

# MUNICIPAL GOVERNMENT

## CHAPTER 259

H. B. No. 675  
(Engen, Miller, Scott, Langseth)

### GAS TRANSMISSION LINES, PLANTS AND DISTRIBUTION SYSTEMS

#### AN ACT

To amend and reenact subsection 67 of section 40-0501 and section 40-3301 of the North Dakota Revised Code of 1943, relating to the acquisition and operation of municipal utilities and authorizing municipalities to construct and operate natural or artificial gas transmission lines, plants, and distribution systems.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 40-3301 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-3301. Electric Light, Telephone, Natural and Artificial Gas Plants, Pipelines and Distribution Systems and Power Plants: Municipalities May Purchase, Erect, Construct, Maintain, Sell, Or Lease.)** Any municipality may purchase, erect, construct, operate, maintain, enlarge, improve and extend, or lease from any person, firm, or corporation, or sell or lease to any person, firm, or corporation:

1. Any electric light and power plant, site, buildings and equipment thereof;
2. Any electric distribution system and equipment thereof;
3. Any electric transmission line and equipment thereof;
4. Any telephone plant, equipment, and distribution system thereof;
5. Any waterworks, mains, and water distribution system and any equipment or appliances connected therewith;
6. Any heating system, gas or otherwise, and the buildings and equipment necessary to furnish heat to the public buildings of the municipality and to the inhabitants of the municipality; and
7. Any natural or artificial gas pipeline transmission or distribution system or plants.

**§ 2. Joint Construction and Operation of Gas Transmission Or Distribution Systems Or Plants.)** In accordance with the provisions of chapter 40-33 of the North Dakota Revised Code of 1943, as amended, any municipality within this state may join with other municipalities for the purpose of jointly constructing, acquiring or operating natural or artificial gas transmission lines, distribution systems, and plants upon such contractual basis as may be desirable and mutually agreeable to the governing bodies of the municipalities concerned. Such lines, systems or plants shall be jointly operated by a board consisting of such representatives of each municipality as may be agreed by the governing bodies thereof, except that each such municipality shall have at least one member on such board, as selected by the governing body thereof. The governing board of such jointly operated utilities shall have all of the powers of any utility owned or operated by a single municipality. Before any such jointly operated utility shall begin operation, it shall first secure a certificate of convenience and necessity from the public service commission, who shall issue or refuse the issuance of such certificate upon like procedure and grounds as is required for such action upon the certificates of privately owned utilities. Such jointly operated utilities shall be subject to all rules, regulations and orders of the public service commission in the same manner as privately owned utilities.

**§ 3. Sale of Gas Outside Municipalities.)** Any jointly operated utility as provided in section 2 of this Act shall be authorized to sell and dispose of gas outside the limits of incorporated municipalities in such manner and upon such terms and conditions as may be prescribed by the public service commission.

**§ 4. Funds of Jointly Operated Utilities.)** All funds of any jointly operated utility as provided in section 2 of this Act shall not be subject to the provisions of sections 40-3310 and 40-3311 of the North Dakota Revised Code of 1943, but shall be kept separate and apart from all other funds of any participating municipality and shall be disbursed in the manner provided by the governing board thereof. All books and accounts of such jointly operated utility shall be examined periodically by the state examiner, who shall be reimbursed by the utility for the costs of such examination. The state examiner shall render reports upon such examinations to the governing bodies of the participating municipalities.

**§ 5. Surplus Funds of Jointly Operated Utility.)** Any surplus funds of any jointly operated utility, as provided for in section 2 of this Act, shall be distributed to the participating municipalities ratably in proportion to their interest or owner-

ship therein. Such surplus funds received by any municipality shall be disposed of by the governing body of the municipality in accordance with the provisions of section 40-3312 of the North Dakota Revised Code of 1943, as amended.

**§ 6. Amendment.)** Subsection 67 of section 40-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

- 67. Light and Power Plants and Gas Transmission or Distribution Systems.)** To purchase, acquire by eminent domain, erect, lease, rent, manage, and maintain electric light and power plants, gas works, steam heating plants and appurtenances for distribution, and to regulate and fix the rates to its patrons; and to jointly, with other municipalities, acquire by eminent domain, erect, construct, lease, rent, manage, and maintain any artificial or natural gas transmission or distribution lines or plants.

Approved March 7, 1955.

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## CHAPTER 260

H. B. No. 857  
(Delayed Bills Committee)

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### POWERS OF FOREIGN MUNICIPALITIES

#### AN ACT

To amend and reenact section 40-0511 of the North Dakota Revised Code of 1943 relating to powers of foreign municipalities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 40-0511 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-0511. Foreign City: Power To Acquire By Right of Eminent Domain, Purchase, Lease, Own, and Hold Real Estate In This State; Liability.)** Any city of another state situated within five miles of the boundary line of this state may purchase, lease, own, and hold real estate in this state for waterworks or sewerage purposes and may improve the land for municipal purposes in the same manner as a city situated in this state, and may lease, let or convey the land. Any city so situated is hereby empowered to acquire, by purchase, gift,

devise, or condemnation, any property, corporeal, or incorporeal within this state, as may be necessary or convenient for the construction and maintenance of an electric power transmission line, which electric power transmission line has the function of connecting a municipal power plant, owned and operated by said city, with distribution facilities owned by the government of the United States for distributing electric power generated at Garrison Dam. Such foreign city shall be liable for all damages growing out of or incident to the ownership, use, or occupation of any such real estate in this state as if it were a municipality of this state.

Approved March 10, 1955.

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## CHAPTER 261

S. B. No. 116  
(Schrock and Baeverstad)

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### AUTHORIZATION OF LIABILITY INSURANCE FOR MUNICIPALITIES

#### AN ACT

Authorizing political subdivisions to carry liability insurance and eliminating the defense of governmental immunity to insurers furnishing such insurance.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1.) Political Subdivisions Authorized To Carry Liability Insurance; Defense of Governmental Immunity Not Available To Insurers.)** Any political subdivision of the state may insure against claims of loss, damage, or injury against such political subdivision or any department, agency, or function, or officer, agent, or employee, of such subdivision. This Act shall not deprive any political subdivision of the state of its right to claim governmental immunity but such immunity shall not be available to the insurance carrier furnishing such insurance and all policies providing for such insurance shall contain a waiver of such defense.

Approved March 5, 1955.

## CHAPTER 262

S. B. No. 110

(Committee on Political Subdivisions)

## COMPENSATION OF VILLAGE TRUSTEES

## AN ACT

To amend and reenact section 40-0706 of the North Dakota Revised Code of 1943 relating to compensation of village trustees.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-0706 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-0706. Compensation of Trustees.)** A village trustee shall receive five dollars for each meeting actually attended by him, but the sum received by a trustee shall not exceed sixty dollars for any one year during his term of office.

Approved February 26, 1955.

## CHAPTER 263

H. B. No. 693

(Christopher, Einarson and Gefreh)

## VACANCIES IN CITY OFFICES

## AN ACT

To amend and reenact sections 40-0808, 40-0816 and 40-0910 of the North Dakota Revised Code of 1943, relating to vacancies in city offices.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-0808 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-0808. Vacancies On City Council; How Filled.)** If a vacancy occurs in the office of alderman by death, resignation, or otherwise, the city council may call a special city election to fill such vacancy for the unexpired term, or may, after

fifteen days of the date of such vacancy appoint a person from the ward in which the alderman previously holding was elected or appointed 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 electors of such ward, as determined by the total number of votes cast in such ward in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

**§ 2. Amendment.)** Section 40-0816 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-0816. Vacancy In Office of Mayor; Filled By Election Or By City 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 electors, as determined by the total number of votes cast in the city in the last 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.

**§ 3. Amendment.)** Section 40-0910 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-0910. How 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 electors, as determined by the total number of votes cast in the city in the last 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.

Approved March 11, 1955.

## CHAPTER 264

H. B. No. 692  
(Gefreh and Gress)

## MEETINGS OF BOARDS OF CITY COMMISSIONERS

## AN ACT

To amend and reenact section 40-0911 of the North Dakota Revised Code of 1943, relating to meetings of boards of city commissioners.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-0911 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-0911. Meetings of Board; Regular and Special; Action On Departmental Matters.)** The board of city commissioners shall meet in regular meeting at least once every two weeks and at such additional times as the board, by ordinance, may establish. All regular meetings shall be held at a time and place to be designated by the board. No action of the board shall be effective unless upon a vote of a majority of a quorum of the members of such board. No final action shall be taken in any matter concerning the special department of any absent commissioner unless such business has been made a special order of the day or such action is taken at a regular meeting of the board. Special meetings may be called at any time by the president or any two members of the board to consider matters mentioned in the call of such meeting. Written notice of any special meeting shall be given to each member of the board.

Approved February 28, 1955.

## CHAPTER 265

S. B. No. 85

(Day)

VACANCIES IN OFFICE OF POLICE MAGISTRATE OR  
CITY JUSTICE OF PEACE

## AN ACT

To amend and reenact section 40-1803 of the North Dakota Revised Code of 1943, relating to police magistrates and justices of the peace.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-1803 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-1803. Vacancy In Office of Police Magistrate Or City Justice of Peace: Temporary Absence of Police Magistrate.)** If a vacancy exists in the office of police magistrate or of city justice of the peace by death, resignation, or otherwise, it shall be filled by appointment by the executive officer, subject to confirmation by the governing body of the city. An appointee shall qualify, and he shall hold office until the next city election, and until his successor is elected and qualified. During the temporary absence, interest, or disability of the police magistrate, the city justice of the peace designated by the executive officer of the municipality shall act as police magistrate provided that, in the event that the city justice of the peace is unable to act for any reason, any county justice of the peace designated by the executive officer shall act as police magistrate until either the police magistrate or city justice of the peace is available in the trial of causes triable before the police magistrate.

Approved March 9, 1955.



## CHAPTER 266

S. B. No. 224  
(Judiciary Committee)

APPEALS FROM POLICE MAGISTRATE OR VILLAGE  
JUSTICE DETERMINATIONS

## AN ACT

To amend and reenact section 40-1819 of the North Dakota Revised Code of 1943 relating to appeals from determinations of police magistrate or village justice; Trial; Bail.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-1819 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-1819. Appeals From Determinations of Police Magistrate Or Village Justice.)** An appeal may be taken to the district court from any judgment in a police magistrate's court or in the court of a village justice of the peace in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in justice court, and in accordance with sections 33-1234, 33-1235 and 33-1239, and shall be tried in the district court in accordance with sections 33-1240 and 33-1241, and bail shall be taken in accordance with sections 33-1236 and 33-1237, and witnesses may be placed under bond as provided for in section 33-1238, all sections of the North Dakota Revised Code of 1943, as amended. On all appeals from a determination in a police magistrate's court or in a court of a village justice of the peace, the district court shall take judicial notice of all of the ordinances of the city or of the village, as the case may be.

Approved March 9, 1955.

## CHAPTER 267

H. B. No. 634

(Rohde, Mollet and Baldwin)

## COMPENSATION OF VILLAGE ASSESSOR

## AN ACT

To amend and reenact section 40-1904 of the North Dakota Revised Code of 1943 relating to the compensation of village assessors.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-1904 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-1904. Compensation of Village Assessor.)** The village assessor shall receive as compensation for his services a sum determined by the board of trustees, not to exceed ten dollars per day, for each day actually and necessarily employed in making and completing the assessment. Such compensation shall be paid out of the village treasury upon an itemized statement setting forth the actual time spent in making the assessment.

Approved March 2, 1955.

## CHAPTER 268

H. B. No. 650

(Baldwin, Simonson and Brooks)

TAX LEVY FOR DEFICIENCIES IN SPECIAL  
IMPROVEMENT FUNDS

## AN ACT

To amend and reenact section 40-2608 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to the liability of municipalities for deficiencies in special improvement funds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-2608 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2608. Municipality Liable Generally For Deficiencies In Special Assessment Fund.)** Whenever all special assessments and all utility revenues and taxes, if any, appropriated and theretofore collected for a special improvement are insufficient to pay the special improvement warrants issued against such improvement, with interest, the governing body, upon the maturity of the last special assessment warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last special assessment warrant a deficiency is likely to occur within one year or exists in such special improvement fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such special improvement fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

Approved February 26, 1955.

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## CHAPTER 269

S. B. No. 176

(Livingston, Klefstad, Day, Foss and Hagen)

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### MUNICIPAL SEWER AND WATER CONNECTIONS ASSESSMENT FUNDS; CONTINGENT LIABILITY

#### AN ACT

To amend and reenact section 40-2805 of the North Dakota Revised Code of 1943, relating to sewer and water connections assessment funds of municipalities; providing for the issuance and payment of warrants and for contingent liability.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 40-2805 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2805. Sewer and Water Connections Assessment Fund; Warrants; Payment.)** All money collected from assessments for laying and constructing sewer, water, and other service connections provided for in this chapter shall be kept in a fund called "sewer and water connections assessment fund",

and warrants shall be drawn on such fund for the payment of the cost of such connections. All sewer and water connections assessment warrants shall be payable as specified and in such amount as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor or village clerk, as the case may be, under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used to make payment on contracts for making the connections or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such connections. Except as otherwise provided in this section, a municipality shall not be liable generally on any contracts for the making of such connections and shall not be required to pay funds raised by general taxation upon any such contract. Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

Approved March 9, 1955.

## CHAPTER 270

H. B. No. 770

(Fristad, Knudson, Schmidt and Baldwin)

## SIDEWALK CONSTRUCTION IN MUNICIPALITIES

## AN ACT

To amend and reenact sections 40-2907, 40-2908, and 40-2909 of the North Dakota Revised Code of 1943, relating to sidewalk construction in municipalities; providing for advertising for bids, awarding of contracts, and extension of assessments.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-2907 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2907. Advertising For Bids For Sidewalks; Making of Bids.)** The city auditor or village clerk, as the case may be, shall advertise in the official municipal newspaper once each week for two consecutive weeks for bids for the construction of the various kinds of sidewalks in the municipality. The bids shall be made in accordance with the specifications of the ordinance required by section 40-2901 and shall be accompanied by a certified check in the amount of fifty dollars in accordance with section 40-2220, and by a bond in the amount of five hundred dollars conditioned as provided in section 40-2223.

§ 2. **Amendment.)** Section 40-2908 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2908. Awarding Contract For Sidewalks.)** At a regular meeting of the governing body, the bids shall be opened and the contract for sidewalk work awarded to the lowest responsible bidder who has complied with the requirements of this chapter. Contracts may be awarded to different bidders for the different kinds of sidewalks required and shall be in accordance with the applicable provisions of section 40-2236.

§ 3. **Amendment.)** Section 40-2909 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2909. City Auditor Or Village Clerk To Deliver Assessment Rolls To County Auditor; Extension; Collection.)** The city auditor or village clerk, as the case may be, shall deliver to the county auditor a duplicate of all assessment rolls con-

taining assessments made under the provisions of this chapter, and the county auditor shall extend the assessments in the proper column against the property assessed. Each assessment shall be collected and the payment thereof enforced as county and state taxes are collected and enforced. When collected, the assessment shall be paid over by the county treasurer to the municipal treasurer in the same manner as other taxes.

Approved March 7, 1955.

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## CHAPTER 271

S. B. No. 177

(Livingston, Klefstad, Day, Foss and Hagen)

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### MUNICIPAL CONSTRUCTION, ETC., OF SIDEWALKS; SEPARATE FUND; CONTINGENT LIABILITY

#### AN ACT

To amend and reenact sections 40-2913 and 40-2914 of the North Dakota Revised Code of 1943, relating to construction, repairing or rebuilding of sidewalks in municipalities; providing for separate funds for such purposes and for contingent liability.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-2913 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2913. Sidewalks Repaired Or Constructed In Municipalities Not To Be Paid For By General Taxation; Exception.)** Except as otherwise provided in this chapter, a municipality shall not be liable generally on any contract for the construction, rebuilding, or repairing of sidewalks, and shall not be required to pay funds raised by general taxation upon any such contract.

§ 2. **Amendment.)** Section 40-2914 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-2914. Sidewalk Special Fund; Warrants Drawn Upon; Levy.)** All moneys received by a municipality from assessments for the construction, rebuilding, or repairing of sidewalks shall be kept in a separate fund designated as "sidewalk special fund." Warrants shall be drawn on such fund for the payment of the cost of constructing, rebuilding, and repairing

sidewalks. Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

Approved March 9, 1955.

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## CHAPTER 272

S. B. No. 178

(Livingston, Klefstad, Day, Foss and Hagen)

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### MUNICIPAL CURBING AND GUTTER CONSTRUCTION, ETC; SEPARATE FUND; CONTINGENT LIABILITY

#### AN ACT

To amend and reenact sections 40-3107 and 40-3108 of the North Dakota Revised Code of 1943, relating to construction and repair of curbing and gutters in municipalities; providing for separate funds for such purposes and for contingent liability.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-3107 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-3107. Curbing Not To Be Paid For By General Taxation; Exception.)** Except as otherwise provided in this chapter, a city shall not be liable generally on any contract for the building or repairing of curbing and shall not be required to pay funds raised by general taxation upon any such contract.

§ 2. **Amendment.)** Section 40-3108 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-3108. Curbing Special Fund: Warrants Drawn Upon; Levy.)** All moneys received by a city from assessments for building or repairing curbing shall be kept in a separate fund designated as curbing special fund. Warrants shall be drawn upon such fund for the payment of the cost of building and repairing curbing in the municipality. Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid or transferred to the general fund of the municipality.

Approved March 9, 1955.

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## CHAPTER 273

S. B. No. 169  
(Bridston and Day)

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### AUTHORIZING MUNICIPALITIES TO ESTABLISH A PUBLIC TRANSPORTATION SYSTEM

#### AN ACT

To permit municipalities to borrow money and to issue general obligation bonds for part of the cost and revenue bonds for part of the cost of purchasing, acquiring or establishing a public transportation system.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1.) Whenever the governing body of any municipality shall determine that the public convenience and necessity of the municipality require the purchase, acquisition or establishment of a public transportation system it may, by resolution adopted by the affirmative vote of a majority of its members determine that the anticipated net revenues of such public transportation system would be insufficient to assure the sale of revenue bonds for the total cost thereof, and that a specific amount, in dollars, of the cost thereof should be paid for



through the issuance and sale of general obligation bonds and the remainder of the cost should be paid for through the issuance and sale of revenue bonds.

§ 2.) Upon the passage of a resolution as set forth in section 1 hereof, the municipality shall proceed in the manner set forth in chapter 21-03 of the North Dakota Revised Code of 1943 as amended for the issuance of the amount of general obligation bonds provided in said resolution, and if and when the issuance of general obligation bonds is authorized by the vote of the electors of the municipality as in said chapter provided, it shall proceed as provided in chapter 40-35 of the North Dakota Revised Code of 1943, as amended, for the issuance of the amount of revenue bonds provided in said resolution. In all resolutions and notices of election in connection with the issuance of general obligation bonds, reference shall be made to the amount of revenue bonds which the municipality proposes to issue for the purpose in addition to the general obligation bonds.

§ 3.) All general obligation bonds issued pursuant to this Act shall be subject to all the restrictions, qualifications and limitations of chapter 21-03 of the North Dakota Revised Code of 1943 as amended, as well as all constitutional limitations upon indebtedness, and all revenue bonds issued pursuant to this Act, together with all revenues of the transportation system, shall be subject to all the limitations, qualifications and restrictions of chapter 40-35 of the North Dakota Revised Code of 1943 as amended.

§ 4.) The provisions of this chapter shall not apply to any case in which a municipality determines that the acquisition of a public transportation system should be financed through general obligation bonds only, or through revenue bonds only, it being the intention of the Legislature that this Act shall apply only in cases in which such financing is to be accomplished through a combination of revenue bonds and general obligation bonds.

Approved March 9, 1955.

## CHAPTER 274

S. B. No. 143

(Solberg)

DEFINING "UNDERTAKINGS" AS APPLIED TO  
MUNICIPAL REVENUE BONDS

## AN ACT

To amend and reenact section 40-3502 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to the revenue bond law so as to include the operation of trailer courts and facilities for house trailers, defining the undertakings for which municipalities may issue revenue bonds to include public transportation systems.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-3502 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-3502. "Undertaking" Defined.)** The term "undertaking", as used in this chapter, unless a different meaning clearly appears from the context, shall mean systems, plants, works, instrumentalities, and properties used in revenue producing undertakings, or any combination of two or more of such undertakings, which are used or useful in connection with:

1. The obtaining of a water supply and the conservation, treatment, and disposal of water for public and private uses;
2. The collection, treatment, and disposal of sewage, waste, and storm water;
3. The generation, production, transmission, and distribution of natural, artificial, or mixed gas, or electric energy, for lighting, heating, and power for public and private uses;
4. The operation of parking lots, trailer courts and facilities for motor vehicles and house trailers; and
5. The purchase, acquisition or establishment, maintenance and operation of a public transportation system;

together with all parts of any such undertaking and all appurtenances thereto, including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, trunk connections, other sewer and water mains, filtration works, pumping stations, and equipment.

Approved March 3, 1955.

## CHAPTER 275

H. B. No. 799  
(Sticka)

## TAX LEVY BY MUNICIPALITIES FOR BAND PURPOSES

## AN ACT

To amend and reenact section 40-3703 of the North Dakota Revised Code of 1943, relating to the authorization for a levy and expenditure of funds for band purposes by municipalities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-3703 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-3703. Votes Required To Authorize Levy: Limitations On Tax Levy.)** The levy for municipal band purposes shall be authorized if sixty percent of the votes cast at the election are in favor of the proposition. The governing body of the municipality thereupon may include in its budget an appropriation for the maintenance or employment of a band for municipal purposes and may levy a tax to cover the appropriation in its annual tax levy. The amount of the levy to cover such appropriation, together with the aggregate amount levied for general purposes, shall be within the limitations prescribed in chapter 15 of the title Taxation. The amount appropriated for the maintenance or employment of a band for municipal purposes shall not exceed the amount which will be raised by a levy of one mill on the net assessed valuation of the taxable property in the municipality.

Approved March 7, 1955.

## CHAPTER 276

S. B. No. 138  
(Judiciary Committee)

## PUBLIC LIBRARY FUND; LEVY LIMITATION

## AN ACT

To amend and reenact section 40-3802 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to library funds, levy of taxes therefor, and restricting levy to limitation provided by law.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 40-3802 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-3802. Library Fund: Levy; Collection; Kept Separate.)** For the purpose of establishing and maintaining a public library and reading room, the governing body of a county, city or village authorizing the same shall establish a library fund by annually levying and causing to be collected as other taxes are collected, a municipal or county tax within the tax levy limitations provided by the laws of this state. The treasurer of the county, city or village shall keep such fund separate and apart from the other money of the county or municipality, and it shall be used exclusively for the establishment and maintenance of a public library, reading room and general library service. Whenever a tax for county library service is levied, any city or village, already levying a tax for public library service under the provisions of this section, shall upon written application to the county board of such county be exempted from such county tax levy, provided the city or village making such application expends for a library fund during the year for which such tax levy is made a sum at least equal to the sum which it would have to pay toward such county library levy.

Approved March 5, 1955.

## CHAPTER 277

H. B. No. 772

( Baldwin, Fristad, )  
(Knudson and Schmidt)

## INVESTMENT OF POLICEMEN'S PENSION FUNDS

## AN ACT

To amend and reenact section 40-4506 of the North Dakota Revised Code of 1943, relating to investment of policemen's pension funds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-4506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-4506. Investment of Surplus In Fund: Limitations: Securities Deposited With Treasurer.)** At the end of the fiscal year, the board of trustees may invest any surplus left in the policemen's pension fund, but no part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Investments shall be limited to interest-bearing bonds of the United States or the state of North Dakota, or bonds or warrants of any county, township, or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority. All securities shall be deposited with the treasurer of the board for safekeeping.

Approved March 1, 1955.

## CHAPTER 278

H. B. No. 771

(Baldwin, Fristad,)

( Knudson and )

( Schmidt )

## INVESTMENT OF CITY EMPLOYEES' PENSION FUNDS

## AN ACT

To amend and reenact section 40-4608 of the North Dakota Revised Code of 1943, relating to investment of city employees' pension funds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 40-4608 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-4608. Investment of Surplus In Fund; Limitations: Securities Deposited With Treasurer.)** At the end of each fiscal year, the board of trustees may invest any surplus left in the city employees' pension fund, but no part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Investments shall be limited to interest-bearing bonds of the United States or the state of North Dakota, or bonds or warrants of any county, township, or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority. All securities in which moneys belonging to the fund are invested shall be deposited with the treasurer of the board for safekeeping.

Approved February 28, 1955.

## CHAPTER 279

H. B. No. 779  
(Sticka and Roen)

## COMPENSATION OF PARK COMMISSIONERS

## AN ACT

To amend and reenact section 40-4910 of the North Dakota Revised Code of 1943, relating to board of park commissioners.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 40-4910 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**40-4910. Members of Board of Park Commissioners May Receive Compensation; Interest In Contracts Prohibited.)** The members of the board of park commissioners shall receive such compensation for their services as may be prescribed by the governing body of the municipality and shall not be interested in any contract entered into by the board.

Approved March 10, 1955.

## CHAPTER 280

H. B. No. 777  
(Solberg, Baldwin)

## INDUSTRIAL DEVELOPMENT WITHIN MUNICIPALITIES

## AN ACT

To promote industrial development within municipalities of this state; to authorize municipalities to acquire or construct, but not to operate, production facilities, together with all necessary appurtenances; to authorize the issuance and sale of revenue bonds for the purpose of this Act; and providing for separability of sections.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Name of Act.)** This Act may be cited as the Municipal Industrial Development Act of 1955.

**§ 2. "Projects" Defined.)** The term "project", as used in this chapter, unless a different meaning clearly appears from the context, shall mean any properties, real or personal, used or useful, in connection with revenue producing enterprises, or any combination of two or more such enterprises, engaged, or to be engaged, in:

1. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof;
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.

In no event, however, shall the term "project" include those undertakings defined in chapter 40-35 of the North Dakota Revised Code of 1943.

**§ 3. Powers of Municipality.)** Any municipality, in addition to the powers prescribed elsewhere by the laws of this state, shall have the power to:

1. Acquire, whether by purchase, lease, or gift, from any source whatsoever, any lands, buildings, improvements on lands or buildings, and any real and personal property, including but not limited to easements, profits, rights in land and water rights deemed necessary in connection therewith, and to construct, reconstruct, improve, better, or extend any project which shall be located within this state, whether wholly within or wholly without the municipality, or partially within and partially without the municipality;
2. Issue revenue bonds, in anticipation of the collection of revenues of such project, to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any project, whether then in existence or not;
3. Lease projects to any industrial or commercial enterprise in such manner that rents to be charged for the use of such projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of interest upon all bonds issued hereunder, to create a sinking fund to pay the principal of such bonds when due, and to provide for the operation, maintenance, insurance on, and depreciation of such projects, and any taxes thereon;
4. Pledge to the punctual payment of said bonds and the interest thereof, all or any part of the revenues of such project, including the revenues of projects which shall



be acquired or constructed subsequent to the issuance of such bonds, as well as revenues of projects existing when such bonds were issued;

5. Mortgage or otherwise encumber said projects in favor of the holder, or holders, of said revenue bonds, or a trustee therefor, provided that in creating any such mortgages or encumbrances, a municipality shall not have the power to obligate itself except with respect to the project;
6. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties, or in order to secure the payments of its bonds;
7. Enter into and perform such contracts and agreements with other municipalities, political subdivisions, and state agencies, authorities and institutions as the respective governing bodies of the same may deem proper and feasible for or concerning the planning, construction, lease, or other acquisition, and the financing of such facilities, and the maintenance thereof. Any such municipalities so contracting with each other may also provide in their contract or agreement for a board, commission, or such other body as their governing bodies may deem proper for the supervision and general management of the facilities of the project;
8. Accept from any authorized agency of the federal government loans or grants for the planning, construction, acquisition, leasing or other provision of any project, and to enter into agreements with such agency respecting such loans or grants;
9. Sell and convey all properties acquired in connection with such projects, including without limitation the sale and conveyance thereof subject to such mortgage as herein provided, for such price, and at such time as the governing body of the municipality may determine, provided, however, that no sale or conveyance of such properties shall ever be made in such manner as to impair the rights or interests of the holder, or holders, of any bonds issued under the authority of this Act; and
10. Issue said revenue bonds to refund, in whole or in part bonds previously issued by such municipality under authority of this Act.

No municipality shall have the power to operate any project referred to in this Act as a business or in any manner whatso-

ever, except as the lessor thereof. No debt on the general credit of the municipality shall be incurred in any manner for any purpose under the provisions of this Act. No municipality may pay out of its general fund, or otherwise contribute to the cost of a project, nor can it use any land already owned by or in which the municipality has an interest, for the construction thereof of a project.

**§ 4. Resolution Authorizing Project and the Issuance of Revenue Bonds; No Election Required.)** The acquisition, construction, reconstruction, improvement, betterment, or extension of any project, and the issue of bonds in anticipation of the collection of the revenues of such project to provide funds to pay for the cost thereof, may be authorized by an ordinance or resolution of the governing body adopted at a regular meeting thereof by the affirmative vote of a majority of its members. No election shall be required to authorize the use of any of the powers conferred by this Act.

**§ 5. No Approval of Public Officer Required.)** No notice to or consent of any governmental body or public officer of the state shall be required to authorize the issuance or sale of bonds or the making of any mortgage in connection therewith.

**§ 6. Certificate of Convenience Or Necessity Not Required.)** It shall not be necessary for any municipality proceeding under this Act to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission, or other instrumentality of the state in order to acquire, construct, reconstruct, improve, better, or extend any project or for the issuance of bonds in connection therewith.

**§ 7. Cost of Project; How Determined.)** In determining the cost of a project, the governing body may include all cost and estimated cost of the issuance of the revenue bonds, all engineering, inspection, fiscal, and legal expense, and the interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this Act.

**§ 8. Excess Revenues Not To Revert To General Fund of Municipality; Exception.)** Any revenues of any and all projects in excess of the amount required to pay interest upon all bonds issued hereunder, to create a sinking fund to pay the principal of such bonds, when due, to provide for the operation, maintenance, insurance, taxes, and depreciation of such project, shall not revert to the general fund of the municipality. However, at such time as there shall be outstanding no revenue bonds issued by the municipality, any excess of revenues may be transferred to the general fund of the municipality in such

amounts and at such times as the governing body of the municipality may deem proper and feasible.

**§ 9. Provisions Governing Revenue Bonds.)** The resolution or ordinance authorizing the issuance of revenue bonds under this Act, or ordinance or resolution adopted subsequent to the adoption of the original resolution or ordinance, shall prescribe:

1. The rate or rates of interest, payable semi-annually, but not exceeding five percent per annum, which such bonds shall bear;
2. Whether the bonds shall be in one or more series;
3. The date or dates which such bonds shall bear;
4. The time or times, not exceeding forty years from their respective dates, when such bonds shall mature;
5. The medium in which such bonds shall be payable;
6. The place or places where such bonds shall be payable;
7. Whether or not such bonds shall carry registration privileges, and what such privileges, if any, shall be;
8. The terms of redemption, if any, to which such bonds shall be subject;
9. The manner in which such bonds shall be executed;
10. The terms, covenants, and conditions which such bonds shall contain; and
11. The form, either coupon or registered, in which such bonds shall be issued.

**§ 10. Sale of Revenue Bonds; When Private Sale Authorized; Public Sale and Notice Thereof.)** Revenue bonds shall be sold at not less than par plus any accrued interest. Such bonds may be sold at private sale to the United States of America, or any agency, instrumentality, or corporation thereof, or to the state of North Dakota, or agency or instrumentality thereof. Unless the bonds are sold to the United States of America, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, such bonds shall be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in at least two financial newspapers published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California.

**§ 11. Bonds and Receipts Or Certificates Issued Pending Preparation of Bonds; Negotiability.)** Pending the preparation of the definitive bonds interim certificates or receipts, in such form and with such provisions as the governing body may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. Said bonds and interim receipts or certificates shall be negotiable within the meaning of and for all purposes specified in the title Negotiable Instruments.

**§ 12. Validity of Bonds; Regulations Governing.)** Revenue bonds bearing the signatures of the appropriate officers who are in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The validity of said bonds shall not be dependent on nor be affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the project for which said bonds are issued. The ordinance or resolution authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, and such recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**§ 13. Bonds Exempt From Taxation; Exception.)** Bonds issued under the provisions of this Act, and the income therefrom, shall be exempt from any taxes, except inheritance, estate, and transfer taxes.

**§ 14. Covenants That May Be Inserted In Ordinance Or Resolution Authorizing Bonds.)** Any ordinance or resolution authorizing the issuance of bonds under this Act to finance, in whole or in part, the acquisition, construction, reconstruction, improvement, betterment, or extension of any project may contain covenants, notwithstanding that such covenants may limit the exercise of powers conferred by this Act, as to:

1. The rents to be charged for the use of properties acquired, constructed, reconstructed, improved, bettered, or extended under the authority of this chapter;
2. The use and disposition of the revenues of said projects;
3. The creation and maintenance of sinking funds and the regulation, use and disposition thereof;
4. The creation and maintenance of funds to provide for maintaining the project and replacement of those properties which are subject to depreciation;
5. The purpose, or purposes, to which the proceeds of this sale of said bonds may be applied and the use and disposition of said proceeds;

6. The nature of mortgages or other encumbrances on the project made in favor of the holder or holders of such bonds, or a trustee therefor;
7. The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of bonds issued under this Act may bring any suit or action on said bonds or on any coupons thereof;
8. The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of said project;
9. The insurance to be carried upon the project and the use and disposition of insurance moneys;
10. The keeping of books of account and the inspection and audit thereof;
11. The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;
12. The rights, liabilities, powers, and duties arising upon the breach by the municipality of any covenants, conditions, or obligations;
13. The vesting in a trustee or trustees of the rights to enforce any covenants made to secure, to pay, or in relation, to the bonds; the powers and duties of such trustee or trustees, and the limitation of liabilities thereof;
14. The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under this Act or any duties imposed thereby;
15. A procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bond-holders, including, but not limited to, an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
16. The subordination of the security of any bonds issued hereunder and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of the municipality issued to finance the project or that may be outstanding when the bonds thus subordinated are issued and delivered.

Nothing in this section, or in any other section of this Act, shall authorize any municipality to do anything or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provisions, limitation, or restriction of the Constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or debt.

**§ 15. Liability of Municipality For Bonds; Taxing Power Prohibited; Bond Not A Lien.)** Revenue bonds issued under this Act shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, nor shall the municipality issuing the same be subject to any liability thereon. No holder or holders of any such bonds shall ever have the right to compel any exercise of the taxing power of the municipality to pay any such bonds or the interest thereon, nor to enforce payment thereon against any property of the municipality except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purpose of this Act. Such bonds shall not constitute a charge, lien nor encumbrance, legal or equitable, upon any property of the municipality, except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of this Act.

Each bond under this Act shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, except that such bond may be secured by a mortgage or other encumbrance on the project, or portion thereof, as authorized in this Act, and that the bond does not constitute a debt of the municipality within the meaning of any constitutional or statutory limitation.

**§ 16. Remedies of Bondholders In General.)** Subject to any contractual limitations binding upon the holders of any issue of revenue bonds, or a trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated may:

1. By mandamus or other suit, action, or proceeding at law or in equity, enforce its rights against the municipality and its governing body and any of its officers, agents, and employees and may require and compel such municipality or such governing body or any such officers, agents, or employees to perform and carry out its and their duties and obligations under this Act and its and their covenants and agreements with bondholders;

2. By action or suit in equity, require the municipality and the governing body thereof to account as if they were the trustees of an express trust;
3. By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;
4. Bring suit upon the bonds;
5. Foreclose any mortgage or lien given under the authority of this Act, and cause the property standing as security to be sold under any proceedings permitted by law.

No right or remedy conferred by this Act upon any bondholder, or upon any trustee therefor, is intended to be exclusive of any other right or remedy, but each such right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this Act, or by any other law in this state.

**§ 17. Project Not Exempt From Taxation.)** No project acquired by any municipality pursuant to the provisions of this Act shall be exempt from the imposition and collection of taxes thereon.

**§ 18. Construction.)** The powers conferred by this Act shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this Act shall not affect the powers conferred by, any other law. Revenue bonds may be issued under this chapter without regard to any other provisions of the laws of this state. The project may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued under this Act for said purposes, notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like project or for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, debt, or other limitations or other provisions contained in any other law, including but not limited to, any requirement for any restriction or limitation on the incurring of indebtedness or the issuance of bonds. Insofar as the provisions of this Act are inconsistent with any other law of this state, the provisions of this Act shall be controlling with reference to the issuance of revenue bonds and the security therefor.

**§ 19. Savings Clause.)** If any section, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

Approved March 11, 1955.

## CHAPTER 281

H. B. No. 774

(Baldwin)

REHABILITATION, CLEARANCE, AND REDEVELOPMENT OF  
SLUMS AND BLIGHTED AREAS

## AN ACT

To provide for the rehabilitation, clearance, and redevelopment of slums and blighted areas; to define the duties, liabilities, exemptions and powers of cities and towns in undertaking such activities, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Short Title.)** This Act shall be known and may be cited as the "Urban Renewal Law".

§ 2. **Findings and Declarations of Necessity.)** It is hereby found and declared that there exist in municipalities of the state slum and blighted areas (as herein defined) which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization and other forms of public protection, services and facilities.

It is further found and declared that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this Act, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in this Act, be susceptible of conservation or rehabilitation in such a manner that the conditions



and evils hereinbefore enumerated may be eliminated, remedied or prevented; and that to the extent feasible salvable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process.

It is further found and declared that the powers conferred by this Act are for public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

**§ 3. Encouragement of Private Enterprise.)** A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this Act, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall give consideration to this objective in exercising its powers under this Act, including the formulation of a workable program, the approval of urban renewal plans (consistent with the general plan for the municipality), the adoption and enforcement of ordinances as provided for in section 18, the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

**§ 4. Workable Program.)** A municipality for the purposes of this Act may formulate a workable program for utilizing appropriate private and public resources (including those specified in section 18 hereof) to eliminate, and prevent the development or spread of, slums and urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for: the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of slum areas or portions thereof.

**§ 5. Finding of Necessity By Local Governing Body.)** No municipality shall exercise any of the powers hereafter con-

ferred upon municipalities by this Act until after its local governing body shall have adopted a resolution finding that:

1. One or more slum or blighted areas exist in such municipality; and
2. The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality.

**§ 6. Preparation and Approval of Urban Renewal Plans.)**

1. A municipality shall not approve an urban renewal plan for an urban renewal area unless the governing body has, by resolution determined such area to be a slum area or a blighted area or a combination thereof and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a general plan for the municipality has been prepared. For this purpose and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt and to revise from time to time, a general plan for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal plan in accordance with subsection 4 hereof.
2. The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to a municipality. Prior to its approval of an urban renewal plan, the local governing body shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within said thirty days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal plan prescribed by subsection 3 hereof.

3. The local governing body shall hold a public hearing on an urban renewal plan or substantial modification of an approved urban renewal plan, after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the municipality. The notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration.
4. Following such hearing, the local governing body may approve an urban renewal plan if it finds that:
  - a. A feasible method exists for the location of families who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families;
  - b. The urban renewal plan conforms to the general plan of the municipality as a whole; and
  - c. The urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise: Provided, that if the urban renewal area or a portion thereof consists of a blighted area of open land which is to be acquired by the municipality for slum clearance and redevelopment, such blighted area shall not be so acquired unless
    - (1) it is to be redeveloped for predominantly residential uses, and
    - (2) the local governing body shall determine that a shortage of housing of sound standards and design which is decent, safe and sanitary exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas (including other portions of the urban renewal area); that the conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the redevelopment of the area for predominantly residential uses is an integral part of and essential to the program of the municipality for the elimination of slum and blighted areas.

5. An urban renewal plan may be modified at any time: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert. Any proposed modification which will substantially change the urban renewal plan as previously approved by the local governing body shall be subject to the requirements of this section, including the requirement of a public hearing, before it may be approved.
6. Upon the approval of an urban renewal plan by the municipality the provisions of said plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

**§ 7. Powers.)** Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

1. To undertake and carry out urban renewal projects within its area of operation; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this Act; and to disseminate slum clearance and urban renewal information.
2. To provide or to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.
3. Within its area of operation, to enter upon any building or property in any urban renewal area in order to make surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest,

devise, eminent domain or otherwise, any real property (or personal property for its administrative purposes) together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Act: Provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict a municipality or other public body exercising powers hereunder, in the exercise of such functions with respect to an urban renewal project, unless the legislature shall specifically so state.

4. To invest any urban renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to section 10 of this Act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.
5. To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this Act, and to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality may include in any contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal law as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act.
6. Within its area of operation, to make or have made all plans necessary to the carrying out of the purposes of this Act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans. Such plans may include, without limitation:
  - a. A general plan for the locality as a whole;
  - b. Urban renewal plans;

- c. Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
  - d. Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and
  - e. Appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight, and to apply for, accept and utilize grants of funds from the federal government for such purposes.
- 7. To prepare plans and provide reasonable assistance for the relocation of families displaced from an urban renewal area.
  - 8. To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act, and to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; to plan or replan, zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with a housing authority or an urban renewal agency vested with urban renewal project powers under section 15 of this Act (which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary), respecting action to be taken by such municipality pursuant to any of the powers granted by this Act.
  - 9. Within its area of operation, to organize, coordinate and direct the administration of the provisions of this Act as they apply to such municipality in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively.
  - 10. To exercise all or any part or combination of powers herein granted.

**§ 8. Eminent Domain.)**

1. A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this Act. A municipality may exercise the power of eminent domain in the manner provided in housing authorities law, and acts amendatory thereof or supplementary thereto, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner: Provided, that no real property belonging to the state, or any political subdivision thereof, may be acquired without its consent.
2. In any proceeding to fix or assess compensation for damages for the taking or damaging of property, or any interest therein, through the exercise of the power of eminent domain or condemnation, evidence or testimony bearing upon the following matters shall be admissible and shall be considered in fixing such compensation or damages, in addition to evidence or testimony otherwise admissible:
  - a. Any use, condition, occupancy, or operation of such property, which is unlawful or violative of, or subject to elimination, abatement, prohibition, or correction under, any law or in any ordinance or regulatory measure of the state, county, municipality, other political subdivision, or any agency thereof, in which such property is located, as being unsafe, substandard, insanitary or otherwise contrary to the public health, safety, or welfare;
  - b. The effect on the value of such property, of any such use, condition, occupancy, or operation, or of the elimination, abatement, prohibition, or correction of any such use, condition, occupancy, or operation;
3. The foregoing testimony and evidence shall be admissible notwithstanding that no action has been taken by any public body or public officer toward the abatement, prohibition, elimination or correction of any such use, condition, occupancy, or operation. Testimony or evidence that any public body or public officer charged with the duty or authority so to do has rendered, made or issued any judgment, decree, determination or order for the abatement, prohibition, elimination or correction of any such use, condition, occupancy, or operation shall

be admissible and shall be prima facie evidence of the existence and character of such use, condition or operation.

**§ 9. Disposal of Property In Urban Renewal Area.)**

1. A municipality may sell, lease or otherwise transfer real property or any interest therein acquired by it, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions and restrictions, including covenants, running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this Act: Provided, that such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the municipality may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the municipality retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The municipality in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without the prior written consent of the municipality until he has completed the construction of any and all improvements which he has obligated himself to construct thereon. Real property acquired by a municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the



public interest consistent with the carrying out of the provisions of the urban renewal plan. The inclusions in any such contract or conveyance to a purchaser or lessee of any such covenants, restrictions, or conditions (including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof) shall not prevent the filing of such contract or conveyance in the land records of the register of deeds in such manner as to afford actual or constructive notice thereof.

2. A municipality may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. A municipality may, by public notice by publication once each week for two consecutive weeks in a newspaper having a general circulation in the community prior to the execution of any contract to sell, lease or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that such further information as is available may be obtained at such office as shall be designated in said notice. The municipality shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out, and may negotiate with any persons for proposals for the purchase, lease or other transfer of any real property acquired by the municipality in the urban renewal area. The municipality may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this Act: Provided, that a notification of intention to accept such proposal shall be filed with the governing body not less than thirty days prior to any such acceptance. Thereafter, the municipality may execute such contract in accordance with the provisions of subsection 1 and deliver deeds, leases and other instruments and take all steps necessary to effectuate such contract.
3. A municipality may temporarily operate and maintain real property acquired in an urban renewal area pending the disposition of the property for redevelopment, without regard to the provisions of subsection 1 above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

**§ 10. Issuance of Bonds.)**

1. A municipality shall have power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this Act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban renewal projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this Act: Provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or other source, in aid of any urban renewal projects of the municipality under this Act, and by a mortgage of any of such urban renewal projects, or any part thereof, title to which is in the municipality.
2. Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of this Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.
3. Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.
4. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a

newspaper having a general circulation in the area of operation and in such other medium of publication as the municipality may determine or may be exchanged for other bonds on the basis of par: Provided, that such bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

5. In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this Act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.
6. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this Act.

**§ 11. Bonds As Legal Investments.)** All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to this Act or by any urban renewal agency or housing authority vested with urban renewal project powers under section 15 of this Act: Provided that such bonds and other obligations shall be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other

moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

**§ 12. Property Exempt From Taxes and From Levy and Sale By Virtue of An Execution.)**

1. All property of a municipality, including funds, owned or held by it for the purposes of this Act shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property: Provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this Act by a municipality on its rents, fees, grants or revenues from urban renewal projects.
2. The property of a municipality, acquired or held for the purposes of this Act, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof: Provided, that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

**§ 13. Cooperation By Public Bodies.)**

1. For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it may determine:
  - a. dedicate, sell, convey or lease any of its interest in any property or grant easements, licenses or other rights or privileges therein to a municipality;

- b. incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section;
  - c. do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan;
  - d. lend, grant or contribute funds to a municipality;
  - e. enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a municipality or other public body respecting action to be taken pursuant to any of the powers granted by this Act, including the furnishing of funds or other assistance in connection with an urban renewal project, and
  - f. cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan, zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the municipality. If at any time title to or possession of any urban renewal project is held by any public body or governmental agency, other than the municipality, which is authorized by law to engage in the undertaking, carrying out, or administration of urban renewal projects (including any agency or instrumentality of the United States of America), the provisions of the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency. As used in this subsection, the term "municipality" shall also include an urban renewal agency or a housing authority vested with all of the urban renewal project powers pursuant to the provisions of section 15.
2. Any sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or public bidding.
  3. For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of an urban renewal agency or a housing authority hereunder, a municipality may (in addition to its other powers and upon such terms, with or without consideration, as it

may determine) do and perform any or all of the actions or things which, by the provisions of subsection 1 of this section, a public body is authorized to do or perform, including the furnishing of financial and other assistance.

4. For the purposes of this section, or for the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of a municipality, such municipality may (in addition to any authority to issue bonds pursuant to section 10) issue and sell its general obligation bonds. Any bonds issued by a municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by such municipality for public purposes generally.

**§ 14. Title of Purchaser.)** Any instrument executed by a municipality and purporting to convey any right, title or interest in any property under this Act shall be conclusively presumed to have been executed in compliance with the provisions of this Act insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

**§ 15. Exercise of Powers In Carrying Out Urban Renewal Project.)**

1. A municipality may itself exercise its urban renewal project powers as herein defined or may, if the local governing body by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency created by section 16 or by the housing authority, if one exists or is subsequently established in the community. In the event the local governing body makes such determination, the urban renewal agency or the housing authority, as the case may be, shall be vested with all of the urban renewal project powers in the same manner as though all such powers were conferred on such agency or authority instead of the municipality. If the local governing body does not elect to make such determination, the municipality in its discretion may exercise its urban renewal project powers through a board or commissioner or through such officers of the municipality as the local governing body may by resolution determine.
2. As used in this section, the term "urban renewal project powers" shall include the rights, powers, functions and duties of a municipality under this Act, except the following: the power to determine an area to be a slum or blighted area or combination thereof and to designate

such area as appropriate for an urban renewal project; the power to approve and amend urban renewal plans and to hold any public hearings required with respect thereto; the power to establish a general plan for the locality as a whole; the power to formulate a workable program under section 4; the powers, duties and functions referred to in section 18 hereof; the power to make the determinations and findings provided for in section 3, section 5, and section 6 subsection 4; the power to issue general obligation bonds; and the power to appropriate funds, to levy taxes and assessments, and to exercise other powers provided for in section 7 subsection 8.

**§ 16. Urban Renewal Agency.)**

1. There is hereby created in each municipality a public body corporate and politic to be known as the "urban renewal agency" of the municipality: Provided, that such agency shall not transact any business or exercise its powers hereunder until or unless the local governing body has made the finding prescribed in section 5 and has elected to have the urban renewal project powers exercised by an urban renewal agency as provided in section 15.
2. If the urban renewal agency is authorized to transact business and exercise powers hereunder, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of five commissioners. The term of office of each such commissioner shall be one year.
3. A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the by-laws shall require a larger number. Any persons may be appointed as commissioners if they reside within the area

of operation of the agency (which shall be co-terminous with the area of operation of the municipality) and are otherwise eligible for such appointments under this Act.

The mayor shall designate a chairman and vice-chairman from among the commissioners. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this Act shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the auditor or the village clerk, as the case may be, and in the office of the agency.

4. For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after he shall have been given a copy of the charges at least ten days prior to such hearing and have had an opportunity to be heard in person or by counsel.

**§ 17. Interested Public Officials, Commissioners Or Employees.)** No public official or employee of a municipality (or board or commission thereof), and no commissioner or employee of a housing authority or urban renewal agency which has been vested by a municipality with urban renewal project powers under section 15 shall voluntarily acquire any interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project of such municipality or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local governing body and such disclosure shall be entered upon the minutes of the governing body. If any such official, commissioner or employee presently owns or controls, or owned or controlled within the preceding two years, any interest, direct or indirect, in any property which he knows is included or planned to be included in an urban renewal project, he shall immediately disclose this act in writing to the local governing body, and such disclosure shall be entered upon the minutes of the governing body, and any such official, commissioner or employee shall



not participate in any action by the municipality (or board or commission thereof), housing authority, or urban renewal agency affecting such property. Any disclosure required to be made by this section to the local governing body shall concurrently be made to a housing authority or urban renewal agency which has been vested with urban renewal project powers by the municipality pursuant to the provisions of section 15. No commissioner or other officer of any housing authority, urban renewal agency, board or commission exercising powers pursuant to this Act shall hold any other public office under the municipality other than his commissionership or office with respect to such housing authority, urban renewal agency, board of commission. Any violation of the provisions of this section shall constitute misconduct in office.

**§ 18. Ordinances Relating To Repair, Closing and Demolition of Dwellings Unfit For Human Habitation.)**

1. Whenever any municipality finds that there exist in such municipality dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, including those set forth in subsection 3 hereof, rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality, power is hereby conferred upon such municipality to require or cause the repair, closing or demolition or removal of such dwellings in the manner herein provided. A "dwelling" shall mean any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.
2. Upon the adoption of an ordinance finding that dwelling conditions of the character described in subsection 1 hereof exist within a municipality, the governing body of such municipality is hereby authorized to adopt ordinances relating to the dwellings within such municipality which are unfit for human habitation. Such ordinances shall include the following provisions:
  - a. That a public officer be designated or appointed to exercise the powers prescribed by the ordinances.
  - b. That whenever a petition is filed with the public officer or by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human

habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of said complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

- c. That if, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which,
  - (1) if the repair, alteration or improvement of the said dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality shall fix a certain percentage of such cost as being reasonable for such purpose), requires the owner, within the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or
  - (2) if the repair, alteration or improvement of the said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality shall fix a certain percentage of such cost as being reasonable for such purpose), requires the owner, within the time specified in the order, to remove or demolish such dwelling.
- d. That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved, or to be vacated and closed.

- e. That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished.
  - f. That the amount of the cost of such repairs, alterations or improvements, or vacating the closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and such lien, including as part thereof allowance of his costs and necessary attorneys' fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property. If the dwelling is removed or demolished by the public officer he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto as determined by proper judicial proceedings instituted by the public officer after deducting the costs of such judicial proceedings, including his necessary attorneys' fees incurred therein, as determined by the court.
3. An ordinance adopted by a municipality pursuant to this section shall provide that the public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of such municipality, or which have a blighting influence on properties in the area. Such conditions may include the following, without limitation: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of building and improvements. Such ordinance may provide additional standards to guide the public officer or his agents or employees in determining the fitness of a dwelling for human habitation.
4. Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public offi-

cer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the municipality, or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the county in which the dwelling is located and such filing of the complaint or order shall have the same force and effect as other *lis pendens* notices provided by law.

5. Any person affected by an order issued by the public officer may petition the district court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; Provided, however, that within sixty days after the posting and service of the order of the public officer, such person shall petition such court. Hearings shall be had by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceeding. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of compliance by such person with any order of the public officer.
6. An ordinance adopted by the governing body of the municipality may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:
  - a. to investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation;
  - b. to administer oaths, affirmations, examine witnesses and receive evidence;

- c. to enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
  - d. to appoint and fix the duties of such officers, agent and employees as he deems necessary to carry out the purposes of such ordinance; and
  - e. to delegate any of his functions and powers under such ordinance to such officers, agents and employees as he may designate.
7. The governing body of any municipality adopting an ordinance under this section shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in such municipality for the purpose of determining the fitness of such dwellings for human habitation, and for the enforcement and administration of its ordinance or ordinances adopted under this section.
8. Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.
9. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.
10. The governing body of a city is hereby authorized to adopt ordinances prescribing minimum standards for the use and occupancy of dwellings throughout the city and to prevent the use or occupancy of any dwelling which is injurious to the public health, safety, morals or welfare.

**§ 19. Definitions.)** The following terms wherever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

1. "Agency" or "Urban Renewal Agency" shall mean a public agency created by section 16 of this Act.

2. "Municipality" shall mean any incorporated city, town or village in the state.
3. "Public body" shall mean the state or any municipality, township, village, board, commission, authority, district, or any other subdivision or public body of the state.
4. "Local governing body" shall mean the city council, the board of city commissioners, the village board of trustees, or the board of township supervisors, as the case may be.
5. "Mayor" shall mean the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality.
6. "Clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.
7. "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
8. "Slum area" shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.
9. "Blighted area" shall mean 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, insanitary 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 such 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: Provided, that if such blighted area consists of open or predominantly open land the conditions contained in the proviso in section 6 subsection 4 shall apply.

10. "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan.
11. "Slum clearance and redevelopment" may include
  - a. acquisition of a slum area or a blighted area or a blighted area or portion thereof;
  - b. demolition and removal of buildings and improvements;
  - c. installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this Act in accordance with the urban renewal plan; and
  - d. making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) as its fair value for uses in accordance with the urban renewal plan.
12. "Rehabilitation" or "conservation" may include the restoration and renewal of a slum or blighted area or portion thereof, in accordance with an urban renewal plan, by
  - a. carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;
  - b. acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate, unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;

- c. installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this Act; and
  - d. the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.
13. "Urban renewal area" means a slum area or a blighted area or a combination thereof which the local governing body designates as appropriate for an urban renewal project.
14. "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan
- a. shall conform to the general plan for the municipality as a whole; and
  - b. shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.
15. "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.
16. "Bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.
17. "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.



18. "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.
19. "Area of operation" shall mean the area within the corporate limits of the municipality and the area within five miles of such limits, except that it shall not include any area which lies within the territorial boundaries of another incorporated city or town unless a resolution shall have been adopted by the governing body of such other city or town declaring a need therefor.
20. "Housing authority" shall mean a housing authority created by and established pursuant to the housing authorities law.
21. "Board" or "commission" shall mean a board, commission, department, division, office, body or other unit of the municipality.
22. "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

**§ 20. Separability; Act Controlling.)** Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

**§ 21. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1955.