

MUNICIPAL GOVERNMENT

CHAPTER 440

SENATE BILL NO. 2295
(Senators Stenehjem, Graba, Holmberg)
(Representative St. Aubyn)

CITY COUNCIL MEMBER REFERENCES

AN ACT to amend and reenact sections 23-04-01, 40-02-11, 40-08-01, 40-08-03, 40-08-03.1, 40-08-03.2, 40-08-04, 40-08-04.1, 40-08-05, 40-08-06, 40-08-06.1, 40-08-07, 40-08-08, 40-09-05, 40-14-01, 40-14-02, 40-14-06, 40-21-03, 40-21-09, and 40-52-08 of the North Dakota Century Code, relating to city council members and removing references to alderman and aldermen.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-04-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-04-01. Board of health in council cities. The board of health in a city operating under the council form of government is under the supervision of the state department of health and consolidated laboratories and ~~shall consist~~ consists of the following members:

1. Four ~~aldermen~~ council members appointed by the mayor at the first meeting of the city council in April of each year.
2. The city engineer.
3. The city health officer.

SECTION 2. AMENDMENT. Section 40-02-11 of the North Dakota Century Code is amended and reenacted as follows:

40-02-11. Division into wards. If a majority of the votes cast at the election provided for in this chapter favored incorporation as a municipality city, the board of county commissioners ~~which that~~ which ordered the election shall, if the territory has been incorporated as a city under the council form of government, ~~proceed to divide the municipality city~~ proceed to divide the city into wards. The city ~~shall may~~ shall not be divided into wards unless it has more than six hundred inhabitants, ~~and if it.~~ and if it. If the city has more than six hundred inhabitants, one ward ~~shall~~ shall be formed for each two ~~aldermen~~ council members to which the city is entitled. In cities of more than fifteen thousand inhabitants, however, the number of wards ~~shall be~~ shall is limited to seven originally, and ~~such~~ such that number may be increased thereafter as provided in this title. Each ward ~~shall~~ shall be formed from contiguous territory, and all wards ~~shall~~ shall be numbered consecutively and ~~shall~~ shall must have, as nearly as practicable, the same number of inhabitants. After the election of ~~aldermen it shall thereafter be the duty of council members,~~ council members, the governing body of the city ~~to shall~~ shall form or establish wards pursuant to law.

SECTION 3. AMENDMENT. Section 40-08-01 of the North Dakota Century Code is amended and reenacted as follows:

40-08-01. City council - Who constitutes. The governing body of a city operating under the council form of government ~~shall be~~ is the city council, which ~~shall be~~ is composed of the mayor and ~~aldermen~~ council members.

* SECTION 4. AMENDMENT. Section 40-08-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-03. Number of ~~aldermen~~ council members determined by population - Census to govern. The number of ~~aldermen~~ shall be as follows council members is:

1. In cities of two hundred inhabitants or less, four, except that the city council may by resolution duly adopted reduce the number of ~~aldermen~~ to two.
2. In cities of more than two hundred but not more than six hundred inhabitants, four.
3. In cities of more than six hundred but not more than two thousand inhabitants, six.
4. In cities of more than two thousand but not more than four thousand inhabitants, eight.
5. In cities of more than four thousand but not more than ten thousand inhabitants, twelve.
6. In cities of more than ten thousand inhabitants, fourteen.
7. Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten ~~aldermen~~ council members and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure ~~hereinafter~~ provided in this chapter.

Whenever a census of the city ~~shall show~~ shows a population requiring more ~~aldermen~~ council members than are in the council at the time of taking ~~such~~ the census, the city council ~~shall~~ is not be required to make a change in the number of ~~aldermen~~ council members and the corresponding change in the number of wards of ~~such~~ the city unless a majority of the qualified electors ~~thereof~~ of the city, to be determined by the number of names on the poll list of the last city election, petition ~~therefor~~ for a change.

SECTION 5. AMENDMENT. Section 40-08-03.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-03.1. Change to ten ~~aldermen~~ council members and mayor - Petition required. Any city of more than ten thousand inhabitants operating under the council form of government may change its organization ~~thereunder~~ and operate with ten ~~aldermen~~ council members and mayor. The proceeding to change ~~shall~~ must be initiated by a petition asking for ~~such~~ the change signed by not less than one-third of the qualified electors of the city as determined by the total number of qualified electors voting at the preceding

* NOTE: Section 40-08-03 was also amended by section 1 of House Bill No. 1083, chapter 444.

general election. The signatures to such the petition need not be appended to a single paper, but one of the signers upon each paper ~~shall~~ must make oath before an officer competent to administer oaths that each signature appearing upon such the paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, ~~shall must~~ contain the name, address, and age of each petitioner, and the length of ~~his~~ the petitioner's residence in the city. Any petitioner ~~shall be permitted to may~~ withdraw ~~his~~ the petitioner's name from a petition within five days after the petition is filed.

SECTION 6. AMENDMENT. Section 40-08-03.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-03.2. City auditor to pass on sufficiency of petition requesting change to ten ~~aldermen~~ council members and mayor. Within thirty days after a petition to change to ten ~~aldermen~~ council members and mayor is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified electors. ~~He~~ The city auditor shall attach to the petition ~~his~~ a certificate showing the result of ~~his~~ the auditor's examination, and if ~~he~~ the auditor finds the petition to be insufficient ~~his~~ the certificate ~~shall must~~ show the reason for such the determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall ~~make an examination thereof~~ examine the amended petition, and if ~~his~~ the auditor's certificate shows such the amended petition to be insufficient, the petition ~~shall must~~ be returned to the person filing the ~~same~~ petition without prejudice to the filing of a new petition. If the auditor ~~shall find~~ finds the petition or the amended petition to be sufficient, ~~he~~ the auditor shall place the ~~same~~ petition with ~~his~~ the auditor's certificate before the governing body of the ~~municipality~~ city.

SECTION 7. AMENDMENT. Section 40-08-04 of the North Dakota Century Code is amended and reenacted as follows:

40-08-04. Election of ~~aldermen~~ council members. In cities containing six hundred inhabitants or less, the ~~aldermen shall~~ council member must be elected at large. In all other cities operating under the council form of government, except in a city operating with ten ~~aldermen~~ council members and mayor, the ~~aldermen shall~~ council members must be elected by wards, and two ~~aldermen shall~~ council members must be elected from each ward. In cities operating under ten ~~aldermen~~ council members and mayor, one ~~alderman shall~~ council member must be elected from each of the seven wards and three ~~aldermen~~ council members and mayor ~~shall must~~ be elected at large.

SECTION 8. AMENDMENT. Section 40-08-04.1 of the North Dakota Century Code is amended and reenacted as follows:

40-08-04.1. Procedure when petition to change to ten ~~aldermen~~ council members and mayor is filed - Special election - Ballot. When a petition to change to ten ~~aldermen~~ council members and mayor, together with the city auditor's certificate of sufficiency, is filed with the governing body of a ~~municipality~~ city, the governing body shall call a special election at which only the question of changing to ten ~~aldermen~~ council members and mayor will be submitted. The date of such the election ~~shall may~~ not be less than thirty days nor more than ninety days after the date of the auditor's certificate has been filed. The election ~~shall must~~ be conducted, returns

~~thereof~~ made, and the result ~~thereof~~ declared in all respects as are other city elections. Notice of ~~such the~~ election ~~shall~~ must be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of ~~such the~~ election. The ballot to be used at the election provided for in this section ~~shall~~ must be in substantially the following form:

Shall the city of ----- change its organization and operate with ten ~~aldermen~~ council members and mayor?

Yes / /
No / /

* SECTION 9. AMENDMENT. Section 40-08-05 of the North Dakota Century Code is amended and reenacted as follows:

40-08-05. Qualifications of ~~aldermen~~ council members. ~~No A person shall be~~ is not eligible to the office of ~~alderman~~ council member if ~~he the~~ person:

1. Is not a qualified elector of and resident within the ward for which ~~he the person~~ was elected, except that in cities where ~~aldermen~~ council members are elected at large, ~~he shall the person~~ must be a qualified elector of and a resident within the city; or
2. Has been convicted of malfeasance, bribery, or other corrupt practice or crime.

SECTION 10. AMENDMENT. Section 40-08-06 of the North Dakota Century Code is amended and reenacted as follows:

40-08-06. Term of office of ~~aldermen~~ council members - Staggered terms provided for in cities where other than ten ~~aldermen~~ council members elected. ~~Aldermen~~ Council members shall hold office for four years and until their successors are elected and qualified. Terms of ~~aldermen~~ shall council members must be arranged so that only one-half of the ~~aldermen~~ council members in any city ~~shall be~~ are elected in any one election. When a city first adopts the council form of government, or when a city ~~which that~~ has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the ~~aldermen thereof as provided for in this section shall~~ council members must be perfected as follows: of the ~~aldermen~~ council members elected in each ward, the one receiving the greater number of votes shall serve until the third Tuesday in April following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the third Tuesday in April following the biennial election succeeding ~~his the member's~~ their election; if the city is not divided into wards, the one-half of the ~~aldermen~~ council members elected in the entire city receiving the greater number of votes shall serve until the third Tuesday in April following the second succeeding biennial election and the one-half of the ~~aldermen~~ council members elected in the entire city receiving the lesser number of votes shall serve until the second Tuesday in April following the biennial election succeeding their election. Whenever, for any cause, more than one-half of the total number of ~~aldermen~~ council members in any ward, or more than one-half of the total number of ~~aldermen~~ council members in the city, if the city is not

* NOTE: Section 40-08-05 was also amended by section 1 of House Bill No. 1375, chapter 445.

divided into wards, are to be elected in any one election, the length of the terms of the ~~aldermen~~ council members elected at ~~such~~ the election ~~shall~~ must be determined as provided in this section.

SECTION 11. AMENDMENT. Section 40-08-06.1 of the North Dakota Century Code is amended and reenacted as follows:

40-08-06.1. Terms of office under ten ~~aldermen~~ council members - Staggered terms provided for - Nominating petition requirements. When a city operating under the council form of government changes to the ten ~~aldermen~~ council members and mayor organization, the alternation of the terms of the ~~aldermen thereof shall~~ council members must be perfected as follows: the five ~~aldermen~~ council members receiving the greater number of votes shall serve until the third Tuesday in April following the second succeeding biennial election while the remaining five ~~aldermen~~ council members shall serve until the third Tuesday in April following the biennial election succeeding their election, and thereafter ~~each alderman shall~~ the council members must be elected to four-year terms and until their successors are elected and qualified. In cities electing ten ~~aldermen~~ council members, the candidates by means of their nominating petitions, must announce their intentions to seek a ward seat or an at-large seat. Upon approval of a change of organization to ten ~~aldermen~~ council members and mayor, all incumbent ~~aldermen~~ council members shall serve until the next biennial election ~~at which time when the aldermen council seats shall~~ must be filled; ~~however.~~ However, the mayor shall complete ~~his~~ the unexpired term for which elected.

SECTION 12. AMENDMENT. Section 40-08-07 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-07. Compensation of ~~aldermen~~ council members. Each ~~alderman~~ council member may receive compensation for services as established by ordinance, but the compensation ~~shall~~ may 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 two thousand in population, sixty dollars per month.
2. In cities over two thousand and not exceeding six thousand in population, one hundred dollars per month.
3. In cities over six thousand and not exceeding thirty thousand in population, one hundred ninety-five dollars per month.
4. In cities having a population of over thirty thousand, four hundred forty-five dollars per month.

SECTION 13. AMENDMENT. Section 40-08-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-08. Vacancies on council - How filled. If a vacancy occurs in ~~the a city council~~ office of ~~alderman~~ by death, resignation, or otherwise, the city council may call a special city election to fill ~~such~~ the vacancy for the unexpired term, or may, after fifteen days of the date of ~~such~~ the vacancy appoint a person from the ward in which the ~~alderman~~ council member previously holding was elected or appointed to fill ~~such~~ the vacancy until

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

SECTION 14. AMENDMENT. Section 40-09-05 of the North Dakota Century Code is amended and reenacted as follows:

40-09-05. President and board of commissioners succeed to powers and duties of mayor and council. If the city previously was organized under the council form of government, the first president and the other members of the first board of city commissioners elected after a city has incorporated under the city commission system of government shall be deemed are the successors of the mayor and aldermen council members of the city. Upon the qualification of the president and other members of the board, all the powers, rights, and duties of the mayor and council of the city shall cease. Whenever the city previously, under the decree or judgment of any court or under any law, ordinance, or resolution, has been entitled to representation through the mayor of the city and one or more of the aldermen thereof council members of the city, on the board of directors of any incorporated company in which the city may own stock or be interested, it shall must be represented on such the board of directors by the president of the board of city commissioners and by two other members of the board to be selected by the board.

SECTION 15. AMENDMENT. Section 40-14-01 of the North Dakota Century Code is amended and reenacted as follows:

40-14-01. Officers to be elected in council cities. The following officers shall must be elected in each city operating under the council form of government:

1. A mayor.
2. The aldermen council members required under the provisions of sections 40-08-03 and 40-08-04.

Each city operating under the council form of government may choose to have a municipal judge who shall be is elected.

SECTION 16. AMENDMENT. Section 40-14-02 of the North Dakota Century Code is amended and reenacted as follows:

40-14-02. Terms of elective officers. The terms of office of the mayor and aldermen shall be as council members are provided in chapter 40-08. All other elective officers in a city operating under the council form of government shall hold their respective offices for four years and until their successors are elected and qualified.

SECTION 17. AMENDMENT. Section 40-14-06 of the North Dakota Century Code is amended and reenacted as follows:

40-14-06. Officers commissioned by warrant - City auditor to receive certificate of appointment. All officers elected or appointed, except the city auditor, ~~aldermen~~ council members, and mayor, ~~shall must~~ be commissioned by warrant signed by the auditor and the mayor or president of the city council. The mayor shall issue a certificate of appointment to the auditor.

SECTION 18. AMENDMENT. Section 40-21-03 of the North Dakota Century Code is amended and reenacted as follows:

40-21-03. Elections in council cities - Polling places - Polls open - Notice - Judges, clerks, and inspectors. Biennial municipal elections in cities operating under the council form of government ~~shall~~ must be held on the first Tuesday in April in each even-numbered year at such place or places as the city council ~~shall designate~~ designates. In cities where ~~aldermen~~ council members are elected at large, the council shall designate one polling place only. The polls ~~shall~~ must be opened and closed as provided by state law for the opening and closing of polls at primary, general, and special elections. Ten days' notice of the time and place of holding each election and of the offices to be filled ~~thereat shall~~ at the election must be given by the city auditor by publication in at least two newspapers published in ~~said the city~~ if two are published ~~therein~~ in the city. Publication in one ~~such~~ newspaper ~~shall be~~ is sufficient if only one newspaper is published in the city. For all general city elections the city council shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges and two clerks of election for each precinct at least ten days before the election is held. For special city elections the city council shall appoint one inspector, two clerks, and two judges of election for each precinct in the city at least ten days before the election is held. For any city election in a precinct in which seventy-five or fewer votes were cast in the last city election, the city council may appoint one inspector, one clerk, and one judge.

SECTION 19. AMENDMENT. Section 40-21-09 of the North Dakota Century Code is amended and reenacted as follows:

40-21-09. Election districts in council cities - Division and consolidation by ordinance - Ballots to be kept separate by wards. Each city operating under the council form of government in which ~~aldermen~~ council members are elected at large ~~shall constitute~~ constitutes an election district or voting precinct, and in all other cities each ward ~~shall constitute~~ constitutes an election district or voting precinct. Whenever the number of electors in any two or more contiguous wards does not exceed one hundred as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate ~~such~~ those two or more wards into one precinct for voting purposes. In any city containing less than four hundred electors as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate all the wards of ~~such the city~~ into one precinct for voting purposes. An ordinance dividing or consolidating wards ~~shall~~ must be passed and ~~shall take~~ takes effect before the time of giving notice of the election. Wards and precincts established under ~~the provisions of~~ this section ~~shall~~ constitute election districts for all state, county, and city elections. In city elections, separate ballot boxes and pollbooks ~~shall~~ must be provided and kept for each precinct. The terms "wards", "precincts", and "election districts" ~~shall~~ have the same

meaning except ~~in the case~~ where two or more wards are consolidated into one precinct for voting purposes or where one ward is divided into more than one precinct for voting purposes. ~~Nothing herein shall be construed as prohibiting~~ This section does not prohibit the use of one building as the election polling place for more than one ward or the installation of voting machines from separate wards ~~therein in one building~~.

SECTION 20. AMENDMENT. Section 40-52-08 of the North Dakota Century Code is amended and reenacted as follows:

40-52-08. ~~Alderman~~ Council member changing wards can continue in office. ~~An alderman~~ A council member who was duly elected, but because of the change in boundaries of the ward no longer resides within the ward from which ~~he~~ the member was elected, but is still residing within the city limits, can continue in office for the term for which ~~he~~ the member was elected and until a successor is duly elected and qualified for ~~such~~ the ward.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 441

HOUSE BILL NO. 1351
(Whalen, Thompson)

CITY COUNCIL MEETING DAYS

AN ACT to amend and reenact section 40-04.1-05 of the North Dakota Century Code, relating to the regular meeting day of a city council operating under the modern council form of government; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

40-04.1-05. Meetings - Regular, special, and for organization. The city council shall hold its regular meetings on the first Monday of each and every at least once a month, on or before the fifteenth day of the month, and may prescribe by ordinance the manner in which special meetings may be called. The city council shall establish by resolution or ordinance the date of its regular meetings. The first meeting for the organization of the city council ~~shall~~ must be held on the third Tuesday in April of each even-numbered year.

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

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 442

SENATE BILL NO. 2023
(Legislative Council)
(Advisory Commission on Intergovernmental Relations)

LOCAL ELECTION CONSOLIDATION

AN ACT to create and enact a new subdivision to subsection 2 of section 16.1-01-01 of the North Dakota Century Code, relating to duties of the secretary of state; to amend and reenact sections 23-04-01, 40-04.1-05, 40-05.1-04, 40-08-06, 40-08-06.1, 40-08-10, 40-09-04, 40-10-02, 40-13-02, 40-14-03, 40-14-05, 40-15-03, 40-15-06, 40-21-02, 40-21-03, and 40-33-02 of the North Dakota Century Code, relating to city elections; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 16.1-01-01 of the North Dakota Century Code is created and enacted as follows:

Prescribe the order in which each political subdivision will appear on a primary election ballot.

SECTION 2. AMENDMENT. Section 23-04-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-04-01. Board of health in council cities. The board of health in a city operating under the council form of government is under the supervision of the state department of health and consolidated laboratories and ~~shall consist~~ consists of the following members:

1. Four ~~aldermen~~ council members appointed by the mayor at the first meeting of the city council in ~~April~~ June of each year.
2. The city engineer.
3. The city health officer.

SECTION 3. AMENDMENT. Section 40-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

40-04.1-05. Meetings - Regular, special, and for organization. The city council shall hold its regular meetings on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings may be called. The first meeting for the organization of the city council shall be held on the ~~third~~ fourth Tuesday in ~~April~~ June of each even-numbered year.

SECTION 4. AMENDMENT. Section 40-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-04. Submission of charter to electors. Not earlier than sixty days nor later than six months after such publication or distribution, the proposed charter ~~shall must~~ be submitted to a vote of the qualified electors of the city at a regular or special city election, or at any ~~primary or general~~ statewide election that is ~~to be~~ held within ~~such period of that~~ time, or at a special city election held concurrently with any ~~primary or general~~ statewide election.

SECTION 5. AMENDMENT. Section 40-08-06 of the North Dakota Century Code is amended and reenacted as follows:

40-08-06. Term of office of ~~aldermen~~ council members - Staggered terms provided for in cities where other than ten ~~aldermen~~ council members elected. ~~Aldermen~~ Council members shall hold office for four years and until their successors are elected and qualified. Terms of ~~aldermen~~ ~~shall~~ council members ~~must~~ be arranged so that only one-half of the ~~aldermen~~ council members in any city ~~shall be~~ are elected in any one election. When a city first adopts the council form of government, or when a city which has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the ~~aldermen~~ thereof as provided for in this section ~~shall~~ council members must be perfected as follows: of the ~~aldermen~~ council members elected in each ward, the one receiving the greater number of votes shall serve until the ~~third~~ fourth Tuesday in ~~April~~ June following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the ~~third~~ fourth Tuesday in ~~April~~ June following the biennial election succeeding ~~his~~ that council member's election; if the city is not divided into wards, the one-half of the ~~aldermen~~ council members elected in the entire city receiving the greater number of votes shall serve until the ~~third~~ fourth Tuesday in ~~April~~ June following the second succeeding biennial election and the one-half of the ~~aldermen~~ council members elected in the entire city receiving the lesser number of votes shall serve until the ~~second~~ fourth Tuesday in ~~April~~ June following the biennial election succeeding their election.

Whenever, for any cause, more than one-half of the total number of ~~aldermen~~ council members in any ward, or more than one-half of the total number of ~~aldermen~~ council members in the city, if the city is not divided into wards, are to be elected in any one election, the length of the terms of the ~~aldermen~~ council members elected at ~~such~~ that election ~~shall must~~ be determined as provided in this section.

SECTION 6. AMENDMENT. Section 40-08-06.1 of the North Dakota Century Code is amended and reenacted as follows:

40-08-06.1. Terms of office under ten ~~aldermen~~ council members - Staggered terms provided for - Nominating petition requirements. When a city operating under the council form of government changes to the ten ~~aldermen~~ council members and mayor organization, the alternation of the terms of the ~~aldermen~~ thereof ~~shall~~ council members must be perfected as follows: the five ~~aldermen~~ council members receiving the greater number of votes shall serve until the ~~third~~ fourth Tuesday in ~~April~~ June following the second succeeding biennial election while the remaining five ~~aldermen~~ council members shall serve until the ~~third~~ fourth Tuesday in ~~April~~ June following the biennial election succeeding their election, and thereafter each ~~alderman~~ ~~shall~~ council member must be elected to four-year terms and until their successors are elected and qualified. In cities electing ten ~~aldermen~~

council members, the candidates by means of their nominating petitions, must announce their intentions to seek a ward seat or an at-large seat. Upon approval of a change of organization to ten aldermen council members and mayor, all incumbent aldermen council members shall serve until the next biennial election at which time when the aldermen council seats shall be are filled; however, the. The mayor shall complete his the unexpired term for which the mayor was elected.

SECTION 7. AMENDMENT. Section 40-08-10 of the North Dakota Century Code is amended and reenacted 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 the meeting shall must be held upon the next business day with the same effect as if conducted upon the day appointed. All regular and special meetings shall must 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 must be held on the third fourth Tuesday in April June of each even-numbered year.

SECTION 8. AMENDMENT. Section 40-09-04 of the North Dakota Century Code is amended and reenacted as follows:

40-09-04. Commissioners - Terms of office - Terms of members of first board - Resignations. Each commissioner and the president of the board of city commissioners shall hold office for four years from and after the date of his election and until his a successor shall have has been duly elected and qualified, except that when the first board of city commissioners is elected, the president of the board and the two commissioners receiving the highest number of votes shall hold office until the third fourth Tuesday in April June following the second biennial city election thereafter and the others until the third fourth Tuesday in April June following the first biennial city election thereafter. The president or any other member of the board may resign his the office by filing his a written resignation with the city auditor, who shall lay the resignation before the board of city commissioners at its next regular meeting or at a special meeting called for consideration of such the resignation. The resignation shall become is effective upon its acceptance by the board.

SECTION 9. AMENDMENT. Section 40-10-02 of the North Dakota Century Code is amended and reenacted as follows:

40-10-02. Vote required to adopt plan - When plan effective after adoption. If four-sevenths of the vote cast at the election favor the adoption of the city manager plan, the governing body shall declare the plan adopted, and shall fix the date when the same shall go into effect; Such plan becomes effective. That date shall must be after the first regular meeting of the governing body in the month of May July following the election.

SECTION 10. AMENDMENT. Section 40-13-02 of the North Dakota Century Code is amended and reenacted as follows:

40-13-02. Bonds of ~~municipal~~ city officials - Requirements - Approvals - Additional bonds. The auditor, municipal judge, and assessor of each ~~municipality~~, and the city manager of any city, and such other officers as the governing body may direct, before entering upon the discharge of the duties of their respective offices, shall execute and deliver to the ~~municipality~~ city their separate bonds payable to the ~~municipality~~ city, conditioned for the honest and faithful performance of their official duties. ~~Such~~ The bond ~~shall~~ must be in an amount fixed by the governing body of the ~~municipality~~ city. The bond of the auditor ~~shall~~ must be set by resolution of the governing body of the ~~municipality~~ city at a regular meeting in ~~April~~ June of each year in an amount at least equal to twenty-five percent of the average amount of money that has been subject to the auditor's control during the preceding fiscal year, as determined by the total of the daily balances of the auditor for the calendar year divided by the figure three hundred or the sum of two hundred fifty thousand dollars whichever is least. All official bonds ~~shall~~ must be approved by the executive officer of the ~~municipality~~ city and filed in the office of the city auditor. ~~Such~~ The bonds ~~shall~~ must conform to the ~~provisions of~~ law applicable to the bonds of state officers and employees except that no personal surety ~~shall~~ may be accepted on any bond. ~~No municipality shall~~ A city may not pay the premium on any bond except a bond written in the state bonding fund or a bond procured to replace a bond canceled by the state bonding fund. The governing body at any time may require new and additional bonds of any officer.

SECTION 11. AMENDMENT. Section 40-14-03 of the North Dakota Century Code is amended and reenacted as follows:

40-14-03. When term of elective officers begins. Under the city council form of government the term of each elective officer ~~shall commence~~ commences on the ~~third~~ fourth Tuesday of ~~April~~ June of the year in which ~~he~~ the officer is elected.

SECTION 12. AMENDMENT. Section 40-14-05 of the North Dakota Century Code is amended and reenacted as follows:

40-14-05. Term of appointive officers. The term of all appointive officers of a city operating under the council form of government ~~shall commence~~ commences on the first day of ~~May~~ July succeeding their appointment unless otherwise provided by ordinance, and ~~such~~ the officers shall hold their respective offices for two years, and until their successors are appointed and qualified.

SECTION 13. AMENDMENT. Section 40-15-03 of the North Dakota Century Code is amended and reenacted as follows:

40-15-03. When term of elective officers begins. The term of each elective officer in a city operating under the commission system of government ~~shall commence~~ commences on the ~~third~~ fourth Tuesday in ~~April~~ June of the year in which ~~he~~ the officer is elected.

SECTION 14. AMENDMENT. Section 40-15-06 of the North Dakota Century Code is amended and reenacted as follows:

40-15-06. Term of appointive officers. The terms of all appointive officers of a city operating under the commission system of government ~~shall commence~~ commences on the first day of ~~May~~ July succeeding their appointment unless otherwise provided by ordinance, and ~~such~~ the officers shall hold

their respective offices for such the term as has been provided by ordinance, and until their respective successors are qualified.

SECTION 15. AMENDMENT. Section 40-21-02 of the North Dakota Century Code is amended and reenacted as follows:

40-21-02. Elections in commission cities - When held - Notice - Polls - Agreements with counties - Judges and inspectors. Biennial municipal elections in cities operating under the commission system of government ~~shall~~ must be held on the first second Tuesday in ~~April~~ June in each even-numbered year at such place or places as the board of city commissioners shall designate. Ten days' notice of the time and place of the election and of the offices to be filled at such election ~~shall~~ must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general, and special elections. For all general city elections, the board of city commissioners shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges of election for each precinct at least ten days before the election is held. The board of city commissioners shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, and the apportioning of election expenses. For special city elections the board of city commissioners shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. For ~~any~~ a special city election in a precinct in which seventy-five or fewer votes were cast in the last city election, the board of city commissioners may appoint one inspector and one judge. Each precinct election judge, in either a general or a special city election, shall appoint a poll clerk who ~~shall be~~ is a qualified elector of the precinct in which ~~he the poll clerk~~ is to serve.

SECTION 16. AMENDMENT. Section 40-21-03 of the North Dakota Century Code is amended and reenacted as follows:

40-21-03. Elections in council cities - Polling places - Polls open - Notice - Judges, clerks, and inspectors - Agreements with counties. Biennial municipal elections in cities operating under the council form of government ~~shall~~ must be held on the first second Tuesday in ~~April~~ June in each even-numbered year at such place or places as the city council shall designate. In cities where aldermen are elected at large, the council ~~shall designate one polling place only~~. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general, and special elections. Ten days' notice of the time and place of holding each election and of the offices to be filled ~~thereat shall~~ must be given by the city auditor by publication in at least two newspapers published in ~~said the city if two are published therein in the city~~. Publication in one such newspaper shall be is sufficient if only one newspaper is published in the city. For all general city elections the city council shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges and two clerks of election for each precinct at least ten days before the election is held. The city council shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, and the apportioning of

election expenses. For special city elections the city council shall appoint one inspector, two clerks, and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. For ~~any~~ a special city election in a precinct in which seventy-five or fewer votes were cast in the last city election, the city council may appoint one inspector, one clerk, and one judge.

SECTION 17. AMENDMENT. Section 40-33-02 of the North Dakota Century Code is amended and reenacted as follows:

40-33-02. Acquiring, erecting, or improving plant, system, or line without election prohibited - Exception. No municipal officers ~~shall~~ may purchase, erect, ~~nor~~ substantially enlarge, improve, or extend an existing plant, ~~nor~~ or lease from others any plant, system, or line provided for in section 40-33-01, unless the proposition ~~shall have~~ has been submitted by a resolution of the governing body to the qualified electors of the ~~municipality city~~ at ~~an annual~~ biennial or special election called, held, and conducted upon the notice and in the manner specified by this title for the election of the governing body of the ~~municipality city~~, and ~~shall have~~ has been approved by a majority of the electors voting thereon. If, ~~however~~, the cost of any enlargement, improvement, or extension will be paid out of the earnings of the plant and the cost does not exceed the sum of five thousand dollars, or if eighty per centum or more of the cost of any waterworks, mains, water system and equipment or appliances therefor is to be paid by special assessments or by the earnings of the plant or by both ~~it shall be unnecessary to submit~~, the governing body is not required to submit the proposition to the electors of the ~~municipality, or in order city~~. If the improvement and facilities are to provide for a greater and more adequate water supply to meet the needs of the ~~municipality city~~ for domestic use, for fire protection, or for sanitation and sewage disposal, regardless of cost the governing body thereof may by resolution provide for the needed improvement and facilities in cooperation with the state or federal government, or any agency thereof, without an election, ~~provided~~ if funds for such cooperation or for defraying the entire cost thereof are available in the municipal utilities fund as defined by section 40-33-10.

SECTION 18. EFFECTIVE DATE. This Act becomes effective on January 1, 1994.

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 443

SENATE BILL NO. 2526
(Evanson, Lindgren)

CITY ENVIRONMENTAL REGULATIONS

AN ACT to amend and reenact subsection 3 of section 40-05-06 of the North Dakota Century Code, relating to the penalty for the violation of city ordinances enforcing United States environmental protection agency regulations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 40-05-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. For every violation of a city ordinance enforcing the requirements of 40 CFR 403 relating to publicly owned treatment works, or 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 April 5, 1991
Filed April 8, 1991

CHAPTER 444

HOUSE BILL NO. 1083
(Freier)

ALDERMEN NUMBER

AN ACT to amend and reenact section 40-08-03 of the North Dakota Century Code, relating to the number of aldermen on a city council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 40-08-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-03. Number of aldermen determined by population - Census to govern. The number of aldermen shall be as follows:

1. In cities of two hundred inhabitants or less, four, except that the city council may by resolution duly adopted reduce the number of aldermen to two.
2. In cities of more than two hundred but not more than six hundred inhabitants, four.
3. In cities of more than six hundred but not more than two ten thousand ~~inhabitants, six.~~
4. ~~In cities of more than two thousand but not more than four thousand inhabitants, eight.~~
5. ~~In cities of more than four thousand but not more than ten thousand inhabitants, twelve.~~
6. ~~In cities of more than ten thousand inhabitants, fourteen inhabitants, four, six, eight, ten, or twelve, as provided by city ordinance.~~
4. In cities of more than ten thousand inhabitants, fourteen.
- 7- 5. Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten aldermen and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure hereinafter provided.

Whenever a census of the city shall show a population requiring more aldermen than are in the council at the time of taking such census, the city council shall not be required to make a change in the number of aldermen and the corresponding change in the number of wards of such city unless a majority of the qualified electors thereof, to be determined by the number of names on the poll list of the last city election, petition therefor.

Approved April 8, 1991
Filed April 8, 1991

* NOTE: Section 40-08-03 was also amended by section 4 of Senate Bill No. 2295, chapter 440.

CHAPTER 445

HOUSE BILL NO. 1375
(Kretschmar)

ALDERMEN AND COUNCIL MEMBER ELECTION

AN ACT to create and enact a new section to chapter 40-08 of the North Dakota Century Code, relating to the election of council members in council cities; and to amend and reenact section 40-08-05 of the North Dakota Century Code, relating to qualifications of aldermen.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 40-08-05 of the North Dakota Century Code is amended and reenacted as follows:

40-08-05. Qualifications of aldermen. ~~No person shall be~~ A person is not eligible to the office of alderman if ~~he~~ the person:

1. Is not a qualified elector of and resident within the ward for which ~~he~~ the person was elected, except that in cities where aldermen are elected at large and not required to be a resident of the ward for which the person is elected pursuant to section 2 of this Act, ~~he shall~~ the person must be a qualified elector of and a resident within the city; or
2. Has been convicted of malfeasance, bribery, or other corrupt practice or crime.

SECTION 2. A new section to chapter 40-08 of the North Dakota Century Code is created and enacted as follows:

Election at large of council members from wards - Option. Notwithstanding any other provision of law, the governing body of a city having a population not exceeding five thousand and which is operating under the council form of government may provide by ordinance for the election of all council members at large. If the council members are elected at large pursuant to this section, the governing body of the city may establish wards in accordance with section 40-08-04 and require that the council members elected from each ward must be residents of the ward.

Approved April 8, 1991
Filed April 8, 1991

* NOTE: Section 40-08-05 was also amended by section 9 of Senate Bill No. 2295, chapter 440.

CHAPTER 446

HOUSE BILL NO. 1226
(Representatives Wald, Kretschmar)
(Senator Maxson)

ALCOHOL-RELATED OFFENSE JURISDICTION

AN ACT to create and enact a new subsection to section 40-18-01 of the North Dakota Century Code, relating to the jurisdiction of municipal courts to try alcohol-related traffic offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 40-18-01 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law, a municipal court in which the judge is not a person licensed to practice law in this state has no jurisdiction to hear, try, and determine an offense that would be a violation of section 39-08-01 or equivalent ordinance.

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 447

HOUSE BILL NO. 1534
(Schneider, Williams)

INDUSTRY TAX EXEMPTIONS

AN ACT to amend and reenact sections 40-57.1-01, 40-57.1-02, 40-57.1-03, 40-57.1-04, 40-57.1-04.1, 40-57.1-04.3, 40-57.1-05, 40-57.1-06, and 40-57.1-07 of the North Dakota Century Code, relating to tax exemptions for new and expanding industries; and to repeal section 40-57.1-04.2 of the North Dakota Century Code, relating to the definition of a local development corporation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-57.1-01 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-01. Declaration and finding of public purpose. The legislative assembly of the state of North Dakota hereby declares and finds that it is and has been its purpose in preparing and adopting the provisions of this chapter to sanction, authorize, and encourage activities in the public interest and for the welfare of the state of North Dakota, its subdivisions and people by assisting in the establishment of additional industrial plants, the expansion and retention of existing business, and promotion of economic activities within the state, and thereby increasing production of wealth, and adding to the volume of employment, particularly during those seasons when employment in farming and ranching is slack, thus alleviating unemployment among the people of the state.

It is the intent of the legislative assembly that political subdivisions and the state board of equalization in their determination of whether the tax exemptions authorized by this chapter shall be granted, shall give due weight to their impact and effect upon existing industry and business to the end that an unfair advantage shall not be given to new or expanded enterprises which is to the substantial detriment of existing enterprises.

SECTION 2. AMENDMENT. Section 40-57.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-57.1-02. "Project" and "municipality" defined. Definitions. As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" includes counties as well as municipalities of the types listed in subsection 4 of section 40-01-01; and the term "project" means any real property, buildings and improvements on real property or the buildings thereon; and any equipment permanently located on such real property or in such buildings; which are used or useful in connection with revenue producing enterprises; or any combination of two or more such enterprises.

1. "Local development corporation", as used in section 40-57.1-04.3, means a profit or nonprofit corporation incorporated under the laws of this state, formed for the purpose of furthering the economic development of its community and environs, with authority to promote and assist the growth and development of business concerns in the areas covered by its operations. The operations of the corporation must be limited to a specified area in this state. The controlling interest in the corporation must be held by at least twenty-five persons residing or doing business in the community or its environs. These persons must control not less than seventy-five percent of the voting control of the corporation. No shareholder or member of the corporation may own in excess of twenty-five percent of the voting control in the corporation if that shareholder or member has a direct pecuniary interest in any project or business concern which will occupy the property of the corporation. The primary objective of the corporation must be to benefit the community through increased employment, payroll, business volume, and corresponding factors rather than monetary profits to its shareholders or members. Any monetary profits or other benefits going to the shareholders or members must be merely incidental to the primary objective of the corporation.
2. "Municipality" means counties as well as municipalities of the types listed in subsection 4 of section 40-01-01.
3. "Primary sector business" means an individual, corporation, partnership, or association which through the employment of knowledge or labor adds value to a product, process, or service that results in the creation of new wealth.
4. "Project" means any revenue-producing enterprise, or any combination of two or more of these enterprises. For the purpose of the income tax exemption, "project" means both "primary sector business" and "tourism" as defined by this section.
5. "Tourism" means all tourism-related businesses and activities including recreation, historical and cultural events, guide services, and unique lodging and food services which serve as destination attractions.

SECTION 3. AMENDMENT. Section 40-57.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted 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. Provided, however, that the A municipality may also grant a partial exemption from ad valorem taxation on tangible property used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities grown in this state of up to one hundred percent in the sixth year from the date of commencement of project operations, eighty percent in the seventh year from the date of commencement of project operations, sixty percent in the eighth year from the date of commencement of project operations, forty percent in

the ninth year from the date of commencement of project operations, and twenty percent in the tenth year from the date of commencement of project operations. An exemption granted under this chapter applies only to the valuation over and above the taxable valuation placed upon buildings, structures, and improvements on the property for the last assessment period immediately preceding the date of application for exemption. Negotiations with potential project operators for tax exemption must 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 must 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 must be prescribed by the tax commissioner, to competitors of the application for tax exemption in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption is in the best interest of the municipality, and if it so determines, shall give its approval.

SECTION 4. AMENDMENT. Section 40-57.1-04 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-04. Exemption from income tax - Notice to competitors - Limitations. ~~The~~ Upon application by a project operator to the state board of equalization, the net income of any a project granted an exemption from ad valorem taxation may be exempt from state income tax for a like period, provided not exceeding five years from commencement of project operations. The application for the exemption is made must be reviewed as to the eligibility of the project by the municipality on behalf of the project department of economic development and finance and its recommendations forwarded to the state board of equalization, and the. The project operator shall provide notice to competitors in the manner prescribed by the state board of equalization. The board, after full investigation, determines shall determine whether the granting of the exemption is in the best interest of the people of North Dakota and approves, if it so determines, approve the exemption. The board shall, after making its determination, certify the findings back to the applicant and to the tax commissioner. Nothing contained herein shall have the effect of exempting the project from filing an annual income tax return.

SECTION 5. AMENDMENT. Section 40-57.1-04.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-57.1-04.1. Ad valorem and income tax exemption for existing structures - Requirements. Notwithstanding any other provision of this chapter, a project operator who otherwise qualifies under this chapter may, upon application consistent with the provisions of this chapter, receive a partial or complete exemption from income taxation and ad valorem taxation on any existing structure used in or necessary to the operation of the project for a period not exceeding five years from the date of commencement of project operations in the structure. No structure qualifies for this exemption unless it has been vacant for at least the twelve months prior to the commencement of project operations, except that in cities with a population of three thousand or less the vacancy period does not apply and the project operator may occupy the structure immediately after it is vacated

by the previous occupant. Notwithstanding the vacancy requirement, for For taxable years beginning after December 31, 1988, the governing body of a municipality may grant additional exemptions of property under this section during a period not exceeding ten years from the date of commencement of project operations in the structure if the structure is owned by the United States, the state, or a political subdivision of the state and leased to the project operator. The project operator shall apply to the governing body of the municipality annually for the exemption and the governing body of the municipality may grant the exemption for only one year at a time.

SECTION 6. AMENDMENT. Section 40-57.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-04.3. Property tax exemption on speculative industrial buildings and properties owned by a local development corporation. A municipality may, in its discretion, grant partial or complete exemption from ad valorem taxation on buildings, structures, and improvements constructed and owned by a local development corporation for the express purpose of attracting new industry to this state. This exemption from ad valorem taxation is only available on new buildings, structures, and improvements while they remain unoccupied. Once the building, structure, or improvement is occupied, the exemption continues until the next annual assessment date following the first occupancy. This section does not affect the eligibility for property and income tax exemption of a new business or industry available under other provisions of this chapter, provided application for those the tax ~~exemptions~~ exemption is made prior to occupancy. A written request for the exemption is to be filed by the local development corporation with the municipality. The request will be reviewed at an official meeting of the governing body and will be placed on the agenda for final action at the next official meeting. The governing body of the municipality shall notify the county director of tax equalization with respect to any exemption granted under this section.

SECTION 7. AMENDMENT. Section 40-57.1-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-57.1-05. Reapplication for tax exemption - Discretion of board of equalization. The municipality or the state board of equalization, in its discretion, upon the presentation of additional facts and circumstances which were not presented or discovered at the time of the original application for tax exemption under the provisions of this chapter, accept reapplications from project operators at any time if the project operators first publish notice of application for tax exemption as required by this chapter.

SECTION 8. AMENDMENT. Section 40-57.1-06 of the North Dakota Century Code is amended and reenacted 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 the property. If ~~he~~ the project operator does not reapply, or if ~~his~~ the 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~~ the project operator must either reapply to retain the remaining

balance of the property tax exemption or ~~he may~~ elect to make application as a new business; but ~~such the~~ move shall have no effect on the income tax exemption of ~~such the~~ 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 the~~ move and that the effect of the business upon competitors has not been changed by ~~such the~~ 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 the project operator~~ wishes consideration for a tax exemption for the remainder of the exemption period provided pursuant to section 40-57.1-03.

SECTION 9. AMENDMENT. Section 40-57.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-07. Exemptions - Time for making application.

1. No property tax exemption shall be granted under this chapter unless the application for it is granted as provided in this chapter prior to the commencement of construction of the project as that term is defined in section 40-57.1-02 or prior to occupancy by the project operator if the project is an existing building.
2. Application for an income tax exemption as provided in this chapter must be made by the project operator no later than one year after the commencement of project operations.

SECTION 10. REPEAL. Section 40-57.1-04.2 of the North Dakota Century Code is repealed.

Approved April 16, 1991
Filed April 18, 1991