

COUNTIES

CHAPTER 93

SENATE BILL NO. 2475
(Senators Redlin, Lindgren)

COUNTY OFFICER RESIDENCY

AN ACT to amend and reenact section 11-10-04 of the North Dakota Century Code, relating to residency requirements of county officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-10-04 of the North Dakota Century Code is amended and reenacted as follows:

11-10-04. Officer must be qualified elector - Exceptions. Except as otherwise specifically provided by the laws of this state, a county officer must be a qualified elector in the county in which ~~he~~ the person is chosen or appointed, and a county commissioner must be a qualified elector in the district from which ~~he~~ the commissioner is chosen. Upon approval of the board of county commissioners of each affected county, a person may serve as an elected officer of more than one county and must be a qualified elector of one of the counties in which the person is elected. Two or more counties may appoint one person to fill the same office in each county and the person filling the office must be a qualified elector of one of the counties.

Approved March 30, 1993
Filed April 1, 1993

CHAPTER 94

HOUSE BILL NO. 1426
(Representatives Skarphol, Rennerfeldt, Jacobs, C. Carlson)
(Senators Andrist, Bowman)

COUNTY SUPERINTENDENT OF SCHOOLS EMPLOYMENT

AN ACT to amend and reenact section 11-10-10.5 of the North Dakota Century Code, relating to the employment of a county superintendent of schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-10-10.5 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-10-10.5. County superintendent of schools - Officer. For purposes of sections 11-10-10, 11-10-15, and 11-10-20, the county superintendent of schools employed by the board of county commissioners is an officer of the county. Notwithstanding any other provision of law except section 15-22-01, a board of county commissioners may by majority vote employ a person who meets the qualifications provided in section 15-22-02 to serve as the county superintendent of schools on a part-time basis.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 95

SENATE BILL NO. 2271
(Senators Marks, Jerome, O'Connell)
(Representatives Gulleeson, Hagle, Soukup)

POLITICAL SUBDIVISION ENACTMENTS PRESUMPTION

AN ACT to create and enact a new section to chapter 11-10, a new section to chapter 40-11, and a new section to chapter 58-01 of the North Dakota Century Code, relating to a conclusive presumption of regularity for county, city, and township resolutions, ordinances, bylaws, and regulations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

Presumption of regular adoption, enactment, or amendment of resolution or ordinance. Three years after adoption or amendment of a resolution or the enactment or amendment of an ordinance by the board of county commissioners it is conclusively presumed that the resolution or ordinance was adopted, enacted, or amended and published as required by law.

SECTION 2. A new section to chapter 40-11 of the North Dakota Century Code is created and enacted as follows:

Presumption of regular adoption, enactment, or amendment of resolution or ordinance. Three years after the adoption or amendment of a resolution or the enactment or amendment of an ordinance by the governing body of a city it is conclusively presumed that the resolution or ordinance was adopted, enacted, or amended and published as required by law.

SECTION 3. A new section to chapter 58-01 of the North Dakota Century Code is created and enacted as follows:

Presumption of regular enactment, adoption, or amendment of bylaws, resolutions, or regulations. Three years after enactment or amendment of township bylaws or adoption or amendment of township resolutions or regulations it is conclusively presumed that the bylaws, resolutions, or regulations were enacted, adopted, or amended as required by law.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 96

HOUSE BILL NO. 1094
(Political Subdivisions Committee)
(At the request of the State Historical Society)

COUNTY PARTICIPATION IN HISTORIC PRESERVATION

AN ACT to create and enact a new subsection to section 11-11-14 of the North Dakota Century Code, relating to the power of boards of county commissioners to initiate participation in the national historic preservation program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 11-11-14 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

To participate and enact or adopt ordinances and resolutions necessary for participation in the nation's historic preservation program as a certified local government, as provided for under 36 CFR 61.5.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 97

SENATE BILL NO. 2399
(Senators Dotzenrod, Andrist, Kinnoin)
(Representatives Belter, Grumbo)

JOB DEVELOPMENT AUTHORITY VOTERS

AN ACT to amend and reenact section 11-11.1-01 of the North Dakota Century Code, relating to the election question to discontinue a job development authority and to the job development authority board of directors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-11.1-01. Job development authority - Board of directors' members qualifications. The board of county commissioners, by resolution, may create a job development authority for the county, or may discontinue a job development authority which has been created for the county. If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition signed by electors of the county who are residents of the area subject to taxation under section 11-11.1-04 equal in number to ten percent of the votes cast in the county in the area subject to taxation under section 11-11.1-04 for the office of governor in the last general election. Only electors of the county who are residents of the area subject to taxation under section 11-11.1-04 may vote on the question to discontinue the authority. The question to discontinue the authority requires a majority of the electors voting on the question for passage. If the authority is created, a board of directors of not fewer than ten nor more than twenty members shall be appointed by the county commissioners and shall consist of representatives from the following groups, as they may exist:

1. Two members from the county commission.
2. One member from the city council or commission of each city within the county which has a population of five hundred or more.
3. One member selected from among the city governments of the remaining cities of the county.
4. If a majority of the townships in the county are organized townships, two members selected from the township governments of the organized townships in the county.
5. The remaining members shall be selected from a list of candidates from the following fields:
 - a. A representative of the local job service office nearest the county seat.
 - b. A member of the local airport authority.

- c. A member of a local institution of higher education.
- d. A member from among the school boards of the county.
- e. A member from a local industrial development organization.
- f. A member of the regional planning council serving the county.
- g. A member of the legislative assembly representing a district within the county.
- h. Members at large from the county.

The county commissioners shall make these appointments from a slate of candidates submitted by the chambers of commerce within the county. If no chamber of commerce exists in the county, the nominations may be submitted by any civic or patriotic organization within the county. If names submitted are unacceptable, the county commission may request additional nominees. The members shall be appointed without regard to political affiliation and upon their fitness to serve as members by reason of character, experience, and training. All members of the board who do not reside in the area subject to taxation under section 11-11.1-04 are nonvoting members of the board.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 98

HOUSE BILL NO. 1483
(Representatives Mahoney, Gates, Freier)
(Senator Nething)

JOINT JOB DEVELOPMENT AUTHORITIES

AN ACT to create and enact section 11-11.1-01.1 and a new section to chapter 57-15 of the North Dakota Century Code, relating to a joint job development authority for counties and the establishment of economic growth districts; and to amend and reenact sections 11-11.1-02, 11-11.1-03, 11-11.1-04, 11-11.1-06, and 57-15-31 of the North Dakota Century Code, relating to a joint job development authority for counties and county general fund levies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 11-11.1-01.1 of the North Dakota Century Code is created and enacted as follows:

11-11.1-01.1. Joint job development authority - Board of directors. The boards of county commissioners of two or more counties, by resolution, may create a joint job development authority for the counties. If the authority is created, boards of county commissioners shall appoint a board of directors in the size and manner established in the resolution. The resolution must include provision for discontinuing the authority by the boards of county commissioners. If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition signed by electors, who are residents of the area subject to taxation under section 11-11.1-04, of any county creating the authority equal in number to ten percent of the votes cast in that county for the office of governor in the last general election. The question to discontinue the authority requires a majority of the electors voting on the question in that county for passage. Only electors of the county who are residents of the area subject to taxation under section 11-11.1-04 may vote on the question to discontinue the authority. If the question to discontinue in any county creating the authority is passed, the authority is discontinued.

SECTION 2. AMENDMENT. Section 11-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-02. Members of the job development authority board of directors - Term of office - Oath - Expenses. The members of the job development authority board of directors and the joint job development authority board of directors shall serve for a term of three years or until their successors are duly qualified. Terms of office shall begin on January first and shall must be arranged so that the terms of office of approximately one-third of the members shall expire on December thirty-first of each year. Each member of the board shall qualify by taking the oath provided for civil officers. The oath shall must be filed with the county auditor.

The board of directors shall annually elect members to serve as chairman, vice chairman, secretary, and treasurer. They The board shall also select an executive

committee with such powers and duties as may be delegated by the board of directors. Members may be reimbursed from funds available to the authority for mileage and expenses as provided in sections 44-08-04 and 54-06-09 but ~~shall~~ may not receive ~~no~~ compensation for service.

SECTION 3. AMENDMENT. Section 11-11.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **11-11.1-03. Powers and duties of job development authorities.** The job development authority or joint job development authority shall use its financial and other resources to encourage and assist in the development of employment within the county or counties. In fulfilling this objective, the ~~job-development~~ authority may exercise the following powers:

1. To sue and be sued.
2. To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.
3. To hire professional personnel skilled in seeking and promoting new or expanded opportunities within the county or counties.
4. To make, amend, and repeal resolutions consistent with the provisions of this chapter as necessary to carry into effect the powers and purposes of the authority.
5. To acquire by gift, trade, or purchase, and to hold, improve, and dispose of ~~real or personal~~ property.
6. To certify a tax levy as provided in section 11-11.1-04 and to expend moneys raised by the tax for the purposes provided in this chapter.
7. To insure or provide for insurance of any ~~real or personal~~ property in which the authority has an insurable interest.
8. To invest any funds held by the authority.
9. To cooperate with political subdivisions in exercising any of the powers granted by this section, including enabling agreements permitted under chapter 54-40.
10. To loan, grant, or convey any funds or other ~~real or personal~~ property held by the authority for any purpose necessary or convenient to carry into effect the objective of the authority established by this chapter.
11. To exercise any other powers necessary to carry out the purposes and provisions of this chapter.

SECTION 4. AMENDMENT. Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

¹ NOTE: Section 11-11.1-03 was also amended by section 13 of Senate Bill No. 2021, chapter 42, and by section 1 of Senate Bill No. 2537, chapter 99.

² 11-11.1-04. **Tax levy for job development authorities.** The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and levy a tax not exceeding the limitation in subsection 29 of section 57-15-06.7. The county treasurer shall keep the fund separate from other money of the county and transmit all funds received pursuant to this section within thirty days to the board of directors of the ~~job development~~ authority. The funds when paid to the ~~job development~~ authority shall must be deposited in a special account in which other revenues of the ~~job development~~ authority are deposited and may be expended by the ~~job development~~ authority as provided in sections 11-11.1-02 and 11-11.1-03.

SECTION 5. AMENDMENT. Section 11-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-06. **Alternative levy for industrial development organizations.** In lieu of establishing a job development authority or joint job development authority as provided in sections 11-11.1-01 through 11-11.1-05, the board of county commissioners in a county where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 29 of section 57-15-06.7. The funds from the levy may be used to enter into a contract with the industrial development organization for performance of the functions of a job development authority or joint job development authority as provided in sections 11-11.1-01 through 11-11.1-05.

SECTION 6. A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

Economic growth districts. In counties that are part of a joint job development authority, an economic growth district may be established by resolution approved by the board of county commissioners of each county that will be part of the economic growth district. The resolution approved by each board of county commissioners must specify which of the counties in the economic growth district will have the responsibility to administer the economic growth increment pool, unless the boards of county commissioners otherwise agree in writing to different terms and conditions.

1. Upon establishment of an economic growth district, the auditor of each county in the economic growth district shall compute and certify the taxable value of each lot or parcel of commercial property, as defined in section 57-02-01, in that county as most recently assessed and equalized. In each subsequent year, the county auditor of each county in an economic growth district shall compute and certify the amount by which the taxable valuation of all commercial lots and parcels of real property in that county, as most recently assessed and equalized, has increased in comparison with the original taxable value of all commercial lots and parcels. The amount of increase determined is the gross commercial growth of that county. If there is a decrease or no increase in gross commercial growth, the auditor shall certify the gross commercial growth as zero.

² NOTE: Section 11-11.1-04 was also amended by section 2 of Senate Bill No. 2537, chapter 99.

The auditor shall compute and certify the net commercial growth of the county as thirty percent of the gross commercial growth.

2. The county auditor of each county in an economic growth district shall exclude the net commercial growth determined under subsection 1 from the taxable valuation upon which the auditor computes the mill rates of taxes levied in that year by the state and every political subdivision having power to levy taxes on the property. The auditor shall extend the aggregate mill rate against the net commercial growth as well as the taxable valuation upon which the aggregate mill rate was determined. The amount of taxes received from application of the aggregate mill rate against the net commercial growth is the economic growth increment revenue for that year.
3. The county auditor of each county in an economic growth district shall segregate all economic growth increment revenue in a special fund.
4. The county treasurer shall remit the economic growth increment revenue to the county auditor of the county that administers the economic growth increment pool when the county treasurer distributes collected taxes to the state and to political subdivisions.
5. Before annual certification of county tax levies to the county auditor, the county auditor in the county that administers the economic growth increment pool shall distribute to the county auditors of the other counties in the economic growth district the proportion of the economic growth increment pool which the population of the receiving county bears to the total population of all counties in the economic growth district. Revenue received by a county under this subsection must be deposited in the county general fund.
6. An economic growth district may be dissolved by discontinuation of a joint job development authority or by approval of a resolution by the board of county commissioners of each county in the economic growth district. Upon dissolution of an economic growth district, any funds remaining in the economic growth increment pool must be distributed in accordance with subsection 5.

SECTION 7. AMENDMENT. Section 57-15-31 of the North Dakota Century Code is amended and reenacted as follows:

57-15-31. Determination of levy. The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes shall be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, plus the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:

1. The available surplus consisting of the free and unencumbered cash balance.
2. Estimated revenues from sources other than direct property taxes.
3. The total estimated collections from tax levies for previous years.

4. Such expenditures as are to be made from bond sources.
5. The amount of distributions received from an economic growth increment pool under section 6 of this Act.

Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 99

SENATE BILL NO. 2537

(Senator Keller)

(Approved by the Delayed Bills Committee)

JOB DEVELOPMENT AUTHORITY REVENUES

AN ACT to amend and reenact subsection 6 of section 11-11.1-03 and sections 11-11.1-04 and 11-11.1-07 of the North Dakota Century Code, relating to authority of job development authorities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ **SECTION 1. AMENDMENT.** Subsection 6 of section 11-11.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. To certify a tax levy as provided in section 11-11.1-04 and to expend moneys raised by the tax for the purposes provided in this chapter. A job development authority may accept and expend moneys from any other source.

SECTION 2. AMENDMENT. Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

² **11-11.1-04. Tax levy for job development authorities.** The board of county commissioners of a county which has a job development authority shall establish a job development authority fund and levy a tax not exceeding the limitation in subsection 29 of section 57-15-06.7. The county treasurer shall keep the fund separate from other money of the county and transmit all funds received pursuant to this section within thirty days to the board of directors of the job development authority. The funds when paid to the job development authority ~~shall~~ must be deposited in a special account in which other revenues of the job development authority are deposited and, Moneys received by the job development authority from any other source must also be deposited in the special account. The moneys in the special account may be expended by the job development authority as provided in sections 11-11.1-02 and 11-11.1-03.

SECTION 3. AMENDMENT. Section 11-11.1-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ NOTE: Section 11-11.1-03 was also amended by section 3 of House Bill No. 1483, chapter 98 and by section 13 of Senate Bill No. 2021, chapter 42.

² NOTE: Section 11-11.1-04 was also amended by section 4 of House Bill No. 1483, chapter 98.

11-11.1-07. Dedication of tax revenues. The governing body of a county may dedicate any portion of revenues from the tax authorized under this chapter or moneys received from any other source to payment of any loan entered or grant awarded for any purpose necessary or convenient to carry into effect the objective of the authority established by this chapter.

Approved March 30, 1993
Filed April 1, 1993

CHAPTER 100

SENATE BILL NO. 2533
(Senators Krauter, Graba)
(Representatives Jacobs, Kerzman, Martin)

DEED RECORDING WITH UNPAID TAXES

AN ACT to amend and reenact sections 11-13-12 and 11-18-02 of the North Dakota Century Code, relating to prohibiting the recording of deeds transferring property on which taxes are unpaid but not delinquent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-13-12 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-13-12. Auditor's certificate of taxes on deeds, contracts for deed, plats, replats, and patents.

1. Whenever a deed, contract for deed, or patent is presented to the county auditor for transfer, the auditor shall ascertain from the books and records in the auditor's office and in the office of the county treasurer whether there are delinquent taxes or special assessments against the land described in the instrument or whether the land has been sold for taxes.
 - a. If there are delinquent taxes or special assessments ~~or installments of special assessments~~ against lands described in the instrument, the auditor shall certify the same. When the receipt of the county treasurer is produced for the delinquent and current taxes or special assessments ~~or installments of special assessments~~, the county auditor shall enter ~~on the instrument over the auditor's official signature: "Delinquent taxes~~ "Taxes and special assessments ~~or installments of special assessments~~ paid and transfer entered".
 - b. If the land described has been sold for taxes to a purchaser other than the county, the auditor shall enter "Taxes paid by sale of the land described within and transfer entered".
 - c. If the instrument presented is entitled to record without regard to taxes, the auditor shall enter "Transfer entered".
 - d. Entries required under this subsection must be accompanied by the auditor's signature.
2. Whenever a deed, contract for deed, or patent is presented to the county auditor for transfer, the auditor shall ascertain from the books and records in the auditor's office whether there are current taxes or current special assessments against the land described in the instrument. If there are current taxes or current special assessments ~~or installments of special assessments~~ against the land described in the instrument, the auditor shall place a statement on the instrument showing the amount of

any current taxes or current special assessments ~~or installments of special assessments~~. When the receipt of the county treasurer is produced showing payment of delinquent and current taxes and special assessments, the auditor shall enter "Taxes and special assessments paid and transfer entered". For purposes of this subsection:

- a. "Current special assessments" means special assessments that have been certified to the county auditor for collection but are not yet delinquent.
 - b. "Current taxes" means real estate taxes, as shown on the most recent tax list prepared by the county auditor, which are not yet delinquent.
3. Whenever a plat, replat, auditor's lot, or any instrument that changes the current property description, including condominium ownership established under chapter 47-04.1, is presented to the county auditor for transfer, the auditor shall ascertain from the books and records in the auditor's office and in the office of the county treasurer whether there are current or delinquent taxes, special assessments and, after February first of each year, the tax estimate for that year against the land described in the instrument or whether the land has been sold for taxes. If there are current taxes, delinquent taxes, delinquent special assessments, installments of special assessments, or tax estimates against lands described in the instrument, the auditor shall certify the same.

SECTION 2. AMENDMENT. Section 11-18-02 of the North Dakota Century Code is amended and reenacted as follows:

11-18-02. Register of deeds not to record certain instruments unless they bear auditor's certificate of transfer. Except as otherwise provided in section 11-18-03, the register of deeds shall refuse to receive or record any deed, contract for deed, plat, replat, patent, auditor's lot, or any other instrument that changes the current property description unless there is entered thereon a certificate of the county auditor showing that a transfer of the lands described therein has been entered and that the delinquent and current taxes and delinquent and current special assessments or installments of special assessments against the land described in such instrument have been paid, or if the land has been sold for taxes, that the delinquent taxes and special assessments ~~or installments of special assessments~~ have been paid by sale of the land, or that the instrument is entitled to record without regard to taxes.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 101

SENATE BILL NO. 2413
(Senators W. Stenehjem, Holmberg)
(Representatives Allmaras, Timm)

TAX LIEN SUSPENSION FOR STATE LANDS

AN ACT to amend and reenact sections 11-13-14, 57-29-01, and 57-29-02 of the North Dakota Century Code, relating to the county auditor's certificates on conveyances to the Bank of North Dakota and recording of the conveyance and suspension and reinstatement of tax liens on land acquired by the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-13-14 of the North Dakota Century Code is amended and reenacted as follows:

11-13-14. Auditor's certificate on conveyances to Bank the state of North Dakota - Recording conveyance. Whenever any sheriff's deed or other conveyance of real property acquired by the ~~Bank of North Dakota as agent for the state treasurer as trustee of the state of North Dakota doing business as the Bank of North Dakota or any state agency for which the Bank of North Dakota acts as agent~~ is offered for record, the county auditor shall enter such transfer and the register of deeds shall record the same without regard to the payment of any taxes due thereon. The provisions of sections 11-13-12 and 11-13-13 shall not be applicable thereto. In such case, the county auditor shall enter on the sheriff's deed or other conveyance, over ~~his~~ the county auditor's official signature, the words "Transfer entered", and the register of deeds then shall receive and record the same.

SECTION 2. AMENDMENT. Section 57-29-01 of the North Dakota Century Code is amended and reenacted as follows:

57-29-01. Suspension of tax liens on state acquired lands. In any transaction where the state ~~treasurer as trustee for the state of North Dakota or any of its agencies, departments, or instrumentalities~~, prior to the taking effect of this code, has acquired, or thereafter shall acquire, title to any tract of land ~~pursuant to the provisions of chapter 54-30~~, and there are listed and legally charged against the tract unpaid general property or other taxes, or tax sale certificates, or tax deeds, the holders of the liens of the taxes or certificates or tax titles shall be without power to enforce or to effectuate the same. All remedies for the enforcement or enjoyment of the liens or titles shall be suspended wholly and all proceedings to enforce or effectuate the liens or titles subsequent to the acquisition of the tract of land by the ~~said trustee state of North Dakota or any of its agencies, departments, or instrumentalities~~ and during the time the tract is owned by ~~said trustee the state of North Dakota or any of its agencies, departments, or instrumentalities~~, shall be null and void, except that any tax title acquired previous to the acquisition of title by the ~~said trustee state of North Dakota or any of its agencies, departments, or instrumentalities~~, may be made effectual and may be enjoyed until the time the ~~said trustee state of North Dakota or any of its agencies, departments, or instrumentalities~~ acquires title based upon

a mortgage or other conveyance previous in time to the due date of the taxes upon which the tax title is based, whereupon all rights, interests, powers, privileges, and immunities theretofore owned and enjoyed under the tax title shall be suspended forthwith, and the ~~said trustee~~ state of North Dakota or any of its agencies, departments, or instrumentalities may enter into possession of the tracts of land and shall have the entire control, use, and enjoyment thereof.

SECTION 3. AMENDMENT. Section 57-29-02 of the North Dakota Century Code is amended and reenacted as follows:

57-29-02. Reinstatement of tax liens upon sale. Upon the sale of tracts of land by the ~~said trustee for the~~ state of North Dakota or any of its agencies, departments, or instrumentalities, and upon payment to ~~him~~ the state of North Dakota or any of its agencies, departments, or instrumentalities of not less than twenty percent of the sale price of the particular tract or tracts sold, the provisions of section 57-29-01 shall become inoperative with respect to such lands, and the general statutory remedies to enforce and effectuate tax liens and titles again shall be applicable.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 102

HOUSE BILL NO. 1244
(Representatives Kelsch, Kroeber, Poolman, Stenehjem)
(Senators W. Stenehjem, Maxson)

SHERIFF'S COMMISSIONS

AN ACT to amend and reenact section 11-15-08 of the North Dakota Century Code, relating to commissions collected by a sheriff.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-15-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-15-08. Commissions collected by sheriff.

1. Except as provided in section 11-15-09, the sheriff is entitled to collect commissions on behalf of the county on all moneys received and disbursed by the sheriff on an execution, order of sale, order of attachment, requisition in claim and delivery, or decree for the sale of real or personal property as follows:
 - a. On the first one thousand dollars, fifty dollars.
 - b. On all moneys in excess of one thousand dollars, one percent.
2. Except as provided in subsection 3, if no sale is held under subsection 1, the sheriff may not collect a commission.
3. If personal property is taken by the sheriff on an execution, under a requisition in claim and delivery, or under a writ of attachment and applied in satisfaction of the debt without sale, the sheriff is entitled to collect the commission specified in subsection 1 based upon the appraised value of the property. The sheriff shall deliver the commissions to the county treasurer under section 11-15-14.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 103

HOUSE BILL NO. 1067
(Representatives Byerly, A. Olson, Wilkie)
(Senators Goetz, Thane)

SHERIFF'S EXECUTION OF PROCESS

AN ACT to create and enact a new section to chapter 28-21 of the North Dakota Century Code, relating to levy when more than one execution is outstanding; to amend and reenact sections 11-15-11, 11-15-17, 11-15-18, 11-15-19, 28-21-07, and 28-21-18 of the North Dakota Century Code, relating to executions; and to repeal sections 28-21-19, 28-21-20, 28-21-21, 28-21-22, 28-21-23, and 28-21-24 of the North Dakota Century Code, relating to amercement of a sheriff or clerk of court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-15-11 of the North Dakota Century Code is amended and reenacted as follows:

11-15-11. Sheriff's expense of preserving property - Approval of court required. ~~The Unless otherwise ordered by the court, the sheriff shall receive the actual expense incurred for taking and transporting, keeping possession of, and preserving property taken under an attachment, execution, or other process only such sum as the court may order. The allowance shall not exceed the actual expense incurred, and no. No keeper shall is entitled to receive more than three five dollars per day. Property shall may not be placed in charge of a keeper unless it the property cannot be stored safely and securely, nor unless there is reasonable danger of loss to such the property, nor unless the property is of such a character as to require the personal attention and supervision of a keeper. The sheriff may require the person in whose favor the attachment, execution, or other process was issued to pay, or to provide security for, in advance, all expenses actually incurred in the taking, keeping, transporting, or preserving the property.~~

SECTION 2. AMENDMENT. Section 11-15-17 of the North Dakota Century Code is amended and reenacted as follows:

11-15-17. Liability for failure to execute process. ~~If Except as otherwise provided by law or order of the court, if the sheriff to whom a writ of execution or attachment is delivered neglects or refuses to levy upon or sell any property of the party charged in the writ which is liable to be levied upon or sold, after being required to do so by the which has been made known to the sheriff by the judgment creditor or his the creditor's attorney, he the sheriff is liable to the creditor for the value of the property all damages sustained by the creditor. The sheriff is not liable if the sheriff has not levied upon or sold property, when the sheriff's failure to act was the result of following the directions or orders of the creditor or the creditor's agent or attorney.~~

SECTION 3. AMENDMENT. Section 11-15-18 of the North Dakota Century Code is amended and reenacted as follows:

11-15-18. Liability for failure to make return. If Except as otherwise provided by law or order of the court, if the sheriff does not return a notice or process with the necessary endorsement thereon without delay, he or within the time limit required by law, the sheriff is liable to the party aggrieved for all damages sustained by him that party.

SECTION 4. AMENDMENT. Section 11-15-19 of the North Dakota Century Code is amended and reenacted as follows:

11-15-19. Liability for failure to pay over money. If Except as otherwise provided by law or order of the court, if the sheriff neglects or refuses to pay over on demand to the persons entitled thereto any money which came into his the sheriff's hands by virtue of his the sheriff's office, after deducting his legal the sheriff's fees, he expenses, or commissions as authorized by law or the court, the sheriff is liable to such person in the amount thereof with twenty five percent damages and interest at the rate of ten percent per month from the time of demand the party aggrieved for all damages sustained by that party.

SECTION 5. AMENDMENT. Section 28-21-07 of the North Dakota Century Code is amended and reenacted as follows:

28-21-07. Time of return. The execution must be is returnable to the clerk with whom the record of the judgment is filed within sixty days after its receipt by the officer; except in the case when a sheriff's levy has been made within the sixty days, in which case the execution must be is returnable to the clerk within a reasonable time following the completion of the sale of the property or ninety days after its receipt by the officer. If a levy has been made and the issue of ownership of the property or interest therein is raised by any party, or if the issue whether the property is exempt under chapter 28-22 is raised by either party, the court having jurisdiction may extend, for good cause shown, the execution for a reasonable time to accommodate due notice and hearing to determine these issues and to provide time for the publication of notice of sale and sale of the property subject to execution.

SECTION 6. A new section to chapter 28-21 of the North Dakota Century Code is created and enacted as follows:

Levy when more than one execution is outstanding. If more than one execution against a judgment debtor is outstanding when a levy upon property of a judgment debtor is made, the property must be applied to the execution first received by the sheriff, the balance, if any, of the property must be applied to subsequent executions in order of time as received by the sheriff. However, property of the judgment debtor which was not previously levied upon but which is subject to levy and which is particularly described either in the execution or in a written notice to the sheriff by the judgment creditor or the creditor's agent or attorney must be applied to that execution regardless of time of receipt of the execution by the sheriff.

SECTION 7. AMENDMENT. Section 28-21-18 of the North Dakota Century Code is amended and reenacted as follows:

28-21-18. Return of writ by mail. When execution is issued in any county and directed and delivered to the sheriff or coroner of another county, such the sheriff or coroner having the execution after having discharged all the duties required of him by law shall enclose such mail the execution by mail to the clerk

who issued the ~~same~~ execution. On proof being ~~made by such~~ the sheriff or coroner that the execution was mailed soon enough to have reached the ~~said~~ clerk prior to ~~its~~ the execution's expiration, the sheriff or coroner is not liable for any ~~amercement or~~ penalty if ~~it~~ the execution does not reach the office in due time.

SECTION 8. REPEAL. Sections 28-21-19, 28-21-20, 28-21-21, 28-21-22, 28-21-23, and 28-21-24 of the North Dakota Century Code are repealed.

Approved March 19, 1993
Filed March 19, 1993

CHAPTER 104

HOUSE BILL NO. 1501
(Representative Laughlin)

PROPERTY LINE DISPUTES

AN ACT to create and enact a new section to chapter 11-20 and a new subsection to section 27-07.1-17 of the North Dakota Century Code, relating to surveys by county surveyors of disputed property lines and jurisdiction of county courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-20 of the North Dakota Century Code is created and enacted as follows:

Disputed property lines - Petition to county court - Effect of survey - Payment of expenses.

1. One or more owners of property may file with the clerk of county court a petition requesting the county court to direct the county surveyor to survey the property. The county court shall set a time and place for a hearing on the petition. The hearing may not occur until three weeks after the petitioner has published notice of the petition, containing the substance of the petition, a description of the lands affected, and the names of the owners of the affected lands as they appear in the latest tax roll, and after the petitioner has mailed written notice to each occupant of land affected by the survey.
2. At the hearing on the petition, all interested parties may appear and be heard. If the county court finds that there is a dispute as to the location of a property line, the county court may grant the petition. If a county surveyor is not available to conduct the survey, the county court may appoint a registered land surveyor to conduct the survey. The surveyor shall provide reasonable advance written notice to occupants of affected lands specifying the date when the survey will begin.
3. After the survey has been completed, the surveyor shall file a record of survey under sections 11-20-12 and 11-20-13. The certificate of the surveyor is presumptive evidence of the facts contained in the survey and certificate.
4. After the survey has been completed, the surveyor shall make a certified report to the county court showing in detail the entire expense of the survey with recommendations as to apportionment of the expense. The county court shall apportion equitably the expense of the survey to the several tracts affected and provide written notice of the proposed assessment to each owner affected. The notice shall inform the affected owners of their right to appear in county court no sooner than fourteen days after the notices are mailed to object to the assessments. Following consideration of any objections, the county court shall make any

corrections or adjustments necessary, enter an order confirming the assessment, and order the parties to pay the surveyor within thirty days.

5. Upon certification by the surveyor that an affected owner has not paid the fees ordered by the county court within thirty days, the county auditor shall assess the amount against the land of each person affected. The county treasurer shall collect the assessments in the same manner as general property taxes are collected. On the order of the county auditor, the county treasurer shall pay any fees and expenses to a registered land surveyor who has conducted the survey.

SECTION 2. A new subsection to section 27-07.1-17 of the North Dakota Century Code is created and enacted as follows:

Disputed property line proceedings pursuant to section 1 of this Act.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 105

SENATE BILL NO. 2524
(Senators W. Stenehjem, Traynor)

DOMESTIC RELATIONS COURT FEES

AN ACT to create and enact a new subsection to section 11-17-04 of the North Dakota Century Code, relating to fees charged by clerks of district and county courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 11-17-04 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

For filing a motion to modify an order for alimony, property division, child support, or child custody, twenty dollars. The fee collected under this subsection must be deposited with the county treasurer as provided under section 11-17-05 and thereafter must be deposited with the state treasurer and credited to the state general fund.

Approved April 21, 1993
Filed April 22, 1993

CHAPTER 106

SENATE BILL NO. 2296
(Senators Tomac, Lindgren)
(Representatives Jacobs, Nichols)

REGISTER OF DEEDS FEES

AN ACT to amend and reenact section 11-18-05 of the North Dakota Century Code, relating to filing and recording fees charged by the register of deeds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-18-05. Fees of register of deeds. The register of deeds shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:

- a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ~~five~~ seven dollars for the first page and ~~two~~ three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.
- (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
 - (2) The printed, written, or typed words must be considered legible by the register of deeds before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the register of deeds before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the front side of each instrument for register of deeds' recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
- b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ~~five~~ seven dollars for the first page and ~~two~~ three dollars for each additional page plus three dollars for each such additional ~~instrument~~ document

number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.

- c. Plats, irregular tracts, or annexations, five ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which shall be a single charge of seven dollars.
2. For filing any instrument, five dollars.
3. For making certified copies of any recorded instrument, the charge is five dollars for the first page and two dollars for each additional page.
4. For making a copy of any other filed instrument, one dollar for each five pages or portion thereof.
5. For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code, the fee is the same as that provided in sections 41-09-42 and 41-09-43, as applicable.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 107

SENATE BILL NO. 2248
(Senator Krauter)
(Representative Kerzman)

CORONER DUTIES OF EMT

AN ACT to amend and reenact section 11-19-19 of the North Dakota Century Code, relating to instances in which an emergency medical technician may perform the duties of coroner in certain counties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-19-19 of the North Dakota Century Code is amended and reenacted as follows:

11-19-19. Acting coroner. ~~When there is no coroner, or in case of his absence or inability to act, the sheriff of the county, the state highway patrol, or any special agent of the bureau of criminal investigation is or the coroner is absent or unable to act, the following persons are~~ authorized to perform the duties of coroner in relation to dead bodies:

1. The sheriff of the county, a state highway patrol officer, or any special agent of the bureau of criminal investigation.
2. An emergency medical technician who has received previous written notification from the attending physician of the deceased person that the person was suffering from an illness known to be terminal.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 108

SENATE BILL NO. 2094
(Political Subdivisions Committee)
(At the request of the State Auditor)

COUNTY AND CITY BUDGET PREPARATION

AN ACT to amend and reenact sections 11-23-02, 40-40-04, 40-40-05, 40-40-06, 40-40-08, and 40-40-09 of the North Dakota Century Code, relating to preparing the budget of a municipality or a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-23-02 of the North Dakota Century Code is amended and reenacted as follows:

11-23-02. Auditor to prepare budget of county expenditures. The county auditor shall prepare ~~annually estimates of county receipts and expenditures for the ensuing year~~ an annual budget for the general fund, each special revenue fund, and each debt service fund of the county in the form prescribed by the ~~state tax commissioner and state auditor~~. Such annual The budget shall must set forth specifically:

- 1- ~~The estimated aggregate annual expenditures from each fund for the current fiscal year.~~
- 2- ~~The estimated amount of money received in the current fiscal year from all sources which is available for any purpose.~~
- 3- ~~The amount required for each department, public office, and public official, for each public improvement, for the maintenance of each public building, structure, or institution, for the maintenance of public highways, roads, streets, and bridges, for the construction, operation, and maintenance of each public utility, and for each and every purpose authorized by law for which it is desired to raise money for the ensuing year including all contemplated undertakings proposed for the ensuing year.~~
- 4- ~~The estimated balance standing to the credit or debit of the several funds and the estimated aggregate amount in all funds at the end of the fiscal year.~~
- 5- ~~The amount of uncollected taxes standing to the credit of the county.~~
- 6- ~~An estimate of the probable amount that may be received during the ensuing year from sources other than direct property taxes.~~
- 7- ~~The aggregate amount proposed to be raised for all purposes.~~
- 8- ~~The amount of the bonded indebtedness of the county, specifying as to each issue the purpose for which issued, the date of issue, the date of maturity, the amount originally issued, the amount outstanding, the rate~~

of interest, and the sum necessary for interest and for sinking fund purposes.

9. ~~The amount required for all interest and sinking fund purposes for the ensuing year.~~
10. ~~The amount required to retire all other indebtedness lawfully incurred and to pay interest thereon.~~
11. ~~The amount required for the cash reserve of the county.~~
1. The detailed breakdown of the estimated revenues and appropriations requested for each fund for the ensuing year.
2. The detailed breakdown of the revenues and expenditures for each fund for the preceding year.
3. The detailed breakdown of estimated revenues and expenditures for each fund for the current year.
4. The transfers in or out for each fund for the preceding year and the estimated transfers in or out for the current year and the ensuing year.
5. The beginning and ending balance of each fund or estimates of the balances for the preceding year, current year, and ensuing year.
6. The tax levy request for any funds levying taxes for the ensuing year.
7. The certificate of levy showing the amount levied for each fund and the total amount levied.
8. The budget must be prepared on the same basis of accounting used by the county for its annual financial reports.
9. The amount of cash reserve for the general fund and each special revenue fund, not to exceed seventy-five percent of the appropriation for the fund.

The county auditor shall transmit one copy of such annual budget to the state auditor no later than January first of each year.

SECTION 2. AMENDMENT. Section 40-40-04 of the North Dakota Century Code is amended and reenacted as follows:

40-40-04. Municipality to prepare preliminary budget statement. The governing body of each municipality, annually on or before September tenth, shall make, on suitable blanks prescribed by the ~~state tax commissioner and~~ state auditor, an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the ~~fiscal~~ year, and giving ~~such~~ other information relating to the finances of the municipality as the ~~tax commissioner and~~ state auditor may require.

SECTION 3. AMENDMENT. Section 40-40-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

~~40-40-05. Contents of preliminary budget statement. A preliminary budget must be prepared as required by generally accepted accounting principals. The preliminary budget must set forth specifically:~~

- ~~1. An estimated revenue schedule for the general fund of the municipality, including the following information:~~
 - ~~a. The actual revenues received from all sources during the preceding fiscal year.~~
 - ~~b. The estimated revenues from all sources for the current fiscal year.~~
 - ~~c. An estimate of the probable amounts that may be received during the ensuing fiscal year from sources other than direct property taxes.~~
- ~~2. An appropriations schedule for the general fund of the municipality, including the following information:~~
 - ~~a. The actual expenditures for all purposes for the preceding fiscal year.~~
 - ~~b. The estimated expenditures for all purposes for the current fiscal year.~~
 - ~~c. The estimated expenditures for all purposes for the ensuing fiscal year. Expenditures must be segregated and itemized as follows:~~
 - ~~(1) Current expenditures. This must include all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenditures of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there must be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Municipalities may include an item of expense for equipment replacement, the amount of which may not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, on all equipment owned by the city, and no expenditure may be paid out of said equipment replacement fund except for the purchase of equipment to replace equipment which is worn out, damaged, or obsolete. The term "equipment" does not include structures or building fixtures. The expense for equipment replacement must be placed in a separate fund. Current expenditures are categorized as general government, public safety, public works, health and welfare, culture and recreation, and other budgeted items of a current nature.~~
 - ~~(2) Capital expenditures. This must include all capital and betterment expenditures, including new construction, major repairs, and all other items which go toward adding to the permanent improvement and value of the municipal property an item which shall be placed in a separate fund as a building reserve. The building reserve fund item may not exceed the total of the~~

~~anticipated reasonable costs of depreciation for the ensuing fiscal year, based on the original costs of all buildings and structures owned by the city, and no expenditures may be paid out of the said fund except for purchase, construction, or reconstruction to replace buildings or structures which are obsolete, substandard, or generally unfit for public use.~~

- ~~(3) Debt service expenditures. This must cover all debt retirement requirements, including all amounts required to retire floating indebtedness, bonded indebtedness, and to pay interest thereon during the current fiscal year.~~
- ~~3. A separate schedule for each special revenue fund of the municipality, including the following information:~~
- ~~a. The actual revenues received from all sources during the preceding fiscal year.~~
 - ~~b. The estimated revenues from all sources for the current fiscal year.~~
 - ~~c. An estimate of the probable amounts that may be received during the ensuing fiscal year from sources other than direct property taxes.~~
 - ~~d. The actual expenditures for all purposes for the preceding fiscal year.~~
 - ~~e. The estimated expenditures for all purposes for the current fiscal year.~~
 - ~~f. The estimated expenditures for all purposes for the ensuing fiscal year.~~
- ~~4. A separate schedule for each enterprise fund of the municipality, including the following information:~~
- ~~a. The estimated revenues for the current fiscal year.~~
 - ~~b. The estimated revenues for the ensuing fiscal year.~~
 - ~~c. The estimated expenditures for the current fiscal year.~~
 - ~~d. The estimated expenditures for the ensuing fiscal year.~~
- ~~5. The estimated cash balance standing to the debit or credit of the municipality at the end of the current fiscal year for the general fund, each special revenue fund, and each enterprise fund~~

include a detailed breakdown of the estimated revenues and appropriations requested for the ensuing year for the general fund, each special revenue fund, and each debt service fund of the municipality. The revenue and expenditure items for the preceding year and estimates of the revenue and expenditures for the current year must be included for each fund to assist in determining the estimated revenues and appropriation requested for the ensuing year. The budget must also include any transfers in or out and the beginning and ending fund balance for each of the funds. The budget must be prepared on the same basis of accounting used by the municipality for its annual financial reports.

The amount paid for salaries may be shown as a single line item expenditure in each fund. There must be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries, the annual amount paid to each person, and the fund charged.

While preparing the budget, municipal officials may include an expenditure item for equipment replacement, the amount of which may not exceed the total of the anticipated reasonable costs of depreciation for the ensuing year, based on current costs, of all equipment owned by the municipality. The expenditure for equipment replacement must be placed in a separate special revenue fund. No expenditure may be paid from the equipment replacement fund except for equipment purchases to replace equipment that is worn out, damaged, or obsolete. The term "equipment" does not include structures or building fixtures.

While preparing the budget, municipal officials may include an expenditure item for a building reserve fund, the amount of which may not exceed the total of the anticipated reasonable costs of depreciation for the ensuing year, based on the original costs of all buildings and structures owned by the city. The expenditure for building reserve must be placed in a separate capital projects fund. No expenditures may be paid from the building reserve fund except for the purchase, construction, or remodeling of buildings or structures that are obsolete, substandard, or generally unfit for public use.

SECTION 4. AMENDMENT. Section 40-40-06 of the North Dakota Century Code is amended and reenacted as follows:

40-40-06. Notice of preliminary budget statement - Contents - How given.

After the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:

1. The preliminary budget is on file in the office of the auditor and ~~that such budget~~ may be examined by anyone ~~requesting to do so~~ upon request.
2. The governing body shall meet no later than October first at the time and place specified in the notice as prescribed by subsection 3 for the purpose of adopting the final budget and making the annual tax levy, ~~but no later than October first.~~
3. The governing body shall hold a public session at ~~such the~~ time and place designated in the notice of hearing at which any taxpayer may appear and discuss with ~~such the~~ body any item of proposed expenditures or may object to any item thereof or ~~to the amount of any such item.~~

The notice ~~shall~~ must contain a statement of the total proposed expenditures ~~under for each group provided for fund~~ in the preliminary budget ~~and of the total proposed expenditures under all such groups~~, but need not contain any detailed statement of the proposed expenditures. Such The notice shall must be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice ~~shall~~ must be published not less than six days prior to ~~such the~~ meeting in the official city newspaper as provided by section 40-01-09.

SECTION 5. AMENDMENT. Section 40-40-08 of the North Dakota Century Code is amended and reenacted as follows:

40-40-08. Hearing of protests and objections - Changes in preliminary budget - Preparation of final budget - Contents. The governing body shall meet at the time and place specified in the notice and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the governing body shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall prepare the final budget, which shall must consist of the preliminary budget with the addition of columns showing:

1. The final appropriations ~~made on account of for~~ the various expenditure items of expenditures specified in the preliminary budget statement, ~~but the.~~ The final appropriation, as to any group total, shall of any fund total may not exceed the total amount specified requested in the preliminary budget estimate.
2. The estimated amount of unencumbered cash on hand at the end of the current fiscal year, ~~which shall may not include cash or investments of the equipment replacement fund as provided for in section 40-40-05.~~
3. ~~The amount of uncollected taxes standing to the credit of the municipality which, in the opinion of the governing body, may be collected during the ensuing fiscal year.~~
4. ~~The estimated income that may be received during the ensuing year from sources other than direct property taxes.~~
5. ~~The net levy amount which it will be necessary to raise by taxation to meet the appropriations determined by subtracting the total resources from the total appropriations and cash reserve for each fund. The governing body may increase the levy an additional five percent for delinquent tax collections.~~
- 6- 4. ~~The amount certificate of levy estimated to be necessary to provide such net amount of revenue during the fiscal year which includes a summary of the amount levied for each fund and the total amount levied.~~

SECTION 6. AMENDMENT. Section 40-40-09 of the North Dakota Century Code is amended and reenacted as follows:

40-40-09. Determination of amount to be levied - Adoption of levy - Limitations. After completing the final budget on or before October first, the governing body shall proceed to make the annual tax levy in an amount sufficient to meet the expenses ~~of for~~ the ensuing fiscal year as determined at the budget meeting. In determining the amount required to be levied, the governing body first shall ascertain its net current resources by adding together ~~the totals shown in the columns described in subsections 2, 3, and 4 of section 40 40 08.~~ Such total amount shall be considered net current resources of the district the estimated revenue for the ensuing year other than property taxes, any transfers in, and the estimated fund balance at the end of the current year. Then the governing body shall ascertain its appropriation and reserve by adding the final appropriation for the ensuing year, any transfers out, and the cash reserve. The net current resources shall must be deducted from the total amount estimated to be appropriated, appropriation and reserve and the balance shall be considered the amount which that is required to be raised by taxation during the ensuing year. The determination of the amount of the levy which that can be collected within the

ensuing fiscal year shall ~~must~~ be made by the governing body based upon the past experience of the district. The levy as finally fixed shall be adopted in the form of an ordinance termed the annual appropriation bill ~~must be approved~~ by a majority vote of the members of the governing body and noted in the proceedings of the governing body. The amount levied shall be ~~is~~ subject to ~~such~~ the limitations as are prescribed by the laws of this state, and shall be ~~is~~ subject to the further limitation that ~~such~~ the amount shall ~~may~~ not exceed the amount which will produce the funds required ~~levy requested~~ by the municipality within the fiscal year period for which the levy is being made. ~~Such ordinance shall.~~ The levy adopted must appropriate in specific amounts the ~~sums of~~ money necessary to meet the expenses and liabilities of the municipality.

Approved March 4, 1993
Filed March 5, 1993

CHAPTER 109

HOUSE BILL NO. 1267
(Representatives Mahoney, Svedjan)
(Senators Langley, Lindgren)

POLITICAL SUBDIVISION CONTRIBUTIONS

AN ACT relating to political subdivisions and nonprofit medical foundations; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Contribution of funds - Nonprofit medical foundation. A political subdivision may provide public funds not in excess of twenty thousand dollars a year to a nonprofit medical foundation. The funds must be used for improvements to an existing health care facility whose purpose includes providing services to the poor, scholarships, or endowments for scholarships to encourage the education of persons in financial need, or the acquisition of medical equipment needed by the health care facility to continue providing services to the poor. A political subdivision may not provide funds to a nonprofit medical foundation for the support of a health care facility that is not financially viable.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 1995, and after that date is ineffective.

Approved April 14, 1993
Filed April 15, 1993

CHAPTER 110

SENATE BILL NO. 2289
(Senators Lindaas, Redlin)
(Representatives Aarsvold, Kaldor, Laughlin)

RECREATION SERVICE DISTRICT SIZE

AN ACT to amend and reenact section 11-28.2-01 of the North Dakota Century Code, relating to establishment of recreation service districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.2-01 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-01. Establishment of recreation service districts - Petition - Purpose. The board of county commissioners of any county in this state, at any meeting of such board, by majority vote of all of the members may, upon the petition of ten percent of the persons who qualify pursuant to section 11-28.2-03 as voters of an area to be included within a proposed recreation service district, call for an election of all of the qualified voters of such district to determine the question of the establishment of a recreation service district for the purpose of providing police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to that provided by the local governing body or agency to summer homes, cottages, and other residences and establishments as may exist within such area, and provide for the improvement and control of the environmental quality of the recreation service district. Said recreation service district shall be limited in size and location to an area which is contiguous to or within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land which are dedicated to public use for recreational purposes. In addition, said district shall consist of not less than ~~one hundred~~ fifty privately owned seasonal homes or cottages and other residences and establishments. If a petition is presented to the board of county commissioners calling for such election, such petition shall be accompanied by such information as the board of county commissioners shall require, including the boundaries of the proposed recreation district, the approximate number of qualified voters as defined in section 11-28.2-03, and a sufficient deposit of money to cover all costs of such election. Within sixty days after the calling of such an election, the board of county commissioners shall provide an election on the question of whether or not a recreation service district should be established and shall establish procedures for voting and other necessary matters not inconsistent with the provisions of this chapter. The county commissioners shall give at least thirty days' notice of the election by certified mail to all qualified voters as defined in section 11-28.2-03. If a majority of the qualified voters approve of the establishment of a recreation service district, such district shall then be organized.

Approved April 15, 1993
Filed April 15, 1993

CHAPTER 111

HOUSE BILL NO. 1057
(Legislative Council)
(Interim Waste Management Committee)

WASTE MANAGEMENT

AN ACT to amend and reenact sections 11-33-01, 11-33-20, 23-29-03, subsection 11 of section 23-29-04, subsection 3 of section 23-29-06, and section 23-29-07 of the North Dakota Century Code and section 1 of chapter 283 of the 1991 Session Laws of North Dakota, relating to county power to regulate property, joint zoning authority over solid waste disposal facilities, definitions, powers and duties of the state department of health and consolidated laboratories, solid waste management district board membership, permits for solid waste management facilities and solid waste transporters, and to prohibit the state department of health and consolidated laboratories from issuing permits for the construction or operation of certain solid waste disposal facilities; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-33-01 of the North Dakota Century Code is amended and reenacted as follows:

11-33-01. County power to regulate property. For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county ~~is hereby empowered to~~ may regulate and restrict within the county, subject to ~~the provisions of~~ section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The board of county commissioners shall establish zoning requirements for solid waste disposal and incineration facilities before July 1, 1994. The board of county commissioners may impose tipping or other fees on solid waste management and incineration facilities.

SECTION 2. AMENDMENT. Section 11-33-20 of the North Dakota Century Code is amended and reenacted as follows:

11-33-20. Township zoning not affected - Township and city may relinquish powers - Joint zoning authority over solid waste disposal facilities. ~~The provisions of this~~ This chapter shall in no way does not prevent townships from making regulations as provided in sections 58-03-11 through 58-03-15, but such townships may relinquish their powers, or any portion thereof, to enact zoning regulations to the county by resolution of the board of township supervisors. ~~The provisions of this~~ This chapter shall may not be construed to affect any property, real or personal, located within the zoning or subdivision authority of any city of this state, except that any ~~such~~ city by resolution of its governing body may relinquish to the county its authority, or any portion thereof, to enact zoning regulations under chapter 40-47 or subdivision regulations under chapter 40-48, in which case ~~such~~ the property shall be is subject to ~~the provisions of~~ this chapter.

A solid waste disposal or incineration facility must meet the zoning requirements of both the county and township where the facility is located unless the township has relinquished zoning authority to the county.

SECTION 3. AMENDMENT. Section 23-29-03 of the North Dakota Century Code is amended and reenacted as follows:

¹ **23-29-03. Definitions.**

1. "Collection" means the aggregation of solid waste from the places at which the waste was generated.
2. "Department" means the state department of health and consolidated laboratories.
3. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water including ground water.
4. "Industrial waste" means solid waste, which is not a hazardous waste regulated under chapter 23-20.3, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.
5. "Infectious waste" means solid waste that may contain pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.
- 5- 6. "Landfill" means a publicly or privately owned area of land where solid wastes are permanently disposed.
- 6- 7. "Litter" means discarded and abandoned solid waste materials.
- 7- 8. "Major appliance" means an air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, water heater, humidifier, dehumidifier, garbage disposal, trash compactor, or other similar appliance.
- 8- 9. "Municipal waste" means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities, by public and private facilities, and by commercial, wholesale, and private and retail businesses. The term does not include special waste or industrial waste.
- 9- 10. "Open burning" means the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

¹ NOTE: Section 23-29-03 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

- ~~10-~~ 11. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, federal agency, political subdivision of this state or any other state or political subdivision thereof, and any legal successor, representative agent, or agency of the foregoing.
- ~~11-~~ 12. "Political subdivision" means a city, county, township, or solid waste management authority.
- ~~12-~~ 13. "Resource recovery" means the use, reuse, or recycling of materials, substances, energy, or products contained within or derived from municipal waste.
- ~~13-~~ 14. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919, 42 U.S.C. 2011 et seq.].
- ~~14-~~ 15. "Solid waste management" means the purposeful systematic control of the storage, collection, transport, composting, resource recovery, land treatment, and disposal of solid waste.
- ~~15-~~ 16. "Special waste" means ~~nonhazardous solid waste, including, that is not a hazardous waste from the combustion or gasification of municipal waste; waste from industrial and manufacturing processes; regulated under chapter 23-20.3 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.~~
- ~~16-~~ 17. "Storage" means the containment and holding of solid waste after generation for a temporary period, at the end of which the solid waste is processed for resource recovery, treated, disposed of, or stored elsewhere.
- ~~17-~~ 18. "Transport" means the offsite movement of solid waste.

SECTION 4. AMENDMENT. Subsection 11 of section 23-29-04 of the North Dakota Century Code is amended and reenacted as follows:

11. Adopt rules to establish categories and classifications of solid waste and solid waste management facilities based on waste type and quantity, facility operation, or other facility characteristics and to limit, restrict, or prohibit the disposal of solid wastes based on environmental or public health rationale.

SECTION 5. AMENDMENT. Subsection 3 of section 23-29-06 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing board of each solid waste management district must include a representative of each county within the district, one representative from cities within each county within the district, a representative of each city in the district which has a population of more than ten thousand, a representative of the licensed disposal facilities within the district, and a representative of the waste haulers within the district. Members representing political subdivisions must be appointed by the subdivisions involved. The members representing licensed disposal facilities and waste haulers must be selected by the members appointed by the political subdivisions from a list of candidates submitted by each of those groups. The members of the board may be the members of the regional planning councils appointed under subdivision a of subsection 1 of section 54-40.1-03.

SECTION 6. AMENDMENT. Section 23-29-07 of the North Dakota Century Code is amended and reenacted as follows:

² **23-29-07. Permits.** ~~The department is hereby authorized to may~~ issue permits for solid waste management facilities and solid waste transporters. It is unlawful for any person to own, operate, or use a facility for solid waste disposal or transport solid wastes without a valid permit. Upon submission to the department of an application for a solid waste management facility permit, the applicant shall provide written notice of the application to the solid waste management district board of the district in which the facility is to be located. Upon receipt of a permit application, the department shall give public notice, in the official newspaper of the county in which the facility is to be located, that the department is considering an application for a solid waste management facility. The notice must state the name of the applicant, the location of the facility, and a description of the facility. All such permits are nontransferable and, are for a term of not more than five ten years from the date of issuance. All such permits so issued, and are conditioned upon the observance of the laws of the state and the rules and regulations authorized herein adopted under this chapter. If the jurisdiction with zoning authority over the area in which the solid waste management facility is to be located has not held a public hearing regarding the siting of the facility, the solid waste management district board of the district in which the facility is to be located shall conduct a public meeting to receive comments regarding the siting of the facility before the department may issue a permit for the facility. If the solid waste management district board conducts a public meeting, the board shall forward a copy of the meeting minutes to the department.

SECTION 7. AMENDMENT. Section 1 of chapter 283 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 1. Moratorium on permit applications of certain solid waste disposal facilities. The department of health and consolidated laboratories shall suspend ~~for two years after the effective date of this Act~~ any decisions related to permit

² NOTE: Section 23-29-07 was also amended by section 15 of House Bill No. 1005, chapter 5, and by section 1 of House Bill No. 1445, chapter 267.

applications received after January 1, 1991, for the construction or operation of a landfill in which ash resulting from the incineration of municipal solid waste is disposed. The moratorium is established to provide the opportunity for additional study of the environmental effects of the disposal of municipal solid waste ash and to provide sufficient time during which the department shall adopt the regulations rules necessary to obtain a permit for regulate those solid waste disposal facilities. The period of suspension is until the effective date of rules adopted by the department to regulate those facilities or until January 1, 1994, whichever is earlier. This section does not apply to any permit application for a landfill that receives for disposal ten tons [9071.80 kilograms] or less per day of the ash or to any North Dakota or federal court-ordered reapplication involving an application originally received prior to January 1, 1991, and which is limited to the type and amount of waste represented in the original application. The nine-month period under which the department has to adopt rules under subsection 2 of section 28-32-02 does not apply to rules adopted pursuant to the requirement under this section that rules be adopted by January 1, 1994.

SECTION 8. EMERGENCY. Sections 4, 6, and 7 of this Act are declared to be an emergency measure.

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 112

SENATE BILL NO. 2083
(Industry, Business and Labor Committee)
(At the request of the State Electrical Board)

COAL MINES AND ELECTRICIANS

AN ACT to create and enact a new section to chapter 43-09 of the North Dakota Century Code, relating to coal mines subject to the jurisdiction of the federal mine safety and health administration; and to amend and reenact sections 11-33-01 and 43-09-13.1 of the North Dakota Century Code, relating to the power of a county to regulate property and apprentice electrician registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. If House Bill No. 1057 as approved by the fifty-third legislative assembly becomes effective, section 11-33-01 of the North Dakota Century Code, as amended by House Bill No. 1057, is amended and reenacted as follows:

11-33-01. County power to regulate property. For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county may regulate and restrict within the county, subject to section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The board of county commissioners shall establish zoning requirements for solid waste disposal and incineration facilities before July 1, 1994. The board of county commissioners may impose tipping or other fees on solid waste management and incineration facilities. The board of county commissioners may not impose any fee under this section on an energy conversion facility or coal mining operation that disposes of its waste onsite.

SECTION 2. AMENDMENT. Section 43-09-13.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-09-13.1. Apprentice electrician registration. An apprentice electrician shall register with the state electrical board ~~after~~ within the first six months of employment and shall pay an annual registration fee in an amount set by the board. An apprentice electrician may ~~not~~ work on installations ~~without~~ only under the personal supervision of a licensed electrician as provided in section 43-09-18.

SECTION 3. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Exemption for coal mines. The jurisdiction of the board and other requirements of this chapter do not apply to installations, wiring, apparatus, or equipment that are part of a coal mine permitted by the public service commission and are subject to the jurisdiction of the federal mine safety and health administration.

Approved April 19, 1993
Filed April 20, 1993