

GOVERNMENTAL FINANCE

CHAPTER 249

SENATE BILL NO. 2063
(Goldberg, G. Larson, Hernet, Redlin, Van Horn)
(From Legislative Council Study)

INTEREST RATES ON GOVERNMENTAL OBLIGATIONS

AN ACT to amend and reenact sections 2-06-10, 15-55-02, 21-01-06, 21-02-02, 21-02-11, 21-03-08, 21-03-09, 21-03-25, subsection 4 of section 23-11-19, sections 23-11-22, 23-24-10, 24-08-07, 40-24-02, 40-24-19, 40-29-15, 40-31-09, 40-33-18, 40-34-03, subsection 1 of section 40-35-08, sections 40-35-09, 40-54-10, subsections 3 and 4 of section 40-58-10, subsection 2 of section 40-61-08, sections 55-08-08, 61-02-47, 61-02-48, 61-02-53, 61-08-07, 61-08-12, 61-08-20, 61-12-38, 61-16-13, 61-16-28, 61-16-32, 61-21-29, 61-21-50, and 61-21-53 of the North Dakota Century Code, to increase the interest rate ceilings on certain bonds, warrants, and certificates of indebtedness of state agencies and political subdivisions to eight percent on issues sold at private sale, to provide that such bond issues and certificates of indebtedness totaling more than one hundred thousand dollars must be sold at public sale, to authorize interest on special assessments equal to that on bonds or warrants for which they are pledged, to provide that there shall not be any interest rate ceiling on issues sold at public sale, and to provide that the interest rate on bond issues shall be computed on the basis of average annual net interest cost.

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

SECTION 1. AMENDMENT.) Section 2-06-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-10. BONDS AND OTHER OBLIGATIONS.) An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery thereof. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, and shall bear interest at a rate or rates and be sold at a price resulting in an average annual net interest cost not exceeding

eight per centum per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, shall be payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and shall so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue shall be an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within such limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds shall be liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.

In case any of the commissioners or officers of an authority or municipality whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

Any bond reciting in substance that it has been issued by the authority or municipality pursuant to the provisions of this chapter and for a purpose or purposes authorized to be accomplished by this chapter shall be conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to such provisions and for such purpose or purposes.

Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon, and income therefrom, shall be exempt from all taxes.

For the security of any such bonds the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over

ten thousand population, the governing body of the municipality shall be required, in the event that at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, to levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency and at any time a deficiency is likely to occur within one year for the payment of principal and interest due on such bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency, and such taxes shall not be subject to any limitation of rate or amount applicable to other municipal taxes, provided that the initial resolution authorizing bonds for airport financing shall be published in the official paper, and any owner of taxable property within the city may within sixty days after such publication file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to twenty percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution shall be barred.

SECTION 2. AMENDMENT.) Section 15-55-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02. BOARD MAY BORROW MONEY AND ISSUE BONDS - CONDITIONS - BONDS TAX FREE.) For the purpose of paying all or part of the cost of construction, equipment, and furnishing of any such buildings or any addition to existing buildings, or other campus improvements, or in order to refund any outstanding bonds issued for such purpose, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings or other campus improvements, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of said board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. Such bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the state board of higher education. Such bonds may be sold in such manner and at such price or prices not less than ninety-eight percent of par plus accrued interest to date

of delivery, as may be considered by the board to be advisable. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, but the average annual net interest cost to maturity for any bonds issued hereunder shall not exceed eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Any grants agreed to be made by the United States of America or any agency or instrumentality thereof to reduce the interest cost of bonds, whether or not pledged to the payment of the bonds or interest thereon as part of the income and revenue to be derived from the operation of the buildings or improvements pledged to the payment of the issue, shall be considered as a reduction in the interest costs of the bonds with respect to which the grant is made, for purposes of the rate limitations on interest costs provided herein. Such bonds shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota, or by any county, municipality, or political subdivision therein. The board, in its discretion, may authorize one issue of bonds hereunder for the construction, furnishing, and equipment of more than one building or other campus improvement and may make the bonds payable from the combined revenues of all buildings or other campus improvements acquired in whole or in part with the proceeds thereof, and where bonds are so issued the words "the building", as herein used, shall be construed to refer to all the buildings or other campus improvements so acquired.

SECTION 3. AMENDMENT.) Section 21-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-01-06. REGISTRATION OF WARRANTS - RATE OF INTEREST.) Whenever the law authorizes the officers of any taxing district to issue warrants in excess of the amount of cash available in any fund upon which warrants are drawn for payment, the treasurer of such taxing district, when any such warrant is presented to him for payment, if not paid for want of funds, shall endorse the same "Presented for payment this _____ day of _____, 19____, and not paid for want of funds", and thereupon shall enter such warrant in his warrant register in the order of presentation for registration. The governing body of any such taxing district authorizing the issuance of warrants in excess of cash on hand shall determine the rate of interest which such warrants shall bear, but in the case of counties and cities such rate shall not exceed eight percent per annum from the date of registration until the expiration of the time specified for presentment for payment.

SECTION 4. AMENDMENT.) Section 21-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-02. CERTIFICATES OF INDEBTEDNESS - BY WHOM ISSUED - TERM - INTEREST - TAX WHEN DEEMED LEVIED.) Counties, cities,

townships, school districts, park districts, irrigation districts, water conservation and flood control districts, Garrison diversion conservancy district, county park districts, or joint park districts shall have power to borrow in anticipation of revenues to be derived from taxes already levied. The aggregate amount of such borrowings at any time shall not exceed the amount of uncollected taxes which have been levied during the year in which the borrowing is made, plus uncollected taxes remaining upon the tax lists of the four preceding years, exclusive of levies for the purpose of retiring bond issues and the interest thereon. For the purpose of borrowing, all such taxing districts may issue certificates of indebtedness. A certificate of indebtedness shall consist of an agreement on the part of the taxing district to pay a stated sum on a specified date, or on or before a specified date not more than twenty-four months in the future, together with interest thereon at a rate or rates resulting in an average annual net interest cost not exceeding eight percent per annum if they are sold privately, which may be made payable semiannually. Such certificate shall be signed on behalf of the district by its president or chairman and also by its auditor or secretary, and shall be payable out of funds derived from uncollected taxes levied for the current tax year and four previous years which have not been set aside for the payment of other certificates of indebtedness pursuant to sections 21-02-07, 21-02-08, and 21-02-09. However, a certificate of indebtedness shall be the general obligation of the issuing taxing district.

SECTION 5. AMENDMENT.) Section 21-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-11. ADVERTISING FOR BIDS - WHEN REQUIRED - PROCEDURE SIMILAR TO BOND SALES.) If the governing board of any taxing district determines to borrow upon certificates of indebtedness, it shall follow the procedure and shall be subject to the penalties prescribed in the provisions relating to the sale of bonds. Certificates of indebtedness need not be advertised for bids:

1. If they are sold to the state board of university and school lands, or in case other trust funds administered by public officials are invested in them; or
2. If they do not exceed the total sum of one hundred thousand dollars.

SECTION 6. AMENDMENT.) Section 21-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-08. MAXIMUM INTEREST RATE, MATURITY, AND DENOMINATIONS.) No bonds issued under the provisions of this chapter shall bear interest at a rate or rates and be sold privately at a price resulting in an average annual net interest cost higher

than eight percent per annum. There shall be no interest rate ceiling on those issues sold at public sale. No bonds issued under the provisions of this chapter shall run for a longer period than twenty years from their date. Bonds issued under the provisions of this chapter shall be in denominations of one hundred dollars each, or some multiple thereof. Such bonds shall not bear date earlier than the date of the election authorizing their issuance, if such election is required, nor earlier than the date of the adoption of the resolution of the governing body determining to issue bonds for which no election is required.

SECTION 7. AMENDMENT.) Section 21-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 21-03-09. INITIAL RESOLUTION - FORM.) Proceedings for the issuance of bonds under the authority of this chapter shall be instituted by the adoption of an initial resolution therefor. Such initial resolution shall state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 21-03-01.
4. The total amount of bonded indebtedness of the municipality.
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body of voters proposing the same.

SECTION 8. AMENDMENT.) Section 21-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-25. BONDS - ADVERTISED FOR BIDS - EXCEPTION.) No municipality shall sell or enter into any contract for the sale of any issue of its bonds authorized by this chapter in an amount exceeding one hundred thousand dollars, for whatever purpose issued, without first advertising for bids in the manner prescribed by section 21-03-26, except as provided in section 21-03-30, and except that bonds issued under the authorization of section 21-03-06, subsection 2, subdivision g, with the consent of the warrant holders, may be exchanged for matured warrants or matured interest coupons of warrants of the special improvement fund having the deficiency on account of which such bonds are being issued, without such advertising. The par value and accrued interest of the bonds so delivered shall not exceed the par value and accrued interest of the warrants and interest

*NOTE: Section 21-03-09 was also amended by section 3 of Senate Bill No. 2306, chapter 251.

coupons, and accrued interest thereon, for which they are exchanged.

SECTION 9. AMENDMENT.) Subsection 4 of section 23-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The interest rate or rates resulting in an average annual net interest cost, not exceeding eight percent per annum, on those issues which are sold at private sale, which the bonds shall bear;

SECTION 10. AMENDMENT.) Section 23-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-22. SALE OF BONDS.) Except as hereinafter provided, bonds issued by an authority shall be sold at a public sale held after a notice has been published at least five days prior to the sale in a newspaper having a general circulation in the city or county, as the case may be, and in a financial newspaper published in the city of New York or in the city of Chicago. There shall be no interest rate ceiling on issues sold at public sale. Such bonds may be sold to the federal government, however, at private sale without public advertisement. Such bonds may also be sold at a private sale when such obligations do not exceed the total sum of one hundred thousand dollars. The bonds shall not be sold for less than ninety-eight percent of par.

SECTION 11. AMENDMENT.) Section 23-24-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-10. DISTRICT MAY ISSUE WARRANTS IN ANTICIPATION OF TAXES LEVIED TO PAY CURRENT EXPENSES.) After a vector control district has been established and a board of commissioners has been appointed and organized the board of commissioners may, in order to pay current district expenses including per diem compensation and expenses of commissioners and wages and salaries of officers or employees, by resolution authorize and issue district warrants in anticipation of impending collection and receipt of taxes levied. Such warrants shall bear such rate of interest as the board may determine not exceeding, however, eight percent per annum. The district treasurer shall keep a register in which to enter each warrant issued showing the date and amount of each warrant, the date of payment, and the amount paid in redemption thereof. All warrants shall be paid in order of their presentation for payment to the district treasurer. Such warrants shall be drawn to the claimant or bearer in the same manner as a county warrant and shall be signed by the chairman of the board of commissioners and countersigned by the treasurer of the district. The total amount of such warrants issued in any year to pay current district expenses shall not exceed eighty percent of the district's tax levy for such year.

SECTION 12. AMENDMENT.) Section 24-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-07. ISSUANCE OF BONDS TO MEET EXPENSES OF CONSTRUCTION OF BRIDGE.) When one-half, or such other proportion as may be provided, of the cost of a bridge to be constructed as provided in section 24-08-05 shall be provided by any municipality within this state, it may issue bonds for this purpose in accordance with chapter 21-03. In case the limit of indebtedness of such municipality would be exceeded thereby, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted, the share of the cost thereof to be borne by such municipality shall be paid out of the general fund by orders drawn in the usual form and manner.

SECTION 13 AMENDMENT.) Section 40-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-02. SPECIAL ASSESSMENTS WHEN DUE AND PAYABLE - INTEREST.) All special assessments levied under the provisions of this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at a rate of not exceeding eight percent per annum or not exceeding the average net annual interest rate on any warrants or bonds for the payment of which they are pledged, whichever is higher, on the total amount thereof remaining from time to time unpaid.

SECTION 14. AMENDMENT.) Section 40-24-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-19. WARRANTS - ISSUANCE - WHEN PAYABLE - AMOUNTS - TEMPORARY WARRANTS - INTEREST - INTEREST COUPONS - NEGOTIABILITY - ELIGIBILITY AS INVESTMENTS.) The municipality, at any time after making a contract or otherwise providing in accordance with section 40-22-27 for the construction of any improvement to be financed in whole or in part by assessments, under authority of any chapter of this title, or prior thereto but after the period for filing protests against the making of such improvement has expired and the protests filed, if any, have been heard and determined to be insufficient, and in anticipation of the levy and collection of such assessments and of any taxes or revenues derived from service charges pledged to pay for such improvement, may issue warrants on the fund created for such improvement. The municipality shall be responsible to the holders of such warrants for the proper advertisement and award of a contract or contracts or provision by other means for the completion of the improvement, for the acquisition of all land, easements, licenses, and permits required for such completion, and for the

valid and final levy of special assessments upon all properties within the improvement district to be benefited by the improvement, in an aggregate principal amount equal to the total cost of the improvement as finally ascertained, less the portions thereof, if any, determined to be paid from taxes, service charges, and any other source; and the issuance of such warrants shall import a representation and covenant binding upon the municipality, that the aggregate benefits to be derived from the making of the improvement by the properties to be assessed therefor, are not less than the aggregate amount of the special assessments so required to be levied. The warrants shall be issued and shall mature in such amounts as in the judgment of the governing body will be provided for, at or before the maturity dates specified, by the taxes and assessments to be levied and spread and the revenues pledged therefor; except that in lieu of issuing definitive warrants on any such fund, the governing body may by resolution authorize the issuance and sale of temporary warrants maturing in not to exceed three years from the date of issue of the first such warrant, to be repaid with interest from the proceeds of definitive warrants maturing as hereinabove required, which the governing body shall issue and sell at or before the maturing date of said temporary warrants, in the amount required, with moneys theretofore received in such fund, to pay the total cost of the improvement and all temporary warrants theretofore issued on the fund, with interest then accrued thereon. Such warrants shall bear interest at a rate or rates and shall be sold at a price, not less than ninety-eight percent of par, resulting in an average annual net interest cost not to exceed eight percent per annum payable annually or semiannually, except that there shall be no interest rate ceiling on an issue sold at public sale. The definitive warrants may bear interest at a rate or rates higher or lower than those borne by the temporary warrants, as determined by the governing body in effecting the sale thereof. In the sale of temporary warrants, the municipality may by resolution of the governing body agree to issue to the holder or holders thereof definitive warrants upon specified terms as to interest, maturity, redemption provisions, and all other pertinent details, in the event that the municipality is unable to sell definitive warrants to others upon more favorable terms. Coupons representing the interest for each year or lesser period may be attached to the warrants, whether definitive or temporary. All such warrants shall be negotiable within the meaning of and for all the purposes specified in title 41, and, to the same extent as general obligation bonds of the issuing municipality, shall be valid investments of the funds of any guardian, trustee, and other fiduciary of any kind or nature, any insurance company, bank, or other financial institution, any charitable, educational, or eleemosynary institution, and any public corporation or official, municipality, school district, or other political subdivision, including bond sinking funds, special improvement funds, municipal utility funds, and funds of the state of North Dakota and its instrumentalities and agencies.

SECTION 15. AMENDMENT.) Section 40-29-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-15. WARRANTS - PAYABLE - INTEREST - INTEREST COUPONS - CONTENTS - SIGNED - DENOMINATIONS - USES.) All sidewalk assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than eight percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used in making payment on contracts for making the improvements or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

SECTION 16. AMENDMENT.) Section 40-31-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-31-09. WARRANTS - PAYABLE - INTEREST COUPONS - CONTENTS - DENOMINATIONS - USES.) All curbing assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than eight percent per annum, payable annually, and may have coupons attached representing each year's interest. The warrants shall state upon their face the purpose for which they were issued and the fund from which they are payable and shall be signed by the executive officer of the city, and countersigned by the city auditor under the seal of the city, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making the improvements or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

SECTION 17. AMENDMENT.) Section 40-33-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-18. RESOLUTION AUTHORIZING CONTRACT - PAYMENT SOLELY THROUGH NET REVENUE - ISSUANCE OF REVENUE BONDS OR OF CERTIFICATES EVIDENCING INDEBTEDNESS UNDER CONTRACT.) Any such contract shall be authorized by resolution or resolutions duly adopted by the governing body of the city. Such resolutions and contract shall provide that the cost of the plant shall be paid solely out of the net revenue thereof, to be derived from

special rates and charges imposed and collected for the service thereof to users of the municipal waterworks system, after payment of the reasonable and current expenses of operation and maintenance of such plant. The governing body may provide for the payment of such cost by the issuance of revenue bonds in accordance with the provisions of chapter 40-35, which bonds may be sold as provided in said chapter or may be delivered to the contractor in payment of the contract price, or it may be provided in said resolutions and contract that such price shall be payable in stated installments over a period not exceeding ten years, with interest at a rate not exceeding eight percent per annum, payable annually or semiannually. Said payments may be evidenced by certificates executed by the executive and recording officers and sealed with the corporate seal of the city, and such certificates may have interest coupons attached.

SECTION 18. AMENDMENT.) Section 40-34-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-34-03. MORTGAGES AND MORTGAGE BONDS - ISSUANCE OVER DEBT LIMIT - NOT GENERAL OBLIGATIONS - VOTE REQUIRED TO ISSUE - CONDITIONS.) Municipalities may issue mortgage bonds beyond the general limits of the bonded indebtedness prescribed by law for the purpose of defraying the cost, or a part thereof, of a sewage disposal plant and system or of a garbage disposal plant in accordance with the provisions of section 40-34-02. Such bonds shall not impose any general liability upon the issuing municipality but shall be paid only out of the revenues received from the service charges as provided in this chapter or from the sale of the property under foreclosure of the mortgage or deed of trust. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars. Such bonds shall be sold for not less than ninety-eight percent of par and shall bear interest at a rate or rates resulting in an average annual net interest cost of not more than eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. No such bonds shall be issued, however, except upon the affirmative vote of three-fifths or more of the members of the governing body of the issuing municipality, and the form, recitals, maturities, rate of interest, and whether the bonds shall be payable annually or semiannually, shall be determined by the same vote. A municipality is authorized to execute and deliver any mortgage or deed of trust contemplated under the provisions of this chapter.

SECTION 19. AMENDMENT.) Subsection 1 of section 40-35-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The rate or rates of interest, payable semiannually, resulting in an average annual net interest cost not exceeding eight percent per annum on those issues

which are sold at private sale, which such bonds shall bear;

SECTION 20. AMENDMENT.) Section 40-35-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*40-35-09. SALE OF REVENUE BONDS - WHEN PRIVATE SALE AUTHORIZED - PUBLIC SALE AND NOTICE THEREOF.) Revenue bonds shall be sold at not less than ninety-eight percent of par. Such bonds may be sold at private sale to the United States of America or any agency, instrumentality, or corporation thereof, or to the state of North Dakota or any agency or instrumentality thereof. Unless the bonds are sold to the United States, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, or unless such obligations do not exceed the total sum of one hundred thousand dollars, such bonds shall be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in a financial newspaper published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California. There shall be no interest rate ceiling on issues sold at public sale.

SECTION 21. AMENDMENT.) Section 40-54-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-54-10. GRAVEL ASSESSMENT WARRANTS - HOW PAID - INTEREST - CONTENTS.) All gravel assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by such special assessments. Such shall bear interest at a rate of not more than eight percent per annum, and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued, and from what fund they are payable, and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. Such warrants shall be used in making payment on the contract for the furnishing of gravel, or may be sold for cash at not less than par value thereof, and the proceeds credited to the special fund and used to pay for such gravel project.

SECTION 22. AMENDMENT.) Subsections 3 and 4 of section 40-58-10 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or

*NOTE: Section 40-35-09 was also amended by section 2 of Senate Bill No. 2354, chapter 409.

- mature at such time or times, bear interest at such rate or rates, resulting in an average annual net interest cost not exceeding eight percentum per annum on those issues which are sold at private sale. Such bonds shall be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.
4. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the municipality may determine or may be exchanged for other bonds on the basis of par, provided that such bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government. Such bonds may also be sold at private sale if such obligations do not exceed the total sum of one hundred thousand dollars. There shall be no interest rate ceiling on issues sold at public sale.

SECTION 23. AMENDMENT.) Subsection 2 of section 40-61-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, resulting in an average annual net interest cost not exceeding eight percent per annum payable annually or semiannually on those issues which are sold at private sale, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price

or prices as the authority shall determine. There shall be no interest rate ceiling on those issues sold at public sale.

SECTION 24. AMENDMENT.) Section 55-08-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-08. STATE PARK REVENUE BONDS.) For the purpose of paying all or part of the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of park properties for state parks, state campgrounds, state recreation areas and reserves, as described in section 55-08-07, subsection 2, which may, from time to time, be authorized by the legislative assembly of the state of North Dakota, the money may be borrowed on the credit of the revenues to be received in the state park fund. Such borrowing shall be authorized by a board consisting of the governor, the treasurer, and the director of state parks, by resolution or resolutions duly adopted by the vote of a majority of all members of such board. In anticipation of the collections of such revenues, negotiable bonds may be issued in such amount as, in the opinion of the board, may be necessary for such purpose, within the limits of the authority granted by the legislative assembly in each instance, and the board may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. The bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their date, may be in such denomination or denominations, may be in such form, either coupon or fully registered or registered as to ownership or principal, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest, resulting in an average annual net interest cost not exceeding eight percent per annum on those issues which are sold at private sale, as may be provided by resolution or resolutions to be adopted by the board, subject to the further provisions of this section. Such bonds may be sold in such manner and at such price or prices, not less than ninety-eight percent of par plus accrued interest to date of delivery, as may be considered by the board to be advisable. There shall be no interest rate ceiling on those issues sold at public sale. Such bonds shall have all of the qualities and incidents of negotiable paper, and such bonds and the income therefrom shall be exempt from any taxes, except inheritance, estate, and transfer taxes. The board may in its discretion authorize one series of bonds hereunder for more than one project, at more than one state park, state campground, state recreation area or reserve. It may also issue series of bonds hereunder for the refunding of outstanding bonds issued hereunder when such action is desirable in its judgment and is consistent with the terms of the resolution or resolutions authorizing the outstanding bonds.

SECTION 25. AMENDMENT.) Section 61-02-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-47. WHEN BONDS TO MATURE - CALLABLE BEFORE MATURITY.) The bonds which may be issued by the commission shall mature at such time or times, either serially or at one time, in not more than thirty years from their date, or dates, as may be fixed by the resolution of the commission, but may be made callable before maturity, if so stated in the resolution and on the face of each bond, upon thirty days' notice, which shall be published once in a newspaper of general circulation published in Burleigh County.

SECTION 26. AMENDMENT.) Section 61-02-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-48. COMMISSION TO DETERMINE INTEREST RATE, FORM, DENOMINATION AND EXECUTION OF BONDS.) The commission shall determine the rate of interest bonds issued under the provisions of this chapter shall bear, the time or times of payment of such interest, the form of the bonds and the interest coupons to be attached thereto, and the manner of executing the bonds and coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereon, which may be at any bank or trust company within or without this state. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, and shall be sold at a price resulting in an average annual net interest cost not exceeding eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale.

SECTION 27. AMENDMENT.) Section 61-02-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-53. ISSUANCE AND SALE OF BONDS - PROCEEDS FROM SALE - US3.) The bonds authorized under the provisions of this chapter may be issued and sold from time to time, and in such amounts as may be determined by the commission. The commission may, subject to the provisions of section 61-02-48, sell the bonds in such manner and for such price as it may determine to be for the best interests of the state, but no such sale shall be made for less than the par value of each bond. The proceeds of such bonds shall be used solely for the payment of the cost of the works or the cost of acquiring lands and preparing or developing such lands for irrigation, as the case may be, and shall be paid out in such manner and under such restrictions as the commission may provide.

SECTION 28. AMENDMENT.) Section 61-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-07. BONDS PAYABLE TO WHOM - INTEREST COUPONS - RATE OF INTEREST - NUMBERING.) Every bond provided for in this chapter shall be a negotiable instrument payable to "bearer" or to the "bearer or registered owner", with interest coupons attached, payable annually or semiannually, at a rate or rates resulting in an average annual net interest cost which shall not exceed eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Each bond shall specify the time and place of payment of the principal and shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one, or with any other number, as the board may direct, and shall continue upward.

SECTION 29. AMENDMENT.) Section 61-08-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-12. ADVERTISING REQUIRED BEFORE DISTRICT SELLS ISSUE OF BONDS - CONTENTS OF NOTICE - WHO TO RECEIVE NOTICE.) No irrigation district shall enter into any contract for the sale of any issue of its bonds which exceeds the total sum of one hundred thousand dollars without first advertising for bids in the manner prescribed in this section. A notice calling for bids shall be published at least once in the official paper of one of the counties in which the district is situated not less than fifteen days nor more than thirty days before the date specified therein for receiving such bids. Such notice may be in any form but shall specify the amount of bonds offered for sale and the date or dates of the maturity thereof, and such notice shall specify that the bids shall be sealed and in writing, and shall state the time when and place where such bids will be received and will be opened. A copy of such notice shall be mailed to the tax commissioner at Bismarck not less than ten days before the date specified for the opening of bids. Failure to publish such notice or to send a copy thereof to the tax commissioner shall not impair the validity of such bonds but shall render unenforceable any executory contract entered into for the sale thereof.

SECTION 30. AMENDMENT.) Section 61-08-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-20. INTEREST ON WARRANTS - SIGNATURES - CONTENTS.) District improvement warrants shall bear interest at such rate as the board may determine, not to exceed eight percent per annum, and may have coupons attached representing each year's interest or each half-year's interest. Such warrants shall be signed by the chairman and countersigned by the secretary, shall bear the seal of the district, shall be in denominations of not more than one thousand dollars each, and shall be numbered consecutively with the other warrants issued for the same purpose. Each warrant, on the face thereof, shall state the purpose for

which issued. Such warrants shall be payable in lawful money of the United States.

SECTION 31. AMENDMENT.) Section 61-12-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-12-38. INTEREST RATE OF BONDS.) Flood irrigation bonds issued as provided in this chapter shall bear interest at a rate or rates resulting in an average annual net interest cost not exceeding eight percent on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Interest and principal may be payable under the amortization plan over a period of not to exceed twenty years, or the principal may be divided into such amounts and made payable at such periods, not exceeding twenty years, as the board of county commissioners may determine.

SECTION 32. AMENDMENT.) Section 61-16-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-13. DISTRICT MAY ISSUE WARRANTS IN ANTICIPATION OF TAXES LEVIED TO PAY CURRENT EXPENSES.) After a water conservation and flood control district has been established and a board of commissioners has been appointed and organized, the board of commissioners may, in order to pay current district expenses including per diem, compensation, and expenses of commissioners and wages or salaries of officers and employees, by resolution authorize and issue district warrants in anticipation of and pending collection and receipt of taxes levied. Such warrants shall bear such rate of interest as the board may determine, not exceeding, however, eight percent per annum. The district treasurer shall keep a register in which to enter each warrant issued, showing the date and amount of each warrant, the date of payment, and the amount paid in redemption thereof. All warrants shall be paid in order of their presentation for payment to the district treasurer. Such warrants shall be drawn to the claimant or bearer in the same manner as a county warrant, and shall be signed by the chairman of the board of commissioners and countersigned by the treasurer of the district. The total amount of such warrants issued in any year to pay current district expenses shall not exceed eighty percent of the district's tax levy for such year.

SECTION 33. AMENDMENT.) Section 61-16-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*61-16-28. CERTIFICATION OF ASSESSMENTS TO COUNTY AUDITOR.) When a district board of commissioners has by resolution levied, or caused to be levied, special assessments to cover the cost of constructing a water conservation or flood control project, the board shall determine the rate of interest unpaid special assessments shall bear, which rate shall not exceed eight percent

*NOTE: Section 61-16-28 was also amended by section 7 of House Bill No. 1271, chapter 589.

per annum and shall not be less than the warrant rate. Interest on unpaid special assessments shall commence on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which shall be due and payable not more than thirty years after date of the warrants to be paid. The secretary of the district shall certify to the county auditor of the county in which the district is situated, or if the district embraces lands situated in more than one county, to the county auditor of each county in which district lands subject to such special assessments are situated, the total amount levied against such lands in his county and the proportion or percentage of such amount assessed against each piece, parcel, lot, or tract of land. The secretary of the district shall also file with the county auditor of each county in which district lands lie a statement showing the cost of the project, the part thereof, if any, which will be paid out of general taxes, and the part to be financed by special assessments. Funds needed to pay the cost of maintaining a water conservation or flood control project may be raised in the same manner as funds were raised to meet construction costs. If the project was financed in whole or in part through the use of special assessments the board of commissioners shall prorate the costs of maintaining projects in the same proportion as were the original costs of construction or, in the event a reassessment of benefits has been adopted, the costs shall be prorated in accordance with the reassessment of benefits as authorized by section 61-16-26.1.

SECTION 34. AMENDMENT.) Section 61-16-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 61-16-32. WARRANTS - ISSUANCE - WHEN PAYABLE - AMOUNTS - INTEREST - INTEREST COUPONS.) A water conservation and flood control district may, at any time after entering into a contract for a water conservation or flood control project to be financed in whole or in part by special assessments, and in anticipation of the levy of such assessments and taxes, if any, issue warrants on the project fund, created for that purpose, payable at specified times, except that the first maturity date of any such warrant shall not be less than two years from the date of issuance. The warrants shall be issued in such amounts as in the judgment of the district's board of commissioners will be necessary after the taxes and assessments have been levied and spread for such project. Such warrants shall bear interest at a rate of not to exceed eight percent per annum, payable annually or semiannually. Coupons evidencing the interest for each year or half-year, as the case may be, may be attached to the warrants payable in whole or in part out of special assessments, shall state upon the face thereof the purpose for which issued and the project fund from which they are payable, and shall be signed by the chairman of the board of commissioners and countersigned by the secretary of the district. Such warrants shall be in denominations of not more than one thousand dollars each. Such

*NOTE: Section 61-16-32 was also amended by section 8 of House Bill No. 1271, chapter 589.

warrants shall be payable serially in such amounts as the board shall determine, extending over a period of not more than thirty years.

SECTION 35. AMENDMENT.) Section 61-21-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-29. PAYMENT OF COSTS AND EXPENSES OF LOCATING, CONSTRUCTING, MAINTAINING, AND IMPROVING DRAIN - WARRANTS ISSUED.) Payment of all expenses and costs of locating and constructing any drain shall be made upon order of the board and warrants therefor shall be signed by the chairman and one other member of the board. All warrants drawn by the board in payment of items of expense of a drain shall be payable from the proper drain fund and shall be accepted by the treasurer in payment of taxes levied in regard to such drain. All such warrants, after presentation to the county treasurer for payment, if not paid for want of funds, shall be registered by him and thereafter bear interest at a rate not to exceed eight percent per annum. The county commissioners, by proper resolution, are authorized to purchase drainage warrants from general county funds in instances where such warrants will be funded by a bond issue within six months from the date of purchase.

SECTION 36. AMENDMENT.) Section 61-21-50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-50. DRAIN WARRANTS - TERMS AND AMOUNTS.) Drain costs shall be paid upon order of the board by warrants signed by the chairman and one other member of the board. Such warrants shall be payable from the proper drain fund and, upon maturity, shall be receivable by the treasurer for drain assessments supporting such fund. Such warrants may be issued at any time after the order establishing the drain has become final and after incurring liability to pay for any drain work to be financed by drain assessments and in anticipation of levy and collection of such assessments. Every such warrant not made payable on demand shall specify the date when it shall become payable. Demand warrants not paid for want of funds shall be registered by the county treasurer and shall thereafter bear interest at a rate determined by the board, not exceeding eight percent per annum. Warrants of specified maturities shall bear interest according to their provisions at a rate not exceeding eight percent per annum, payable annually or semiannually, and may be made and issued with interest coupons attached. All drain warrants shall state upon their face the purpose for which they are issued and the drain fund from which they are payable, and shall be in denominations of not more than five thousand dollars each. Such warrants may be used to pay drain obligations, or may be sold at not less than par value, provided that the proceeds of warrants sold shall be placed in the proper drain fund and used exclusively for drain expenses. Any unpaid warrants issued for the

acquisition of right-of-way or the construction of any drain, including all incidental costs in connection therewith, shall be funded by a bond issue within one hundred eighty days from and after the filing of the assessment of all such costs with the county auditor as provided in section 61-21-27, but such requirement shall not be construed as prohibiting the funding of warrants or the issuance of bonds after such one hundred eighty-day period.

SECTION 37. AMENDMENT.) Section 61-21-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-53. DRAIN BONDS.) The board may issue bonds to finance acquiring drain right-of-way, locating and constructing drains, and funding unpaid drain warrants heretofore issued, or issued hereafter under the provisions of this chapter. Drain bonds issued in whole or in part to finance expenditures for which warrants have not been issued shall not be authorized until after firm contracts for projected drain work have been made and proper undertakings therefor have been executed and filed, or until after the drain work has been completed. Proceedings for the issuance of such bonds shall be initiated by the adoption of a preliminary resolution of the board which shall include information and findings as follows:

1. The maximum amount of drain bonds proposed to be issued.
2. The maximum interest rate such bonds shall bear.
3. Designation of the calendar years in which such bonds shall mature.
4. The complete name of the drain for which such bonds are to be issued.
5. The purpose or purposes for which the proceeds of the bonds will be used including the total amount of drain warrants to be bought with such proceeds.

When such preliminary resolution has been duly adopted by the board, the board shall proceed to have the text thereof published in a legal newspaper of general circulation in the locality in which the particular drain is situated, and there shall be published with and as a part of such text a statement that from and after the expiration of thirty days next following the date of the first printing of such text, no action may be commenced or maintained, and no defense or counterclaim may be recognized in the courts of this state to question or impair the drain warrants resolved to be funded, or the drain assessments supporting such warrants. There shall also be included in such publication the further statement that a complete list identifying the drain warrants proposed to be funded has been filed in

the office of the county auditor of the county or counties in which the affected lands are located. Such publication shall be made once each week for three successive weeks and proper proof thereof shall be filed with the board. The validity and enforceability of any drain warrant or of any assessment supporting the same shall not be vulnerable to attack in the courts of this state unless an appropriate action or proceeding is commenced or a defense or counterclaim is served within thirty days next following the date of first printing of such publication. It shall be the duty of the board to cause to be prepared and filed with the auditor of the proper county or counties a complete list identifying the drain warrants proposed to be funded by such bonds, and such list, or true copies thereof, shall be so filed prior to the date of first printing of said preliminary resolution. Within a reasonable time, and more than thirty days after the first printing of such preliminary resolution, the board may proceed to authorize the preparation and sale of drain bonds in accordance with such resolution. Such bonds shall bear interest at a rate or rates resulting in an average annual net interest cost not to exceed eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Such bonds shall contain a provision that interest thereon shall cease at maturity unless the holder shall present the same for payment and payment is refused, shall designate the fund from which they are payable, and shall be offered for sale and sold as provided in chapter 21-03, for the offering and sale of general obligation bonds of governmental subdivisions of this state. Wherever drain bonds are issued for drain warrants, such bonds in the appropriate amount may be exchanged for such warrants, but the basis of exchange shall be such that the average annual net rate of interest on the bonds will not exceed the rate on the warrants refunded. Drain warrants purchased with the proceeds of bonds shall not be canceled but shall be retained by the board as assets of the drain fund from which such warrants are payable. Such fund shall be continued and payments therefrom shall be made on the warrants drawn thereon without reference to the bond issue, but all such payments shall be placed in the fund from which the bonds are payable and shall be applied to service such bonds and to pay the interest thereon. Bonds issued by drainage districts shall be eligible for purchase by the various trust funds of the state of North Dakota and its instrumentalities.

Approved March 29, 1971

CHAPTER 250

HOUSE BILL NO. 1549
(Dornacker)

ANTICIPATORY CERTIFICATES
OF INDEBTEDNESS

AN ACT to create and enact a new section to chapter 21-02 of the North Dakota Century Code, relating to the issuance of certificates of indebtedness by a political subdivision in anticipation of the revenue it will receive as personal property tax replacement revenue pursuant to section 57-58-01 of the North Dakota Century Code, and declaring an emergency.

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

SECTION 1. CERTIFICATES OF INDEBTEDNESS IN ANTICIPATION OF REVENUE TO BE RECEIVED FROM THE STATE.) Any political subdivision which will receive a distribution of revenue pursuant to section 57-58-01 during any calendar year shall, in anticipation of such revenue, have power to borrow not more than the amount it will receive from that source during that year. For the purpose of borrowing, all such political subdivisions may issue certificates of indebtedness.

A certificate of indebtedness shall provide for payment by the political subdivision of a stated sum on a specified date, or on or before a specified date not more than six months in the future, together with interest thereon at a specified rate not exceeding seven percent per annum. Such certificate shall be payable out of the revenue received pursuant to section 57-58-01 but shall, however, be a general obligation of the issuing political subdivision.

For the purpose of administering the provisions of this section, all of the provisions of this chapter, to the extent consistent herewith, that relate to signing and issuance of certificates of indebtedness, the certificate of the county auditor on the certificates of indebtedness, the registration of certificates of indebtedness, certifying the amount to be received from the state by a political subdivision for the year, setting aside the amount to be received for payment of the certificates, order of payment of such certificates, except for municipalities over four thousand in population, and advertising for bids shall govern the administration of the provisions of this section.

SECTION 2. 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 27, 1971

CHAPTER 251

SENATE BILL NO. 2306
(Sanstead)

MUNICIPAL BONDS

AN ACT to amend and reenact subsection 7 of section 21-03-06 and sections 21-03-07, 21-03-09, 21-03-15, 21-03-18, 21-03-19, and 21-03-28 of the North Dakota Century Code, relating to municipal bonds, and modifying procedures with respect thereto.

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

SECTION 1. AMENDMENT.) Subsection 7 of section 21-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. By any municipality as herein defined:
 - a. For the purpose of paying any final judgment obtained against the municipality within the state of North Dakota in case the governing body does not deem it advisable to pay such judgment out of current revenues. In case the bonds authorized by this subsection cannot be sold in accordance with this chapter, they may be issued to the judgment creditor in payment of such judgment;
 - b. To provide necessary funds for the payment of the principal and interest of bonds of such municipality, due or about to become due, for the payment of which the municipality has not sufficient funds, but only to the extent of such deficit; or to refund outstanding bonds of the municipality which are called for redemption and prepayment in accordance with their terms, or by the consent of the holders thereof, within six months from the date of the refunding bonds, when in the judgment of the governing body the best interests of the municipality will be served thereby, through the reduction of interest cost or the extension of maturities.
 - c. To refund outstanding bonds not yet due or to become due or subject to redemption and prepayment within six months, when in the judgment of the governing body the best interests of the municipality

will be served thereby, through the reduction of interest costs or the extension or adjustment of maturities in relation to the resources available for their payment. The proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity or, if prepayable, at its earliest redemption date; and any premium required for redemption on such date; and the governing body's resolution authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and shall provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: Banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds. Moneys on hand in the sinking fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

SECTION 2. AMENDMENT.) Section 21-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-07. ELECTION REQUIRED - EXCEPTIONS.) No municipality, and no governing board thereof, except school districts, shall issue bonds without being first authorized to do so by a vote equal to sixty-six and two-thirds percent, in the case of municipalities having a population of less than five thousand, or

a vote of sixty percent in the case of municipalities having a population of five thousand or more, of all the qualified voters of such municipality voting upon the question of such issue except:

1. As otherwise provided in section 21-03-04.
2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by section 21-03-06, subsection 2, subdivision g, and section 21-03-06, subsection 7, without an election.
3. Any municipality, as defined and listed in section 21-03-06, may issue its bonds for the replacement of municipally owned public buildings within such municipality upon the authorization of sixty percent of the electors voting upon the question of such issue in the following cases:
 - a. When such building has been destroyed by fire, wind, explosion, or other cause.
 - b. When, after a public hearing, the governing body of such municipality shall adopt a resolution declaring it necessary to replace a municipally owned public building for the reason that such building has become unsafe or inadequate for use and occupancy as a public building, or for keeping the public records or property of such municipality housed therein. The governing body of such municipality shall give notice of such public hearing by a statement published once each week for two successive weeks in any legal newspaper published within such municipality, or in the official county newspaper, if the municipality is the county, or if no newspaper is published within such municipality then by publication in the official newspaper of the county, and by posting a statement in five separate public places within the municipality. Such statement shall set forth the time and place of the hearing and the reasons therefor.
4. The governing body of any municipality having a population of five thousand or more may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any federal aid highway project undertaken under an agreement entered into by authority of such governing body with the United States government, the commissioner of the state highway department, the board of county commissioners, or any of them, including, but without limitation, the cost of any construction, improvement, financing, planning, and acquisition of right-of-way of a federal aid highway routed through the municipality and of any

bridges and controlled access facilities thereon and any necessary additional width or capacity of the roadway thereof greater than that required for federal or state highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and street lights; provided that the portion of the total cost of such project to be paid by the municipality under such agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, shall not exceed a sum equal to twenty-five percent of the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right-of-way to be acquired in connection therewith. Nothing herein shall be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed shall not be included in computing the portion of the project cost payable by the municipality, within the meaning of this subsection, unless such work is actually called for by the agreement between the municipality and the other governmental agencies involved.

5. The governing body of any city may also by resolution adopted by a two-thirds vote authorize and issue general obligation bonds of the city for the purpose of providing funds to pay the cost of any improvement of the types stated below, to the extent that the governing body determines that such cost should be paid by the city and should not be assessed upon property specially benefited thereby; provided that the initial resolution authorizing such bonds shall be published in the official paper, and any owner of taxable property within the city may within sixty days after such publication file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution shall be barred. This procedure is authorized for the financing of the following types of improvements:
 - a. Any street improvement, as defined in subsection 2 of section 40-22-01, to be made in or upon any federal or state highway or any other street

designated by ordinance as an arterial street.

- b. The construction of a bridge, culvert, overpass, or underpass at the intersection of any street with a stream, watercourse, drain, or railway, and the acquisition of any land or easement required for that purpose.
- c. Any improvement incidental to the carrying out of an urban renewal project, the issuance of bonds for which is authorized by subsection 4 of section 40-58-13.

Nothing herein shall be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments or utility revenues any work incidental to any such improvement, in the manner and to the extent otherwise permitted by law.

6. The school board of any school district may issue bonds of the municipality for the purposes and within the limitations specified by section 21-03-06, subsection 4, upon the authorization of sixty percent of the electors voting upon the question of such issue.

All questions of population shall be governed by the last state or federal census.

SECTION 3. AMENDMENT.) Section 21-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*21-03-09. INITIAL RESOLUTION - FORM.) Proceedings for the issuance of bonds under the authority of this chapter shall be instituted by the adoption of an initial resolution therefor. Such initial resolution shall state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 23-03-01.
4. The total amount of bonded indebtedness of the municipality.
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body of voters proposing the same.

*NOTE: Section 21-03-09 was also amended by section 7 of Senate Bill No. 2063, chapter 249.

SECTION 4. AMENDMENT.) Section 21-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-15. DIRECT, ANNUAL, IRREPEALABLE TAX.) The governing body of every municipality issuing bonds under the authority of this chapter, before the delivery thereof, shall levy by recorded resolution or ordinance a direct, annual tax which, together with any other moneys provided by, or sources of revenue authorized by, the legislative assembly, shall be sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or levies or to obstruct the collection of any such tax until such payments have been made or provided for, except that if the governing body in any year makes an irrevocable appropriation to the sinking fund of moneys actually on hand, or if there is on hand in the sinking fund an excess amount, the governing body may cause its recording officer to certify the fact and amount to the county auditor with the direction that the county auditor should reduce by the amount so certified the amount otherwise to be included in the tax rolls next thereafter prepared. A copy of such resolution or ordinance shall be certified to and filed with the county auditor, and after the issuance of such bonds, any such tax on property from year to year shall be carried into the tax roll of the municipality and collected as other property taxes are collected. No further annual levy for that purpose shall be necessary. The governing body may, in its discretion and in anticipation of the sale of bonds, at any time after the issuance of bonds has been authorized by the electors or by resolution of the governing body where no election is required, levy and certify to the county auditor for collection a portion of the tax herein required, which shall be credited against the amount otherwise required to be levied after the bonds have been sold. Any other tax or source of revenue authorized by the legislative assembly for such purposes and imposed or pledged by the municipality for those purposes shall likewise be irrepealable and subject to the same conditions and limitations as any taxes levied on property for the same purposes. Any annual or periodic amounts provided for the municipality issuing such bonds by the legislative assembly out of state funds for paying the interest and principal of such bonds shall constitute an irrepealable and continuing appropriation until the liability for all interest and principal payments of the bonds have been satisfied. When insufficient funds are available to pay the matured bonds, the county auditor shall notify the governing body of such municipality of such deficiency and the governing body thereupon may levy a direct tax on the taxable property to pay said deficiency and interest thereon. If the governing body of the issuing municipality no longer exists, the county auditor shall levy a direct tax against the taxable property in the original issuing municipality to pay said deficiency and the interest thereon. The manner of levy, certification, and collection of said tax

shall be the same as provided by this section for the levy, certification, and collection of taxes by this section. When such bonds are further sustained by revenue of a revenue producing utility, industry, or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as shall be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

SECTION 5. AMENDMENT.) Section 21-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-18. FORM AND CONTENTS OF BONDS.) Every municipal bond shall be a negotiable instrument payable to bearer, or to bearer or the registered owner, with interest coupons attached payable annually or semiannually at the rate or rates specified in the accepted bid for the purchase of said bonds. Each bond shall specify the time and place for payment of the principal and interest, and shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one and continue upward, or if so directed by the governing body, shall begin with any other number and continue upward. Each bond shall bear upon its face a name indicative of the purpose of the issue specified in said initial resolution and shall contain a certificate or recital of any direct, annual, irrevocable tax which has been levied by the municipality upon all the taxable property therein, together with any other tax or source of revenue which the municipality may be authorized to impose or pledge and any annual or periodic payments or distributions appropriated or allocated by the legislative assembly, sufficient to pay the interest when it falls due, and also to pay and discharge the principal of such bond at maturity, and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of bonds of a single denomination or of two or more denominations.

SECTION 6. AMENDMENT.) Section 21-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-19. BONDS - SERIAL MATURITIES.) Bonds issued under the authority of this chapter shall be of serial maturities. The first installment of principal shall fall due not more than three years and the last installment not more than twenty years from the date of the bonds. No installment of principal shall be less than one-third of the amount of the largest installment payable in any subsequent year, except that the amount of such installments of principal may be such that the increase thereof from year to year approximately shall equal the decrease from year to year in the interest on the bonds remaining unpaid. The requirements of this section shall apply to each new issue of bonds, or if so determined by the governing body, to the bonds of a new issue combined with all of the outstanding bonds of

one or more designated issues of bonds previously issued and similarly payable from taxes or other source of revenues, or both, as the case may be.

SECTION 7. AMENDMENT.) Section 21-03-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-28. BIDS - ACCOMPANIED BY DRAFT - SALE TO BEST BIDDER - REJECTION OF ALL BIDS.) All bids shall be accompanied by a certified check, cashier's check, or bank draft, in the amount of not less than two percent of the bid. After all bids have been received, they shall be delivered forthwith to the governing body of the municipality, which shall award the sale of such bonds to the bidder who agrees to purchase them upon the terms most favorable to the municipality, unless the governing body determines to reject all bids. The governing body shall have the right to reject any and all bids. If no bids are received or if all bids received are rejected, the governing body may, without readvertising the bonds for sale, negotiate the sale of all of the bonds to any person upon terms complying with those specified in the notice of sale theretofore published, and if bids were rejected, more favorable to the municipality than those specified in a rejected bid. No sale shall be for less than ninety-eight percent of the par value of such bonds plus the interest accrued on the bonds to the date of the delivery thereof.

Approved March 29, 1971

CHAPTER 252

HOUSE BILL NO. 1112
(Giffey, Hilleboe, Opedahl)
(Legislative Audit and Fiscal Review Committee Study)

ATTORNEY GENERAL'S OPINION
ON CERTAIN BOND ISSUES

AN ACT relating to an attorney general's determination of the legal sufficiency of certain investments authorized to be made by the state investment board.

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

SECTION 1. ATTORNEY GENERAL TO GIVE OPINION ON LEGAL SUFFICIENCY OF INVESTMENTS.) The attorney general shall render an opinion on the legal sufficiency of bond issues of political subdivisions of the state if the total of such issue is in excess of one hundred thousand dollars. Such opinion shall be necessary for such bonds to qualify as legal investments under the provisions of chapter 21-10 of the North Dakota Century Code.

Approved February 20, 1971

CHAPTER 253

HOUSE BILL NO. 1245
(Welder, Miedema)

ISSUING DUPLICATE
BONDS OR WARRANTS

AN ACT to amend and reenact section 21-06-03 of the North Dakota Century Code, relating to a defaced or lost obligation and granting the state or political subdivision the right to elect to accept either a surety bond or a written agreement as indemnification before a duplicate obligation is issued.

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

SECTION 1. AMENDMENT.) Section 21-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-03. DUPLICATION OR PAYMENT - BY WHOM ORDERED - PROOF AND BOND OR SIGNED WRITTEN AGREEMENT REQUIRED.) The duplication or payment of any mutilated, defaced, lost, or destroyed obligation shall be made upon resolution duly adopted;

1. In case of a bond or interest coupon of the state, by the industrial commission;
2. In case of any other obligation of the state, by the board, officer, or agency which authorized the issuance of the original; and
3. In case of an obligation of a political subdivision, by the governing board thereof.

Before a duplicate shall be issued or payment made in connection with a lost or destroyed obligation, the owner thereof shall furnish proof of such loss or destruction whereupon the state or political subdivision, as the case may be, may require either a surety bond in the amount of the lost obligation, a signed written agreement by the owner, or similar assurance conditioned to save the obligor harmless in the premises. If the Bank of North Dakota shall be the owner of any such obligation, it shall not be required to furnish a bond but it shall furnish proof of the loss or destruction of the obligation and shall reimburse the state or political subdivision for any loss or damage suffered by reason of the issuance of such duplicate or the payment of such obligation.

Approved March 3, 1971

CHAPTER 254

HOUSE BILL NO. 1218
(Brekke, Metzger)

1971 BOND VALIDATING ACT

AN ACT to amend and reenact sections 21-09-01 and 21-09-05 of the North Dakota Century Code, changing the title of "The 1969 Bond Validating Act" to "The 1971 Bond Validating Act", and relating to the application of chapter 21-09 of the North Dakota Century Code to bonds issued and proceedings taken prior to July 1, 1971.

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

SECTION 1. AMENDMENT.) Section 21-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-01. CITATION.) This chapter may be cited as "The 1971 Bond Validating Act".

SECTION 2. AMENDMENT.) Section 21-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-05. APPLICATION OF CHAPTER.) The provisions of chapter 21-09 relating to validation shall be applicable to all bonds issued and proceedings taken by any public body prior to July 1, 1971.

Approved March 22, 1971