

COUNTIES

CHAPTER 87

SENATE BILL NO. 2257
(Hoffner, Nething)

COUNTY MANAGERSHIP PETITION REQUIREMENTS

AN ACT to amend and reenact section 11-09-02.1 of the North Dakota Century Code, relating to the procedure for an adoption of a form of county managership.

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

SECTION 1. AMENDMENT.) Section 11-09-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-02.1. PETITION - QUESTION SUBMITTED TO ELECTORS.) Upon a petition filed with the county auditor at least ninety days in advance of any countywide election signed by not less than ten percent of the qualified electors of the county as determined by the total number of votes cast for the office of governor at the last general election, asking that an election be held on the question of the adoption of one of the forms of county managership and specifying which of the forms is to be submitted, the board of county commissioners shall submit the question at the next regular primary or general election.

Approved March 12, 1977

CHAPTER 88

HOUSE BILL NO. 1384
(Laughlin, Jacobson)

SALARIES OF COUNTY OFFICERS

AN ACT to amend and reenact subsections 2, 4, and 5 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of county officers.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 11-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The county treasurer, county superintendent of schools, register of deeds, county judge, county auditor, clerk of district court, sheriff, and state's attorney each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. In counties having a population not exceeding four thousand, the sum of nine thousand six hundred sixty dollars.
 - b. Ten thousand six hundred dollars in counties having a population exceeding four thousand but with less than eight thousand.
 - c. Ten thousand nine hundred ninety dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.
 - * d. State's attorneys in counties having a population exceeding thirty-five thousand shall receive a salary of eighteen thousand one hundred to twenty-six thousand dollars, to be determined by resolution of the board of county commissioners.

*NOTE: Subdivision d of subsection 2 of section 11-10-10 was also amended by section 1 of Senate Bill No. 2051, chapter 100.

SECTION 2. AMENDMENT.) Subsection 4 of section 11-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. In counties having a county court of increased jurisdiction, the salaries of the judges of county courts of increased jurisdiction shall be as set out in section 27-08-08. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official by an amount not to exceed thirty percent above the salary provided in this section or section 27-08-08, if, in the judgment of such board, by reason of duties performed, the official merits the increase. The salary of a county official shall not be reduced during his or her term of office. Any county official performing duties on less than a full-time basis may be paid a reduced salary set by the board of county commissioners. In the event the county has a group insurance program for its employees for hospital benefits, medical benefits, or life insurance financed in part or entirely by the county, such benefits may be in addition to the salaries payable to county officials.

SECTION 3. AMENDMENT.) Subsection 5 of section 11-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Each county commissioner may receive an annual salary or per diem as provided by resolution of the board, which salary or per diem shall not exceed the following limits: In counties having a population of eight thousand or less, three thousand six hundred thirty dollars; in counties having a population of over eight thousand and less than fifteen thousand, four thousand three hundred forty-five dollars; and in counties having a population of over fifteen thousand, five thousand two hundred eighty dollars. For the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census. In addition, there shall be an allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15, and shall be evidenced by a subvoucher

or receipt as provided by section 21-05-01. As used in this section, the words "official business" shall include statewide meetings of the North Dakota county commissioners association.

If a board shall resolve to pay an annual salary pursuant to this subsection, it shall be paid in monthly installments.

Approved April 21, 1977

CHAPTER 89

HOUSE BILL NO. 1028
(Legislative Council)
(Interim Committee on Finance and Taxation)

QUALIFICATIONS OF COUNTY DIRECTORS OF TAX EQUALIZATION

AN ACT to amend and reenact sections 11-10.1-01, 11-10.1-05, and 11-10.1-07 of the North Dakota Century Code, relating to the qualifications of county directors of tax equalization and city and township assessors.

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

SECTION 1. AMENDMENT.) Section 11-10.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10.1-01. COUNTY DIRECTOR OF TAX EQUALIZATION.)

1. Prior to September 1, 1978, the board of county commissioners of each county in this state shall appoint a county director of tax equalization who shall be qualified and experienced in property appraisals, familiar with assessment and equalization procedures and techniques and who is the holder of a current assessor's certificate issued by the state supervisor of assessments. The state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers' association, and personnel at North Dakota state university to establish the minimum requirements for attaining an assessor's certificate. Any person who is denied such certificate may appeal to the state tax commissioner for a hearing under the provisions of chapter 28-32.
2. The board of county commissioners may, in its discretion, appoint a person on a probationary basis who does not hold a current certificate as provided for in subsection 1 of this section, if the board deems such person qualified to act as county director of tax equalization by virtue of education, training, and experience. Such appointment shall be for a term of not more than four years. Any person receiving

such probationary appointment who does not obtain an assessor's certificate within four years of his appointment, shall not be eligible for reappointment.

3. The county director of tax equalization shall serve at the pleasure of the board of county commissioners and may be employed on a full-time or part-time basis. Vacancies in the office of county director of tax equalization shall be filled in the same manner as the original appointment.

SECTION 2. AMENDMENT.) Section 11-10.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10.1-05. POWERS AND DUTIES OF COUNTY DIRECTOR OF TAX EQUALIZATION - QUALIFICATIONS OF ASSESSORS.)

1. The county director of tax equalization shall have the power, duty, and responsibility to call upon and confer with township and city assessors in the county and to instruct them in the preparation and proper use of land maps and property record cards, the preparation of assessment books, the changes in assessment laws and regulations, the determination of proper standards of value, the use of proper classifications of property, and the authority to require attendance at meetings, to the end that a uniform assessment of all personal and real property in the county will prevail.
2. On January 1, 1981, the county director of tax equalization shall succeed to all the powers and duties of assessors of townships, cities, and unorganized districts within such county, except that any city or township may, at its option by resolution of its governing body, employ an assessor who shall retain such powers, duties, and responsibilities of his office. The resolution of a city or township governing body to employ an assessor shall continue in force until rescinded by the governing body. Notwithstanding any other provision of law to the contrary, the state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers' association, and personnel at North Dakota state university to establish minimum requirements for such city and township assessors. Such standards shall reflect their limited jurisdiction and need not be equal to those minimum requirements set for county directors of tax equalization. Any courses of instruction included in those minimum requirements shall be conducted by the county director of tax equalization who may cooperate with other county

directors of tax equalization in holding joint classes. The county director of tax equalization may call upon the state supervisor of assessments for such materials and assistance as may be required. No person shall serve as a city or township assessor for longer than twelve months before being certified by the state supervisor of assessments as having met such minimum requirements. The expenses and salaries of city and township assessors shall be paid by the city or township exercising this option.

SECTION 3. AMENDMENT.) Section 11-10.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10.1-07. JOINT COUNTY DIRECTOR OF TAX EQUALIZATION - COUNTY DIRECTORS MAY ALSO BE CITY ASSESSORS OR TOWNSHIP ASSESSORS.) The respective boards of county commissioners of two or more counties may by agreement and resolutions of the respective boards of county commissioners employ a joint county director of tax equalization who shall act as county director of tax equalization for each of the counties participating in such agreement. The salary and expense of such joint county director of tax equalization and that of his office and staff shall be prorated among the counties participating in accordance with the assessed valuation of the counties concerned or upon such other basis as may be agreed upon by the respective boards of county commissioners. The respective boards of county commissioners, acting jointly, shall appoint such joint county director of tax equalization on the same basis and in the same manner as a county director of tax equalization may be appointed for a single county. Such joint county director of tax equalization may be discharged upon the resolution of the board of county commissioners of any county participating in the agreement. Any participating county may withdraw from such joint agreement upon resolution of the board of county commissioners and by giving written notice to the boards of county commissioners of the other participating counties at least ninety days in advance of July first of the year of withdrawal. The joint county director of tax equalization shall have all the powers and duties of the county director of tax equalization of a single county and shall keep all records of assessment for each county entirely separate from the records of other counties which he or she serves. The governing boards of a county and of any city, or any township, may by agreement and resolutions of the respective boards employ a joint county director of tax equalization and city or township assessor.

Approved April 19, 1977

CHAPTER 90

SENATE BILL NO. 2172
(Committee on Political Subdivisions)
(At the request of the Health Department)

COUNTY SOLID WASTE COLLECTION SYSTEMS

AN ACT to amend and reenact subsection 14 of section 11-11-14 of the North Dakota Century Code, relating to the powers of the board of county commissioners to establish garbage collection systems.

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

SECTION 1. AMENDMENT.) Subsection 14 of section 11-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. To establish a garbage and trash collection system encompassing all or any part of the territory of the county. The words "garbage and trash collection system" shall include the operation and maintenance of one or more sanitary landfill sites, or other types of processing sites for the disposal of trash and garbage. The board may operate such system in cooperation with any one or more political subdivisions of this or any other state in accordance with the provisions of chapter 54-40. The board may borrow money by issuing certificates of indebtedness, repayable from fees or special assessments, or both, which may be charged to the proper parcels of land or to persons receiving the direct benefits of the garbage and trash collection system, or repayable in such other manner as may be provided by law, in order to purchase the initial equipment and land necessary for operation of the system. If the board of county commissioners resolves to establish such a system, the expenses of establishing, operating, and maintaining it may be financed by fees charged to persons receiving direct benefits or by special assessment against the parcels of land properly charged therewith, or by both such fees and assessments. The assessment may be made, published, altered, appealed from, and confirmed under the procedures set forth in chapter 11-28.1.

CHAPTER 91

SENATE BILL NO. 2291
(Mau)

FUNDING OF ASSOCIATION OF COUNTY
GOVERNMENTS

AN ACT to amend and reenact subsection 17 of section 11-11-14 of the North Dakota Century Code, relating to the powers of the board of county commissioners.

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

SECTION 1. AMENDMENT.) Subsection 17 of section 11-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

17. To expend county funds for the purpose of participating in an organization of county governments pursuant to section 11-10-24. This subsection shall not be construed as authorizing a mill levy, and the limitations embodied in section 57-15-06 shall apply to expenditures under this subsection, which expenditures shall be from the county general fund.

Approved March 23, 1977

CHAPTER 92

HOUSE BILL NO. 1503
(Lang, Kretschmar, Langley, Gronneberg)

LEASE-PURCHASE OF COUNTY ROAD MACHINERY

AN ACT to amend and reenact sections 11-11-18 and 24-05-04 of the North Dakota Century Code, relating to lease-purchase agreements for the purchase of county road machinery and voting by the electorate on extraordinary outlays of money by a county; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 11-11-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-18. BOARD TO SUBMIT EXTRAORDINARY OUTLAY TO VOTE.) The board of county commissioners shall submit to the electors of the county at any regular or special election any proposal for an extraordinary outlay of money by the county when the proposed expenditure is greater in amount than can be provided for by the annual tax levies. If the board considers the courthouse, jail, or other public buildings of the county inadequate for the needs of the county or deems it necessary to build a county hospital, and if it is thought that it is not for the best interests of the county to issue bonds to aid in the construction of such buildings or that the construction of such buildings by any other procedure is not for the best interests of the county, it shall submit to the electors of the county, at any regular or special election, the proposal for the construction of a courthouse, jail, or other public building by establishing a building fund to aid in the construction thereof. The requirements of this section shall not apply to lease-purchase agreements authorized by section 24-05-04.

SECTION 2. AMENDMENT.) Section 24-05-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-04. CONTRACTS TO BE ADVERTISED - REQUIREMENTS FOR RENTAL CONTRACTS.) All purchases of county road machinery and all rental contracts or agreements for the use of road machinery and other articles or contracts for the improvement of the highways, except necessary repairs for such road machinery, which shall exceed the sum of two thousand five hundred dollars, shall

be advertised in the manner provided by law for the purchase of county supplies. The board of county commissioners shall not enter into a rental contract or agreement for the use of road machinery and other articles for a longer period than twelve months from the date of such rental contract or agree to pay rental for the use of road machinery and other articles which would result in the lessor receiving rental at a rate in excess of twenty per centum per annum of the cash sale price thereof, which cash sale price of such road machinery and other articles shall be clearly set forth in all such rental contracts, and failure to include such data in any rental contract for the use of road machinery and other articles shall render any such rental contract null and void, and any payments made thereunder shall be recoverable from the county commissioners making such contract jointly and severally. Notwithstanding the provisions of this section relating to the duration of rental contracts, the board of county commissioners may enter into lease-purchase agreements for the road machinery and articles covered by this section, if those agreements provide for the complete performance and full payment of the purchase price of the machinery or articles within five years from the date of the execution of the lease-purchase agreement according to the provisions of section 44-08-01.1.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 6, 1977

CHAPTER 93

SENATE BILL NO. 2253
(Mau)

BID ADVERTISEMENTS

AN ACT to amend and reenact section 11-11-26 of the North Dakota Century Code, relating to when the board of county commissioners shall advertise for bids.

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

SECTION 1. AMENDMENT.) Section 11-11-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-26. WHEN BOARD SHALL ADVERTISE FOR BIDS.) When the amount to be paid during the current year for the erection of county buildings, for the purchase of fuel, or for election ballots and supplies exceeds twenty-five hundred dollars, the board of county commissioners shall cause an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in such other newspapers as it shall deem advisable. The first publication shall be made at least thirty days prior to the day set for the opening of the bids.

Approved March 12, 1977

CHAPTER 94

SENATE BILL NO. 2145
(Freed)

APPEALS FROM COUNTY COMMISSION
DECISIONS

AN ACT to amend and reenact section 11-11-39 of the North Dakota Century Code, relating to an appeal from a decision of the board of county commissioners.

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

SECTION 1. AMENDMENT.) Section 11-11-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-39. APPEAL FROM DECISION OF BOARD BY AGGRIEVED PERSON - BOND - COSTS AND FEES PAYABLE.) An appeal may be taken to the district court from any decision of the board of county commissioners by any aggrieved person. The appellant shall file an undertaking in such reasonable sum and with such sureties as may be approved by the county auditor, conditioned that the appellant will prosecute the appeal without delay and will pay all costs adjudged against the appellant in the district court. The undertaking shall be payable to the county. The district court may at its discretion award costs and reasonable attorney fees to appellants when three or more aggrieved persons have joined in an appeal from a decision of the board of county commissioners and the court rules in favor of the appellants.

Approved March 31, 1977

CHAPTER 95

HOUSE BILL NO. 1325
(G. Larson, Rued)

PAYMENT OVER OF FUNDS RECEIVED BY
COUNTY TREASURER

AN ACT to amend and reenact section 11-14-16 of the North Dakota Century Code, relating to when treasurer shall pay over the funds collected.

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

SECTION 1. AMENDMENT.) Section 11-14-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-14-16. WHEN TREASURER SHALL PAY OVER THE FUNDS COLLECTED.) The county treasurer shall pay over to the treasurer of the state, and to any municipal corporation or organized township, or to any body politic, on the order of the county auditor, all moneys received by him arising from taxes levied and collected, belonging to the state, or to such municipal corporation or organized township or school district on or before the tenth working day of each calendar month, provided, however, that foundation program allocations shall be made within seven days of receipt, excluding weekends and holidays. If any treasurer willfully and negligently shall fail to settle with the state treasurer at the times and in the manner prescribed by law, he shall forfeit to the use of the state the sum of five hundred dollars, such sum to be recovered from him or his sureties on suit brought by the state treasurer in the name of the state. If the state treasurer fails to bring such suit, then any citizen of the state may bring the same.

Approved April 21, 1977

CHAPTER 96

SENATE BILL NO. 2262
(Lips)

SHERIFF QUALIFICATIONS

AN ACT to create and enact a new section to chapter 11-15 of the North Dakota Century Code, relating to qualifications for the office of sheriff.

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

SECTION 1.) A new section to chapter 11-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

SHERIFF SHALL BE QUALIFIED ELECTOR AND SHALL RECEIVE REQUIRED TRAINING - EXCEPTION.) Except as otherwise specifically provided by state law, the sheriff shall be a qualified elector in the county in which the sheriff is elected or appointed. Within one year after taking office, the sheriff shall attend the sheriffs' school on civil process for one week, the complete police and sheriff's basic training course, and the police supervision course for two weeks if such schools are available within the state, unless equivalent training has already been attained. The police and sheriff's basic training course requirement does not apply to any sheriff who has at least five years experience in the law enforcement field.

Approved April 19, 1977

CHAPTER 97

SENATE BILL NO. 2261
(Lips)

COMPENSATION OF SPECIAL DEPUTIES

AN ACT to amend and reenact section 11-15-02 of the North Dakota Century Code, relating to compensation for special deputy sheriffs.

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

SECTION 1. AMENDMENT.) Section 11-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-02. SHERIFF MAY APPOINT SPECIAL DEPUTIES - COMPENSATION.)
In case of any emergency, the sheriff may appoint and qualify special deputies in such numbers as in his judgment are required by the conditions. Each special deputy shall receive compensation for his services and the same mileage as is allowed to regular deputies, such amounts to be paid by the county. The sheriff shall have the sole power of appointing such special deputies and may remove them at pleasure.

Approved March 12, 1977

CHAPTER 98

SENATE BILL NO. 2393
(Nothing)

SHERIFF'S FEES FOR SERVICE OF PROCESS

AN ACT to amend and reenact subsection 2 of section 11-15-07 of the North Dakota Century Code, relating to fees for service of process.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 11-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For serving a summons, warrant of attachment, order of replevin, injunctional order, citation, and/or other mesne process and making a return thereon, a total of five dollars for each person served at different locations.

Approved March 23, 1977

CHAPTER 99

SENATE BILL NO. 2263
(Lips)

UNIFORMS FOR SHERIFFS AND DEPUTIES

AN ACT to amend and reenact section 11-15-29 of the North Dakota Century Code, relating to sheriffs' and deputies' uniforms.

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

SECTION 1. AMENDMENT.) Section 11-15-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-29. UNIFORM ALLOWANCE FOR SHERIFFS AND FULL-TIME DEPUTY SHERIFFS.) Sheriffs and full-time deputy sheriffs shall be allowed by the board of county commissioners in each county an amount not to exceed four hundred dollars per person during that person's first year of service, and two hundred fifty dollars per person each succeeding year.

Approved March 23, 1977

CHAPTER 100

SENATE BILL NO. 2051
(Legislative Council)
(Interim Committee on Judiciary "B")

FULL-TIME STATE'S ATTORNEY OPTION

AN ACT to amend and reenact subdivision d of subsection 2 of section 11-10-10 and section 11-16-05 of the North Dakota Century Code, relating to a county option regarding a full-time state's attorney and salaries and duties of state's attorneys.

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

SECTION 1. AMENDMENT.) Subdivision d of subsection 2 of section 11-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * d. State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full-time and shall not be an attorney or counsel for any party except the state or county, shall receive a salary of from sixteen thousand one hundred to twenty-four thousand dollars annually, to be determined by resolution of the board of county commissioners.

SECTION 2. AMENDMENT.) Section 11-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-16-05. RESTRICTIONS ON POWERS OF STATE'S ATTORNEY - OPTION REGARDING FULL-TIME STATE'S ATTORNEYS - PENALTY FOR BREACH OF DUTY.) The state's attorney shall not:

1. Present a claim, account, or other demand for allowance against the county, except for his own services, nor in any way advocate the relief asked for by the claim or demand of another.
2. Be eligible to or hold any judicial office except that of United States commissioner.
3. Receive a fee or reward from or on behalf of a prosecutor or other individual for services in any prosecution or business to which it is his official duty to attend.

*NOTE: Subdivision d of subsection 2 of section 11-10-10 was also amended by section 1 of House Bill No. 1384, chapter 88.

4. Be concerned as attorney or counsel for any party, other than the state or county, in any civil action depending upon, or arising out of, a state of facts upon which a pending and undetermined criminal prosecution depends.
5. Be concerned as attorney or counsel for any party, other than the state or county, in any action or proceeding whatsoever when employed by a county having a population exceeding thirty-five thousand or by any other county whose board of commissioners has, by resolution, determined that the state's attorney shall be restricted in this manner. A board of county commissioners may adopt or rescind this resolution in any year. However, in the general election year in which the state's attorney is to be elected, such action must be taken prior to June first. Such adoption or rescission shall not be effective during the state's attorney's current term of office unless agreed upon between the board and the state's attorney.

A violation of any provision of this section shall constitute an infraction, and the offender may be removed from office.

Approved April 19, 1977

CHAPTER 101

SENATE BILL NO. 2202
(Lee)

REGISTER OF DEEDS FEES

AN ACT to amend and reenact sections 11-18-05, 35-21-05, and 40-50-07, subsection 5 of section 41-09-42, subsection 3 of section 41-09-43, sections 41-09-44 and 41-09-45, subsection 2 of section 41-09-46, and section 47-20.1-08 of the North Dakota Century Code, relating to register of deeds fees for filing and recording instruments; and to repeal section 11-18-05.1 of the North Dakota Century Code, relating to register of deeds fees for recording severed mineral interests.

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

SECTION 1. AMENDMENT.) Section 11-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-05. FEES OF REGISTER OF DEEDS.) The register of deeds shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
 - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, five dollars for the first page and two dollars for each additional page.
 - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches in width and fourteen inches in length.
 - (2) The printed, written, or typed words must be considered legible by the register of deeds before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the register of deeds before such instrument will be accepted for recording.

- (4) A space of at least four inches by three and one-half inches square must be provided on the front side of each instrument for register of deeds' recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge shall be levied.
 - b. Multipurpose mortgages or mineral instruments which contain additional mortgages or mineral instruments, five dollars for the first page and two dollars for each additional page plus three dollars for each additional mortgage or mineral instrument described therein.
 - c. Plats, irregular tracts, or annexations, five dollars for one lot plus ten cents for each additional lot.
 - d. Oil, gas, and mineral leases, six dollars per page.
2. For filing any instrument, including instruments under the Uniform Commercial Code, notices of intent to drill, and monument corner records, three dollars.
3. For filing and indexing a financing statement termination, no fee.
4. For making certified copies of any recorded instrument, the same charge as for recording that instrument.
5. For making a financing statement abstract, three dollars for the first five entries and one dollar for each additional five entries or fraction thereof.
6. For making a copy of any filed instrument, one dollar.

SECTION 2. AMENDMENT.) Section 35-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-21-05. FEE, RECORDING - CERTIFIED COPIES AS EVIDENCE.) If the officer before whom such proceedings are had is the clerk of the district court, the clerk shall be entitled to charge a fee of not more than one dollar to be paid in advance by the applicant. If the officer is the clerk of the district court, he shall record the notice, affidavit, and undertaking in the order book, and if the officer is the register of deeds, he shall record the same in his book of miscellaneous records. The register of deeds shall be entitled to charge a fee as provided by section 11-18-05. Certified copies of the documents shall be prima facie evidence, in the courts of this state, of the matters therein contained.

SECTION 3. AMENDMENT.) Section 40-50-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-07. FEES OF SURVEYOR AND REGISTER OF DEEDS - PLAT AND SURVEY COPIED INTO BOOK.) Unless otherwise agreed, the surveyor who lays out, surveys, and plats any townsite or addition shall

receive twenty-five cents for each lot contained therein. The register of deeds for recording a map or plat shall receive a sum as provided by section 11-18-05 for each lot contained in the townsite or addition, and he shall transcribe or copy the plat and survey into a book kept for that purpose.

SECTION 4. AMENDMENT.) Subsection 5 of section 41-09-42 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be as provided by section 11-18-05.

SECTION 5. AMENDMENT.) Subsection 3 of section 41-09-43 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The fee for filing and indexing a termination statement, including sending or delivering the financing statement, shall be as provided by section 11-18-05.

SECTION 6. AMENDMENT.) Section 41-09-44 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-09-44. (9-405) ASSIGNMENT OF SECURITY INTEREST - DUTIES OF FILING OFFICER - FEES.)

1. A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself of a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement, the filing officer shall mark the same as provided in subsection 4 of section 41-09-42. The fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment shall be as provided by section 11-18-05.
2. A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate

statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, a filing covering timber to be cut, minerals, or the like (including oil and gas), or accounts subject to subsection 5 of section 41-09-03, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The fee for filing, indexing, and furnishing filing data about such a separate statement of assignment shall be as provided by section 11-18-05. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection 7 of section 41-09-41) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this title.

3. After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

SECTION 7. AMENDMENT.) Section 41-09-45 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-09-45. (9-406) RELEASE OF COLLATERAL - DUTIES OF FILING OFFICER - FEES.) A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection 2 of section 41-09-44, including payment of the required fee. Upon presentation of such a statement of release to the filing officer, he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The fee for filing and noting such a statement of release shall be as provided by section 11-18-05.

SECTION 8. AMENDMENT.) Subsection 2 of section 41-09-46 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein.

The fee for such a certificate shall be as provided by section 11-18-05. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a fee as provided by section 11-18-05.

SECTION 9. AMENDMENT.) Section 47-20.1-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.1-08. REGISTER OF DEEDS MAY CHARGE FILING FEE.) The register of deeds of a county may charge a filing fee as provided by section 11-18-05 for the filing of each corner record as defined in section 47-20.1-02.

SECTION 10. REPEAL.) Section 11-18-05.1 of the North Dakota Century Code is hereby repealed.

Approved April 19, 1977

CHAPTER 102

SENATE BILL NO. 2179
(Lips)

**BURIED TRANSMISSION FACILITY CARD
COPYING FEE**

AN ACT to amend and reenact section 11-18-17 of the North Dakota Century Code, relating to the establishment of a county card file system.

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

SECTION 1. AMENDMENT.) Section 11-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-17. ESTABLISHMENT OF A COUNTY CARD FILE SYSTEM.)
The register of deeds of each county where the facilities described in section 11-18-16 are buried shall establish and maintain a uniform card file system containing the information furnished by the owner or person having control of these facilities. This file shall contain listings of buried facilities located by section, range, township, and, where applicable, by city. A copy of such file card or files shall be given or mailed to any person upon request and the payment of one dollar for each such card copy furnished by the register of deeds.

Approved March 31, 1977

CHAPTER 103

HOUSE BILL NO. 1583
(Olson)

ACTING COUNTY CORONERS

AN ACT to amend and reenact sections 11-19-19 and 11-19.1-06 of the North Dakota Century Code, relating to who shall be acting county coroner in the absence of the county coroner.

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

SECTION 1. AMENDMENT.) Section 11-19-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-19. ACTING CORONER.) When there is no coroner, or in case of his absence or inability to act, the sheriff of the county, the state highway patrol, or any special agent of the bureau of criminal investigation is authorized to perform the duties of coroner in relation to dead bodies.

SECTION 2. AMENDMENT.) Section 11-19.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-06. PERSONS AUTHORIZED TO ACT WHERE NO RESIDENT PHYSICIAN.) In such counties in which no physician is residing or available, the duties of coroner as herein provided shall be performed by the sheriff, the state highway patrol, or any special agent of the bureau of criminal investigation. The sheriff, the state highway patrol, or special agent shall call upon the nearest physician coroner or deputy coroner from an adjacent county to investigate the medical cause of death of all coroner cases within said county. Where, because of distance or adverse conditions, a physician coroner is not available, the sheriff, the state highway patrol, or special agent shall have the closest practicing physician called in to investigate and certify as to the medical cause of death.

Approved April 9, 1977

CHAPTER 104

SENATE BILL NO. 2101
(Lips)

SUDDEN INFANT DEATH SYNDROME SERVICES

AN ACT to create and enact a new subsection to section 23-01-05 of the North Dakota Century Code, relating to the duties of the state health officer; to amend and reenact sections 11-19.1-07, 11-19.1-11, 11-19.1-13, and 11-19.1-16 of the North Dakota Century Code, relating to the report of deaths to the coroner, the performance of an autopsy, the certificate of death, and the coroner's fees.

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

SECTION 1. AMENDMENT.) Section 11-19.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-07. DEATH TO BE REPORTED TO CORONER BY PHYSICIAN OR PERSONS DISCOVERING BODY - PENALTY - NOTICE TO STATE HEALTH OFFICER - RIGHT TO AUTOPSY.)

1. Any person who discovers the dead body, or acquires the first knowledge of the death of any person, and any physician with knowledge that a person died as a result of criminal or violent means, casualty, suicide, accidental death, or died suddenly when in apparent good health in a suspicious or unusual manner, shall immediately notify the office of coroner or any law enforcement officer of the known facts concerning the time, place, manner, and circumstances of such death, and any other information which may be required pursuant to this chapter. Any person who violates the provisions of this section shall be guilty of a class B misdemeanor.
2. Any person who discovers the dead body of, or acquires the first knowledge of the death of, any child under the age of three years, where the child died suddenly when in apparent good health, shall immediately notify the office of coroner of the known facts concerning the time, place, manner, and circumstances of the death. The coroner shall notify the state health officer of each such death, and shall provide the state health officer the information concerning the death as he shall require. The coroner or

his medical deputy shall notify the parent or guardian of the child of his right to the performance of an autopsy, at state expense, as provided by this chapter.

SECTION 2. AMENDMENT.) Section 11-19.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-11. CORONER MAY PERFORM AUTOPSY - NOTICE OF RESULTS.) The coroner or his medical deputy, may, if he deems it necessary, take custody of the dead body for the purpose of autopsy. When the coroner does not deem an autopsy necessary, the sheriff and state's attorney may direct an autopsy be performed by the coroner or his deputy coroner, or pathologist. Upon the request of a parent or guardian of a child whose cause of death is suspected to have been the sudden infant death syndrome, the coroner or his medical deputy shall take custody of the dead body for the purpose of autopsy or, in his discretion, may arrange for the performance of the autopsy by a qualified pathologist. The parents or guardian and the state health officer shall be promptly notified of the results of that autopsy.

SECTION 3. AMENDMENT.) Section 11-19.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-13. CAUSE OF DEATH, DETERMINATION.) The cause of death, the manner and mode in which the death occurred, as delivered by the coroner and incorporated in the coroner's verdict, shall be incorporated in the death certificate filed with the registrar of vital statistics of this state. The term "sudden infant death syndrome" shall be entered on the death certificate as the principal cause of death where the term is appropriately descriptive of the circumstances surrounding the death of a child.

SECTION 4. AMENDMENT.) Section 11-19.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-16. CORONER'S FEES PAID OUT OF COUNTY TREASURY - FEES TO BE CHARGED BY CORONER - DUTY OF COUNTY AUDITOR - CERTAIN EXPENSES PAID BY THE STATE.)

1. The fees and mileage as provided by section 11-10-15 allowed to the coroner shall be paid out of the county treasury and the coroner's bill shall be presented to the county auditor and shall be paid upon approval and order of the board of county commissioners.
2. The state health department shall audit, and if found correct, certify for payment by the state treasurer duly itemized and verified claims of the coroner, his medical deputy and pathologist for the necessary expenses incurred or paid by him in the performance of an autopsy of a child whose cause of death was suspected to have been the sudden infant death syndrome.

SECTION 5.) A new subsection to section 23-01-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.

Approved March 17, 1977

CHAPTER 105

SENATE BILL NO. 2228
(Committee on Political Subdivisions)
(At the request of the State Auditor)

COUNTY AND CITY BUDGET PREPARATION

AN ACT to amend and reenact sections 11-23-02, 40-40-04, 40-40-10, and 40-40-12 of the North Dakota Century Code, relating to the county and municipal budgets.

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

SECTION 1. AMENDMENT.) Section 11-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-23-02. AUDITOR TO PREPARE BUDGET OF COUNTY EXPENDITURES.) The county auditor shall prepare annually estimates of county receipt and expenditures for the ensuing year in the form prescribed by the state tax commissioner and state auditor. Such annual budget shall set forth specifically:

1. The aggregate annual expenditures from each fund for the the last fiscal year.
2. The amount of money received in the last fiscal year from sources other than from direct property taxes which is available for any purpose.
3. The amount required for each department, public office, and public official, for each public improvement, for the maintenance of each public building, structure, or institution, for the maintenance of public highways, roads, streets, and bridges, for the construction, operation, and maintenance of each public utility, and for each and every purpose authorized by law for which it is desired to raise money for the ensuing year including all contemplated undertakings proposed for the ensuing year.
4. The balance standing to the credit or debit of the several funds and the aggregate amount in all funds at the end of the fiscal year.
5. The amount of uncollected taxes standing to the credit of the county.

6. An estimate of the probable amount that may be received during the incoming or ensuing year from sources other than direct property taxes.
7. The aggregate amount proposed to be raised for all purposes.
8. The amount of the bonded indebtedness of the county, specifying as to each issue the purpose for which issued, the date of issue, the date of maturity, the amount originally issued, the amount outstanding, the rate of interest, and the sum necessary for interest and for sinking fund purposes.
9. The amount required for all interest and sinking fund purposes for the incoming or ensuing year.
10. The amount required to retire all other indebtedness lawfully incurred and to pay interest thereon.
11. The amount required for the general reserve fund of the county.

The county auditor shall transmit one copy of such annual budget to the state auditor no later than September tenth of each year.

SECTION 2. AMENDMENT.) Section 40-40-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-04. MUNICIPALITY TO PREPARE PRELIMINARY BUDGET STATEMENT.) 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 and state auditor, 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 and state auditor may require.

SECTION 3. AMENDMENT.) Section 40-40-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-10. CERTIFIED COPIES OF LEVY AND FINAL BUDGET SENT TO COUNTY AUDITOR.) Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than September first, the auditor of the municipality shall send to the county auditor two certified copies of the levy as adopted and two certified copies of the final budget.

SECTION 4. AMENDMENT.) Section 40-40-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-12. COUNTY AUDITOR TO TRANSMIT ANNUAL TAX LEVY AND FINAL BUDGET TO STATE AUDITOR.) On or before September tenth of each year, the county auditor shall transmit to the state auditor one copy of the final budget.

Approved March 23, 1977

CHAPTER 106

HOUSE BILL NO. 1476
(Hill, O'Shea)

RECREATION SERVICE DISTRICT ESTABLISHMENT

AN ACT to amend and reenact section 11-28.2-01 of the North Dakota Century Code, relating to establishment of recreation service districts.

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

SECTION 1. AMENDMENT.) Section 11-28.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.2-01. ESTABLISHMENT OF RECREATION SERVICE DISTRICTS - PETITION - PURPOSE.) The board of county commissioners of any county in this state, at any meeting of such board, by majority vote of all of the members may, upon the petition of ten percent of the persons who qualify pursuant to section 11-28.2-03 as voters of an area to be included within a proposed recreation service district, call for an election of all of the qualified voters of such district to determine the question of the establishment of a recreation service district for the purpose of providing police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to that provided by the local governing body or agency to summer homes, cottages, and other residences and establishments as may exist within such area, and provide for the improvement and control of the environmental quality of the recreation service district. Said recreation service district shall be limited in size and location to an area which is contiguous to or within one-quarter mile of the recreational waters of the area or to the areas of land which are dedicated to public use for recreational purposes. In addition, said district shall consist of not less than one hundred privately owned seasonal homes or cottages and other residences and establishments. If a petition is presented to the board of county commissioners calling for such election, such petition shall be accompanied by such information as the board of county commissioners shall require, including the boundaries of the proposed recreation district, the approximate number of qualified voters as defined in section 11-28.2-03, and a sufficient deposit of money to cover all costs of such election. Within sixty days after the calling of such an election, the board of county commissioners shall provide an election on the question of whether or not a recreation service district should be established and shall establish procedures

for voting and other necessary matters not inconsistent with the provisions of this chapter. The county commissioners shall give at least thirty days' notice of the election by certified mail to all qualified voters as defined in section 11-28.2-03. If a majority of the qualified voters approve of the establishment of a recreation service district, such district shall then be organized.

Approved April 21, 1977

CHAPTER 107

SENATE BILL NO. 2496
(Reiten)

RECREATION SERVICE DISTRICT MEETINGS AND BONDS

AN ACT to create and enact a new subsection to section 21-03-06 of the North Dakota Century Code, relating to the purposes and specific limitations of bond issues by recreation service districts; and to amend and reenact section 11-28.2-02 and subsection 1 of section 21-03-01 of the North Dakota Century Code, relating to meetings of recreation service districts and the definition of municipalities in relation to issuance of special assessment bonds.

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

SECTION 1. AMENDMENT.) Section 11-28.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.2-02. MEETINGS OF RECREATION SERVICE DISTRICTS - ELECTION OF BOARD.) The first meeting of the recreation service district shall be held within thirty days after the district is organized at a time and place designated by the board of county commissioners. At such meeting, the qualified voters, as defined in section 11-28.2-03, shall elect not less than five qualified voters of the district to serve as members of the board of recreation service district commissioners. Each member elected and qualified shall serve until the first annual meeting of the district. The voters of the district shall assemble and hold an annual meeting during the month of June of each year, at a time and place within the county designated by the board of recreation service district commissioners. In addition to the annual meeting, the board of recreation service district commissioners may call a special meeting of the voters of the district at such time and place as the board may select. For any annual or special meeting the board shall publish notice of the meeting not less than fifteen days prior to the meeting in the official county newspaper of the county in which the district is located and the notice shall be mailed by regular mail to property owners of the district as recorded in the county treasurer's office in which the district is located not less than fifteen days prior to the meeting. Not less than five qualified voters of the district shall be elected to serve on the board of recreation service district commissioners at the annual meeting. Each member so elected shall serve a term of three years, until his successor is elected and qualified. The term of each director shall be established so that the term of approximately one-third of the directors

shall terminate each year. The members of such board shall serve without compensation.

SECTION 2. AMENDMENT.) Subsection 1 of section 21-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Municipality" shall mean a county, city, township, public school district, park district, or recreation service district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue;

SECTION 3.) A new subsection to section 21-03-06 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

By any recreation service district:

- a. For the construction and extension of water plants or the purchase of existing plants; the construction and improvement of water mains, sewers, and drains; or for the joint construction and establishment of a water and sewer system; or for the erection, planning, construction, and establishment of a sewage disposal plant or system; or for the erection, construction, and enlargement of garbage disposal plants and to purchase sites and grounds, either within or without the limits of the recreation service district, for the disposal of sewage, garbage, and other refuse; and other like recreation service district purposes.
- b. To provide for acquiring, laying out, and improving parks, parkways, park buildings, public drives, boulevards, highways, streets, state highways, and to acquire land for these purposes.
- c. To provide money for the payment of any deficiency in the fund of any special improvement district whenever the special assessment or taxes levied and collected for the specific improvements are then insufficient to pay the principal or interest of any special improvement warrants issued for such improvement and then due and unpaid, but only to the extent of such deficiency.
- d. For the purchase of trucks, garbage collectors, and other vehicles, equipment, and materials for the collection, removal, and disposal of garbage, rubbish, ashes, refuse, and other wastes within the recreation service district.
- e. For the purpose of providing services described in section 11-28.2-04.

CHAPTER 108

SENATE BILL NO. 2308
(Iszler, Smykowski)

RURAL AMBULANCE SERVICE DISTRICTS

AN ACT to authorize creation of rural ambulance service districts, setting forth the powers and duties of such districts, authorizing the levy of a tax, and setting limits on the indebtedness of such districts.

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

SECTION 1. TERRITORY TO BE ORGANIZED - PETITION.) Whenever twenty percent of the electors residing in any rural territory, equivalent in area to one township or more not presently served by an existing ambulance service, elect to form, organize, establish, equip, and maintain a rural ambulance service district, they shall signify their intention by presenting to the county auditor of the county or counties in which the territory is situated, a petition setting forth the desires and purposes of the petitioners. The petition shall contain the full names and post-office addresses of the petitioners, the suggested name of the proposed district, the area in square miles to be included therein, and a complete description according to government survey, wherever possible, of the boundaries of the real properties intended to be embraced in the proposed rural ambulance service district. A plat or map showing the suggested boundaries of the proposed district shall accompany the petition, and the petitioner shall also deposit with the county auditor a sum sufficient to defray the expense of publishing the notices required by sections 2 and 3. Provided further that any city located within the area, whether such city has ambulance service or not, may be included in the rural ambulance district if twenty percent or more of the electors residing in the city sign the petition.

SECTION 2. ELECTION IN AFFECTED COUNTIES.) When a petition is filed in the office of the county auditor pursuant to section 1, the county auditor shall determine and certify that the petition has been signed by at least twenty percent of the qualified electors voting at the last general election for governor and residing within the boundaries of the proposed district. If the proposed district is situated within two or more counties, the county auditor of the county wherein most of the petitioners reside shall confer with the other affected county auditors for the purpose of determining the adequacy of the petitions in all the counties affected.

If the county auditor or county auditors determine that the petitions submitted are adequate according to the provisions of this chapter, the question of whether the rural ambulance service district shall be formed and organized shall be submitted to a vote of the qualified electors residing in the proposed district at the next ensuing countywide special, primary, or general election. The election provided for by this chapter shall be conducted in the same manner as other county elections are conducted, except as otherwise provided by this chapter.

SECTION 3. NOTICE OF ELECTION.) In addition to the usual requirements of notices of election, the notice for an election at which the question provided for in this chapter will be voted upon shall include a statement describing the boundaries of the proposed rural ambulance service districts, expressed, wherever possible, in terms of the government survey, a statement that the mill levy for the proposed district will not exceed one mill, and a statement that only the property contained within the boundaries of the proposed district will be taxed. The notice of election shall also state the voting areas in which the question provided by this chapter will be on the ballot.

SECTION 4. FORM OF BALLOT - VOTE REQUIRED TO APPROVE.) The ballot on the question of forming a rural ambulance service district shall be in substantially the following form:

Shall (name of taxing district or districts) levy a tax of not to exceed one mill for the purpose of forming a rural ambulance district?

Yes

No

If sixty percent of all the votes cast on the question of levying a tax and forming a rural ambulance service district are in favor of such a tax levy, then the formation of the district shall be approved.

SECTION 5. NOTICE BY COUNTY AUDITOR OF MEETING TO ORGANIZE DISTRICT.) If a rural ambulance service district is approved as provided in this chapter, the county auditor of the county in which the proposed district is located shall issue notice of a public meeting to organize the rural ambulance service district. The notice shall be given by publication once a week for two consecutive weeks, the last notice appearing seven days before the date of the meeting in a newspaper of general circulation within the proposed district. The notice shall be addressed to all electors residing within the boundaries of the district, shall describe the boundaries of the district, and shall state the date, time, and place of the meeting. If the district is located within two or more counties, the county auditors of the counties shall confer and set the date, time, and place of the meeting, and shall cause the publication of the meeting notice in each of said counties.

SECTION 6. ORGANIZATION - BOARD OF DIRECTORS.) At the time and place fixed by the county auditor for the public meeting as provided in section 5, the electors present who reside within the boundaries of the district shall proceed to organize the district. Permanent organization shall be effected by the election of a board of directors consisting of not less than five nor more than ten residents of the district. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers shall be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president shall be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election following the effective date of this section shall be selected by lot in the presence of a majority of such directors to serve one-year terms. All officers and directors shall serve without pay.

SECTION 7. REGULAR MEETING TO BE HELD.) A regular meeting of the electors who reside within the boundaries of a district shall be held in the first quarter of each calendar year, and special meetings may be called by the board of directors at any time. The secretary-treasurer shall give notice of the meeting by one publication in a legal newspaper of general circulation in each county in which the district is situated. The meeting shall be held not less than seven nor more than fourteen days after the date of publication of the notice.

SECTION 8. POWERS OF BOARD OF DIRECTORS.) The board of directors shall have the following general powers to:

1. Develop a general ambulance service program for the district.
2. Make an annual estimate of the probable expense of carrying out the program.
3. Annually certify that estimate to the proper county auditor in the manner provided by section 9.
4. Manage and conduct the business affairs of the district.
5. Make and execute contracts in the name of and on behalf of the district with regard to a general ambulance service program.
6. Purchase or lease ambulances, or other emergency vehicles, supplies, and other real or personal property as shall be necessary and proper to carry out the general ambulance service program of the district.
7. Incur indebtedness on behalf of the district within the

limits prescribed by section 10, authorize the issuance of evidences of indebtedness permitted under section 10, and pledge any real or personal property owned or acquired by the district as security for the same.

8. Organize, establish, equip, maintain, and supervise an ambulance service company to serve the district.
9. Generally perform all acts necessary to fully carry out the purposes of this chapter.

SECTION 9. AMBULANCE SERVICE POLICY TO BE DETERMINED.) The board of directors shall establish a general ambulance service policy for the district and shall annually estimate the probable expense for carrying out that policy. The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. The auditor or auditors shall levy a tax not to exceed one mill upon the taxable property within the district for the maintenance of the ambulance service district for the fiscal year as provided by law. The tax shall be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural ambulance service district, who shall be bonded in the amount of at least five thousand dollars.
3. Deposited by the secretary-treasurer in a state or national bank in a district account.
4. Paid out upon warrants drawn upon the district account by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president.

In no case shall the amount of the tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

SECTION 10. INDEBTEDNESS OF DISTRICT LIMITED.) No district shall become indebted for an amount that may not be payable from ninety percent of twenty times the current annual maximum tax levy as authorized by section 9. Within the limits herein authorized, the district may borrow money and issue appropriate evidence of indebtedness. No evidence of indebtedness issued under the provisions of this chapter and sold privately shall bear interest at a rate or rates and be sold at a price resulting in an average annual net interest cost higher than eight percent. There shall be no interest rate ceiling on those issues sold at public sale. No

evidence of indebtedness issued under the provisions of this chapter shall be sold for less than ninety-eight percent of par value plus accrued interest, if any interest has accrued as of the date of delivery thereof.

SECTION 11. FUNDS COLLECTED TO BE DEPOSITED.) All funds collected on behalf of the district through the levy of taxes, all donations, contributions, bequests, or annuities, and all borrowed money received by or on behalf of the district shall be deposited in a state or national bank to the credit of the district account and shall be drawn out only by warrant.

Claim vouchers shall be authorized by the board of directors and shall bear the signature of the secretary-treasurer and the countersignature of the president. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. Once each year at the same time the state auditor examines other county records, he shall examine the records of the secretary-treasurer of the rural ambulance service district, and the cost of such examination shall be paid by the district. The secretary-treasurer of the rural ambulance service district shall bring the records of the district to the office of the county auditor for the examination.

SECTION 12. RURAL AMBULANCE SERVICE DISTRICT MAY ENTER INTO CONTRACT.) Any rural ambulance service district may enter into a contract with another rural ambulance service district to consolidate or cooperate for mutual ambulance services or emergency vehicle services, or may enter into a contract with any federal, state, or local government agency for ambulance services or emergency vehicle services, upon terms suitable to all concerned.

SECTION 13. BOUNDARIES OF RURAL AMBULANCE SERVICE DISTRICT - DISSOLUTION OF THE DISTRICT.) The boundaries of any rural ambulance service district organized under the provisions of this chapter may be changed in the manner prescribed by sections 1 through 6, but a change in the boundary of a district shall not impair or affect its organization or its right in or to property; nor shall it impair, affect, or discharge any contract, obligation, lien, or charge for or upon which it might be liable had such change of boundaries not been made. When a boundary change is requested, the petition, notice of election, and ballot shall all indicate that the purpose of the election is to alter the boundaries of an existing rural ambulance service district. The petition and notice of election shall describe with particularity both the present and the proposed boundaries of the district.

Dissolution of a rural ambulance service district may be accomplished in the manner prescribed by sections 1 through 4. The petition and notice of election shall state that the purpose of the election is to dissolve the rural ambulance service district and shall describe its boundaries. The ballot to dissolve a rural

ambulance service district shall be in substantially the following form:

Shall (name of taxing district or districts) cease to levy a tax for the purpose of maintaining a rural ambulance service district, and shall such district be dissolved?

Yes

No

If sixty percent of all votes cast on the question are in favor of dissolution, then the district shall be dissolved thirty days after the canvass of the votes. After all debts and obligations of the district are paid, any remaining funds shall be deposited in the general fund of the county in which the district was contained. If the dissolved district was located in more than one county, then any funds remaining after all debts and obligations are paid shall be divided among those counties in the same proportion as the geographical area of the district in each county bears to the total geographical area of the dissolved district.

SECTION 14. PAYMENTS BY CERTAIN ORGANIZATIONS.) Any property tax-exempt club, lodge, chapter, charitable home, dormitory, state or county fair association, or like organization located within a rural ambulance service district and outside the boundaries of any city shall pay to the board of directors of the district annually for ambulance service an amount agreed upon, but not less than twenty-five percent of the amount which would be levied against the property under the provisions of this chapter if the property were subject to levy.

Funds derived from such payments shall be expended by the district for ambulance service supplies and equipment and the training of ambulance service personnel.

Approved April 20, 1977

CHAPTER 109

HOUSE BILL NO. 1182
(Mertens)

WAR MEMORIAL AUTHORITY

AN ACT to amend and reenact section 11-32-01 of the North Dakota Century Code, relating to county commissioners' authorization to erect war memorials.

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

SECTION 1. AMENDMENT.) Section 11-32-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-32-01. COUNTY COMMISSIONERS AUTHORIZED TO ERECT A MEMORIAL OR MEMORIALS OR OTHER SUITABLE RECOGNITION - TO MAKE LEVY.)

1. The board of county commissioners of any county in this state is hereby authorized to erect a memorial or memorials, or other suitable recognition, in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during a period of service as defined in section 37-01-40. The board may for such purpose use funds out of the general fund of the county if there is sufficient moneys in said fund, or use funds heretofore raised by tax levy for such memorial or memorials. The board may use for memorial purposes funds donated to the county for that purpose, or may use for such purpose funds out of the general fund of such county, if there is sufficient money in said fund, in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of the general fund, shall be used solely for the purpose of erecting such memorial or memorials, or other suitable recognition.
2. Nothing herein contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial or memorials, or other suitable recognition, shall be erected within the county at a place determined upon by such board and when erected, shall be properly and permanently maintained. The

board may provide for such maintenance or erection by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both such funds, or may enter into a written agreement with any public or private non-profit agency or corporation for the assumption of part or all of such responsibility by such agency or corporation. Pursuant to such agreement, the county may acquire or divest itself of any title to or jurisdiction over such memorial or other suitable recognition.

Approved March 12, 1977

CHAPTER 110

SENATE BILL NO. 2513
(Hoffner)

ZONING NOTICE AND PUBLICATION

AN ACT to amend and reenact sections 11-33-08, 11-33-09, 40-47-04, and 40-47-05 of the North Dakota Century Code, relating to public hearing, notice, and publication requirements for county and city zoning.

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

SECTION 1. AMENDMENT.) Section 11-33-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-33-08. HEARINGS.) After the filing of the proposed resolution, the county planning commission shall hold a public hearing thereon, at which the proposed resolution shall be submitted for discussion, and parties in interest and citizens shall have an opportunity to be heard. Notice of the time, place, and purpose of the hearing shall be published once each week for two consecutive weeks in the official newspaper of the county, and in such other newspapers published in the county as the county planning commission may deem necessary. Said notice shall describe the nature, scope, and purpose of the proposed resolution, and shall state the times at which it will be available to the public for inspection and copying at the office of the county auditor.

SECTION 2. AMENDMENT.) Section 11-33-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 11-33-09. PUBLICATION OF RESOLUTIONS.) Following the public hearing, the board of county commissioners may adopt the proposed resolutions or any amendments thereto, with such changes as it may deem advisable. Upon adoption of any resolution or any amendments thereto the county auditor shall file a certified copy thereof with the register of deeds. Immediately after the adoption of any such resolution, the county auditor shall cause notice of the same to be published for two successive weeks in the official newspaper of the county and in such other newspapers published in the county as the board of county commissioners may deem necessary. Said notice shall

*NOTE: Section 11-33-09 was also amended by section 1 of Senate Bill No. 2425, chapter 111.

describe the nature, scope, and purpose of the adopted resolution, and shall state the times at which it will be available to the public for inspection and copying at the office of the register of deeds. Proof of such publication shall be filed in the office of the county auditor and thereupon the resolution shall take effect. Any such resolution may, from time to time, be amended or repealed by the board of county commissioners upon like proceedings as in case of the adoption of a resolution.

SECTION 3. AMENDMENT.) Section 40-47-04 of the 1975 Supplement to 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 - PUBLICATION OF REGULATIONS, RESTRICTIONS, AND BOUNDARIES.) 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. A copy of each proposed regulation, restriction, or boundary shall be filed with the city auditor. 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. Notice of said hearing shall be published once a week for two successive weeks prior to the time set for said hearing in the official newspaper of the city. Such notice shall contain the following items:

1. The time and place of the hearing.
2. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.
3. A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
4. A statement of the times at which it will be available to the public for inspection and copying at the office of the city auditor.

Upon establishment of any regulation, restriction, or boundary hereunder the governing body of a city shall file a certified copy thereof with the city auditor and shall cause notice of the same to be published in the official newspaper of the city. Said notice shall describe the nature, scope, and purpose of the regulation, restriction, or boundary, and shall state the times at which it will be available to the public for inspection and copying at the office of the city auditor.

SECTION 4. AMENDMENT.) Section 40-47-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-05. AMENDMENTS TO OR REPEALS OF ZONING REGULATIONS - PROTEST - REQUIRED VOTE FOR PASSAGE - REGULATIONS GOVERNING.) Regulations, restrictions, and boundaries may be amended, supplemented, changed, modified, or repealed from time to time. If a protest against a change, supplement, modification, amendment, or repeal is signed by the owners of twenty percent or more:

1. Of the area of the lots included in such proposed change; or
2. Of the area adjacent, extending one hundred and fifty feet from the area to be changed, excluding the width of streets,

the amendment shall not become effective except by the favorable vote of three-fourths of all the members of the governing body of the city. The provisions of section 40-47-04 relating to public hearings, official notice, and publication of regulations, restrictions, and boundaries shall apply equally to all changes or amendments provided in this section, provided that protests in writing must be filed with the city auditor prior to the time set for the hearing.

Approved April 9, 1977

CHAPTER 111

SENATE BILL NO. 2425
(Albers)

EFFECTIVE DATE OF COUNTY ZONING

AN ACT to amend and reenact sections 11-33-09 and 11-33-10 of the North Dakota Century Code, relating to the publication and effective date of county zoning resolutions and amendments, and to separate hearings on such resolutions and amendments.

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

SECTION 1. AMENDMENT.) Section 11-33-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 11-33-09. PUBLICATION OF RESOLUTIONS - EFFECTIVE DATE.) Following the public hearing, the board of county commissioners may adopt the proposed resolutions or any amendment thereto, with such changes as it may deem advisable. Forthwith after the adoption of any such resolution or any amendment thereto, the county auditor shall cause the same to be published for two successive weeks in the official newspaper of the county and in such other newspapers published in the county as the board of county commissioners may deem necessary. Proof of such publication shall be filed in the office of the county auditor. If no petition for a separate hearing is filed pursuant to section 11-33-10, the resolution or amendment thereto shall take effect upon the expiration of the time for filing said petition. If a petition for a separate hearing is filed pursuant to section 11-33-10, the resolution shall not take effect until the board of county commissioners has affirmed such resolution or amendment in accordance with the procedures of section 11-33-10. Any such resolution may, from time to time, be amended or repealed by the board of county commissioners upon like proceedings as in the case of the adoption of a resolution. Upon the taking effect of any resolution hereunder or amendment thereto, the county auditor shall file a certified copy thereof with the register of deeds.

SECTION 2. AMENDMENT.) Section 11-33-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-33-10. SEPARATE HEARINGS.) Any person aggrieved by any provision of a resolution adopted hereunder, or any amendment thereto may, within thirty days after the first publication of such resolution or amendment, petition for a separate hearing thereon before the board of county commissioners. The petition shall be

*NOTE: Section 11-33-09 was also amended by section 2 of Senate Bill No. 2513, chapter 110.

in writing and shall specify in detail the ground of the objections. The petition shall be filed with the county auditor. A hearing thereon shall be held by the board no sooner than seven days, nor later than thirty days after the filing of the petition with the county auditor, who shall notify the petitioner of the time and place of the hearing. At this hearing the board of county commissioners shall consider the matter complained of and shall notify the petitioner, by registered or certified mail, what action, if any, it proposes to take thereon. The board of county commissioners, at their next regular meeting, shall either rescind or affirm such resolution or amendment. The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the board of county commissioners or any citizen.

Approved March 31, 1977

CHAPTER 112

SENATE BILL NO. 2229
(Committee on Political Subdivisions)
(At the request of the Water Commission)

ZONING RELINQUISHMENT TO COUNTY

AN ACT to amend and reenact section 11-33-20 of the North Dakota Century Code, to authorize townships to relinquish all, or a portion of, their power to enact zoning regulations to the county.

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

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

11-33-20. TOWNSHIP ZONING NOT AFFECTED - TOWNSHIP AND CITY MAY RELINQUISH POWERS.) The provisions of this chapter shall in no way prevent townships from making regulations as provided in sections 58-03-11 through 58-03-15, but such townships may relinquish their powers, or any portion thereof, to enact zoning regulations to the county by resolution of the board of township supervisors. The provisions of this chapter shall not be construed to affect any property, real or personal, located within the zoning or subdivision authority of any city of this state, except that any such city by resolution of its governing body may relinquish to the county its authority, or any portion thereof, to enact zoning regulations under chapter 40-47 or subdivision regulations under chapter 40-48, in which case such property shall be subject to the provisions of this chapter.

Approved March 12, 1977