

MUNICIPAL GOVERNMENT

CHAPTER 366

HOUSE BILL NO. 1299

(Atkinson)

VOUCHER PROCEDURES

AN ACT to amend and reenact sections 11-11-35, 11-25-01, 21-05-07, 40-01-13, 40-09-13, subsection 15 of section 40-16-03, section 40-49-14, subsection 3 of section 40-58-16, and sections 40-61-07, 58-08-02, and 58-11-06 of the North Dakota Century Code, relating to the method of approval of vouchers for claims and accounts submitted to the governing bodies of cities, counties, and townships, city park districts, urban renewal agencies, and municipal parking authorities.

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

SECTION 1. AMENDMENT.) Section 11-11-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-35. BOARD TO KEEP RECORDS OF PROCEEDINGS.) The board of county commissioners shall keep a book in which all orders and decisions made by it shall be recorded. Such book shall be known as "a record of the proceedings of the board of county commissioners". All orders and vouchers for the allowance and payment of moneys from the county treasury shall state on what account and to whom the allowance is made. The same shall be dated and numbered with the number of the warrant issued in payment thereof. Approval of orders and vouchers shall be recorded in the record of the proceedings and this shall be sufficient to indicate approval without requiring a majority of the board to sign or initial the orders and vouchers.

SECTION 2. AMENDMENT.) Section 11-25-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-25-01. WARRANTS - HOW SIGNED, ATTESTED, NUMBERED, AND REGISTERED.) All warrants upon the county treasurer for claims against the county shall be issued by the county auditor upon the authority of properly audited and allowed claims or orders of the board of county commissioners. Approval by the board of county commissioners shall be recorded in the record of its proceedings and this shall be sufficient to indicate approval without requiring a majority of the board to sign or initial the vouchers or orders for payment. Each warrant shall be so drawn that when signed by the treasurer in an appropriate place, it becomes a check on the county depository. No warrant upon the treasurer shall be delivered or mailed to the payee or his agent or representative until such warrant has been signed by the treasurer and

entered on the treasurer's books as a check drawn on a bank depository. Warrants for salaries of county officers and county employees may be drawn by the county auditor from time to time as such salaries become due and payable. The county auditor shall draw all other warrants or orders upon the county treasurer for the payment of moneys upon the authority and for the purposes specifically provided by law. All warrants issued by the county auditor shall be numbered consecutively, or in separate series by funds. The number, date, and amount of each warrant and the name of the person to whom payable and the fund upon which drawn shall be stated therein. Warrants shall be signed by the county auditor and at the time they are issued shall be registered by him in a book kept for that purpose.

SECTION 3. AMENDMENT.) Section 21-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-05-07. CONSIDERATION OF ACCOUNT - ACTION THEREON.) Whenever an account, claim, or demand against any township or county shall have been verified in the manner prescribed in section 21-05-02, the board to which the same is presented may receive and consider the same and may allow or disallow the same, in whole or in part, as to the board shall appear just and lawful, saving to such claimant the right of appeal. Approval by the board shall be recorded in the record of its proceedings and this shall be sufficient to indicate approval without requiring a majority of the members of the board to sign or initial the voucher or order for payment.

SECTION 4. AMENDMENT.) Section 40-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-13. PAYMENT OF ACCOUNTS BY MUNICIPALITY.) No account or claim shall be paid by a municipality unless the same has been audited and allowed by the governing body thereof. Approval by the governing body shall be recorded in the record of its proceedings and this shall be sufficient to indicate approval without requiring a majority of the members of the governing body to sign or initial the voucher or order for payment. No moneys shall be drawn from the treasury of a municipality except upon a warrant from the treasurer thereof signed by the executive officer of the municipality and attested by its auditor or clerk.

SECTION 5. AMENDMENT.) Section 40-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-09-13. ACCOUNTS - AUDITED BY RESPECTIVE COMMISSIONERS - APPROVED BY BOARD.) The commissioner who is the head of each department shall audit all accounts against it, but before payment the accounts shall be acted upon and approved by at least three members of the board of city commissioners. Approval by at least three members of the board of city commissioners shall be recorded

in the record of the board and this shall be sufficient to indicate approval without requiring the approving members to sign or initial the voucher or order for payment of the account.

SECTION 6. AMENDMENT.) Subsection 15 of section 40-16-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. DISBURSEMENTS.) Submit all claims against the city to the governing body for approval. Upon approval the auditor shall draw and countersign, along with the executive officer, a warrant in payment of the claim. No warrant shall be delivered or mailed until such warrant has been recorded in the disbursement record. Approval of all claims shall be recorded in the official proceedings of the governing body showing the warrant number, payee, and amount, except that salaries and wages may be consolidated in one order, and this shall be sufficient to indicate approval without requiring a majority of the members of the governing body to sign or initial the voucher or order for payment;

SECTION 7. AMENDMENT.) Section 40-49-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-14. WHEN YEAS AND NAYS VOTE TAKEN - LETTING CONTRACTS - DEBT LIMIT - BILLS, CLAIMS, AND DEMANDS AGAINST COMMISSION.) Yeas and nays votes shall be taken on all propositions involving the expenditure of money, levying of taxes, or the issuance of bonds or certificates of indebtedness. Approval of an expenditure of money shall be recorded in the record of the board's proceedings and this shall be sufficient to indicate approval without requiring the members to sign or initial the voucher or order for payment. All contracts shall be let to the lowest responsible bidder after advertisement in the official newspaper of the municipality once each week for three successive weeks. The board may reject any or all bids. All contracts shall be in writing and shall be signed by the president and clerk of the board and unless so executed, they shall be void. The debt of a park district shall not exceed one percent of the taxable property within the district according to the last preceding assessment. No bill, claim, account, or demand against the district shall be audited, allowed, or paid until a full, written, itemized statement thereof shall be filed with the board with a certificate in substantially the following form:

CERTIFICATE

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the services therein charged were actually rendered and of the value therein charged; and that no part of such bill, claim, account, or demand, has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign here _____

If signed for a firm or
company, show authority
on this line.

SECTION 8. AMENDMENT.) Subsection 3 of section 40-58-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number. Approval of the payment of an account or claim shall be recorded in the record of the agency's proceedings and this shall be sufficient to indicate approval without requiring a majority of the commissioners to sign or initial the voucher or order for payment. Any persons may be appointed as commissioners if they reside within the area of operation of the agency which shall be coterminous with the area of operation of the municipality and are otherwise eligible for such appointments under this chapter.

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

SECTION 9. AMENDMENT.) Section 40-61-07 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-07. MONEYS OF THE AUTHORITY.) All moneys of an authority shall be paid to the city treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the treasurer. Approval of the payment of an account or claim shall be recorded in the record of the proceedings of the authority and this shall be sufficient to indicate approval without requiring the approving members to sign or initial the voucher or order for payment. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of North Dakota of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing. An authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment, and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of an authority shall be subject to the supervision of the state auditor.

SECTION 10. AMENDMENT.) Section 58-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-08-02. DUTIES OF TREASURER - FORM OF WARRANT - DISBURSEMENT OF FUNDS.) The township treasurer shall receive and take charge of all moneys belonging to the township or which by law are required to be paid into the township treasury and shall pay over and account for the same upon the order of the township or the officers thereof duly authorized in that behalf, and shall perform all such duties as may be required of him by law. Approval of orders or vouchers shall be recorded in the record of the board's proceedings and this shall be sufficient to indicate approval without requiring a majority of the board to sign or initial the voucher or order for payment. The township treasurer shall pay out no township funds except upon the warrant of the board of

supervisors signed by the chairman of the board and countersigned by the clerk. The treasurer shall pay all warrants when presented, if properly drawn and signed, and if there is money in his hands or subject to his order sufficient for payment. He shall not issue his check on the depository bank, but shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned and directed to the depository bank and properly endorsed by the payee, shall be paid by the depository. Immediately upon countersigning any warrant, the township treasurer shall enter the payment in his official record.

SECTION 11. AMENDMENT.) Section 58-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-11-06. TREASURER SHALL PAY ALL ORDERS.) The amount of any account audited and allowed by the board of auditors and the amount of any account voted to be allowed at any township meeting shall be paid by the township treasurer on the order of the board signed by the chairman and countersigned by the clerk of the township. Approval of any account audited and allowed by the board shall be recorded in the record of its proceedings and this shall be sufficient to indicate approval without requiring a majority of the board to sign or initial the voucher or order for payment. All orders issued to any person by the board for any sum due from such township shall be receivable in payment of the township taxes of such township.

Approved March 19, 1975

CHAPTER 367

SENATE BILL NO. 2389
(Sands)

SUMMARY REMOVAL OF CITY APPOINTEES

AN ACT to create and enact a new section to chapter 40-01 of the North Dakota Century Code, relating to summary removal of members of a city appointive agency, board, or commission acting in an advisory or policy decisionmaking capacity.

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

SECTION 1. REMOVAL OF CITY ADVISORY OR POLICY DECISIONMAKING MEMBERS.) The executive officer of a city and a sixty percent majority of the members-elect of a city's governing body at a regular meeting of such body may remove any member of an appointive agency, board, or commission which has spending, borrowing, or eminent domain powers and acts in an advisory capacity or assists in policy decisionmaking.

Approved April 8, 1975

CHAPTER 368

SENATE BILL NO. 2217
(Nothing)

VANDALISM AND SHOPLIFTING

AN ACT to amend and reenact section 40-05-06 of the North Dakota Century Code, relating to the penalty which a city may impose for a violation of its ordinances relating to vandalism or shoplifting.

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

SECTION 1. AMENDMENT.) Section 40-05-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-06. CITY FINES AND PENALTIES LIMITED.)

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city shall not exceed five hundred dollars, and the imprisonment shall not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which shall not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.
3. For every violation of a city ordinance prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

Approved March 13, 1975

CHAPTER 369

HOUSE BILL NO. 1445
(Goetz)

COMPENSATION OF CITY OFFICIALS

AN ACT to amend and reenact sections 40-08-07 and 40-09-06 of the North Dakota Century Code, relating to compensation of aldermen and city commissioners.

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

SECTION 1. AMENDMENT.) Section 40-08-07 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-07. COMPENSATION OF ALDERMEN.) The aldermen shall receive such compensation for their services as shall be fixed by ordinance, but such compensation shall not exceed the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, to each alderman not to exceed thirty dollars per month.
2. In cities over one thousand and not exceeding two thousand in population, to each alderman not to exceed forty dollars per month.
3. In cities over two thousand and not exceeding four thousand in population, to each alderman not to exceed fifty dollars per month.
4. In cities over four thousand and not exceeding six thousand in population, to each alderman not to exceed seventy dollars per month.
5. In cities over six thousand and not exceeding eight thousand in population, to each alderman not to exceed ninety dollars per month.
6. In cities over eight thousand and not exceeding twelve thousand in population, to each alderman not to exceed one hundred twenty-five dollars per month.
7. In cities over twelve thousand and not exceeding thirty thousand in population, to each alderman not to exceed

one hundred fifty dollars per month.

8. In cities having a population of over thirty thousand, to each alderman not to exceed one hundred seventy-five dollars per month.

SECTION 2. AMENDMENT.) Section 40-09-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

40-09-06. STYLE OF BOARD - OATH AND SALARY OF COMMISSIONERS.)

The commissioners and president of the board collectively shall constitute and be known as the "board of city commissioners of the city . . .", and shall take an oath faithfully to perform the duties of their respective offices. The salaries of the city commissioners shall be fixed by ordinance subject to the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, each commissioner may receive a monthly salary of not to exceed forty dollars.
2. In cities over one thousand and not exceeding two thousand in population, each commissioner may receive a monthly salary of not to exceed fifty dollars.
3. In cities over two thousand and not exceeding four thousand in population, each commissioner may receive a monthly salary of not to exceed seventy-five dollars.
4. In cities over four thousand and not exceeding six thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred dollars.
5. In cities over six thousand and not exceeding eight thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred seventy-five dollars.
6. In cities over eight thousand and not exceeding twelve thousand in population, each commissioner may receive a monthly salary of not to exceed two hundred twenty-five dollars.
7. In cities over twelve thousand and not exceeding thirty thousand in population, each commissioner may receive a monthly salary of not to exceed three hundred twenty-five dollars.
8. In cities over thirty thousand and not exceeding forty thousand in population, each commissioner may receive a monthly salary of not to exceed five hundred fifty dollars.
9. In cities having a population of over forty thousand,

each commissioner may receive a monthly salary of not to exceed six hundred seventy-five dollars.

The president of a commission may receive a salary of up to fifty percent more than the level set for commissioners for his city by this section upon resolution by the board of city commissioners.

Approved March 17, 1975

CHAPTER 370

HOUSE BILL NO. 1274
(E. Metzger)

CITY COUNCIL MEETINGS

AN ACT to amend and reenact section 40-08-10 of the North Dakota Century Code, relating to the meetings of city councils.

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

SECTION 1. AMENDMENT.) Section 40-08-10 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-10. MEETINGS OF COUNCIL - REGULAR, SPECIAL, AND FOR ORGANIZATION.) The city council shall hold its regular meetings at least once a month on or before the fifteenth day of the month on a date certain established by resolution or ordinance of the council, and may prescribe by ordinance the manner in which special meetings may be called as well as the establishment of any additional regular meetings desired. If a regular meeting falls upon a holiday, such meeting shall be held upon the next business day with the same effect as if conducted upon the day appointed. All regular and special meetings shall be held at a time and place to be designated by the city council. The first meeting for the organization of the city council shall be held on the third Tuesday in April of each even-numbered year.

Approved March 25, 1975

CHAPTER 371

HOUSE BILL NO. 1495
(Unhjem, Royse)

REAL PROPERTY TRANSFERS

AN ACT to create and enact a new section to chapter 40-11 and a new section to chapter 58-03 of the North Dakota Century Code, relating to sale of real property by municipalities and townships; and to amend and reenact section 40-11-04 of the North Dakota Century Code, relating to a municipal ordinance required for transferring property.

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

SECTION 1.) A new section to chapter 40-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

REAL PROPERTY TRANSFER REQUIREMENTS.) Upon resolution by the governing body of a municipality authorizing the public sale of real property, a notice containing a description of the property to be sold and designating the place where and the day and hour when the sale will be held shall be published in the official county newspaper once each week for two consecutive weeks with the last publication being at least ten days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the governing body of the municipality. The property advertised shall be sold to the highest bidder if his bid is deemed sufficient by a majority of the members of the governing body.

SECTION 2.) A new section to chapter 58-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

REAL PROPERTY TRANSFERS.) Every township may convey, sell, or dispose of real property of the township upon recommendation by the board of township supervisors and upon approval by the township electors at the annual meeting or at a special meeting called for such purpose. When the board estimates the real property to be of a value of less than one thousand dollars, it may be sold at private sale, but in all other cases such property may be sold only at public sale. A notice containing a description of the property to be sold and designating the place where and the day and hour when the sale will be held shall be published in the official

county newspaper once each week for two consecutive weeks with the last publication being at least ten days prior to the date set for the sale. The township electors shall determine and the notice shall specify whether the bids are to be received at auction or as sealed bids. The property advertised shall be sold to the highest bidder if his bid is deemed sufficient by a majority of the township supervisors.

SECTION 3. AMENDMENT.) Section 40-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-11-04. ORDINANCE REQUIRED FOR THE TRANSFER OF PROPERTY.) Every municipality shall enact an ordinance providing a uniform method and procedure for the conveyance, sale, lease, or disposal of personal and real property of the municipality. When the property to be disposed of is estimated by the governing body of the municipality to be of a value of less than two thousand five hundred dollars, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale.

Approved March 27, 1975

CHAPTER 372

HOUSE BILL NO. 1442
(Tinjum)

CITY AUDITOR HOLDING OTHER OFFICES REPEAL

AN ACT to repeal section 40-14-07 of the North Dakota Century Code,
relating to holding of other offices by city auditor.

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

SECTION 1. REPEAL.) Section 40-14-07 of the 1973 Supplement
to the North Dakota Century Code is hereby repealed.

Approved March 17, 1975

CHAPTER 373

HOUSE BILL NO. 1439
(Kelly)

SALARY OF MUNICIPAL JUDGE

AN ACT to amend and reenact section 40-18-06 of the North Dakota Century Code, relating to salaries for municipal judges.

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

SECTION 1. AMENDMENT.) Section 40-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-06. SALARY OF MUNICIPAL JUDGE - PAYMENT OF FEES INTO TREASURY.) The municipal judge shall be paid a salary by the municipality and shall not be paid in relation to fees or fines collected by the municipal court. The municipal judge's salary shall not be reduced during his term of office. In all criminal actions and in all actions instituted under any ordinance of the city, however, he shall collect the same fees as are allowed by section 33-01-23, and such fees shall be paid by him into the city treasury at the end of each month. At the end of each month, the municipal judge shall make and file with the city auditor a written report under oath showing an account of all fees collected by him in such actions during the preceding month and showing the actions in which such fees were collected. His salary shall not be paid to him until he has complied with the provisions of this section.

Approved March 12, 1975

CHAPTER 374

HOUSE BILL NO. 1306
(Gackle)

RETURN OF ASSESSMENT ROLL

AN ACT to amend and reenact section 40-19-03 of the North Dakota Century Code, relating to return of the assessment roll by the city assessor.

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

SECTION 1. AMENDMENT.) Section 40-19-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-19-03. RETURN OF ASSESSMENT ROLL BY CITY ASSESSOR.)

When the assessment is completed, and on or before the first day of April in each year, the city assessor shall return the assessment roll to the city auditor. The assessment roll shall be open to the inspection of the public until the meeting of the board of equalization of the municipality. The city auditor shall deliver the assessment roll to the board of equalization of the municipality at its regular meeting.

Approved March 12, 1975

CHAPTER 375

HOUSE BILL NO. 1581
(Mushik, Halmrast, Glassheim)

SPECIAL ASSESSMENT DISTRICT MAPS

AN ACT to amend and reenact section 40-22-15 of the North Dakota Century Code, relating to resolutions declaring improvements necessary and to require the publication of maps of special assessment districts.

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

SECTION 1. AMENDMENT.) Section 40-22-15 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-15. RESOLUTION DECLARING IMPROVEMENTS NECESSARY - EXCEPTION FOR SEWER AND WATER MAINS - CONTENTS OF RESOLUTION - PUBLICATION OF RESOLUTION.) After the engineer's report required by section 40-22-10 has been filed and approved, the governing body of the municipality, by resolution, shall declare that it is necessary to make the improvements described therein. Such resolution shall not be required, however, if the improvement consists of the construction or alteration of sewer or water mains, unless it is determined that the cost thereof shall be paid in part as is provided in section 40-22-16, nor if the governing body determines by resolution that a written petition for the improvement, signed by the owners of a majority of the area of the property included within the district, has been received. The resolution shall refer intelligibly to the engineer's report, and shall include a map of the municipality showing the proposed improvement districts. The resolution shall then be published once each week for two consecutive weeks in the official newspaper of the municipality.

Approved March 27, 1975

CHAPTER 376

SENATE BILL NO. 2141
(Lips)

INVESTMENTS OF RETAINAGE

AN ACT to amend and reenact section 40-22-37 of the North Dakota Century Code, relating to investment of retainage on municipal construction contract payments.

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

SECTION 1. AMENDMENT.) Section 40-22-37 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-37. CONTRACTOR SHALL BE PAID DURING PROGRESS OF WORK - RETAINAGE - FAILURE TO PAY - RATE OF INTEREST - INVESTMENT OF RETAINAGE.) If the contractor to whom a contract is let properly performs the work therein designated, the governing body, at least once in each calendar month during the continuance of such contract work, shall meet, receive, and consider estimates furnished by the agent, engineer, or architect acting for the municipality or if not so furnished, then by the contractor, and shall allow such estimates in an amount of the estimated value of the labor and material furnished upon such contract, and of the material then upon the ground for use in such contract, subject to retentions as follows: ten percent of each estimate presented until such time as the project is fifty percent completed, with no further retainage on estimates during the continuance of the contract. The governing body may, however, upon completion of ninety-five percent of the contract according to the estimates, pay to the contractor ninety-five percent of the amount retained from previous estimates. Any amount retained after ninety-five percent completion of the contract shall be paid to the contractor in such amounts and at such times as are approved by the municipality, upon estimates by its agent, engineer, or architect or the contractor, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. The governing body, immediately after considering and allowing any such estimate, shall certify and forward the same to the city auditor or other official having the power to draw warrants, who forthwith shall draw his warrant upon the proper fund and transmit the same promptly to the contractor entitled thereto. In case the governing body shall fail or neglect to receive and allow such estimate or certify any estimate or final payment upon completion and acceptance or the proper

officer required to issue such warrant shall fail or neglect to issue a warrant as provided herein, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment, together with any retainage properly payable, shall draw interest from its date at the rate of six percent per annum until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate, final payment, or retainage by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund from which payment for the improvement is to be made. On the amounts of estimates retained, as provided herein, the governing board, authorized committee, or public body in charge of such work may invest or deposit the retained amounts in any financial association or institution in North Dakota earning interest or dividends for the benefit of the contractor. Any amounts so invested or deposited shall remain in the name of the governing board, authorized committee, or public body in charge of such work until final payment of all money due to the contractor is to be made. Further, no contractor shall use such account in any manner whatsoever until released and received by him upon completion of the contract.

Approved March 13, 1975

CHAPTER 377

HOUSE BILL NO. 1420
(Kretschmar)

TRANSFER OF SPECIAL IMPROVEMENT MONEYS

AN ACT to amend and reenact section 40-24-18 of the North Dakota Century Code, relating to a fund for special improvement moneys.

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

SECTION 1. AMENDMENT.) Section 40-24-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-18. SPECIAL IMPROVEMENT MONEYS TO BE KEPT SEPARATE - DESIGNATION AND NUMBERING OF FUNDS - DIVERSION OF MONEYS PROHIBITED.) All special assessments and taxes levied and other revenues pledged under the provisions of this title to pay the cost of an improvement shall constitute a fund for the payment of such cost, including all principal of and interest on warrants and other obligations issued by the municipality to finance the improvement, and shall be diverted to no other purpose. The treasurer of the municipality shall hold all moneys received for any such fund as a special fund to be applied to payment for the improvement. Each such fund shall be designated by the name and number of the improvement district in or for which said special assessments, taxes, and revenues are collected. When all principal and interest on warrants and other obligations of the fund have been fully paid, all moneys remaining in a fund may be transferred into the general fund of the municipality.

Approved March 17, 1975

CHAPTER 378

HOUSE BILL NO. 1578
(Hildebrand)

MUNICIPAL STEAM HEATING AUTHORITIES

AN ACT to provide for the creation of municipal steam heating authorities.

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

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Authority" shall mean any corporation created under the authority of this Act.
2. "City" shall mean any city with a municipal steam heating authority.
3. "Board" shall mean the members of the authority.
4. "Real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, including terms of years.
5. "Project" shall mean any area or place operated or to be operated by an authority for the making or producing of steam, and shall include, without being limited to, all real and personal property, boilers, furnaces, storage vessels, meters, mechanical equipment, and all appurtenances and facilities either on, above, or under the ground which are used in connection with the making or transporting of steam.
6. "Projects" shall mean more than one project.
7. "Property owner" shall mean either a real estate owner, or the beneficial owner or a leasehold on a building constructed on railroad property.

SECTION 2. MUNICIPAL STEAM HEATING AUTHORITIES.) Any city may create a board to be known as a "municipal steam heating authority". Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the governing body of the city. Three members of the board shall be property owners within the benefited areas and two members shall be appointed at large. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a chairman and a vice chairman. The governing body of the city may remove any member of the board for inefficiency, neglect of duty, or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents, and employees such powers and duties as it may deem proper. Such board and the corporate existence of the authority shall continue until all its liabilities have been met and until the existence of the authority is terminated by official action of the governing body of the city. Upon its ceasing to exist, all its rights and properties shall pass to the city.

SECTION 3. PURPOSE AND POWERS OF AN AUTHORITY.) The purpose of an authority shall be to construct, operate, acquire, or maintain one or more projects in the city and to promote and acquire municipal steam heating facilities in accordance with the provisions of this Act. To carry out such purpose, an authority shall have power:

1. To sue and be sued.
2. To acquire, hold, and dispose of personal property for its corporate purposes.
3. To acquire necessary real property in the name of the city by purchase.
4. To make bylaws for the management and regulation of its affairs for the regulation of the project.
5. To appoint officers, agents, and employees, to prescribe their qualifications, and to fix their compensation;

provided, however, the officers, agents, and employees shall not be subject to the civil service laws or ordinances.

6. To appoint an attorney to represent the board, who may be the city attorney, and to fix his compensation.
7. To make contracts and leases, and to execute all instruments necessary or convenient.
8. To construct such buildings, structures, and facilities as may be necessary.
9. To reconstruct, improve, maintain, and operate the projects.
10. To accept grants, loans, or contributions from the United States, the state of North Dakota, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority.
11. To fix and collect user fees, and other charges for the use and sale of steam.
12. To construct, operate, or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation, or maintenance of any parts thereof or for services to be performed.
13. To borrow money on such terms as it may deem most convenient, and to sign notes and pledge any portion of revenues derived from user fees and charges, in connection with such borrowing.
14. To mortgage all or any part of its real or personal property then owned or thereafter acquired.

SECTION 4. FINANCING PROJECTS AND FACILITIES.) An authority may provide funds for its purposes by using the following methods or any combination thereof:

1. Charging a fee for the sale or use of steam produced by such authority.
2. Issuing notes of an authority as authorized by this Act.
3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or special assessments, or by any combination of these means

pursuant to or in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41, and 40-57, and all other applicable laws now in force or hereafter enacted.

4. Making a special assessment against any property directly benefited by the steam produced by the authority, as provided in section 15 of this Act.

SECTION 5. OFFICERS AND EMPLOYEES.) Municipal steam heating authorities shall not be subject to civil service or merit system laws, veterans preference laws, or other laws, ordinances, and regulations pertaining to the status of municipal employees. Employees of an authority shall have the same position as employees of a private corporation and the board of directors of an authority shall manage their employee relationships in the same manner as private corporations.

SECTION 6. CONVEYANCE OF PROPERTY BY A CITY TO AN AUTHORITY - ACQUISITION OF PROPERTY BY A CITY OR BY AN AUTHORITY.)

1. A city may, by resolution or resolutions of the governing body or by instruments authorized by such resolutions, convey, with or without consideration, to an authority real and personal property owned by the city for use by an authority as a project or projects or a part thereof.
2. A city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects.
3. Contracts may be entered into between a city and an authority providing for the property to be conveyed by a city to an authority, the additional property to be acquired by a city and so conveyed, and the amounts, terms, and conditions of payment to be made by an authority. Any such contracts between a city and an authority and any real property belonging to an authority may be pledged by the authority to secure its notes and may not be modified thereafter except as provided by the terms of the pledge. The governing body of a city may authorize such contracts between a city and an authority and no other authorization on the part of a city for such contracts shall be necessary.
4. An authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase. An authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.
5. In case an authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project, then, if such real property was acquired at the cost and expense of the

city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of an authority, then the authority shall have power to sell, lease, or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sales, rentals, or other moneys derived from the disposition thereof for its purposes.

SECTION 7. CONSTRUCTION CONTRACTS.) An authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of cities except that where the estimated expense of a contract does not exceed five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of an authority to do any construction directly by the officers, agents, and employees of the authority.

SECTION 8. MONEYS OF THE AUTHORITY.) All moneys of an authority shall be paid to the city treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the treasurer. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of North Dakota of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing. An authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its notes as to the custody, collection, securing, investment, and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of notes or in any way to secure notes, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of notes or in any way to secure notes and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of an authority shall be subject to the supervision of the state auditor.

SECTION 9. NOTES OF AN AUTHORITY.)

1. An authority shall have power from time to time to issue notes and from time to time to issue renewal notes,

herein referred to as notes, maturing not later than five years from their respective original dates for any purpose mentioned in section 3 of this Act, including the acquisition, construction, reconstruction, and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation, whenever an authority shall determine the payment thereof can be made in full from any moneys or revenues which an authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans, or other matters relating to any proposed or existing project.

2. An authority may pledge such moneys or revenues, subject to any other pledge thereof, for the payment of the notes and may in addition secure the notes by the guarantee of two or more property owners. It is the intention hereof that any pledge of revenues or other moneys made by an authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by an authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against an authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.
3. Except as may otherwise be expressly provided by an authority, the notes shall be payable out of any moneys or revenues of an authority, subject only to any agreements with the holders of particular notes pledging any particular moneys or revenues. Notwithstanding the fact that the notes may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the Uniform Commercial Code, the notes shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the Uniform Commercial Code.
4. An authority shall have power out of any funds available therefor to purchase its own notes. An authority may hold, cancel, or resell such notes, subject to and in accordance with agreements with noteholders.
5. In the discretion of an authority, the notes may be

secured by a trust indenture by and between an authority and a corporate trustee, which may be any trust company or bank within or without the state of North Dakota. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the noteholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of an authority in relation to the construction, maintenance, operation, repair, and insurance of the project or projects and the custody, safeguarding, and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section 8 of this Act, an authority may provide by such trust indenture for the payment of the proceeds of the notes and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the notes shall be secured by a trust indenture, the noteholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section 13 of this Act upon a trustee appointed by noteholders.

SECTION 10. AGREEMENT OF A CITY.)

1. Cities may pledge to and agree with the holders of the notes that the city will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, and operate the project or projects, to establish and collect rentals, fees, and other charges, and to fulfill the terms of any agreements made with the holders of the notes, or in any way impair the rights and remedies of the noteholders, until the notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the noteholders, are fully met and discharged.
2. Authorities are hereby authorized, in their discretion, for and on behalf of themselves and the city which authorized them, to covenant and agree with the holders of the notes, with such exceptions and limitations as it may deem in the public interest, that no public steam heating facilities except those acquired and operated by the authority will be constructed or operated in the

city by the city, or by any public benefit or other corporation, the members or some of which are elected or are appointed by city officials, until either the notes, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the noteholders are fully met and discharged, or principal or interest of any of the notes shall be overdue and unpaid for a period of three years or more.

SECTION 11. STATE AND CITY NOT LIABLE ON NOTES - EXCEPTIONS AS TO CITIES.) The obligations of an authority shall not be a debt of the state of North Dakota and the state shall not be liable thereon. The obligations of an authority shall not be a debt of a city and a city shall not be liable thereon unless a city agrees to assist in financing projects and facilities through the issuance of municipal bonds or other obligations which are considered to be a part of the debt of the city as provided in section 4 of this Act.

SECTION 12. TAX EXEMPTIONS.)

1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city which has authorized it and its environs, and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this chapter and shall be required to pay no ad valorem taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.
2. Any bonds or notes issued pursuant to this chapter, together with the income therefrom, as well as the property of an authority and income from any other source, shall be exempt from taxation, except for transfer and estate taxes.

SECTION 13. TAX CONTRACT BY THE STATE.) The state of North Dakota covenants with the purchasers and with all subsequent holders and transferees of notes issued by an authority pursuant to this Act, in consideration of the acceptance of and payment for the notes, that the notes of an authority issued pursuant to this Act and the income therefrom, and all moneys, funds, and revenues pledged to pay or secure the payment of such notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

SECTION 14. REMEDIES OF NOTEHOLDERS.)

1. In the event that an authority shall default in the payment of principal of or interest on any issue of the notes after the same shall become due, whether at maturity or upon call for redemption, and such default

- shall continue for a period of thirty days, or in the event that an authority shall fail or refuse to comply with the provisions of this Act, or shall default in any agreement made with the holders of any issue of the notes, the holders of twenty-five percent in aggregate principal amount of the notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the district court of the county in which the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes for the purposes herein provided.
2. Such trustee may, and upon written request of the holders of twenty-five percent in principal amount of such notes then outstanding shall, in his or its own name:
 - a. By action or special proceeding enforce all rights of the noteholders, including the right to require an authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require an authority to carry out any other agreements with the holders of such notes and to perform its duties under this Act.
 - b. Bring suit upon such notes.
 - c. By action or suit in equity, require an authority to account as if it were the trustee of an express trust for the holders of such notes.
 - d. By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes.
 - e. Declare all such notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five percent of the principal amount of such notes then outstanding, to annul such declaration and its consequences.
 3. The district court shall have jurisdiction of any suit, action, or proceeding by the trustee on behalf of noteholders. The venue of any such suit, action, or proceeding shall be laid in the county in which the authority is located.
 4. Before declaring the principal of all such notes due and payable, a trustee shall first give thirty days' notice in writing to an authority.
 5. Any such trustee, whether or not the issue of notes represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment

of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the notes of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with noteholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance, and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that an authority has convened to construct and with any construction which an authority is under obligation to do and to operate, maintain, and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with noteholders relating thereto and perform the public duties and carry out the agreements and obligations of an authority under the direction of the court. In any suit, action, or proceeding by the trustee, the fee, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of noteholders on the enforcement and protection of their rights.

SECTION 15. AUTHORITY MAY LEVY ASSESSMENTS AGAINST PROPERTY TO BE BENEFITED BY PROJECT - MANNER IN WHICH ASSESSMENTS TO BE MADE. After making any contract to construct, reconstruct, repair, or purchase any real or personal property to be used in the production of steam, the authority may assess the cost of such contract, or any part thereof, against those property owners who are both purchasing or going to purchase steam from the authority and who will benefit from the completion of the contract. The determination, levy, manner of protest to, amendment of, and collection of the assessment shall be made by the authority, as near as is practicable in the manner provided for water main and waterworks special assessments by municipalities.

SECTION 16. ACTIONS AGAINST AN AUTHORITY.) In every action against an authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim, or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

Approved April 9, 1975

CHAPTER 379

HOUSE BILL NO. 1499
(Vander Vorst, Schindler)

PUBLIC LIBRARY ADMINISTRATION

AN ACT to create and enact a new subsection to section 40-38-04 of the North Dakota Century Code, relating to employment of personnel for a public library; and to amend and reenact section 40-38-03 of the North Dakota Century Code, relating to appointment of the board of directors of a public library.

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

SECTION 1. AMENDMENT.) Section 40-38-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-03. BOARD OF DIRECTORS - APPOINTMENT - TERM OF OFFICE - NO COMPENSATION - FILLING VACANCIES - ORGANIZATION.) The governing body of a municipality which has established a public library and reading room, or the board of county commissioners for a county library, shall appoint a board of five directors who must be residents of the municipality or county, as the case may be, to govern such library and reading room. One member of the governing body of the municipality or designated representative shall be a member of the board of directors of a municipal library, and must be a resident of the municipality which establishes and maintains such municipal library; and one member of the board of county commissioners or designated representative shall be a member of the county board of directors. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the governing body of the municipality or the board of county commissioners, as the case may be, and shall be filled thereby. However, a member of any municipal board of directors of a public library and reading room who was appointed to such position by a

school board prior to the effective date of this Act may serve upon such board for the residue of his unexpired term unless such position shall otherwise become vacant. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president. The governing board of a municipality or county establishing public library service may, in lieu of appointing a library board, contract directly with a library board established by another governing body of a municipality or county for the purpose of extending public library service.

SECTION 2.) A new subsection to section 40-38-04 of the 1973 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To employ qualified personnel to administer the public library and dispense library services.

Approved March 27, 1975

CHAPTER 380

SENATE BILL NO. 2137
(Longmire, Homuth, Thane)

LIBRARY SERVICES FOR ADJOINING STATES

AN ACT to amend and reenact section 40-38-04 of the North Dakota Century Code, relating to powers and duties of public library boards.

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

SECTION 1. AMENDMENT.) Section 40-38-04 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-04. GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS.) The board of directors shall have the following powers and duties:

1. To make and adopt such bylaws, rules, and regulations relating to the duties of the officers of the board as may be expedient and not inconsistent with the provisions of this chapter.
2. To make and adopt such bylaws, rules, and regulations for the management of the library and reading room as are expedient and not inconsistent with the provisions of this chapter.
3. To control, exclusively, the expenditures of all moneys collected for or contributed to the library fund.
4. To have the supervision, care, and custody of the library property, and of the rooms or buildings constructed, leased, or set apart for use of library purposes.
5. To contract to furnish library service and to receive library service from other counties, school districts, and municipalities of the state of North Dakota and adjoining states, and the state library commission.

Approved February 28, 1975

CHAPTER 381

HOUSE BILL NO. 1436
(E. Metzger)

NOTICE OF BUDGET HEARINGS

AN ACT to amend and reenact subsections 2 and 3 of section 40-40-06 of the North Dakota Century Code, relating to notice of municipal preliminary budget statements,

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

SECTION 1. AMENDMENT.) Subsection 2 of section 40-40-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body shall meet at the time and place specified in the notice as prescribed by paragraph 3 of section 40-40-06 for the purpose of adopting the final budget and making the annual tax levy, but no later than the first Wednesday in August; and

SECTION 2. AMENDMENT.) Subsection 3 of section 40-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The governing body will hold a public session at such time and place designated in the notice of hearing at which any taxpayer may appear and discuss with such body any item of proposed expenditures or may object to any item thereof or to the amount of any such item.

Approved March 17, 1975

CHAPTER 382

HOUSE BILL NO. 1334
(Rued)

POLICE PENSIONS

AN ACT to amend and reenact sections' 40-45-08 and 40-45-09 of the North Dakota Century Code, relating to police pensions in cities, membership fees and assessments, and who may be retired on pension.

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

SECTION 1. AMENDMENT.) Section 40-45-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-08. MEMBERSHIP FEES AND ASSESSMENTS.) Every member of the police department shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding twenty-five dollars. Each member shall be assessed and required to pay annually an amount not less than three percent or more than five percent per annum as determined by the governing body of the municipality upon the amount of the annual salary paid to him. Such assessment shall be deducted and retained in equal monthly installments out of such salary. Assessments shall be made of all members for a minimum period of fifteen years for partial retirement and for twenty years and for such additional years as may be determined by the governing body for full retirement, as provided by section 40-45-09.

SECTION 2. AMENDMENT.) Section 40-45-09 of the 1973 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

40-45-09. WHO MAY BE RETIRED ON PENSION - AMOUNT PAID TO RETIRING MEMBER - RETIRING MEMBER NOT PAID.) Any member of the police department, including officers and police matrons, who shall have served twenty years or more in the department and shall have reached the age of sixty years, or who, while a member of such department shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he may be paid out of the pension fund of the department a monthly pension equal to sixty percent of the average monthly salary received during the highest paid consecutive thirty-six month period of his employment in the department. If any member shall have served twenty years in the department but

shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years, except as provided in section 40-45-11 of the North Dakota Century Code. Any member who has served one hundred eighty months but less than two hundred forty months, has contributed voluntarily to the police pension fund, and who voluntarily and while in good standing as a member has left employment of such city, shall be entitled to elect retirement instead of refund at a pension equal to the proportion of a full pension which the total number of months employed by the city bears to two hundred forty months, but no pension shall be paid while he lives until he reaches the age of sixty years. Notwithstanding the provisions of this section, upon the approval of the governing body of the municipality, and at the discretion of the board of trustees if it shall find that the actuarial soundness of the fund would not be materially impaired, any member otherwise qualifying in accordance with the provisions of this section may retire if he has reached the age of fifty-five years.

Approved March 17, 1975

CHAPTER 383

HOUSE BILL NO. 1460
(Rued)

CITY AND POLICE PENSION INCREASES

AN ACT to create and enact two new sections to chapter 40-45 and two new sections to chapter 40-46 of the North Dakota Century Code, relating to cost of living increases or decreases through the police pension fund and the city employees' pension fund.

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

SECTION 1.) A new section to chapter 40-45 of the North Dakota Century Code is hereby created and enacted to read as follows:

PENSION COST OF LIVING INCREASE.) In July of each year, the police pension board may add, if found actuarially sound, a cost of living increase to the monthly amounts paid beneficiaries from the pension fund. The total monthly pension payment under this section shall not exceed sixty percent of the monthly salary average during the preceding thirty-six months for the same or comparable position in the police department as held by the retiree in his last month before retirement.

SECTION 2.) A new section to chapter 40-45 of the North Dakota Century Code is hereby created and enacted to read as follows:

PENSION COST OF LIVING DECREASE.) The pensions provided in this chapter may be decreased by the police pension board if the cost of living goes down.

SECTION 3.) A new section to chapter 40-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

PENSION COST OF LIVING INCREASE.) In July of each year, the city employee's pension board may add, if found actuarially sound, a cost of living increase to the monthly amounts paid beneficiaries. The total monthly payment under this section shall not exceed sixty percent of the monthly salary average during the preceding sixty months for the same or comparable position in the city's employment service as held by the retiree in the last month of his employment.

SECTION 4.) A new section to chapter 40-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

PENSION COST OF LIVING DECREASE.) The pensions provided in this chapter may be decreased by the city employee's pension board if the cost of living goes down.

Approved April 8, 1975

CHAPTER 384

HOUSE BILL NO. 1572
(Peterson, Haugland)

CITY PENSION FOR RECREATION EMPLOYEES

AN ACT to create and enact section 40-46-09.1 of the North Dakota Century Code, relating to service credit for employment with a city recreation commission for purposes of receipt of a city employee's pension.

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

SECTION 1.) Section 40-46-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-46-09.1. CREDIT FOR SERVICE AS EMPLOYEE OF RECREATION COMMISSION.) Any full-time employee of a city recreation commission who is eligible for receipt of a pension pursuant to this chapter may, with the approval of, and under terms and conditions set by, the board of trustees, have his previous full-time employment with the city recreation commission of that city counted as a portion of the two hundred forty months of service required by section 40-46-09. The credit given for previous service with the city recreation commission pursuant to this section shall not exceed one hundred twenty months in total. Board of trustee terms shall include payment of pension fund contributions, by the employee, for the months of service credited.

Approved March 27, 1975

CHAPTER 385

SENATE BILL NO. 2395
(Fritzell)

ZONING AND SUBDIVISION AUTHORITY

AN ACT to create and enact a new section to chapter 40-47 of the North Dakota Century Code, relating to the authority of a city to enact zoning regulations; and to amend and reenact sections 11-33-20, 40-47-06, 40-48-03, and 40-48-18 of the North Dakota Century Code, relating to the authority of a county to enact zoning regulations within certain limits, the membership of a city zoning commission and a city planning commission, and the authority of a city to enact subdivision regulations.

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

SECTION 1. AMENDMENT.) Section 11-33-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-33-20. TOWNSHIP ZONING NOT AFFECTED - TOWNSHIP AND CITY MAY RELINQUISH POWERS.) The provisions of this chapter shall in no way prevent townships from making regulations as provided in sections 58-03-11 to 58-03-15, inclusive, but such townships may relinquish their power to enact zoning regulations to the county by resolution of the board of township supervisors. The provisions of this chapter shall 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 to enact zoning regulations under chapter 40-47 or subdivision regulations under chapter 40-48, in which case such property shall be subject to the provisions of this chapter.

SECTION 2.) A new section to chapter 40-47 of the North Dakota Century Code is hereby created and enacted to read as follows:

TERRITORIAL AUTHORITY OF ZONING REGULATIONS.) Based upon the population of the city as determined by the last official regular or special federal census or, in case of a city incorporated subsequent to such census, a census taken in accordance with chapter 40-02, the governing body of a city may, by ordinance, extend the application of a city's zoning regulations:

1. To unincorporated territory located within one-half mile of its limits in any direction if it is a city having a population of less than five thousand.
2. To unincorporated territory located within one mile of its limits in any direction if it is a city having a population of five thousand or more, but less than twenty-five thousand.
3. To unincorporated territory located within two miles of its limits in any direction if it is a city having a population of twenty-five thousand or more.

Provided, that where two or more noncontiguous cities have boundaries at a distance where there would be an overlap of zoning authority under this section, each city is authorized to control the zoning of land on its side of a line established in proportion to the authority each city has to zone land outside its limits in accordance with this section or pursuant to mutual agreement. The governing body may thereafter enforce such regulation in the area to the same extent as if such property were situated within the city's corporate limits. This territorial authority shall not authorize the application of zoning regulations to territory outside the corporate limits of land attached to a city by a strip of land not more than one hundred feet wide, nor shall this territorial authority authorize application of zoning regulations to territory outside the corporate limits of land included within such a strip of land.

SECTION 3. AMENDMENT.) Section 40-47-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-06. ZONING COMMISSION - APPOINTMENT - DUTIES - PRELIMINARY AND FINAL REPORT.) The governing body of a city desiring to avail itself of the powers conferred by this chapter shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. In addition to the members appointed by the city, the zoning commission shall include at least one person residing outside of the corporate limits of a city having a population of less than five thousand, two persons residing outside the corporate limits of a city having a population of five thousand or more, but less than twenty-five thousand, or three persons residing outside the corporate limits of a city having a population of twenty-five thousand or more if zoning authority is exercised pursuant to section 2 of this Act. Such persons shall be appointed by the board or boards of county commissioners of the county or counties within which such zoning authority is to be exercised and shall reside within the territorial limits of the zoning regulation authority exercised by the city, if such persons are available and will serve on the zoning commission. Of the members of the commission appointed by a board or boards of county commissioners pursuant to this section, the first member appointed shall hold office for five years, the second member appointed shall hold office for three

years, and the third member appointed shall hold office for one year. Thereafter, the members shall be appointed for terms of five years. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The governing body shall not hold its public hearings or take action until it has received the final report of the zoning commission. If a city has a planning commission, it may be appointed as the zoning commission.

SECTION 4. AMENDMENT.) Section 40-48-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-03. PLANNING COMMISSION - CREATION - MEMBERS - EX OFFICIO MEMBERS.) The governing body of any city may create, by ordinance, a planning commission to consist of not more than ten members to be appointed by the executive officer of the city with the approval of its governing body. In addition to the members appointed by the city, the planning commission shall include at least one person residing outside of the corporate limits of a city having a population of less than five thousand, two persons residing outside the corporate limits of a city having a population of five thousand or more, but less than twenty-five thousand, or three persons residing outside the corporate limits of a city having a population of twenty-five thousand or more if zoning authority is exercised pursuant to section 2 of this Act. Such persons shall be appointed by the board or boards of county commissioners of the county or counties within which such subdivision authority is to be exercised and shall reside within the territorial limits of the subdivision regulation authority exercised by the city, if such persons are available and will serve on the planning commission. Of the members of the commission appointed by a board or boards of county commissioners pursuant to this section, the first member appointed shall hold office for five years, the second member appointed shall hold office for three years, and the third member appointed shall hold office for one year. Thereafter, the members shall be appointed for terms of five years. The executive officer, the engineer, and the attorney of the city shall be ex officio members of the commission.

SECTION 5. AMENDMENT.) Section 40-48-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-18. JURISDICTION OF SUBDIVISION - REGULATION AUTHORITY.) The territorial jurisdiction of any city planning commission over the subdivision or platting of land shall include all land located within the corporate limits of the city. Based upon the population of the city as determined by the last official regular or special federal census or, in case of a city incorporated subsequent to such census, a census taken in accordance with chapter 40-02, the governing body of a city may, by ordinance, extend the application of the city's subdivision regulations:

1. To unincorporated territory located within one-half

mile of its limits in any direction if it is a city having a population of less than five thousand.

2. To unincorporated territory located within one mile of its limits in any direction if it is a city having a population of five thousand or more, but less than twenty-five thousand.
3. To unincorporated territory located within two miles of its limits in any direction if it is a city having a population of twenty-five thousand or more.

Provided, that where two or more noncontiguous cities have boundaries at a distance where there would be an overlap of subdivision regulation authority under this section, each city is authorized to control the subdivision of land on its side of a line established in proportion to the authority each city has to control the subdivision of land outside its limits in accordance with this section or pursuant to mutual agreement. The governing body may thereafter enforce such regulations in the area to the same extent as if such property were situated within the city's corporate limits.

Approved April 9, 1975

CHAPTER 386

HOUSE BILL NO. 1330
(Schuett)

DATE OF ANNEXATION

AN ACT to amend and reenact section 40-51.2-06, subsection 3 of section 40-51.2-07, and section 40-51.2-16 of the North Dakota Century Code, relating to the annexation of land by a municipal corporation.

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

SECTION 1. AMENDMENT.) Section 40-51.2-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-06. PETITION OF OWNERS AND ELECTORS - ANNEXATION OR EXCLUSION - CLASSIFICATION OF ANNEXED AGRICULTURAL LANDS FOR TAX PURPOSES.) If the governing body determines to annex said area, it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall then be effective. Annexation shall be effective for the purpose of general taxation on and after the first day of February next ensuing; provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are put to another use. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation.

SECTION 2. AMENDMENT.) Subsection 3 of section 40-51.2-07 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall become effective. Annexation shall be effective for the purpose

of general taxation on and after the first day of February next ensuing; provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are put to another use.

SECTION 3. AMENDMENT.) Section 40-51.2-16 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-16. EFFECTIVE DATE OF ANNEXATION BY ANNEXATION REVIEW COMMISSION - CLASSIFICATION OF ANNEXED AGRICULTURAL LANDS FOR TAX PURPOSES.) Territory annexed to a municipality under the provisions of this chapter, relating to petition to annexation review commission, shall be annexed as of the date of the order of the commission, except for tax purposes, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. Annexation shall be effective for the purpose of general taxation on and after the first day of February next ensuing; provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are put to another use.

Approved March 17, 1975

CHAPTER 387

HOUSE BILL NO. 1090
(Bunker)

PROJECTS AND TAX EXEMPTIONS FOR NEW INDUSTRIES

AN ACT to amend and reenact subsection 5 of section 15-29-08, section 40-57-02, subsection 3 of section 40-57-03, and sections 40-57.1-03 and 40-57.1-06 of the North Dakota Century Code, relating to financing the construction of vocational educational facilities by the sale of municipal industrial development bonds, to the term of years for which facilities constructed under the Municipal Industrial Development Act may be leased by a school board, and to tax exemptions for new industries; to repeal section 40-57-17 of the North Dakota Century Code, relating to exemptions from taxation under the Municipal Industrial Development Act; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 15-29-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To purchase, sell, and exchange schoolhouses and rooms, lots, or sites for schoolhouses, teacherages, and dormitories, and to lease such facilities for a period not to exceed one year. However, nothing in this subsection shall prevent a school board from leasing any vocational education facility constructed with financing acquired, in whole or in part, pursuant to chapter 40-57 for a period of up to twenty years.

SECTION 2. AMENDMENT.) Section 40-57-02 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-02. "PROJECTS" AND "MUNICIPALITIES" DEFINED.) As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" shall include counties as well as municipalities of the types listed in section 40-01-01, subsection 1, and the term "project" shall mean any real property, buildings, and improvements on real property or the buildings thereon, and any equipment located on such real property or in such buildings, or elsewhere, or personal property which is used or

useful in connection with revenue-producing enterprises, or any combination of two or more such enterprises, engaged or to be engaged in:

1. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof.
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.
3. Improvements or equipment used or to be used for the abatement or control of environmental pollution in connection with any new or existing revenue-producing enterprise.
4. Public vocational education.
5. Any other industry or business not prohibited by the Constitution or laws of the state of North Dakota.

In no event, however, shall the term "project" include those undertakings defined in chapter 40-35, with the exception of the undertaking defined in section 40-35-02 pertaining to the purchase, acquisition, construction, maintenance, and operation of a hospital and improvements or equipment used or to be used for the abatement or control of environmental pollution in connection with any new or existing revenue-producing enterprise.

SECTION 3. AMENDMENT.) Subsection 3 of section 40-57-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Lease projects to any industrial or commercial enterprise, or to any school district for vocational education purposes, in such manner that rents to be charged for the use of such projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of interest upon all bonds issued hereunder, to create a sinking fund to pay the principal of such bonds when due, and to provide for the operation, maintenance, insurance on, and depreciation of such projects, and any taxes thereon;

SECTION 4. AMENDMENT.) Section 40-57.1-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.1-03. MUNICIPALITIES' AUTHORITY TO GRANT TAX EXEMPTION - NOTICE TO COMPETITORS - LIMITATIONS.) Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project

for a period not exceeding five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Provided, however, that the exemption granted under this chapter shall apply only to the valuation over and above the assessed valuation placed upon the property for the last assessment period immediately preceding the date of application for exemption. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The potential project operator shall publish two notices, the form of which shall be prescribed by the state board of equalization, to competitors of such application for tax exemption in the official newspaper of the municipality at least one week apart. Such publications shall be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider such application. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax reduction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines, shall give its approval. The board shall, after making the determination, certify the findings back to the municipality and to the tax commissioner.

SECTION 5. AMENDMENT.) Section 40-57.1-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.1-06. CHANGE IN VALUE, NEW LOCATION, OR CHANGE IN PROJECT OPERATOR OR USE REQUIRING REAPPLICATION FOR TAX EXEMPTION.) If at any time the value of the property exempted from taxation under the provisions of this chapter exceeds the original valuation by more than ten percent, the project operator must reapply in order to receive an exemption on the added value of such property. If he does not reapply, or if his reapplication is disapproved, the increased valuation will be subject to ad valorem taxation. If at any time a project operator who is exempt from taxation under this chapter moves the business to a new location within this state, such project operator must reapply to retain the property tax exemption or he may elect to make application as a new business; but such move shall have no effect on the income tax exemption of such project operator if it is shown by the project operator to the satisfaction of the state board of equalization that the nature of the business has not been changed by such move and that the effect of the business upon competitors has not been changed by such move. In addition, the property tax exemption provided by this chapter shall apply only to the project operator to which it is granted and shall be valid only so long as the property is used for the purposes stated in the application. If there is a change in use of the property, or if a new project operator takes

possession of the property, the property tax exemption shall terminate and the project operator must file a new application with the municipality if he wishes consideration for a tax exemption for the remainder of the exemption period provided pursuant to section 40-57.1-03.

SECTION 6. REPEAL.) Section 40-57-17 of the 1973 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 7. EFFECT OF REPEAL ON EXISTING TAX EXEMPTIONS.) The repeal of section 40-57-17 shall not affect the validity of tax exemptions granted pursuant to that section prior to the effective date of this Act; provided, however, that the tax exemptions granted under that section shall be subject to the provisions of section 40-57.1-06 if there is a change in project operator or the use of the property.

SECTION 8. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 18, 1975

CHAPTER 388

SENATE BILL NO. 2089
(Stroup)

TAX EXEMPTION EXCLUSIONS FOR LARGE INDUSTRIES

AN ACT to create and enact a new section to chapter 40-57.1 of the North Dakota Century Code to exclude certain large industries from eligibility for tax exemptions for new industries.

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

SECTION 1.) A new section to chapter 40-57.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

LARGE INDUSTRIAL PROJECTS - EXCLUSION FROM PROVISIONS OF CHAPTER.) The legislative assembly finds that the location of large industrial projects in the communities of this state imposes extraordinary burdens on state and local governmental services and facilities. The legislative assembly also finds that the burdens imposed by such projects strain existing tax bases of such communities and thereby threaten to increase tax burdens on existing properties and taxpayers. Further, it is determined that to exempt large projects from property and income taxes is not in the public interest. Therefore, the provisions of this chapter shall not apply to any single project at a single location in this state which meets any of the following criteria:

1. The cost of the plant for such project, including buildings, improvements, and equipment, exceeds one hundred million dollars.
2. The projected gross annual sales of such project exceed one hundred million dollars.
3. The projected employment of such project exceeds one thousand employees at any time during construction or operation.

Approved April 8, 1975

CHAPTER 389

HOUSE BILL NO. 1088
(Bunker)

**TAX EXEMPTION FOR LEASED
PARKING PROPERTY**

AN ACT to amend and reenact subsection 1 of section 40-61-14 of the North Dakota Century Code, relating to tax exemptions for property of municipal parking authorities.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 40-61-14 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-14. TAX EXEMPTIONS.) 1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city which has authorized it and its environs, and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this chapter and shall be required to pay no ad valorem taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Where property acquired by an authority is leased to any person and is used exclusively for automobile parking for general public patronage, the leasehold interest of the lessee shall not be subject to ad valorem taxation if exempt from such taxation by the governing board of the city in which such authority is located.

Approved March 17, 1975

CHAPTER 390

HOUSE BILL NO. 1388

(Winkjer)

TERMINATION OF PARKING AUTHORITY

AN ACT to create and enact a new section to chapter 40-61 of the North Dakota Century Code, relating to the termination of a municipal parking authority.

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

SECTION 1.) A new section to chapter 40-61 of the North Dakota Century Code is hereby created and enacted to read as follows:

TERMINATION OF AN AUTHORITY.) A majority vote of the governing body of any city shall terminate an existing authority, and all rights, titles, and interest, and all obligations and liabilities thereof shall be vested in or possessed by the city which created the authority.

Approved March 25, 1975