

# MUNICIPAL GOVERNMENT

## CHAPTER 293

### HOUSE BILL NO. 1313

(Representatives Guggisberg, Kreun, Streyle, Glasheim, S. Kelsh)  
(Senator Larsen)

AN ACT to create and enact a new section to chapter 40-01 of the North Dakota Century Code, relating to authorizing firefighters to solicit charitable contributions from motorists in cities; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 40-01 of the North Dakota Century Code is created and enacted as follows:

#### **Firefighters may solicit charitable contributions from motorists.**

Notwithstanding section 39-10-34 or any other provision of law, a city, by resolution, may permit permanent, on-duty or off-duty, full-time firefighters employed by the city or volunteers serving the city to solicit charitable contributions from motorists under the following conditions:

1. The solicitation is limited to one charitable organization annually which is qualified under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] and is registered under state law.
2. The solicitation is limited to three days in the calendar year.
3. The charitable organization provides the city proof of commercial general liability insurance against claims for bodily injury and property damage that may occur on the public streets, roads, or right of ways as a result of the actions of those soliciting.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 294

### HOUSE BILL NO. 1114

(Political Subdivisions Committee)  
(At the request of the Secretary of State)

AN ACT to create and enact section 40-21-16.1 of the North Dakota Century Code, relating to canvassing city elections; to amend and reenact sections 40-08-08, 40-08-16, and 40-09-10 of the North Dakota Century Code, relating to city elections; to repeal section 40-09-07 of the North Dakota Century Code, relating to the bond and oath of a city commissioner; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-08-08 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-08-08. Vacancies on council - How filled.**

If a vacancy occurs in a city council office by death, resignation, or otherwise, the city council may call a special city election to fill the vacancy for the unexpired term, or may, after fifteen days of the date of the vacancy appoint a person from the ward in which the council member previously holding was elected or appointed to fill the vacancy until the next city election, at which election the unexpired term must be filled. Upon petition of five percent of the qualified electors of the ward, as determined by the total number of votes cast in that ward in the last city general election, the council shall call a special election to fill a vacancy occurring more than six months before the next city election, if the petition has been submitted within fifteen days and before four p.m. of the fifteenth day of the date of the vacancy or of the vacancy being filled by appointment. If the petition is mailed, it must be in the possession of the council or its representative before four p.m. on the fifteenth day after the vacancy occurs or after the vacancy was filled by appointment.

**SECTION 2. AMENDMENT.** Section 40-08-16 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-08-16. Vacancy in office of mayor - Filled by election or by council - President of council to be acting mayor.**

If a vacancy occurs in the office of mayor, the city council may call a special city election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor. The member so elected shall possess all the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last city general election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next city election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between the date when a vacancy occurs in the office of mayor and election and qualification of a successor, the president of the city council shall be the acting mayor.

**SECTION 3. AMENDMENT.** Section 40-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-10. How Filling vacancies in board filled.**

If a vacancy occurs in the office of a city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last city general election, the commission shall call a special city election to fill a vacancy occurring more than six months prior to the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

**SECTION 4.** Section 40-21-16.1 of the North Dakota Century Code is created and enacted as follows:

**40-21-16.1. City canvassing board - Composition.**

For any city election not held in conjunction with a county election, the city canvassing board must be composed of the city auditor, city attorney, mayor or commission president, and two members of the city commission or council, or appointed replacements for any of these officials. An individual who served on an election board during the election may not serve as a representative on the canvassing board for that same election. The city canvassing board must be comprised of at least five members.

**SECTION 5. REPEAL.** Section 40-09-07 of the North Dakota Century Code is repealed.

**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 4, 2011

Filed April 4, 2011

## CHAPTER 295

### HOUSE BILL NO. 1310

(Representatives Dahl, Kreun, Gruchalla)  
(Senators Lyson, Nething)

AN ACT to amend and reenact section 40-18-15.1 of the North Dakota Century Code, relating to transfers to district court.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-18-15.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **40-18-15.1. Transfer to district court - Expenses of prosecution - Division of funds and expenses between city, county, and state.**

A matter may be transferred to district court for trial only if within twenty-eight days after arraignment the defendant has requested in writing to transfer the case to district court and to exercise the defendant's right to a jury trial. After a transfer to district court, if the defendant waives a jury trial, the matter must be remanded to the municipal court unless the defendant and the prosecuting attorney agree that jurisdiction for the matter should remain with the district court. If the defendant does not waive a jury trial, the district court shall retain jurisdiction for sentencing. The city shall provide a prosecuting attorney and, in the case of any indigent defendant, a defense attorney. The city may contract with the county, state, or any individual or entity for prosecution or defense services. In the contract, the city, county, and state may agree to a division of all fees, fines, costs, forfeitures, and any other monetary consideration collected from cases transferred under this section, which must be paid to the city and county treasury and state general fund at least once each quarter. At the time of payment, the clerk of district court shall account under oath to the city auditor, county, and state treasurer for all money collected. In the contract the city, county, and state may also agree to a division of expenses, including jury and witness expenses, related to cases transferred under this section. In the absence of a contract all fees, fines, costs, forfeitures, and any other monetary consideration collected from transferred cases must be deposited in the state general fund.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 296

### SENATE BILL NO. 2356

(Senators Flakoll, Sorvaag)  
(Representatives Hawken, Keiser)

AN ACT to amend and reenact section 40-22.1-01 of the North Dakota Century Code, relating to special assessments for business promotion; and to provide for a legislative management study.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-22.1-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **40-22.1-01. Improvements by special assessments for business promotion.**

A municipality may defray the expense of improvements by special assessments for the promotion of business activity and new business development through any means not inconsistent with the purposes of this chapter, including advertising, public information, marketing, maintenance and decoration of public places, promotion of public events, furnishing of music in any public place, providing professional management, planning, and promotion, and the general promotion of trade activities. ~~For purposes of this chapter, "municipality" means a city with a population of ten thousand or less.~~ The governing body of the municipality may make and execute necessary or convenient agreements to exercise the powers and functions under this chapter, including contracts with any entity. In planning an improvement project under this chapter the governing body may include any work and materials which are deemed necessary or reasonably incidental to the project. A municipality may not issue warrants, bonds, or any other form of indebtedness in anticipation of the levy and collection of assessments under this chapter.

**SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS.** During the 2011-12 interim, the legislative management shall study use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available and possible processes and procedures that would facilitate a transition to any recommended alternative funding mechanisms. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 20, 2011  
Filed April 21, 2011

## CHAPTER 297

### HOUSE BILL NO. 1322

(Representatives Wrangham, S. Meyer, Damschen)  
(Senators Miller, Oehlke, Murphy)

AN ACT to amend and reenact sections 40-26-01 and 40-26-07 of the North Dakota Century Code, relating to limitation of imposition of special assessments against agricultural property; to provide for a legislative management study; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-26-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-26-01. Courts to review levy and apportionment of special assessments - De novo review for agricultural property assessments.**

The courts shall review the levy and apportionment of the special assessments in all actions and proceedings involving the validity or apportionment of any special assessment for local or special improvements. If an action challenges the determination of benefits and special assessments imposed for agricultural property, the decision of the special assessment commission regarding agricultural property is not entitled to deference by the court and the court shall consider the determination of benefits and special assessments imposed for agricultural property de novo. An appeal taken under this section must be in accordance with the procedure provided in section 28-34-01.

**SECTION 2. AMENDMENT.** Section 40-26-07 of the North Dakota Century Code is amended and reenacted as follows:

**40-26-07. Actions to restrain collection of special assessments, avoid tax judgments - Duty of court.**

The court shall determine the true and just amount which any property attempted to be specially assessed for a special improvement should pay to make the same uniform with other special assessments for the same purpose, whenever any action or proceeding shall be commenced and maintained before the court to prevent or restrain the collection of any special assessment or part thereof made or levied by the officers of any municipality for any purpose authorized by law, if such assessment shall be held to be void by reason of noncompliance with any provision of the laws of this state. The~~Unless the action challenges the determination of benefits and special assessments imposed for agricultural property, the~~ amount of the assessment as the same appears on the assessment list shall be prima facie evidence of the true and just amount, and judgment must be rendered and given therefor against the party liable for such special assessment without regard to the proceedings had for the levy thereof. The judgment shall be a lien upon the property upon which a special assessment shall have been levied, of the same force and effect as the lien of a special assessment, and the lien of such special judgment shall be enforced by the court in such action. No action for said purposes shall be maintained unless it is commenced within six months after the special assessment is approved.

**SECTION 3. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS AND AGRICULTURAL PROPERTY ASSESSMENTS.** During the 2011-12 interim, the legislative management shall consider studying use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available, with emphasis on imposition and relative rate of special assessments against agricultural property. The study must include examination of agricultural property tax classification and assessment issues, with emphasis on these issues within and near city boundaries. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for special assessments levied after July 31, 2011.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 298

### HOUSE BILL NO. 1076

(Representative DeKrey)

AN ACT to amend and reenact section 40-38-03 of the North Dakota Century Code, relating to compensation of members of public library boards; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-38-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-38-03. Board of directors - Appointment - Term of office - ~~No compensation~~ Compensation - Filling vacancies - Organization.**

1. The governing body of a municipality ~~which that~~ has established a public library and reading room, or the board of county commissioners for a county library, shall appoint a board of five directors who must be residents of the municipality or county, as the case may be, to govern ~~such the~~ library and reading room. One member of the governing body of the municipality or designated representative ~~shall must~~ be a member of the board of directors of a municipal library, and must be a resident of the municipality ~~which that~~ establishes and maintains ~~such the~~ municipal library; and one member of the board of county commissioners or designated representative ~~shall must~~ be a member of the county board of directors.
2. The terms of office of the members of the first board of directors must be established so one member ~~shall hold~~ holds office for one year, two members ~~shall~~ hold office for two years, and two members ~~shall~~ hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms ~~shall must~~ be appointed each year, and each ~~such~~ director ~~shall may~~ hold office for a term of three years from the first day of July in the year of appointment and until a successor has been appointed. No member of ~~such the~~ board ~~shall may~~ serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors ~~shall must~~ be reported by ~~such the~~ board to the governing body of the municipality or the board of county commissioners, as the case may be, and ~~shall must~~ be filled thereby. ~~However, a member of any municipal board of directors of a public library and reading room who was appointed to such position by a school board prior to July 1, 1975, may serve upon such board for the residue of the member's unexpired term unless such position shall otherwise become vacant. Appointments made~~ An appointment to fill an unexpired term ~~shall term may~~ be for the residue of the term only.
3. A director is entitled to payment for mileage and travel expenses as provided for in sections 44-08-04 and 54-06-09. No other compensation ~~shall may~~ be paid or allowed to a director unless the governing body of the municipality or

the board of county commissioners provides by ordinance or by resolution for the payment of compensation for members of the board of directors.

4. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president. The governing board of a municipality or county establishing public library service may, in lieu of appointing a library board, contract directly with a library board established by another governing body of a municipality or county for the purpose of extending public library service.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 28, 2011

Filed March 28, 2011

## CHAPTER 299

### SENATE BILL NO. 2193

(Senators Nodland, Dotzenrod, Murphy)  
(Representatives Kasper, Schatz)

AN ACT to amend and reenact sections 40-51.2-05 and 40-51.2-07 of the North Dakota Century Code, relating to notice of proposed annexations.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-51.2-05 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-51.2-05. Notice - Petition of owners and electors - Mediation.**

1. The governing body may not take final action on a petition presented by owners and qualified electors until the petitioners have given notice of presentation of the petition by one publication in the official newspaper of the city as provided by section 40-01-09 and the governing body has mailed at least seven days before the presentation, by certified mail, a notice of the time and place of consideration of the petition to the owner of each parcel of real property within the area described in the petition at the person's last-known mailing address. The notice is not required to be sent to any owner of real property who signed a petition pursuant to section 40-51.2-03 or 40-51.2-04. ~~If the land area petitioned to be annexed to the city lies within the extraterritorial zoning or subdivision regulation authority of another city, the~~ At the same time, the governing body of the city must also shall mail, by certified mail, the notice of the time and place of consideration of the petition to the governing body of the other city each city, county, or township directly affected by the land area petitioned to be annexed.
2. If the land area petitioned to be annexed to the city lies within the extraterritorial zoning or subdivision regulation authority of another city and written consent to annex the land area is not received from the governing body of the other city, the annexing city may either stop its pursuit of the annexation or submit the matter to a committee for mediation as provided in section 40-51.2-07.1. If mediation does not resolve the matter, the office of administrative hearings may be petitioned to hear the matter in accordance with sections 40-51.2-08, 40-51.2-09, 40-51.2-11, 40-51.2-12, 40-51.2-13, 40-51.2-14, 40-51.2-15, 40-51.2-16, and 40-51.2-17.

**SECTION 2. AMENDMENT.** Section 40-51.2-07 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-51.2-07. Annexation by resolution of city.**

1. The governing body of any city may adopt a resolution to annex contiguous or adjacent territory as follows:
  4. a. The governing body of the city shall adopt a resolution describing the property to be annexed.

2. b. The governing body of the city shall publish the resolution and a notice of the time and place the governing body will meet to hear and determine the sufficiency of any written protests against the proposed annexation in the official newspaper once each week for two consecutive weeks. The governing body of the city shall mail at least seven days before the meeting, by certified mail, a notice to the owner of each parcel of real property within the area to be annexed at the person's last-known mailing address. The notice must inform landowners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing. The owners of any real property within the territory proposed to be annexed within thirty days of the first publication of the resolution may file written protests with the city auditor protesting against the proposed annexation. The governing body of the city also shall mail at least seven days before the meeting, by certified mail, the notice of the time and place of the hearing to the governing body of each city, county, or township directly affected by the land area proposed to be annexed. No state-owned property may be annexed without the written consent of the state agency or department having control of the property. The governing body of the city, at its next meeting after the expiration of the time for filing the protests, shall hear and determine the sufficiency of the protests.
3. c. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the city. When a copy of the resolution and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the county recorder, the annexation becomes effective. Annexation is effective for the purpose of general taxation on and after the first day of the next February. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use.
2. If the owners of one-fourth or more of the territory proposed to be annexed protest, or if a city that has extraterritorial zoning or subdivision regulation authority over the area petitioned to be annexed protests, the city may either stop its pursuit of the annexation or submit the matter to a committee for mediation as provided in section 40-51.2-07.1.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 300

### SENATE BILL NO. 2050

(Legislative Management)  
(Taxation Committee)

AN ACT to create and enact a new subsection to section 40-58-20 and sections 40-58-20.2 and 40-58-20.3 of the North Dakota Century Code, relating to tax increment financing districts; and to amend and reenact subsection 2 of section 40-58-01.1 and subsection 1 of section 40-58-20 of the North Dakota Century Code, relating to tax increment financing by cities.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 40-58-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. "Blighted area" means an area other than a slum area which by reason of the presence of a substantial number of slums, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. "Blighted area" does not include any land that has been assessed as agricultural property within the last ten years unless it was located within the interior boundaries of a city for at least ten years.

**SECTION 2. AMENDMENT.** Subsection 1 of section 40-58-20 of the North Dakota Century Code is amended and reenacted as follows:

1. At any time after the governing body of a municipality has approved a development or renewal plan for any development or renewal area and has filed that plan with the department of commerce division of community services, it may request the county auditor and treasurer to compute, certify, and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof, and the county auditor and treasurer shall do so in accordance with this section.
  - a. For a tax increment district established before July 1, 2011, the base year for tax increments computed for a development or renewal area under this section or section 40-58-20.1 may not be used for more than twenty-five taxable years without the governing body of the municipality establishing a new base year using taxable values, established as of February first of the following year, which are not more than fifteen years old. Regardless of length of the initial district, the new base year may be used to compute tax increments for up to an additional fifteen years after which time the tax

increment district must be closed, except that the original base year for tax increments pledged for an indebtedness incurred before July 1, 2011, may continue until the indebtedness is paid.

- b. For a tax increment district established after July 1, 2011, the base year for tax increments computed for a development or renewal area under this section or section 40-58-20.1 may not be used for more than twenty-five taxable years without the governing body of the municipality establishing a new base year using taxable values, established as of February first of the following year, which are not more than fifteen years old. The new base year may be used to compute tax increments for up to an additional five years after which time the tax increment district must be closed.

**SECTION 3.** A new subsection to section 40-58-20 of the North Dakota Century Code is created and enacted as follows:

The governing body of a municipality with an active tax increment financing district may at any time identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district. The governing body shall cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district.

**SECTION 4.** Section 40-58-20.2 of the North Dakota Century Code is created and enacted as follows:

**40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.**

Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:

1. The anticipated costs of development of property to be reimbursed by tax incentives.
2. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
3. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
4. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.

**SECTION 5.** Section 40-58-20.3 of the North Dakota Century Code is created and enacted as follows:

**40-58-20.3. Tax increment financing reports.**

For each development or renewal plan for any development or renewal area under section 40-58-20 in existence at the end of a calendar year, the governing body of the municipality shall file an annual report with the department of commerce, by the following July thirty-first, which is in a format prescribed by the department. The report must include:

1. The total of outstanding indebtedness.
2. The balance of funds on hand.
3. The name of the tax increment financing district.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 301

### SENATE BILL NO. 2048

(Legislative Management)  
(Taxation Committee)

AN ACT to create and enact a new subsection to section 40-63-03 of the North Dakota Century Code, relating to informational reporting by cities and the department of commerce on the status of property included in both a tax increment financing district and a renaissance zone.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 40-63-03 of the North Dakota Century Code is created and enacted as follows:

If within a renaissance zone there is property that is included in a tax increment financing district, the city in which the property is located shall provide the department of commerce an annual report regarding any such property at the time requested by the department of commerce. The report required under this subsection must identify the property, provide the expected duration of inclusion of the property in the tax increment financing district and the renaissance zone, and identify any property and income tax benefits of the property and the expected duration of those benefits. The department of commerce shall deliver an annual report compiling the information required under this subsection to the legislative management interim committee on taxation issues or upon request of any other interim committee of the legislative management.

Approved April 25, 2011  
Filed April 25, 2011

## CHAPTER 302

### HOUSE BILL NO. 1102

(Finance and Taxation Committee)  
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 3 of section 40-63-04 of the North Dakota Century Code, relating to the procedure for electing to take the renaissance zone individual income tax credit; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 3 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

3. If the cost of a new business purchase, leasehold improvement, or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of ~~personal~~individual income tax liability as determined under section 57-38-30.3. The election must be made on the taxpayer's ~~zone project application~~return as originally and timely filed. The election is irrevocable and binding for the duration of the exemptions provided in subsection 2 or this subsection. If ~~an~~ election is not made on the ~~zone project application~~original return, the taxpayer is only eligible for the exemption provided in subsection 2.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for zone projects approved after December 31, 2010.

Approved March 28, 2011  
Filed March 28, 2011

## CHAPTER 303

### SENATE BILL NO. 2218

(Senators Sorvaag, Krebsbach, Triplett)  
(Representatives Kempenich, Kreun, Thoreson)

AN ACT to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers or employees; to amend and reenact subsections 2 and 5 of section 40-63-07 of the North Dakota Century Code, relating to renaissance fund organization income tax credits; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in finance zone projects and to make investments in other projects located in designated renaissance zone cities/zones.~~ A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter.

**SECTION 2. AMENDMENT.** Subsection 5 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

5. The total amount of credits allowed under this section may not exceed, in the aggregate, ~~seven~~eight million five hundred thousand dollars for investments in renaissance fund organizations. A renaissance fund organization that has received investments that qualify for ~~these additional~~the credits under this subsection ~~may not~~shall use ~~more than fifty percent of such~~those investments ~~for organization investments outside of~~to finance projects within a renaissance zone.

**SECTION 3.** A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers and employees may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization officer or employee owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers and employees collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interest in a passthrough entity.

**SECTION 4. EFFECTIVE DATE.** The changes in sections 1 and 2 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after December 31, 2011. Section 3 of this Act is effective for investments made in or by a renaissance fund organization after December 31, 2011.

Approved April 26, 2011  
Filed April 26, 2011