

COUNTIES

CHAPTER 98

S. B. No. 45

(Longmire, Kautzmann, Solberg, Morgan, Forkner)
(From LRC Study)

COUNTY CONSOLIDATION

AN ACT

To create and enact chapter 11-05.1 and sections 11-05-11.1, 11-08-02.1, and 11-09-10.1, and to amend and reenact sections 11-05-01, 11-05-02, 11-05-04, 11-05-05, 11-05-19, 11-08-02, 11-08-05, subsection 4 of section 11-08-06, sections 11-09-01, 11-09-02, 11-09-03, 11-09-05, 11-09-07, 11-09-08, 11-09-09, 11-09-10, 11-09-11, 11-09-12, 11-09-13, 11-09-15, 11-09-16, 11-09-17, 11-09-18, 11-09-19, 11-09-20, 11-09-21, 11-09-22, 11-09-23, 11-09-24, 11-09-25, 11-09-26, 11-09-27, 11-09-29, 11-09-30, 11-09-31, 11-09-32, 11-09-33, 11-09-34, 11-09-35, 11-09-38, 11-09-39, 11-09-40, 11-09-42, 11-09-43, 11-09-44, 11-09-45, 11-09-46, 11-09-47, and 11-09-48 of the North Dakota Century Code, relating to a county consolidation committee, county consolidation and county office consolidation, and to repeal sections 11-05-15, 11-09-06, and 11-09-28 of the North Dakota Century Code, relating to county offices.

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

§ 1.) Chapter 11-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHAPTER 11-05.1

COUNTY CONSOLIDATION COMMITTEE

11-05.1-01. County Consolidation Committee — Creation — Membership — Dissolution.) The board of county commissioners of any county may upon its own motion create a county consolidation committee and shall be required to create such committee whenever twenty percent of the qualified electors of a county, as determined by the vote cast for the office of governor at the last general election, shall petition the board of county commissioners to create such committee. The members of the committee shall be appointed by the board of county commissioners and shall consist of one resident of each incorporated city or village in the county and one additional resident of each county commissioner's district, plus not more than three additional members at large as shall be determined by the board of county commissioners. Vacancies upon the committee shall be filled in the same

manner as members are originally appointed. The committee shall have at least one hundred twenty days in which to consider the question and file its final report but after one hundred twenty days the committee may be discharged by motion of the board of county commissioners. The word "committee" when used in this chapter shall mean the county consolidation committee.

11-05.1-02. Chairman—Secretary—Quorum.) The committee shall select its own chairman and shall appoint one of its members as secretary. A majority of the committee shall constitute a quorum and a majority of such quorum may act upon all matters properly before the committee.

11-05.1-03. Powers and Duties.) The committee shall have the following powers and duties:

1. To study or prepare a plan to consolidate the county with one or more adjoining counties or study and propose an alternative form of county government as authorized by law;
2. To hold meetings and hold public hearings to consider proposals which may be submitted by electors of the county or adjoining counties or obtain public views upon plans prepared by the committee; and
3. To publish once in one or more newspapers having general circulation in the county one week in advance the date and times of public hearings.

11-05.1-04. Approval of Consolidation Plan.) If the committee shall approve a consolidation plan it shall submit a report and a map showing the boundaries of the proposed county consolidation to the board of county commissioners of the county and of each affected adjoining county. Such reports may also be made available to all interested persons. When such reports and maps have been received by the respective boards of county commissioners, the board of county commissioners of the county to be consolidated and the board of county commissioners of all affected adjoining counties shall act pursuant to sections 11-05-04 through 11-05-27.

11-05.1-05. Approval of New County Government Plan.) If the committee shall recommend a new form of county government among the optional plans provided by law, they shall submit a report of their findings to the board of county commissioners. If the plan submitted by the committee is the consolidated office form of government, the board of county commissioners shall proceed as provided in chapter 11-08 or if the plan is that of county managership form then the board

of county commissioners shall proceed as provided in chapter 11-09.

11-05.1-06. Expenses.) Each member of the committee shall receive from the county his actual and necessary expenses incurred by him in attending scheduled meetings and in performance of his official duties in the same manner and amounts as members of the board of county commissioners, but shall receive no salary or compensation for services performed. All expenses of the committee shall be paid from county funds after approval of such expenses by the board of county commissioners in the same manner as other general county expenses.

§ 2. Amendment.) Section 11-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-01. Definition of Terms.) Throughout this chapter, a county which has created a plan for consolidation with another county or counties pursuant to chapter 11-05.1 shall be called the "petitioning county". The county with which the petitioning county asks to be consolidated shall be called the "adjoining county".

§ 3. Amendment.) Section 11-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-02. Board of County Commissioners to Submit Consolidation Plan to Electorate.) Whenever a county consolidation plan is submitted to a board of county commissioners pursuant to chapter 11-05.1, the board of county commissioners shall submit the question of consolidation to the qualified electors of the county at the next primary election in the manner hereinafter provided.

§ 4. Amendment.) Section 11-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-04. Notice of Election — How Given.) The county auditor of each of the counties affected shall give notice of the election by publishing once each week for at least two consecutive weeks prior to the election in the official newspaper of his county a notice giving the date of the primary election, the hours during which the polls will be opened, a reference to the notice of the primary election for a statement of the places where the election will be held, and the names of the counties affected by the petitions. The notice shall state also that the proposition to be voted upon will be:

Shall the county of.....(name of the petitioning county) be consolidated and annexed to the county of.....(name of the adjoining county);

or if the plans which have been filed ask that the territory be consolidated with and annexed to more than one county:

Shall that part of the county of.....(name of the petitioning county) described as.....(description of portion of petitioning county to be annexed as described in the plan) be consolidated with and annexed to the county of.....(name of the adjoining county).

§ 5. Amendment.) Section 11-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-05. Form of Ballot.) The ballots used at an election held under the provisions of this chapter shall be in substantially the following form:

Shall the county of.....(name of the petitioning county) be consolidated with and annexed to the county of.....(name of the adjoining county);

or if the plans which have been filed ask that the territory within the petitioning county be consolidated with and annexed to more than one county, in substantially the following form:

Shall that part of the county of.....(name of the petitioning county) described as.....(description of portion of petitioning county to be annexed as described in the plan) be consolidated with and annexed to the county of.....(name of the adjoining county).

Below the question submitted in either case, there shall be printed:

Yes..... ☐
No ☐

§ 6.) Section 11-05-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-05-11.1. Arbitration of Disagreement.) In the event a majority of each board of county commissioners of the petitioning and adjoining counties cannot effect an equalization of the property, funds on hand, and debts of such counties, the chairman of the board of commissioners of the petitioning county shall immediately notify the governor of such disagreement. The governor shall appoint a three-member arbitration board to hear and decide the disagreement, all decisions made

by a majority of the members of the arbitration board shall be final and binding on each respective board of county commissioners.

§ 7. Amendment.) Section 11-05-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-19. Members of Board of County Commissioners of Petitioning County to Meet with Board of Adjoining County—Expiration of Terms of Officers of Petitioning County.) Each member of the board of county commissioners of the petitioning county whose term of office does not expire on or before the first day of January following the governor's proclamation shall act, during the remainder of his term of office, at all meetings with the board of county commissioners of the adjoining county to which the greater portion of the territory of the commissioner's district has been annexed. A member of the board of county commissioners of the petitioning county so acting shall have no voice or vote on any question pertaining to matters arising within the territory included in the adjoining county prior to the consolidation, but as to questions pertaining to the territory formerly included in the petitioning county he shall be permitted to act and vote with the board of county commissioners of the adjoining county. The terms of all other county officers of the petitioning county, both elected and appointed, shall expire, unless such officers' terms have previously expired, on the first day of January following the governor's proclamation.

§ 8. Amendment.) Section 11-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-02. Board of County Commissioners to Submit Plan to Electorate.) Whenever a county consolidated office form of government plan is submitted to a board of county commissioners pursuant to chapter 11-05.1, the board of county commissioners shall submit the question of adopting such plan to the qualified electors of the county at the next primary election in the manner hereinafter provided.

§ 9.) Section 11-08-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-08-02.1. Board of County Commissioners May Submit Plan.) The question of the adoption of a consolidated office form of government may be submitted as provided by this chapter by the board of county commissioners notwithstanding the provisions of chapter 11-05.1 by a resolution adopted by

the affirmative vote of not less than two-thirds of the entire board.

§ 10. Amendment.) Section 11-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-05. Vote Required—Change Effective When—When Elective Officers Retired.) If fifty-five percent of the votes cast on the question of the adoption of the county consolidated form of government are in favor thereof, it shall go into effect on the first day of January next succeeding such election. All elected officers shall continue in office until their successors have been appointed pursuant to the provisions of this chapter.

§ 11. Amendment.) Subsection 4 of section 11-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. One county treasurer, except such office with its attendant powers and duties may be combined with and conferred upon the county auditor by the board of county commissioners but no added compensation shall be paid the county auditor in said capacity;

§ 12. Amendment.) Section 11-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-01. County Manager Government — Forms.) Any county in this state is authorized to adopt one of the following county manager forms of government:

1. Short form of county managership with the office of county manager to be an appointed office;
2. County manager form with the office of county manager to be an appointed office;
3. Short form of county managership with the office of county manager to be an elected office;
4. County manager form with the office of county manager to be an elected office.

The procedure for adopting any one of these forms of government shall be as is provided in this chapter. Unless otherwise expressly indicated, the provisions of this chapter shall apply to all the forms of county managership.

§ 13. Amendment.) Section 11-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-02. Board of County Commissioners to Submit Plan to Electorate.) Whenever a county managership form of government plan as provided by this chapter is submitted to a board of county commissioners pursuant to chapter 11-05.1, the board of county commissioners shall submit the question of adopting such plan to the qualified electors of the county at the next primary election in the manner hereinafter provided.

§ 14. Amendment.) Section 11-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-03. Board of County Commissioners May Submit Plan.) The question of the adoption of any county manager form of government may be submitted notwithstanding the provisions of chapter 11-05.1 by the board of county commissioners by a resolution adopted by the affirmative vote of not less than two-thirds of the entire board. Such resolution shall clearly designate which form of government shall be submitted.

§ 15. Amendment.) Section 11-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-05. Ballot for Submitting Question of the Adoption of One of the County Manager Forms of Government.) The ballot to be used at an election on the question of the adoption of one of the county manager forms of government shall be in substantially the following form:

Shall.....county (name the county)
adopt the (name one of the plans
given in section 11-09-01)?

Yes..... ☐
No ☐

§ 16. Amendment.) Section 11-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-07. Vote Required—When Form of Government Goes Into Effect—When Official in Office Retired.) If fifty-five percent of the votes cast on the question of adoption of a county manager form of government are in favor thereof, it shall go into effect on the first day of January next succeeding such election or on a later date as may be designated in the plan or resolution. All elected officials then in office whose positions will no longer be filled by popular election shall be retired on the effective date.

§ 17. **Amendment.)** Section 11-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-08. Board of County Commissioners—Election—Term of Office—Vacancies.) In a county adopting any form of county managership, the board of county commissioners shall consist of three or five members as is provided by general statute. Members of the board of county commissioners holding office when any form of county managership goes into effect shall continue in office until the expiration of their terms. Thereafter, county commissioners shall be elected in the manner provided by general statute.

§ 18. **Amendment.)** Section 11-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-09. Powers of Board of County Commissioners—Failure of Witness to Obey Order of Board Is a Misdemeanor.) The board of county commissioners of a county which has adopted any form of county managership shall be the policy-determining body of the county and shall have the following powers:

1. To exercise all of the powers of the county as a body politic and corporate in the manner provided in this chapter;
2. To levy taxes and to appropriate county funds;
3. To inquire into the official conduct of any officer or office under its control and to investigate the accounts, disbursements, bills, and receipts of any county officer. For these purposes, it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence. If a witness fails or refuses to obey any lawful order of the board, he shall be deemed guilty of a misdemeanor;
4. To preserve order in its sessions and enforce obedience for this purpose by fines not exceeding five dollars or by imprisonment in the county jail for not more than twenty-four hours.

§ 19. **Amendment.)** Section 11-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-10. Appointment of County Manager—Tenure of Office—Compensation.) The county manager, in a county which has adopted either of the appointed forms of county

managership, shall be appointed by the board of county commissioners. He shall be appointed with regard to merit only, and he need not be a resident of the county at the time of his appointment. No member of the board shall be chosen county manager during the time for which he is elected nor shall the managerial powers be given to a person who at the same time is filling an elective office. The manager shall not be appointed for a definite tenure but shall be removable at the pleasure of the board. He shall devote his full time to his work. His compensation shall be fixed by the board. In the absence or disability of the manager, the board may designate some responsible person to perform the duties of the office.

§ 20.) Section 11-09-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-09-10.1. Election of County Manager—Tenure of Office—Compensation—Vacancy—Removal—Recall.) The board of county commissioners in a county which has adopted either of the elected forms of county managership shall appoint a temporary county manager until a person shall be elected to such office at the next general election following the effective date of said form of government. The person so elected shall take office on the first day of January following the general election and serve for a term of four years. The compensation for the office shall be fixed by the board of county commissioners. A vacancy in the office of county manager shall be determined and filled pursuant to chapter 44-02. The elected county manager shall be subject to removal and recall as provided by general law for other elected county officials.

§ 21. **Amendment.)** Section 11-09-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-11. Manager and Officers Attend Meetings of Board of County Commissioners.) The county manager, and in a county adopting a county manager form of government, the directors of all departments, and all other officers of the county, shall be entitled to be present at all sessions of the board of county commissioners. The manager shall have the right to present his views on all matters coming before the board, and the directors and other officers, whether elective or appointive, shall be entitled to present their views relating to their respective departments or offices.

§ 22. **Amendment.)** Section 11-09-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-12. Powers and Duties of County Manager.) The county manager of any county adopting any form of county managership shall:

1. Serve as the administrative head of the county government and be responsible to the board of county commissioners for the proper administration of all the affairs of the county which the board has authority to control;
2. Supervise the collection of all revenues;
3. Guard adequately all expenditures and secure proper accounting of all funds;
4. Look after the physical property of the county and exercise general supervision over all county institutions and agencies;
5. With the approval of the board of county commissioners, coordinate the various activities of the county and unify the management of its affairs;
6. Execute and enforce all resolutions and orders of the board of county commissioners and see that all laws of the state required to be enforced through the board or other county officers subject to its control are faithfully executed;
7. Attend all meetings of the board of county commissioners and recommend such actions as he may deem expedient;
8. Appoint all officers and employees in the administrative service of the county except as otherwise provided in this chapter, and such employees may be employed on a part-time basis and may be transferred among the different departments;
9. With the approval of the board of county commissioners, fix the compensation of all officers, both elective and appointive, and of all employees whom he or a subordinate appoints;
10. Have the power to remove such officers, agents, or employees as he may appoint, and report every appointment or removal to the next meeting of the board of county commissioners;
11. Prepare and submit the annual budget and execute the budget in accordance with the resolutions and appropriations made by the board of county commissioners;

12. Make regular monthly reports to the board of county commissioners in regard to matters of administration, and keep the board fully advised as to the financial condition of the county;
13. Examine regularly the books and papers of every officer and department of the county and report to the board of county commissioners the condition in which he finds them, and he may order an audit of any office at any time;
14. Perform such other duties as may be required of him by the board of county commissioners.

§ 23. Amendment.) Section 11-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-13. Removal of an Appointed County Manager.) If the board of county commissioners of a county which has adopted either of the appointed forms of county managership determines to remove the manager, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and a right to a hearing thereon at a public meeting of the board prior to the date on which his final removal shall take effect. Prior to and during the hearing, the board may suspend the manager from office, but the period of suspension shall be limited to thirty days. The action of the board in suspending or removing the manager shall not be subject to review.

§ 24. Amendment.) Section 11-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-15. Administrative Activities Assigned to Departments in County Adopting County Manager Form of Government.) In a county which has adopted a county manager form of government, the county manager shall distribute the administrative activities among the following departments:

1. Department of finance;
2. Department of public works;
3. Department of public welfare.

The board of county commissioners may establish additional departments. Upon recommendation of the county manager, any activity which is unassigned by this chapter shall be assigned by the board to an appropriate department and any activity so assigned may be reassigned to another department.

§ 25. Amendment.) Section 11-09-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-16. Directors of Departments Appointed.) The county manager in a county adopting a county manager form of government shall appoint a director for each department provided for or authorized by section 11-09-15. With the consent of the board of county commissioners, the manager may act as the director of one or more departments or appoint one director for two or more departments.

§ 26. Amendment.) Section 11-09-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-17. Auditor—Who to Act.) Except as otherwise provided in this chapter, in counties adopting a short form of county managership, the functions imposed on the county auditor by general statute shall be performed by or under the direction of the county manager, and in counties adopting a county manager form of government, by the director of finance.

§ 27. Amendment.) Section 11-09-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-18. State's Attorney — Appointment — Powers — Duties.) The county manager of a county adopting any form of county managership, with the approval of the board of county commissioners, may appoint a state's attorney to serve as legal adviser to the board of county commissioners and to himself, to act as counsel for the county in any suit instituted by or against it, and to perform such other duties as may be prescribed by the board of county commissioners or which are imposed on state's attorneys by general statute. In a county adopting a short form of county managership, the county manager, with the approval of the board of county commissioners, from time to time or on an annual basis, may appoint the state's attorney of an adjoining county to perform such duties as are required of a state's attorney. The compensation of the state's attorney of an adjoining county shall be that agreed upon by the person so appointed, the county manager, and the boards of county commissioners of the two counties affected.

§ 28. Amendment.) Section 11-09-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-19. Sheriff — Election — Appointment — Duties — Powers.) The sheriff of a county adopting a county manager form of government shall be elected in the manner prescribed by general statutes and shall perform the duties and be subject to the restrictions contained in the general statutes. In a county adopting a short form of county managership, the county manager shall appoint one or more police officers who shall perform all police duties imposed on the sheriff by general statutes. All other duties imposed on the sheriff shall be performed by or under the direction of the county manager. The county manager, from time to time or on an annual basis, may contract with an adjoining county and its sheriff to obtain the services of such sheriff, and the compensation of such officer shall be such as shall be agreed upon by the sheriff, the county manager, and the boards of county commissioners of the counties affected.

§ 29. Amendment.) Section 11-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-20. Treasurer — Who to Perform Functions.) The functions imposed on county treasurers by general statutes shall be performed by or under the direction of:

1. The county manager in a county adopting a short form of county managership;
2. The director of finance in a county adopting a county manager form of government,

and each of such officers shall act as tax collector and county treasurer or shall appoint and have supervision over the person performing such duties.

§ 30. Amendment.) Section 11-09-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-21. Designation of Depository in Lieu of Appointment of Treasurer.) In a county adopting any form of county managership, the board of county commissioners, in lieu of the appointment of a treasurer, may select and designate annually, by ordinance or recorded resolution, some bank or trust company as an official treasury for the funds of the county. Any bank or trust company serving as depository for county funds shall be subject to such requirements as to security therefor and interest thereon as are provided by general statutes for public depositories. All interest on moneys so deposited shall accrue to the benefit of the county.

§ 31. Amendment.) Section 11-09-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-22. County Judge — Election — Duties.) In counties adopting any form of county managership, the county judge shall be elected in the manner and method prescribed by general statute. He shall perform the functions imposed on the office by general statute.

§ 32. Amendment.) Section 11-09-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-23. Clerk of the District Court—Who Shall Act.) In counties adopting any form of county managership, the functions imposed on the clerk of the district court by general statute shall be performed by the county judge except as otherwise provided in this chapter.

§ 33. Amendment.) Section 11-09-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-24. County Superintendent of Schools — Election — Duties.) In counties adopting any form of county managership, the county superintendent of schools shall be elected in the manner prescribed by general statute. He shall perform the functions imposed on the office by general statute.

§ 34. Amendment.) Section 11-09-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-25. Register of Deeds — Who to Act.) In counties adopting a short form of county managership, the functions imposed on the register of deeds shall be performed, except as otherwise provided in this chapter, by or under the direction of the county manager. In counties adopting a county manager form of government, such functions, except as otherwise provided in this chapter, shall be performed by or under the direction of the director of finance.

§ 35. Amendment.) Section 11-09-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-26. Constable — Office Abolished — Who to Perform Duties.) In counties adopting any form of county managership, the office of county constable shall be abolished. In counties adopting a short form of county managership, the functions of that office shall be performed by the police

officer or officers appointed by the manager or by the sheriff of an adjoining county employed as provided in section 11-09-19. In counties adopting a county manager form of government, the functions of the office of county constable shall be performed by the sheriff.

§ 36. Amendment.) Section 11-09-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-27. Coroner — Office Abolished — Who to Perform Duties.) In counties adopting any form of county managership, the office of coroner shall be abolished. The functions of that office shall be performed by the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by the sheriff. If there is a conflict or inconsistency between the functions of the coroner and the sheriff, the duties of the coroner shall be performed by the state's attorney.

§ 37. Amendment.) Section 11-09-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-29. Public Administrator—Office Abolished—Who to Perform Duties.) In counties adopting any form of county managership, the office of public administrator shall be abolished. The functions of that office shall be performed by the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by a suitable person appointed by the county judge. Any person so appointed shall receive compensation at the rate allowed the administrator of an estate.

§ 38. Amendment.) Section 11-09-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-30. Surveyor — Office Abolished — Who to Perform Duties.) In counties adopting any form of county managership, the office of county surveyor shall be abolished. The functions of that office shall be performed by or under the direction of the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by the director of public works unless otherwise specified in this chapter.

§ 39. Amendment.) Section 11-09-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-31. When Not Clear Who Is to Exercise Power, Board of County Commissioners Designate Officer.) Whenever there is doubt as to what officer of a county adopting any form of county managership shall exercise a power or perform a duty conferred upon or required of the county, or any officer thereof, by general law, such power shall be exercised or duty performed by such officer as shall be designated by ordinance or resolution of the board of county commissioners.

§ 40. Amendment.) Section 11-09-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-32. Appointment of Subordinates—Terms of Office.) The manager in a county which has adopted a county manager form of government may authorize the head of a department or office responsible to him to appoint subordinates in such department or office. All appointments shall be made on the basis of ability, training, and experience of the appointees. Appointments shall be without definite terms unless for temporary service not to exceed sixty days.

§ 41. Amendment.) Section 11-09-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-33. Removal of Subordinate Officers and Employees.) Any officer or employee appointed by the manager of a county adopting any form of county managership, or upon his authorization, may be laid off, suspended, or removed from office or employment by the manager, and, in a county adopting a county manager form of government, by the officer or head of the department in which such officer or employee is employed.

§ 42. Amendment.) Section 11-09-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-34. Bonds of County Officers.) Before entering upon the duties of his office, the county manager of a county adopting any form of county managership shall furnish the county a bond in the penal sum of not less than ten thousand dollars. In counties adopting a county manager form of government, the director of finance shall furnish a bond in the penal sum of ten thousand dollars and if the county manager serves as the director of finance, he shall furnish a bond in the amount of twenty thousand dollars. The board of county commissioners may fix bonds in excess of these amounts and may require bonds of other county officers.

§ 43. Amendment.) Section 11-09-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-35. Schedule of Compensation.) The county manager of a county adopting any form of county managership shall establish a schedule of compensation for officers and employees which shall provide uniform compensation for like service. The schedule may establish a minimum and maximum for any class, and an increase in compensation within the limits provided by any class may be granted at any time by the county manager or other appointing authority upon the basis of efficiency and seniority records.

§ 44. Amendment.) Section 11-09-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-38. Board of County Commissioners Not to Interfere in Appointment or Removals—Penalty.) In a county which has adopted any form of county managership, neither the board of county commissioners nor any of its committees or members shall direct or request the appointment or removal of any person by the county manager or any of his subordinates nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the county. Except for the purpose of inquiry or in an emergency, the board of county commissioners and its members shall deal with that portion of the administrative service over which the county manager is responsible solely through the manager. Neither the board of county commissioners nor its members shall give orders to any subordinate of the county, either publicly or privately. Any member of the board of county commissioners who violates any provision of this section shall be guilty of a misdemeanor and, in addition to the penalty prescribed for such an offense, shall forfeit his office.

§ 45. Amendment.) Section 11-09-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-39. Preparation and Submission of the Budget.) On or before the sixth day of July of each year, the county manager of a county which has adopted any form of county managership shall prepare and submit to the board of county commissioners a budget presenting a financial plan for the conduct of the affairs of the county for the ensuing year. The budget shall be set up in the manner prescribed by general statute and shall be published prior to the date of its adoption

by the board of county commissioners. Published notices and hearings shall be in accordance with the general statutes.

§ 46. Amendment.) Section 11-09-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-40. Finances—Administration.) The county manager in a county adopting a short form of county managership and the director of finance in a county adopting a county manager form of government shall have charge of the administration of the financial affairs of the county including:

1. The budget;
2. The assessment of property for taxation;
3. The collection of taxes, license fees, and other county revenues;
4. The custody of all public funds belonging to or handled by the county;
5. The control over the expenditure of the county;
6. The disbursement of county funds;
7. The purchase, storage, and distribution of all supplies, materials, equipment, and contractual services needed by any department, office, or other using agency of the county;
8. The keeping and supervision of all accounts;
9. Such other duties as the board of county commissioners by ordinance or resolution may require.

§ 47. Amendment.) Section 11-09-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-42. Reports of Financial Officer to Board of County Commissioners.) The county manager in counties adopting a short form of county managership and the director of finance in counties adopting a county manager form of government shall be charged with the keeping of all general books of financial and budgetary control for all departments and offices of the county. Reports shall be made to him daily, or as often as he may require, showing the receipt of all moneys and the disposition thereof. The county manager, or in counties adopting a county manager form of government, the director of finance through the county manager, each month shall submit to the board of county commissioners a summary statement of revenues and expenses for the preceding month, detailed as

to the appropriations and funds in such manner as to show the exact financial condition of the county and of each department and division thereof. Such officer shall submit once a year, or more often if the board of county commissioners requires it, a complete financial statement showing the assets and liabilities of the county.

§ 48. Amendment.) Section 11-09-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-43. Books of Officers, Manager, Director of Finance Audited.) The board of county commissioners of a county adopting any form of county managership shall require an annual audit of the books of every county officer who handles public funds to be made by an accountant who is not a regular officer or employee of the county and who is thoroughly qualified by training and experience. Any audit service provided by the state, whether at the expense of the state or the county, shall satisfy the requirements of this section. Either the board of county commissioners or the county manager, at any time, may order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal, or expiration of the term of office of any officer of the county, the county manager, or the director of finance in a county adopting a county manager form of government, shall cause to be made an audit and investigation of the accounts of such officer and shall report the result thereof to the board of county commissioners or if the audit is made by the director of finance, to the county manager and the board of county commissioners. In case of the death, resignation, or removal of the county manager or the director of finance, the board of county commissioners shall cause an audit of his accounts to be made. If, as a result of any such audit, an officer is found indebted to the county, the board of county commissioners shall proceed to collect such indebtedness forthwith.

§ 49. Amendment.) Section 11-09-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-44. Purchasing Agent—Powers and Duties—Supplies Purchased on Bids—Sale of Supplies.) The county manager of a county adopting a short form of county managership or the director of finance of a county adopting a county manager form of government shall act as purchasing agent or shall appoint and have supervision over this official. The purchasing agent shall make all purchases for the county in the manner provided by the board of county commissioners. He may

make transfers of supplies, materials, and equipment between departments and offices, and may sell any surplus supplies, materials, or equipment and make such other sales as are authorized by the board of county commissioners. With the approval of the board, he may establish suitable specifications or standards for all supplies, materials, and equipment to be purchased by the county and may inspect all deliveries to determine their compliance with such specifications and standards. He shall have charge of such storerooms and warehouses of the county as the board of county commissioners may provide. Before making any purchase or sale, the purchasing agent shall invite competitive bidding under such rules and regulations as the board of county commissioners may establish by ordinance or resolution. The purchasing agent shall not furnish any supplies, materials, equipment, or contractual services to any department or office except upon receipt of a properly approved requisition and unless there is an unencumbered appropriation balance sufficient to pay for the same.

§ 50. Amendment.) Section 11-09-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-45. Public Works — Who in Charge — Duties.) The county manager in counties adopting a short form of county managership and the director of public works in counties adopting a county manager form of government shall have charge of the construction and maintenance of county roads and bridges, county drains and other public works, public buildings, storerooms, warehouses, and such equipment and supplies as the board of county commissioners may authorize. He shall perform such other duties as the board may prescribe.

§ 51. Amendment.) Section 11-09-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-46. Public Welfare—Who in Charge—Duties.) The county manager in counties adopting a short form of county managership and the director of public welfare in counties adopting a county manager form of government shall have charge of hospitals, charitable and correctional institutions, parks and playgrounds, public health, and the relief and welfare activities imposed upon counties by general statutes. He shall perform such other duties relating to public welfare as the board of county commissioners may prescribe.

§ 52. Amendment.) Section 11-09-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-47. Interest in Contracts by Officers and Employees Prohibited.) No member of the board of county commissioners or other officer or employee of a county which has adopted any form of county managership, and no person receiving a salary or compensation from funds appropriated by the county, shall be interested, directly or indirectly, in any contract to which the county is a party, either as principal, surety, or otherwise. No such officer or employee or his partner, agent, servant, employee, or the firm of which he is a member, shall purchase from or sell to the county any real or personal property, nor shall he be interested, directly or indirectly, in any work or service to be performed for the county or in its behalf. Any contract made in violation of the provisions of this section shall be void.

§ 53. Amendment.) Section 11-09-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-48. Election as to Retention of Plan.) At any time after any form of county managership has been in force in a county for a period of four years, the board of county commissioners may submit, and, when petitioned to do so at least ninety days before a primary election by at least twenty-five percent of the qualified electors of the county as determined by the total number of votes cast for the office of governor at the last general election, shall submit to the electors at a primary election the question of whether or not the county manager plan in force shall be retained. If fifty-five percent of the legal votes cast on such question at the primary election shall be against retaining such plan, it shall cease to be operative on the first Monday in January next succeeding the primary election, and the county shall revert to the plan of government in force prior to the adoption of the county managership. Thereafter, the provisions of this chapter shall not be applicable in such county until after another compliance with its terms. When the petition has been filed, candidates for all county offices required under the plan in force prior to the adoption of the county managership may file nominating petitions. If fifty-five percent of the legal votes cast on the question are against retaining the county manager plan, the candidates nominated at the primary election shall be voted upon at the general election, and officers shall be elected in accordance with the general election laws. The terms of office of all officers elected as provided in this section shall commence on the first Monday in January next succeeding the primary election.

§ 54. Repeal.) Sections 11-05-15, 11-09-06, and 11-09-28 of the North Dakota Century Code are hereby repealed.

Approved March 6, 1965.

CHAPTER 99

H. B. No. 677

(Aamoth, Stockman, Streibel)

COUNTY OFFICERS' SALARIES

AN ACT

To amend and reenact subsections 2 and 3 of section 11-10-10 of the 1963 Supplement to the North Dakota Century Code, relating to the salaries of county officers.

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

§ 1. Amendment.) Subsections 2 and 3 of section 11-10-10 of the 1963 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The county auditor, county treasurer, sheriff, county superintendent of schools, register of deeds, county judge, state's attorney, and clerk of the district court each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. Four thousand eight hundred dollars in counties having a population not exceeding eight thousand;
 - b. Five thousand dollars in counties having a population exceeding eight thousand population plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof, but not to exceed the total sum of six thousand two hundred dollars, and provided, however, that in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision;
 - c. In counties having a population in excess of thirty thousand the sum of seven thousand dollars.

In counties having a county court of increased jurisdiction the salaries of the judges of county courts of increased jurisdiction shall be as set out in section 27-08-08. The county commissioners may in their discretion compensate the county superintendent of schools by an amount not to exceed two hundred fifty dollars per year, which shall be in addition to any other compensation received by the county superintendent, for

duties performed by the county superintendent of schools in school district reorganization within the county. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. Provided that the board of county commissioners of any county may by resolution increase the salaries of county officials or official provided for in this section by an amount of not to exceed ten percent of the amount herein provided.

3. Each county commissioner shall be allowed the sum of ten dollars per day while performing his duties in attending meetings of the board of county commissioners of which he is a member or when engaged in other official duties, whether outside or within the county, and an allowance for actual meals and lodging expenses in an amount not to exceed eight dollars, but shall not be entitled to any allowance wherein he resides other than the attendance at meetings of the board of county commissioners of which he is a member as herein provided. Claims for lodging as herein provided, but not for meals shall be covered by a subvoucher or receipt as provided by section 21-05-01 of the code as amended. If a meeting of a board of county commissioners is of more than one day's duration, a county commissioner may charge for and collect mileage or other transportation expense for travel actually made in going to his home and returning therefrom for each overnight period that the meeting may remain in session, but shall not be entitled to charge and collect for an evening meal on the date of going to his home or a morning meal on the date of his return. For the purpose of collecting per diem, living expenses, and transportation expenses incident to the attendance of any county commissioner at any statewide meeting of the North Dakota county commissioners association, such attendance at said meeting shall be considered the performance of an official duty within the meaning of this section. Each county commissioner while performing official duties shall be allowed his actual transportation expenses not in excess of the amounts provided in section 11-10-15, and when such transportation is furnished by rail or other common carrier including regularly scheduled airlines, such claims shall comply in all respects with section 21-05-01 of the code as amended. No county commissioner residing within the corporate limits of the county seat may charge for and collect for mileage or other sums in lieu

thereof, or for meals and lodging, for attending any meeting of the board of county commissioners of which he is a member or for attending any statewide meeting of the North Dakota county commissioners association held in the county seat where he resides. Total compensation and expenses, including per diem, board and lodging, and transportation expense, received by any member of a board of county commissioners shall be charged to and paid from the general fund of the county only and shall not exceed for each fiscal year the following amounts: In counties having a population of eight thousand or less, two thousand one hundred dollars; in counties having a population of over eight thousand and less than fifteen thousand, two thousand five hundred dollars; and in counties having a population of over fifteen thousand, three thousand dollars, and for the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census.

Approved March 17, 1965.

CHAPTER 100

S. B. No. 210
(Larson)

UNEXPENDED COUNTY FUNDS

AN ACT

To provide for the disposition of unexpended and unencumbered county taxes levied for a specific purpose.

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

§ 1. Disposition of Unexpended and Unencumbered County Taxes Levied for a Specific Purpose.) If any county shall levy a tax for a specific purpose and the moneys collected are not expended or encumbered within two years after their collection the board of county commissioners may deposit such taxes in the county general fund or authorize their expenditure by any political subdivision having authority to carry out the purpose for which the taxes were originally levied.

Approved March 6, 1965.

CHAPTER 101

H. B. No. 772

(Breum, Winge, Haugland, Elkin)

COUNTY HISTORICAL SOCIETIES

AN ACT

To create and enact section 11-11-53.1 and to amend and reenact section 11-11-53 of the North Dakota Century Code, relating to historical artifacts given to county historical societies and authorizing a levy for county historical purposes.

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

§ 1. Amendment.) Section 11-11-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-53. Appropriation for Historical Works — Authorization of Mill Levy—Approval of State Historical Society and Attorney General.) 1. The board of county commissioners of any county may appropriate out of the general fund of the county such sum, not exceeding five thousand dollars annually, as it may deem advisable, to be paid to the historical society of such county and used for the promotion of historical work within the borders of such county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in such county.

2. The board of county commissioners is hereby authorized to levy a tax, in addition to all levies now authorized by law, of not exceeding one-quarter of one mill for the promotion of historical works within the borders of such county and in general defray the expense of carrying on historical work in the county including, but not limited to, the maintenance of any historical room or building, and furthering the work of the historical society of such county.

3. The appropriation and levy authorized by this section shall not be used to defray any expenses of a county historical society until such society is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the North Dakota state historical society and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which such funds received will be expended and the services to be provided; provided, however,

that historical societies which qualified for county funds under the provisions of subsection 1 of this section prior to the effective date of this Act, shall not be required to have its articles of incorporation and bylaws approved by the attorney general to receive funds under the provisions of subsection 1 of this section.

§ 2.) Section 11-11-53.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-11-53.1. Donation of Historical Artifacts.) Any historical object or artifact given, donated, or otherwise acquired by a county historical society shall revert to the state historical society if such local society should cease to function, exist, or no longer operate, unless the donor of such object or artifact should attach other conditions to the gift or artifact. If the county historical society should terminate its operations or should find that it no longer needs a historical object or an artifact, such society may give or trade such object or artifact to any other county historical society.

Approved March 1, 1965.

CHAPTER 102

H. B. No. 841

(Meschke, Schoenwald, Ruddy, Haugland, Erickson (Ward),
(Williamson, Myhre)

COUNTY SHERIFFS' FEES

AN ACT

To amend and reenact section 11-15-07 of the North Dakota Century Code, relating to county fees.

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

§ 1. **Amendment.)** Section 11-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-07. County Fees.) The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a capias with commitment of bail and return, two dollars;
2. For serving a summons, warrant of attachment, order of replevin, injunctive order, citation, or other mesne

- process and making a return thereon, one dollar and fifty cents, and for service on each defendant besides the first, one dollar;
3. For making a copy of a summons or order of attachment, one dollar;
 4. For making a copy of an injunctional order, one dollar;
 5. For serving a subpoena on a witness, each person, one dollar and fifty cents;
 6. For taking and filing a bond in claim and delivery or any other undertaking to be furnished to and approved by the sheriff, one dollar;
 7. For making a copy of any process, bond, or paper, other than as is herein provided, for each ten words, one cent;
 8. For levying a writ of execution and making a return thereof, two dollars and fifty cents;
 9. For levying a writ of possession with the aid of the county, three dollars and fifty cents;
 10. For levying a writ of possession without the aid of the county, five dollars;
 11. For serving a notice of motion or other notice or order of the court, one dollar and fifty cents;
 12. For executing a writ of habeas corpus and making a return thereon, one dollar and fifty cents;
 13. For serving a writ of restitution and making a return thereon, one dollar and fifty cents;
 14. For calling an inquest to appraise any goods and chattels which he may be required to have appraised, one dollar, and each appraiser shall receive ten dollars to be taxed as costs;
 15. For advertising a sale in a newspaper, in addition to the publisher's fees, one dollar and fifty cents;
 16. For advertising in writing for the sale of personal property, one dollar and fifty cents;
 17. For executing a writ or order of partition, two dollars;
 18. For making a deed to land sold on execution or pursuant to an order of sale, two dollars;
 19. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, two dollars;

20. For selling real or personal property under foreclosure of any lien or mortgage by advertisement, three dollars;
21. For boarding prisoners, a sum to be determined by the county commissioners, by resolution in advance, which sum shall in no case exceed two dollars and fifty cents per day;
22. For issuing permit or license to carry pistol or revolver, one dollar.

Approved March 19, 1965.