

MUNICIPAL GOVERNMENT

CHAPTER 386

HOUSE BILL NO. 1473
(Dornacker)

PUBLICATION OF LEGAL NOTICES

AN ACT to amend and reenact sections 40-01-09 and 40-01-11 of the North Dakota Century Code, relating to publication of legal notices in municipalities without a newspaper.

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

SECTION 1. AMENDMENT.) Section 40-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-09. OFFICIAL NEWSPAPER OF MUNICIPALITY.) The official newspaper as chosen by the electors of the county shall be the official newspaper of the municipality in which it is published, and such official notices and legal publications as the municipality is required to publish by law shall be published therein. In municipalities where the official newspaper is not published, the governing body of the municipality, annually by resolution at its first meeting in May, or as soon thereafter as practicable, shall designate a newspaper published in the municipality, or if there is not one published, then it shall designate a newspaper which is circulated in the municipality, as the official newspaper of the municipality, including park districts therein, for the publication of notices and legal publications, including legal notices and official statements of the school districts embracing or encompassed by the municipality.

SECTION 2. AMENDMENT.) Section 40-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-11. PUBLICATION BY A CITY OR PARK DISTRICT IN WHICH NO OFFICIAL NEWSPAPER IS PUBLISHED.) Whenever any ordinance, notice, or other instrument is required by law to be published in a city or park district in which no official newspaper is published, such publication may be made or such notice given by publication of such ordinance, notice, or other instrument in the official newspaper designated pursuant to section 40-01-09. In a county in which no newspaper is published, any notice required by law to be published may be published in a newspaper printed in an adjoining county and having a general circulation in said county.

Approved March 27, 1971

CHAPTER 387

HOUSE BILL NO. 1280
(Anderson)

PARTICIPATION IN FEDERAL
PUBLIC WORKS PROJECTS

AN ACT to amend and reenact subsection 59 of section 40-05-01 of the North Dakota Century Code, relating to the powers of municipalities to participate with the federal government on public works projects.

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

SECTION 1. AMENDMENT.) Subsection 59 of section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

59. PUBLIC WORKS PROJECT.) To accept aid from, cooperate and contract with, and to comply with and meet the requirements of any federal or state agency for the establishment, construction, and maintenance of public works, including dams and reservoirs for municipal water supply, for water conservation, for flood control, for the prevention of stream pollution, or for sewage disposal; and in furtherance thereof to acquire by purchase, lease, gift, or condemnation the necessary lands, rights-of-way, and easements for such projects, and to transfer and convey to the state or federal government, or any agency thereof, such lands, rights-of-way, and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project. Cities shall also have the power to enter into an agreement with any such government, agency, or municipality within or without this state, to hold such government, agency, or municipality harmless from any and all liability or claim of liability arising from the establishment, construction, and maintenance of such works, and to indemnify such government, agency, or municipality for any such liability sustained by it and to pay all costs of defending against any such claim; and in furtherance thereof to acquire by purchase, lease, gift, or condemnation the necessary lands, rights-of-way, and easements for such projects, and to transfer and convey to such government, agency, or municipality, such lands, rights-of-way, and easements in consideration of

the establishment and construction of, and the public benefits which will be derived from any such project, or to pay the cost of the acquisition of such lands, rights-of-way, and easements by such government, agency, or municipality. All actions herein authorized may be taken by resolution duly adopted by the governing body of the municipality. Any and all actions and proceedings heretofore taken by any municipality which are within the authority granted by this subsection are hereby legalized and validated;

Approved March 16, 1971

CHAPTER 388

HOUSE BILL NO. 1249
(Bunker, Brekke)

OVERHEAD PEDESTRIAN BRIDGES

AN ACT to amend and reenact subsection 8 of section 40-05-02 of the North Dakota Century Code, relating to the power of a municipality to construct and keep in repair overhead pedestrian bridges.

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

SECTION 1. AMENDMENT.) Subsection 8 of section 40-05-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. BRIDGES, VIADUCTS, TUNNELS, OVERHEAD PEDESTRIAN BRIDGES. To construct and keep in repair bridges, viaducts, overhead pedestrian bridges, and tunnels, and to regulate the use thereof;

Approved March 4, 1971

CHAPTER 389

SENATE BILL NO. 2290
(Chesrown, Longmire)

COMPENSATION OF ALDERMEN

AN ACT to amend and reenact section 40-08-07 of the North Dakota Century Code, relating to compensation of aldermen in council cities.

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

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

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

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

Approved March 19, 1971

CHAPTER 390

SENATE BILL NO. 2335
(Chesrown, Longmire)

SALARIES OF CITY COMMISSIONERS

AN ACT to amend and reenact section 40-09-06 of the North Dakota Century Code, relating to salaries of city commissioners.

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

SECTION 1. AMENDMENT.) Section 40-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-09-06. STYLE OF BOARD - OATH AND SALARY OF COMMISSIONERS.) The commissioners and president of the board collectively shall constitute and be known as the "board of city commissioners of the city . . .", and shall take an oath faithfully to perform the duties of their respective offices. The salaries of the city commissioners shall be fixed by ordinance subject to the following limitations based upon the population of the city according to the latest state or federal census:

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

7. In cities over twelve thousand and not exceeding thirty thousand in population, each commissioner may receive a monthly salary of not to exceed three hundred dollars.
8. In cities over thirty thousand and not exceeding forty thousand in population, each commissioner may receive a monthly salary of not to exceed five hundred dollars.
9. In cities having a population of over forty thousand, each commissioner may receive a monthly salary of not to exceed six hundred dollars.

Approved March 12, 1971

CHAPTER 391

HOUSE BILL NO. 1224
(Brekke, Strinden)

PRELIMINARY CITY BUDGET

AN ACT to amend and reenact subsection 2 of section 40-10-06, section 40-40-04 and subsection 2 of section 40-40-06 of the North Dakota Century Code, relating to the preparation and submission of a preliminary budget in city manager cities, the dates of preparation of a preliminary budget in all other municipalities and the date the governing body is to meet for the purpose of adopting the final budget and making the annual tax levy.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 40-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. He shall prepare and submit to the governing body an annual preliminary budget as provided for under Chapter 40-40, and shall be responsible for the administration of the final budget, subject to the control of the governing body as to changes in the same;

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

40-40-04. MUNICIPALITY TO PREPARE PRELIMINARY BUDGET STATEMENT - BLANKS TO BE FURNISHED.) The governing body of each municipality, annually between July first and July twenty-fifth, shall make, on suitable blanks prescribed by the state tax commissioner, an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the fiscal year, and giving such other information relating to the finances of the municipality as the tax commissioner may require.

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

2. The governing body will meet on the first Wednesday in August at a time and place specified in the notice for the purpose of adopting the final budget and making the annual tax levy;

Approved March 27, 1971

CHAPTER 392

SENATE BILL NO. 2161
(Chesrown, Nething, Holand, Freed, Longmire)

MUNICIPAL COURT JURORS' FEES

AN ACT to amend and reenact section 40-18-18 of the North Dakota Century Code relating to the fees of jurors in municipal court and declaring an emergency.

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

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

40-18-18. FEE OF JUROR IN COURT OF MUNICIPAL JUDGE.) Each person summoned as a juror in any case in the court of a municipal judge shall be entitled to a fee of four dollars.

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 4, 1971

CHAPTER 393

SENATE BILL NO. 2313
(Anderson, Sanstead)

POWERS OF POLICE CHIEF

AN ACT to amend and reenact section 40-20-05 of the North Dakota Century Code, relating to the powers of a chief of police.

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

SECTION 1. AMENDMENT.) Section 40-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-20-05. CHIEF OF POLICE AND POLICE OFFICERS - POWERS AND DUTIES.) The chief of police shall perform such duties as shall be prescribed by the governing body for the preservation of the peace. The chief of police shall have the authority to administer oaths to police officers under his supervision. Within the city limits, and for a distance of one and one-half miles in all directions outside the city limits, the police officers and watchmen of the city shall perform the duties and exercise the powers of peace officers as defined and prescribed by the laws of this state. They shall serve and execute any warrant, writ, process, order, or notice issued to them by a police magistrate within the city in any civil or criminal action or proceeding for or on account of a violation of any city ordinance or in any action or proceeding in which the city is a party or is interested beneficially. The police, within the limits prescribed in this section, may serve and execute all writs and process issued by justices in civil actions. In addition to the duties set out in this section, the police shall perform such other duties as may be prescribed by ordinance or statute.

Approved March 12, 1971

CHAPTER 394

HOUSE BILL NO. 1542
(Hilleboe, White)

ELECTIONS IN COMMISSION CITIES

AN ACT to amend and reenact section 40-21-02 of the North Dakota Century Code, to provide for the appointment of poll clerks for municipal elections.

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

SECTION 1. AMENDMENT.) Section 40-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-02. ELECTIONS IN COMMISSION CITIES - WHEN HELD - NOTICE - POLLS - JUDGES AND INSPECTORS.) Biennial municipal elections in cities operating under the commission system of government shall be held on the first Tuesday in April 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 be given by the city auditor by publication in the official newspaper of the city or if the city has no official newspaper, by publication in the official county newspaper. 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. 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. Each precinct election judge, in either a general or a special city election, shall appoint a poll clerk who shall be a qualified elector of the precinct in which he is to serve.

Approved March 30, 1971

CHAPTER 395

HOUSE BILL NO. 1265
(Rice, Raymond)

ELECTIONS IN COUNCIL CITIES

AN ACT to amend and reenact section 40-21-03 of the North Dakota Century Code, relating to appointment of judges, clerks and inspectors of municipal elections in council cities.

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

SECTION 1. AMENDMENT.) Section 40-21-03 of the North Dakota Century Code is hereby amended and reenacted to read 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 be held on the first Tuesday in April 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 be given by the city auditor by publication in at least two newspapers published in said city if two are published therein. Publication in one such newspaper shall be 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.

Approved March 12, 1971

CHAPTER 396

HOUSE BILL NO. 1221
(Stone, Welder)

COMPENSATION OF CITY
ELECTION OFFICIALS

AN ACT to amend and reenact section 40-21-05 of the North Dakota Century Code, relating to compensation of inspectors, judges, and clerks at municipal elections.

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

SECTION 1. AMENDMENT.) Section 40-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-05. COMPENSATION OF INSPECTORS, JUDGES, AND CLERKS AT MUNICIPAL ELECTIONS.) Each inspector, judge, or clerk of any regular or special municipal election, for services performed at such election, shall receive as compensation therefor the sum of twelve dollars. When the number of votes cast at such election exceeds one hundred, each such officer shall receive as additional compensation the sum of two dollars for each additional one hundred votes cast, or major fraction thereof, but not more than twenty-five dollars in all for such services.

Approved March 12, 1971

CHAPTER 397

SENATE BILL NO. 2140
(Melland)

NOMINATING PETITIONS FOR MUNICIPAL
OFFICE - SIGNATURES REQUIRED

AN ACT to amend and reenact section 40-21-07 of the North Dakota Century Code, relating to the number of signatures necessary on a nominating petition for a candidate for municipal office.

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

SECTION 1. AMENDMENT.) Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 40-21-07. PETITION FOR NOMINATION OF ELECTIVE OFFICIAL IN MUNICIPALITIES - SIGNATURES REQUIRED - CONTENTS.) A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least thirty days and before four o'clock p.m. on the thirtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. Signers of a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the electors at large residing within the city. If a petition is mailed it shall be in the possession of the city auditor before four o'clock p.m. on the thirtieth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of such petition shall add to his name his mailing address.

*NOTE: Section 40-21-07 was also amended by section 1 of House Bill No. 1222, chapter 398.

Approved March 4, 1971

CHAPTER 398

HOUSE BILL NO. 1222
(Strinden)

NOMINATING PETITIONS FOR MUNICIPAL
OFFICE - TIME FOR FILING

AN ACT to amend and reenact section 40-21-07 of the North Dakota Century Code, relating to the time for filing petition for nomination of elective official in cities.

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

SECTION 1. AMENDMENT.) Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 40-21-07. PETITION FOR NOMINATION OF ELECTIVE OFFICIAL IN MUNICIPALITIES - SIGNATURE REQUIRED - CONTENTS.) A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least thirty-three days and before four o'clock p.m. on the thirty-third day prior to the holding of the election, a petition signed by not less than ten percent of the qualified electors residing within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or a like percent of the voters of the city if the officer is elected at large, except that in cities operating under the commission system of government the required petition may be signed by the electors at large residing within such city. If a petition is mailed it shall be in the possession of the city auditor before four o'clock p.m. on the thirty-third day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of such petition shall add to his name his mailing address.

*NOTE: Section 40-21-07 was also amended by section 1 of Senate Bill No. 2140, chapter 397.

Approved March 12, 1971

CHAPTER 399

HOUSE BILL NO. 1452
(Weber)

ELECTION DISTRICTS IN COUNCIL CITIES

AN ACT to amend and reenact section 40-21-09 of the North Dakota Century Code, relating to elections in cities.

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

SECTION 1. AMENDMENT.) Section 40-21-09 of the North Dakota Century Code is hereby amended and reenacted to read 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 are elected at large shall constitute an election district or voting precinct, and in all other cities each ward shall constitute 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 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 city into one precinct for voting purposes. An ordinance dividing or consolidating wards shall be passed and shall take 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, city, and school elections. In city elections, separate ballot boxes and pollbooks shall 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 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.

Approved March 27, 1971

CHAPTER 400

HOUSE BILL NO. 1243
(Bunker, Brekke)

SPECIAL ASSESSMENTS FOR
OVERHEAD PEDESTRIAN BRIDGES

AN ACT to amend and reenact subsection 2 of section 40-22-01 of the North Dakota Century Code, relating to power of municipalities to defray expense of overhead pedestrian bridges by special assessments.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 40-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of overhead pedestrian bridges, pedestrian tunnels, storm sewers, curb and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of street lights and all types of decorative street lighting, including but not restricted to Christmas street lighting decorations;

Approved March 4, 1971

CHAPTER 401

SENATE BILL NO. 2352
(Sanstead, Coughlin)

SPECIAL ASSESSMENT FOR FLOOD CONTROL
DAMAGE RESTORATION

AN ACT relating to the restoration of certain property damaged in flood control and providing for the imposition of special assessments for costs incurred.

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

SECTION 1. RESTORATION OF CERTAIN PROPERTY DAMAGED IN FLOOD CONTROL - SPECIAL ASSESSMENTS FOR COSTS.) When any city shall have constructed any temporary emergency flood control protection devices or works to protect property located within a portion of a city from flood damage, the city may cause the removal of material used in the construction of such temporary emergency flood control protection devices or works and the repair of damages to land, buildings, or personal property caused by the operation of its equipment upon the property while in the process of installing or removing such temporary emergency flood protection systems. Such city may create by resolution of its governing board a special assessment district encompassing the protected area. Special assessments against the property within the district shall be imposed to cover the costs incurred by the city in removing the material used and in repairing the damages caused by the operation of equipment while installing or removing such temporary emergency flood protection systems. Special assessments against any property in the district shall be determined and made in the same manner as is provided for improvements by special assessments to the extent consistent herewith, and the certification and collection, including lien provisions, applicable to other special assessments shall be applicable hereto: Provided, however, that the provisions of sections 40-22-15, 40-22-17, and 40-22-18 of the North Dakota Century Code, relating to a resolution of necessity and protests against special assessments, shall not apply to special assessment districts created pursuant to this Act.

Approved March 19, 1971

CHAPTER 402

SENATE BILL NO. 2389
(Redlin)

REGULATIONS AND PROCEDURES
GOVERNING IMPROVEMENT DISTRICTS

AN ACT to amend and reenact sections 40-22-09, 40-22-10, 40-22-11, 40-22-15, 40-22-18, 40-22-19 and 40-22-36, of the North Dakota Century Code, relating to improvement districts in municipalities, and changing procedures with respect thereto.

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

SECTION 1. AMENDMENT.) Section 40-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-09. SIZE AND FORM OF IMPROVEMENT DISTRICTS - REGULATIONS GOVERNING.) Any improvement district created by a municipality may embrace two or more separate property areas. Each improvement district shall be of such size and form as to include all properties which in the judgment of the governing body, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for such district, or by any portion or portions of such project. A single district may be created for an improvement of the type specified in any one of the subsections of section 40-22-01, notwithstanding any lack of uniformity among the types, items or quantities of work and materials to be used at particular locations throughout the district. The jurisdiction of a municipality to make, finance and assess the cost of any improvement project shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose or character of the improvement, or by the fact that any one or more of the properties included in the district is subsequently determined not to be benefited by the improvement, or by a particular portion thereof, and is not assessed therefor. There may be omitted from a water or sewer district, in the discretion of the governing body, properties within the corporate limits which are benefited by the improvement therein but do not abut upon a water or sewer main, without prejudice to the right and power of the municipality subsequently to assess such properties to the extent and in the manner permitted by law. The governing body may by resolution enlarge an improvement district in which an improvement is proposed or under construction upon receipt of a petition therefor signed by the owners of three-fourths

of the area to be added to the district.

SECTION 2. AMENDMENT.) Section 40-22-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-10. ENGINEER'S REPORT REQUIRED - CONTENTS.) After a special improvement district has been created, the governing body of a municipality, if it deems it necessary to make any of the improvements set out in section 40-22-01 in the manner provided in this chapter, shall direct the engineer for the municipality, or some other competent engineer if the municipality does not have a competent municipal engineer, to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of the probable cost of the work.

SECTION 3. AMENDMENT.) Section 40-22-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-11. APPROVAL OF PLANS, SPECIFICATIONS, AND ESTIMATES - APPROVAL ESTABLISHES GRADE OF STREET.) At any time after receiving the engineer's report required by section 40-22-10, the governing body may direct the engineer to prepare detailed plans and specifications for construction of the improvement. The plans and specifications shall be approved by a resolution of the governing body of the municipality. If the plans and specifications include the establishment of the grade of a street and such grade has not been established previously by ordinance, the resolution approving the plans, specifications, and estimates shall constitute an establishment of the grade.

SECTION 4. AMENDMENT.) Section 40-22-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 5. AMENDMENT.) Section 40-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-18. PROTEST BAR TO PROCEEDING - INVALID OR INSUFFICIENT PROTESTS.) If the governing body finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district the protests shall be a bar against proceeding further with the improvement project described in the plans and specifications. If the governing body finds the protests to contain the names of the owners of a majority of any separate property area included within the district, such protests shall be a bar against proceeding with the portion of such improvement project, the cost of which is to be assessed in whole or in part upon property within such area, but shall not bar against proceeding with the remainder of the improvement project or assessing the cost thereof against other areas within the district, unless such protests represent a majority of the area of the entire district. The termination of proceedings, by reason of protest or otherwise, shall not relieve the municipality of responsibility for payment of costs theretofore incurred; and for payment of such costs a municipality may, if funds on hand and available for the purpose are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the cost of a special improvement project by general taxation with the meaning of section 57-15-10. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of property required in connection therewith and may levy and collect assessments therefor.

SECTION 6. AMENDMENT.) Section 40-22-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-19. CALL FOR BIDS - CONTENTS - ADVERTISING.) Proposals for the work of making improvements provided for in this chapter shall be advertised for by the governing body in the official newspaper of the municipality once each week for two consecutive weeks. The governing body may cause the work on two or more improvements to be combined in one advertisement and one contract awarded pursuant thereto. The advertisement for bids may be published at the same time as the resolution of necessity and shall:

1. Specify the work to be done according to the plans and specifications on file in the office of the city auditor;
2. Call for bids upon the basis of cash payment for the work;

3. Describe the several kinds of paving material if the governing body shall have required plans, specifications and estimates for the improvement to be made for more than one kind of pavement;
4. State the time within which the bids will be received; and
5. State the time within which the work on the improvement is to be completed.

The governing body may require bidders to state also the rate of interest, not exceeding seven percent per annum, which the warrants to be received and accepted by the bidder at par in payment for the work shall bear.

SECTION 7. AMENDMENT.) Section 40-22-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-36. CONTRACTS - CONDITIONS AND TERMS.) A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

1. That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
2. The time within which the work shall be completed;
3. The period of time for which the work shall be guaranteed as to workmanship and materials;
4. The fund from which the contract price is to be paid by the municipality;
5. That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
6. That the municipality assumes and incurs no general liability under such contract; and
7. That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

The engineer acting for the municipality shall supervise and inspect the work during its progress. In addition to any rights which a municipality may have under its contract for construction of part or all of an improvement after a contract has been awarded and before work thereunder has been completed a municipality may, with consent of the contractor and without advertising for bids, order additional work done by that contractor of the same character as that which was contracted for, whether within or without the improvement district for which the original contract was made, and upon the same terms and conditions specified in the original contract except as to time of performance, and at the same prices for the additional work; provided that the total price payable to the contractor for such additional work shall not exceed twenty percent of the amount estimated by the engineer for the municipality to be payable for that character of work under the original contract.

Approved March 29, 1971

CHAPTER 403

SENATE BILL NO. 2356
(Lips, Sanstead)

BOND OF MUNICIPAL
CONTRACT BIDDER

AN ACT to amend and reenact section 40-22-20 of the North Dakota Century Code, relating to bond or check to accompany bids; and to repeal section 40-22-21 of the North Dakota Century Code, relating to amount of bidder's bond.

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

SECTION 1. AMENDMENT.) Section 40-22-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-20. BID TO BE ACCOMPANIED BY A BOND - BOND RETAINED UPON FAILURE OF BIDDER TO CONTRACT - AMOUNT OF BOND.) Each bid for any work to be done under the provisions of this chapter shall be accompanied by a bidder's bond in the amount of five percent of the amount of the bid, executed as provided in this chapter and running to the municipality that the bidder will enter into a contract for performance of such work in case a contract is awarded to him. If any bidder to whom a contract is awarded fails or refuses to enter into such contract when requested to do so, the bond accompanying his bid shall be retained by the municipality as liquidated damages for such failure. The bond shall be delivered to the treasurer of the municipality and shall be credited by him to the fund from which the consideration for such work is payable. The sufficiency of any bond filed by a bidder shall be determined by the governing body at the time of considering bids.

SECTION 2. REPEAL.) Section 40-22-21 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1971

CHAPTER 404

SENATE BILL NO. 2365
(Longmire, Lips, Sanstead)

PROCEDURE FOR OPENING
AND CONSIDERATION OF BIDS

AN ACT to amend and reenact section 40-22-24 of the North Dakota Century Code, relating to filing, sealing, endorsing, opening and considering bids.

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

SECTION 1. AMENDMENT.) Section 40-22-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-24. BIDS - FILING - SEALING - ENDORSING- OPENING - CONSIDERING.) Bids for the work to be let under the provisions of this chapter shall be forwarded to the city auditor and shall be sealed securely to prevent the opening thereof without detection. There shall be endorsed upon the outside of the envelope containing the bid a statement of what work such proposal is for. The bids shall be opened by the governing body at the expiration of the time limited in the advertisement for receiving the same, which shall be not less than fifteen days after the first publication of the advertisement, or at such other time as the governing body may appoint. Only bids which are accompanied by the bond provided for in section 40-22-20 shall be considered by the governing body.

Approved March 8, 1971

CHAPTER 405

SENATE BILL NO. 2359
(Forkner, Butler)

PROGRESS PAYMENTS ON PUBLIC CONTRACTS

AN ACT to amend and reenact section 40-22-37 of the North Dakota Century Code, relating to progress payments on public contracts, retainage, failure to pay and rate of interest.

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

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

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

the proper officer required to issue such warrant shall fail or neglect to issue a warrant as provided herein, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment, together with any retainage properly payable, shall draw interest from its date at the rate of six percent per annum until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate, final payment or retainage by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund from which payment for the improvement is to be made.

Approved March 27, 1971

CHAPTER 406

SENATE BILL NO. 2296
(Doherty, Butler)

SPECIAL ASSESSMENT HEARING NOTICES

AN ACT to amend and reenact section 40-23-10 of the North Dakota Century Code, relating to special assessment hearing notices.

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

SECTION 1. AMENDMENT.) Section 40-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-10. PUBLICATION OF ASSESSMENT LIST AND NOTICE OF HEARING OF OBJECTIONS TO LIST.) The commission shall cause the assessment list, which list shall not include the amount each lot or tract is benefited by the improvement, to be published once each week for two consecutive weeks in the official newspaper of the municipality, together with a notice of the time when and the place where the commission will meet to hear objections made to any assessment by any interested party, his agent, or attorney; provided that in lieu of publication of an assessment list, if it includes more than five thousand lots or tracts, the commission may cause it to be filed and made available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall be not less than fifteen days after the first publication of the notice. A copy of the notice shall be mailed to each public utility having property on the assessment list at least ten days before the hearing to its address shown on the tax rolls.

Approved March 11, 1971

CHAPTER 407

SENATE BILL NO. 2464
(Butler)

SPECIAL ASSESSMENTS
FOR PARKING FACILITIES

AN ACT relating to the levy of special assessments for municipal improvements consisting of parking lots, ramps, garages and other facilities for motor vehicles, and enacting section 40-23-23.

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

SECTION 1.) Section 40-23-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-23-23. ASSESSMENTS FOR PARKING IMPROVEMENTS.) For any improvement consisting of acquiring or leasing of property and easements and construction of parking lots, ramps, garages, and other facilities for motor vehicles, whether constructed pursuant to chapter 40-22, 40-60, 40-61, or other law authorizing a municipality to acquire facilities used and usable in connection with the parking and storing of motor vehicles, the governing body of the municipality, on or before October 1 in any year, may cancel all installments of special assessments theretofore levied for such facilities which are due and payable in the following year and all subsequent years, and may levy a new assessment for such facility in accordance with the law authorizing the initial levy of special assessments therefor, except that the amount to be newly assessed shall not exceed the total principal amount of the installments of assessments so cancelled. The new assessment shall follow the same district lines as the original assessment district, and the same method of assessment shall be used as was used in the original assessment. If the new assessment causes any prepaid payment to be refunded, the refund plus four and one-half percent interest per annum on the refunded prepaid payment shall be paid to the person or corporation who prepaid the original assessment. In determining the special benefit and levying the new assessment against any lot or parcel, the previous determination of special benefit in any previous proceeding shall not be binding upon the assessment commission or governing body, but the new assessment levied on any lot or parcel, together with the principal amount of the installments of special assessments previously paid or to be paid in the current year for that lot or parcel with respect to that facility to be assessed, if any, shall not exceed the total special benefit to the lot or parcel from the facility for which the assessment is levied. In levying new assessments pursuant

to this authority, an assessment commission and governing body of a municipality may take into account any changes in conditions affecting the benefits derived and to be derived from the improvement for which the assessments were initially levied against the respective properties assessed. Provided, however, that in cancelling any special assessments previously levied and in levying new special assessments, a municipality cannot violate any covenants or agreements which it has made with holders of any obligations issued by the municipality to finance the acquisition of that improvement.

Approved March 29, 1971

CHAPTER 408

HOUSE BILL NO. 1269
(Gengler, Strinden)

NOTICE TO REPAIR SIDEWALKS

AN ACT to amend and reenact section 40-29-03 of the North Dakota Century Code, relating to required notice to construct, rebuild, or repair sidewalks.

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

SECTION 1. AMENDMENT.) Section 40-29-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-03. NOTICE TO CONSTRUCT, REBUILD, OR REPAIR SIDEWALKS.) Except as otherwise provided in this chapter, if the governing body deems it necessary to construct, rebuild, or repair any sidewalk in the municipality, it shall notify each owner of record at the last address shown in the office of the register of deeds or the county treasurer or occupant of any lot or parcel of land adjoining the sidewalk to construct, rebuild, or repair the same at his own expense and subject to the approval of the street commissioner or city engineer, within the time designated in the notice. The notice shall be directed in the manner hereinbefore provided to the owner of record or occupant and shall set forth what work is to be done, the character of the same as specified in the ordinance, and the time within which he is required to do the work. The work shall be done to the satisfaction of the street commissioner or city engineer. The notice may be general as to the owner of record or occupant but shall be specific as to the description of the lot or parcel of ground adjacent to where the sidewalk is to be built or repaired. The street commissioner or city engineer shall serve such notice by certified mail or delivering a copy thereof to the occupant or owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years residing therein. If any lot or parcel of land is not occupied and service by mail is deemed impractical, the commissioner or city engineer may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner or city engineer, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund.

Approved March 29, 1971

CHAPTER 409

SENATE BILL NO. 2354
(Stroup, Lips)

MUNICIPAL REVENUE BONDS

AN ACT to amend and reenact section 40-35-02, 40-35-09, and 40-36-13 of the North Dakota Century Code, relating to municipal revenue bonds.

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

SECTION 1. AMENDMENT.) Section 40-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-35-02. "UNDERTAKING" DEFINED.) The term "undertaking", as used in this chapter, unless a different meaning clearly appears from the context, shall mean systems, plants, works, instrumentalities, and properties used in revenue producing undertakings, or any combination of two or more of such undertakings, which are used or useful in connection with:

1. The obtaining of a water supply and the conservation, treatment, distribution, and disposal of water for public and private uses;
2. The collection, treatment, and disposal of sewage, waste, and storm water;
3. The generation, production, transmission, and distribution of natural, artificial, or mixed gas, or electric energy, for lighting, heating, and power for public and private uses;
4. The operation of parking lots, trailer courts, and facilities for motor vehicles and house trailers;
5. The purchase, acquisition or establishment, maintenance and operation of a public transportation system;
6. The purchase, acquisition, construction, establishment, maintenance, and operation of an airport and the facilities and services in connection therewith; and

7. The purchase, acquisition, construction, maintenance, and operation of a hospital;

together with all parts of any such undertaking and all appurtenances thereto, including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, trunk connections, other sewer and water mains, filtration works, pumping stations, and equipment, and facilities in and upon such buildings and lands.

SECTION 2. 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, 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. Provided, that if the principal amount of the series or issue of bonds to be sold does not exceed fifty thousand dollars, it shall not be necessary to publish a notice of sale of the bonds, and as to any series or issue of bonds for which a notice of sale was published but for which no bids were received or all bids received were rejected, the governing body may, without re-advertising 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 the rejected bid.

SECTION 3. AMENDMENT.) Section 40-36-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-36-13. EXCHANGE OR SALE OF REFUNDING BONDS - REGULATIONS GOVERNING.) Refunding bonds may be sold or exchanged in installments at different times, or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time, and such bonds may be sold or exchanged at any time on, before, or after the maturity of any of the out-

*NOTE: Section 40-35-09 was also amended by section 20 of Senate Bill No. 2063, chapter 249.

standing notes, bonds, certificates, or other obligations to be refinanced thereby. If the governing body shall determine to:

1. Exchange any refunding bonds, such bonds may be exchanged privately for, and in payment and discharge of, any of the outstanding notes, bonds, or other obligations of the municipality issued to finance or to aid in financing the acquisition, construction, improvement, or refinancing of an enterprise. The refunding bonds may be exchanged for a like or a greater principal amount of such notes, bonds, or other obligations of the municipality. The principal amount of the refunding bonds, however, may exceed the principal amount of outstanding notes, bonds, or other obligations for which they are exchanged only to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if, and to the same extent that, interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.
2. Sell any refunding bonds, such bonds shall be sold at not less than ninety-eight percent of par at public or private sale in such manner and upon such terms as the governing body shall deem for the best interests of the municipality.
3. Exchange or sell any refunding bonds more than six months in advance of the date on which the bonds being refunded mature or are redeemable in accordance with their terms in order to reduce the interest costs or extend or adjust maturities in relation to the revenues pledged for payment of the bonds, then 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.

Approved March 29, 1971

CHAPTER 410

SENATE BILL NO. 2192
(Lips, Sanstead, Christensen, Litten)

PUBLIC LIBRARIES

AN ACT to amend and reenact sections 40-38-01, 40-38-02, and 40-38-03 of the North Dakota Century Code, and to repeal section 58-03-08 of the North Dakota Century Code, relating to public libraries.

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

SECTION 1. AMENDMENT.) Section 40-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-01. PUBLIC LIBRARY AND READING ROOM - ESTABLISHMENT - ELECTION.) The governing body of any municipality or county upon petition of not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election or upon a majority vote of the electors thereof shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library commission, or with one or more municipalities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act, 20 U.S.C.A., sections 351-358, and act(s) amendatory thereof. Such question shall be submitted to the electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of electors of the municipality or county that voted at the last general election, filed with the governing body not less than sixty days before the next regular election. Library service may be discontinued within any municipality or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

SECTION 2. AMENDMENT.) Section 40-38-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-02. LIBRARY FUND - LEVY - COLLECTION - KEPT SEPARATE.) For the purpose of establishing and maintaining public library service, the governing body of a municipality or county

authorizing the same shall establish a library fund by annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in such municipality and not to exceed two mills on the net taxable assessed valuation of property in such county. The treasurer of the municipality or county shall keep such fund separate and apart from the other money of the county or municipality, and it shall be used exclusively for the establishment and maintenance of public library service. Whenever a tax for county library service is levied, any municipality already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of such county, be exempted from such county tax levy to the extent that the municipality making such application levies taxes for a library fund during the year for which such tax levy is made. If such municipality has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in such county less the total number of votes cast at the last general election in such municipality, and if an election on the question is held, the voters of any municipality so exempted from the county library tax shall not be entitled to vote on the establishment or discontinuance of the county library service. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters in the last general election of any city, school district, township, or county, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether such governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. Upon approval by sixty percent of the voters voting in such election, the governing body shall increase the levy for public library service in the amount approved by the voters.

SECTION 3. AMENDMENT.) Section 40-38-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-03. BOARD OF DIRECTORS - APPOINTMENT - TERM OF OFFICE - NO COMPENSATION - FILLING VACANCIES - ORGANIZATION.) The school board of a school district which embraces a municipality which has established a public library and reading room, or the board of county commissioners for a county library, shall appoint a board of five directors who must be residents of the municipality or county, as the case may be, to govern such library and reading room. One member of the school board shall be a member of the board of directors of a municipal library, and must be a resident of the municipality which establishes and maintains such municipal library; and one member of the board of

county commissioners shall be a member of the county board of directors. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or the board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president. The governing board of a municipality or county establishing public library service may, in lieu of appointing a library board, contract directly with a library board established by another governing body of a municipality or county for the purpose of extending public library service.

SECTION 4. REPEAL.) Section 58-03-08 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1971

CHAPTER 411

SENATE BILL NO. 2194
(Wenstrom, Christensen, Sanstead)

CONSOLIDATION OR MERGER
OF LIBRARY SERVICES

AN ACT to amend and reenact section 40-38-11 of the North Dakota Century Code, relating to the consolidation or merger of library services.

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

SECTION 1. AMENDMENT.) Section 40-38-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-11. CONSOLIDATION OR MERGER OF LIBRARY SERVICES.) Upon the approval of the electors of the municipality or county thereof, and with the approval of the state library commission, public library service maintained by any municipality or county may be merged or consolidated with any other existing library service maintained by any other municipalities or counties. The merger or consolidation shall become effective only if approved by each individual municipality or county considering the question. Such mergers and consolidations shall include provision for a single library board representing the various municipalities or counties levying funds for support of library services. The method of representation on the consolidated or merged board shall be determined in the merger or consolidation agreements. Such consolidated or merged library board shall have all power and responsibilities provided in sections 40-38-04 through 40-38-09. The treasurer of the consolidated or merged library board shall receive and retain all tax funds levied for public library service by the governing boards of all municipalities and counties represented on the consolidated or merged library board. The treasurer shall pay out moneys belonging to the consolidated or merged library board only upon properly drawn vouchers, pursuant to order of the library board, by library board treasurer's checks. The funds received by the consolidated or merged library board treasurer shall not revert to or be considered funds on hand by any governmental unit furnishing the same, at the end of any biennium or fiscal year. The consolidated or merged library board treasurer shall be bonded in such amount as may be specified by resolution adopted by the consolidated or merged library board. This section shall not be construed as prohibiting an agreement between political subdivisions for the joint provision of libraries and library services pursuant to chapter 54-40, which agreement does not encompass the merger or consolidation of existing library services.

Approved March 27, 1971

CHAPTER 412

SENATE BILL NO. 2463
(Freed)

POLICE PENSION TAX LEVY

AN ACT to amend and reenact section 40-45-02 of the North Dakota Century Code, relating to a tax levy for police pension systems.

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

SECTION 1. AMENDMENT.) Section 40-45-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-02. TAX LEVY FOR PENSION FUND WHERE RETIREMENT SYSTEM BASED UPON ACTUARIAL TABLES IS MAINTAINED.) Any city having established by law a police retirement system based upon actuarial tables may levy for the police pension fund, in addition to any other levies authorized by law for general purposes, a total tax of not more than two mills.

Approved March 22, 1971

CHAPTER 413

SENATE BILL NO. 2271
(Anderson, Coughlin, Sanstead)

INVESTMENT OF SURPLUS
POLICE PENSION FUND MONEYS

AN ACT to amend and reenact section 40-45-06 of the North Dakota Century Code, relating to the investment of surplus funds of the policemen's pension fund.

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

SECTION 1. AMENDMENT.) Section 40-45-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-06. INVESTMENT OF SURPLUS IN FUNDS - LIMITATIONS.) At the end of the fiscal year, the board of trustees may invest any surplus left in the policemen's pension fund, but no part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Such surplus funds may be invested in interest-bearing bonds of the United States or the state of North Dakota, or bonds or warrants of any county, township, or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority, or investments with any federally insured bank or savings and loan association. All securities shall be deposited with the treasurer of the board for safekeeping. The board may also invest all or part of such surplus funds in other investments by selecting a funding agent or agents and establish an investment agreement contract regarding such surplus funds. The contract shall authorize the funding agent or agents to hold and invest such funds for the board and such funds shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. The board of trustees may pay the fees and charges of said funding agent or agents from any surplus remaining in the policemen's pension fund in excess of the moneys realized from any tax levy. The board of trustees may use a portion of the surplus left in the policemen's pension fund in excess of moneys realized from any tax levy to pay the cost of actuarial studies of said pension system.

Approved March 12, 1971

CHAPTER 414

SENATE BILL NO. 2272
(Anderson, Coughlin, Sanstead)

ELIGIBILITY FOR POLICE PENSION

AN ACT to amend and reenact section 40-45-09 of the North Dakota Century Code, relating to policemen's pensions and who may be retired.

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

SECTION 1. AMENDMENT.) Section 40-45-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-09. WHO MAY BE RETIRED ON PENSION - AMOUNT PAID TO RETIRING MEMBER - RETIRING MEMBER NOT PAID.) Any member of the police department, including officers and police matrons, who shall have served twenty-two years or more in the department and shall have reached the age of sixty years, or who, while a member of such department shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he may be paid out of the pension fund of the department a monthly pension equal to sixty percent of the average monthly salary received during the highest paid consecutive thirty-six-month period of his employment in the department. If any member shall have served twenty-two years in the department but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years, except as provided in section 40-45-11 of the North Dakota Century Code. Notwithstanding the provisions of this section, upon the approval of the governing body of the municipality, and at the discretion of the board of trustees if it shall find that the actuarial soundness of the fund would not be materially impaired, any member otherwise qualifying in accordance with the provisions of this section may retire if he has reached the age of fifty-five years.

Approved March 12, 1971

CHAPTER 415

SENATE BILL NO. 2314
(Anderson, Sanstead)

PAYMENT OF POLICE PENSION
TO SURVIVING SPOUSE

AN ACT to amend and reenact subsection 1 of section 40-45-13 of the North Dakota Century Code, relating to payments of police pension benefits to police widows or widowers.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 40-45-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To the surviving spouse, as long as he or she remains unmarried, a sum not less than fifty dollars per month and not more than sixty percent of the deceased spouse's police retirement benefits;

Approved March 22, 1971

CHAPTER 416

SENATE BILL NO. 2259
(Kautzmann, Melland)

CITY EMPLOYEES'
PENSION TAX LEVY

AN ACT to amend and reenact sections 40-46-02 and 40-46-26 of the North Dakota Century Code, relating to tax levies for city employees' pension funds and to pay city's share of federal social security plans for employees.

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

SECTION 1. AMENDMENT.) Section 40-46-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-02. TAX LEVY FOR CITY EMPLOYEES' PENSION FUND AUTHORIZED - LIMITATIONS.) In addition to any other levies authorized by law for general purposes, any city which has adopted a civil service system for city employees may levy an annual tax of not more than five mills for the purpose of creating and maintaining a city employees' pension fund. Any pension system shall be based on actuarial tables and actuarial valuation shall be performed at intervals of not more than five years.

SECTION 2. AMENDMENT.) Section 40-46-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-26. TAX LEVY FOR CITY HAVING PROVIDED ITS EMPLOYEES WITH THE FEDERAL SOCIAL SECURITY PLAN.) In addition to any other levies authorized by law for general purposes, any city having provided its employees with the federal social security plan may levy such annual tax upon its taxable valuation as will be necessary to pay such city's share as employer of the cost of providing its employees with the federal social security plan.

Approved March 29, 1971

CHAPTER 417

HOUSE BILL NO. 1409
(Herman)

CITY ZONING HEARINGS

AN ACT to amend and reenact section 40-47-04 of the North Dakota Century Code, relating to notice of public hearings in zoning matters.

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

SECTION 1. AMENDMENT.) Section 40-47-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-04. DETERMINING AND ENFORCING REGULATIONS - PUBLIC HEARING AND NOTICE THEREOF.) The governing body of a city which shall use zoning regulations shall provide for the manner in which the regulations and restrictions shall be established, enforced, or supplemented, and for the manner in which the boundaries of the districts shall be established and from time to time changed. No regulation, restriction, or boundary shall become effective until after a public hearing thereon at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and the place of such hearing shall be published in the official newspaper of the city and such notice shall contain a description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.

Approved March 24, 1971

CHAPTER 418

HOUSE BILL NO. 1268
(Strinden)

MEMBERSHIP OF BOARD OF ADJUSTMENT

AN ACT to amend and reenact section 40-47-07 of the North Dakota Century Code, relating to appointment of an alternate member to a board of adjustment.

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

SECTION 1. AMENDMENT.) Section 40-47-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-07. BOARD OF ADJUSTMENT - MEMBERS - TERM - HEAR AND DECIDE APPEALS AND REVIEW ORDERS.) The governing body may provide for the appointment of a board of adjustment consisting of five members, each member to be appointed for a term of three years. The board of adjustment shall hear and decide appeals from and shall review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this chapter. It shall hear and decide all matters referred to it or upon which it is required to pass under any such ordinance. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. Upon request of the board, the governing body shall have the right to appoint an alternate member of said board of adjustment, who shall sit as an active member when and if a member of said board is unable to serve at any hearing.

Approved March 4, 1971

CHAPTER 419

SENATE BILL NO. 2286
(Freed)

EXCLUSION AND DISCONNECTION
OF LAND WITHIN CITY LIMITS

AN ACT to amend and reenact section 40-51.2-04 of the North Dakota Century Code, relating to excluding and disconnecting land within a city's limits.

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

SECTION 1. AMENDMENT.) Section 40-51.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-04. EXCLUSION BY PETITION OF OWNERS AND ELECTORS.) Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and contiguous or adjacent to such limits, the governing body of the municipality, by ordinance, may in its discretion, disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either chapter 40-50 or section 57-02-39, and where no municipal improvements have been made or constructed therein or adjacent thereto. Further, in the event any property for which exclusion is petitioned has been within the limits of an incorporated municipality for more than ten years prior thereto and, as of the time of filing the petition, is not platted and has no municipal improvements thereon, the governing body of the municipality shall disconnect and exclude such territory by ordinance from the municipality.

Approved March 18, 1971

CHAPTER 420

SENATE BILL NO. 2293
(Kautzmann)

EFFECTIVE DATE OF ANNEXATION

AN ACT to amend and reenact section 40-51.2-06, subsection 3 of 40-51.2-07 and section 40-51.2-16 of the North Dakota Century Code, relating to effective date of an annexation.

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

SECTION 1. AMENDMENT.) Section 40-51.2-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-06. PETITION OF OWNERS AND ELECTORS - ANNEXATION OR EXCLUSION.) If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall then be effective. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation.

SECTION 2. AMENDMENT.) Subsection 3 of 40-51.2-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 3. AMENDMENT.) Section 40-51.2-16 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 4, 1971

CHAPTER 421

SENATE BILL NO. 2213
(Nasset, Jacobson, Freed)

CONSENT TO ANNEXATION
OF STATE PROPERTY

AN ACT to amend and reenact subsection 2 of section 40-51.2-07 of the North Dakota Century Code, relating to annexation of territory to cities and protests thereto.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 40-51.2-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Shall cause said resolution together with a notice of the time and place it will meet to hear and determine the sufficiency of any written protests against such proposed annexation to be published in the official newspaper once each week for two consecutive weeks. The owners of any real property within the territory proposed to be annexed within thirty days of the first publication of such resolution may file written protests with the city auditor protesting against the proposed annexation. No state-owned property shall be annexed without the written consent of the state agency or department having control thereof. The governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof; and

Approved March 4, 1971

CHAPTER 422

SENATE BILL NO. 2487
(Kautzmann)

SALE OF INDUSTRIAL
DEVELOPMENT BONDS

AN ACT to amend and reenact section 40-57-10 of the North Dakota Century Code, relating to sale of revenue bonds.

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

SECTION 1. AMENDMENT.) Section 40-57-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-10. SALE OF REVENUE BONDS.) Revenue bonds shall be sold at not less than ninety-five percent of par plus any accrued interest. Such bonds may be sold at private sale, or such bonds may 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 at least two financial newspapers published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California. State or national banks may purchase the revenue bonds issued under the provisions of this chapter in an amount not to exceed ten percent of their capital and surplus.

Approved March 17, 1971

CHAPTER 423

SENATE BILL NO. 2053
(Butler, Jacobson, Rait, Wilhite)
(From Legislative Council Study)

MUNICIPAL INDUSTRIAL DEVELOPMENT
TAX EXEMPTIONS

AN ACT to amend and reenact section 40-57-17 of the North Dakota Century Code, to provide that leaseholds granted by municipalities shall be classified as personal property for only five years.

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

SECTION 1. AMENDMENT.) Section 40-57-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-17. EXEMPTIONS FROM TAXATION.) The leasehold granted by a municipality under this chapter is hereby classified as personal property for a period of five years from the granting of such leasehold and the execution of any instrument evidencing said grant. Upon application by the project lessee to the governing body of the municipality and approval the leasehold and all other personal property used by the lessee in connection with the project and located on the premises of the leasehold shall be exempt from personal property taxation for such five-year period. Further, that any corporate lessee under such a leasehold referred to shall, after making application therefor to the state tax commissioner, be exempt from the payment of corporate income taxes on any corporate income attributable to the business carried on by the lessee on such leasehold premises for a period of five years from the year in which the corporation lessee commenced business operations on the leased premises, provided, however, that this section shall not have the effect of exempting such corporation lessee from filing an annual income tax return. The application for exemption from personal property taxation shall be made within thirty days from the date of the granting of the leasehold referred to in this section. The application for exemption from taxation on corporate income shall be made within sixty days from the time the corporate lessee commences business operations on the leased premises. The project lessee may waive, in writing or by the act of making a payment, all or any portion of the tax exemption granted by this section.

Approved March 2, 1971

CHAPTER 424

SENATE BILL NO. 2050

(Butler, Jacobson, Rait, Wilhite)
(From Legislative Council Study)COMPETITORS TO RECEIVE NOTICE
OF TAX EXEMPTION APPLICATION

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, to require notice by publication to competitors by potential project operators applying for tax exemptions.

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

SECTION 1. AMENDMENT.) Section 40-57.1-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 40-57.1-03. MUNICIPALITIES' AUTHORITY TO GRANT TAX EXEMPTION - NOTICE TO COMPETITORS - LIMITATIONS.) Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The potential project operator shall publish two notices, the form of which shall be prescribed by the state board of equalization, to competitors of such application for tax exemption in the official newspaper of the municipality at least one week apart. Such publications shall be completed not less than thirty nor more than forty-five days before the governing body of the municipality is to consider such application. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax reduction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines shall give its approval. The board shall, after making the determination, certify the findings back to the municipality and to the tax commissioner.

*NOTE: Section 40-57.1-03 was also amended by section 1 of House Bill No. 1133, chapter 425.

Approved March 2, 1971

CHAPTER 425

HOUSE BILL NO. 1133
(Gackle, Sandness, Stoltenow)

INDUSTRIAL DEVELOPMENT TAX
EXEMPTIONS ON LAND

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to municipalities' authority to grant tax exemptions on land.

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

SECTION 1. AMENDMENT.) Section 40-57.1-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 40-57.1-03. MUNICIPALITIES' AUTHORITY TO GRANT TAX EXEMPTION - 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 of five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Provided, however, that the exemption granted under this chapter shall apply only to the valuation over and above the assessed valuation placed upon the property for the last assessment period immediately preceding the date of application for exemption. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax reduction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines shall give its approval. The board shall, after making its determination, certify the findings back to the municipality and to the tax commissioner.

*NOTE: Section 40-57.1-03 was also amended by section 1 of Senate Bill No. 2050, chapter 424.

Approved March 27, 1971

CHAPTER 426

SENATE BILL NO. 2052
(Butler, Jacobson, Rait, Wilhite)
(From Legislative Council Study)

REAPPLICATION FOR TAX EXEMPTION

AN ACT to create and enact section 40-57.1-05 of the North Dakota Century Code, to provide that the state board of equalization shall have discretion in accepting reapplications for tax exemptions for new industries.

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

SECTION 1.) Section 40-57.1-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-57.1-05. REAPPLICATION FOR TAX EXEMPTION - DISCRETION OF BOARD OF EQUALIZATION.) The state board of equalization may, 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 such project operators first negotiate with the municipality and publish notice of application for tax exemption as required by this chapter.

Approved March 2, 1971

CHAPTER 427

SENATE BILL NO. 2051
(Butler, Rait, Wilhite)
(From Legislative Council Study)

REAPPLICATION FOR EXEMPTION
ON RELOCATION OR REVALUATION

AN ACT to create and enact section 40-57.1-06 of the North Dakota Century Code, to provide for reapplication for tax exemptions in those cases where the exempted property increases in value and in those cases where a project operator moves to a new location.

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

SECTION 1.) Section 40-57.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

Approved March 2, 1971