the Constitution of the State of North Dakota, relating to compensation of members of the legislative assembly.

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

That the following proposed amendments to sections 26, 29, 32, and 35 of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the primary election to be held in 1976, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 26 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 26. The Senate shall be composed of not less than thirty nor more than fifty-two members.

SECTION 2. 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 fix the number of senatorial districts. The districts as thus ascertained and determined after the 1980 federal decennial census shall continue until the adjournment of the first regular session after each federal census, or until changed by law.

SECTION 3. AMENDMENT.) Section 32 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 32. The House of Representatives shall be composed

of not less than thirty nor more than one hundred four members.

SECTION 4. AMENDMENT.) Section 35 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 35. Each senatorial district shall be represented in the House of Representatives by at least one representative. The legislative assembly shall, after each federal census, proceed to fix by law the number of senators who shall constitute the Senate of North Dakota and the number of representatives who shall constitute the House of Representatives of North Dakota, within limits prescribed by this Constitution. The legislative assembly may, at any regular session, redistrict the state into senatorial districts and apportion the senators and representatives accordingly.

SECTION 5. REPEAL.) Section 45 of the Constitution of the State of North Dakota is hereby repealed.

Filed May 5, 1975

## CHAPTER 614

HOUSE CONCURRENT RESOLUTION NO. 3016  
(Winkjer, Royse, Raymond)

## QUALIFICATIONS OF LEGISLATORS

A concurrent resolution for the amendment of sections 28 and 34 of the Constitution of the State of North Dakota, relating to qualifications of legislators.

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 28 and 34 of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the primary election to be held in September, 1976, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 28 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 28. Each person elected as a senator must be, on the day of his election, a qualified elector in the district from which he is chosen and have been a resident of the state for one year next preceding his election.

SECTION 2. AMENDMENT.) Section 34 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 34. Each person elected as a representative must be, on the day of his election, a qualified elector in the district from which he is chosen and have been a resident of the state for one year next preceding his election.

Filed March 24, 1975

## CHAPTER 615

HOUSE CONCURRENT RESOLUTION NO. 3056  
(Kretschmar, Knudson)

## JUDICIAL ARTICLE

A concurrent resolution creating a new Article IV of the Constitution of the state of North Dakota, relating to the judicial branch of government; the jurisdiction of the supreme, district, and other courts; the location of judicial districts; the election of judges of the supreme and district courts; the qualifications of judges; the procedures for removal of judges and filling vacancies; and to the retirement of judges; and to repeal Article IV, consisting of sections 85 through 120, of the Constitution of the state of North Dakota, relating to the jurisdiction of the supreme court, and district, county, and municipal courts; the time of holding court session; the location of judicial districts; and to other judicial matters.

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

That the following proposed creation of a new Article IV and the following proposed repeal of the present Article IV of the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota at the primary election to be held in 1976, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

SECTION 1.) Article IV of the Constitution of the state of North Dakota is hereby created and enacted to read as follows:

SECTION 85. The judicial power of the state is vested in a unified judicial system consisting of a supreme court, a district court, and such other courts as may be provided by law.

SECTION 86. The supreme court shall be the highest court of the state. It shall have appellate jurisdiction, and shall also have original jurisdiction with authority to issue, hear, and determine such original and remedial writs as may be necessary to properly exercise its jurisdiction. The supreme court shall consist of five justices, one of whom shall be designated chief justice in the manner provided by law.

SECTION 87. The supreme court shall have authority to promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state; and, unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law.

The chief justice shall be the administrative head of the unified judicial system. He may assign judges, including retired judges, for temporary duty in any court or district under such rules and regulations as may be promulgated by the supreme court. The chief justice shall appoint a court administrator for the unified judicial system. Unless otherwise provided by law, the powers, duties, qualifications, and terms of office of the court administrator, and other court officials, shall be as provided by rules of the court.

SECTION 88. A majority of the supreme court shall be necessary to constitute a quorum or to pronounce a decision, provided that the supreme court shall not declare a legislative enactment unconstitutional unless at least four of the members of the court so decide.

SECTION 89. When a judgment or order is reversed, modified, or confirmed by the supreme court, the reasons shall be concisely stated in writing, signed by the justices concurring, filed in the office of the clerk of the supreme court, and preserved with a record of the case. Any justice dissenting may give the reason for his dissent in writing over his signature.

SECTION 90. Appeals shall be allowed from decisions of lower courts to the supreme court as may be provided by law.

SECTION 91. The justices of the supreme court shall be chosen by the electors of the state for ten-year terms, so arranged that one justice is elected every two years. They shall hold office until their successors are duly qualified, and shall receive compensation as provided by law, but the compensation of any justice shall not be diminished during his term of office.

SECTION 92. The district court shall have original jurisdiction of all causes, except as otherwise provided by law, and such appellate jurisdiction as may be provided by law or by rule of the supreme court. The district court shall have authority to issue such writs as are necessary to the proper exercise of its jurisdiction.

SECTION 93. The state shall be divided into judicial districts by order of the supreme court. In each district, one or more judges, as provided by law, shall be chosen by the electors of the district. The term of office shall be six years, and a district judge shall hold office until his

successor is duly qualified. The compensation of district judges shall be fixed by law, but the compensation of any district judge shall not be diminished during his term of office.

SECTION 94. Supreme court justices and district court judges shall be citizens of the United States and residents of this state, shall be learned in the law, and shall possess any additional qualifications prescribed by law. Judges of other courts shall be selected for such terms and shall have such qualifications as may be prescribed by law.

No justice of the supreme court or judge of the district court of this state shall engage in the practice of law, or hold any public office, elective or appointive, not judicial in nature. No duties shall be imposed by law upon the supreme court or any of the justices thereof, except such as are judicial, nor shall any of the justices exercise any power of appointment except as herein provided. No judge of any court of this state shall be paid from the fees of his office, nor shall the amount of his compensation be measured by fees, other moneys received, or the amount of judicial activity of his office.

SECTION 95. When any justice or judge has a conflict of interest in a pending cause or is unable to sit in court because he is physically or mentally incapacitated, the chief justice, or a justice acting in his stead, shall assign a judge, or retired justice or judge, to hear the cause.

SECTION 96. The legislative assembly may provide for the retirement, discipline, and removal of judges. The removal procedure provided for herein may be used in addition to the impeachment proceedings provided for in sections 194, 195, and 196 and removal provided for in section 197.

SECTION 97. A judicial nominating committee shall be established by law. Any vacancy in the office of supreme court justice or district court judge shall be filled by appointment by the governor from a list of candidates nominated by the committee, unless the governor calls a special election to fill the vacancy for the remainder of the term. An appointment shall continue until the next general election, when the office shall be filled by election for the remainder of the term.

SECTION 2. REPEAL.) Article IV, consisting of sections 85 through 120, of the Constitution of the state of North Dakota is hereby repealed.

Filed March 24, 1975

## CHAPTER 616

HOUSE CONCURRENT RESOLUTION NO. 3087  
(Fleming)

## LOTTERIES AND GIFT ENTERPRISES

A concurrent resolution for the amendment of Article 1 of the Amendments to the Constitution of the state of North Dakota, relating to lotteries and gift enterprises.

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

That the following proposed amendment to Article 1 of the Amendments 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 at the primary election to be held in September, 1976, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

SECTION 1. AMENDMENT.) Article 1 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

## ARTICLE 1

The legislative assembly shall not authorize any game of chance, lottery, or gift enterprises, under any pretense, or for any purpose whatever. However, the legislative assembly may authorize by law bona fide nonprofit veterans', charitable, educational, religious, or fraternal organizations, civic and service clubs, or such other public-spirited organizations as it may recognize, to conduct games of chance when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses.

Filed April 15, 1975