CHAPTER 11-10
GENERAL PROVISIONS

11-10-01. County a corporate body - Powers.

Each organized county is a body corporate for civil and political purposes only. As such, the county may sue and be sued, contract and be contracted with, and in all cases when lands have been granted to it for public purposes and any part thereof has been sold and the purchase money or any part thereof is due and unpaid, all proceedings necessary to recover possession of such lands or to enforce the payment of the purchase money shall be instituted in the name of the proper county.

11-10-02. Number and election of county officers.

Each organized county, unless it has adopted one of the optional forms of county government provided by the code or has combined or separated the functions of county offices or redesignated offices as elective or appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

1. One county auditor.
2. One recorder.
3. One county treasurer.
4. One coroner.
5. A board of county commissioners consisting of three or five members as provided in this title.

In addition, unless otherwise provided in section 11-10-02.3, each county must have an elected state's attorney and an elected sheriff. In counties having a population of six thousand or less, the recorder also serves as ex officio clerk of the district court. The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the recorder, county auditor, treasurer, sheriff, and state's attorney, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03.

11-10-02.1. Employment of county surveyors.

The board of county commissioners may employ a county surveyor to serve at the pleasure of the board and such surveyor may be compensated on a per diem basis or otherwise as may be determined by the board. The office of county surveyor may be combined with the office of county highway engineer.

11-10-02.2. County supervisor of assessments - Appointment.

Repealed by S.L. 1969, ch. 130, § 9.

11-10-02.3. Appointment of state's attorney upon voter approval.

Upon the submission to the board of county commissioners of a petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election or upon resolution of the board of county commissioners, the county auditor shall place the question of appointing the state's attorney on the ballot at the next primary or general election, whichever occurs first. If a majority of the qualified electors of the county voting on the question approves the change from elective to appointive, the change is effective at the end of the term of office of the state's attorney holding office at the time of the election.

11-10-03. Additional justices and constables for unorganized townships.

Repealed by S.L. 1959, ch. 268, § 34.

11-10-04. Officer must be qualified elector - Exceptions.

1. Except as otherwise specifically provided by the laws of this state, a county officer must be a qualified elector in the county in which the person is appointed, and a county commissioner must be a qualified elector in the district from which the commissioner is chosen.
2. Notwithstanding subsection 3, upon approval of the board of county commissioners of each affected county, a person may serve as an elected officer of more than one county and must be a qualified elector of one of the counties in which the person is elected.
3. A candidate for election to a county office must be, at the time of election, a qualified elector in the jurisdiction in which the candidate is to serve.
4. Two or more counties may appoint one person to fill the same office in each county and the person filling the office must be a qualified elector of one of the counties.
5. a. The boards of county commissioners of two or more counties may agree by resolution to elect a multicounty jurisdiction state's attorney pursuant to chapter 11-10.3. An agreement made between two or more counties according to this subsection must specify procedures for filing for office, the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses. A candidate for election to the office of multicounty jurisdiction state's attorney must be a qualified elector of the multicounty jurisdiction at the time of the election; or
   b. The boards of county commissioners of two or more counties may agree by resolution to allow any candidate for the office of state's attorney to petition for office in each county, and to serve if elected, if the candidate is a qualified elector of one of the counties at the time of the election. To be elected to serve a county in which the candidate is not a resident, the candidate must receive the highest number of votes for the office in that county. Each county shall certify the results and issue certificates of election pursuant to chapter 16.1-15.

11-10-04.1. Board members must reside in taxing district.

Unless otherwise provided by law, an appointed member of a county board, commission, or committee that has authority to levy taxes must be a resident of the area subject to taxation by the board, commission, or committee.

11-10-05. When terms of county officers commence - When officers qualify.

Except as otherwise specifically provided by the laws of this state, the regular term of office of each county officer, when the officer is elected for a full term, shall commence on the first of January next succeeding the officer's election and each such officer shall qualify and enter upon the discharge of the officer's duties on the first of January next succeeding the date of the officer's election. If the office to which an officer is elected was vacant at the time of the officer's election or becomes vacant prior to the date fixed for the commencement of the officer's term, the officer may qualify and enter upon the duties of the office forthwith even though the officer was not elected to fill such vacancy. If an officer is elected to fill an unexpired term in an office then held by an appointee, such officer may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the first Monday in January next succeeding the date of the officer's election to the unexpired term of office.

11-10-05.1. When terms of county commissioners commence.

The regular term of office of each county commissioner, when the commissioner is elected for a full term, commences on the first Monday in December next succeeding the officer's election and each such commissioner shall qualify and enter upon the discharge of the commissioner's duties on or before the first Monday in December next succeeding the date of the commissioner's election or within ten days thereafter. If a commissioner is elected to fill an

unexpired commission term held by an appointee, such officer may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the first Monday in December next succeeding the date of the commissioner's election to the unexpired term of office.

11-10-06. Bonds of county officers.

Before entering upon the duties of their respective offices, the following county officers must be bonded for the faithful discharge of their respective duties in the same manner as other civil officers are bonded and in the following amounts:

1. The county auditor, recorder, and sheriff, fifteen thousand dollars, except in counties having a population of less than ten thousand, where the amount must be ten thousand dollars.
2. A county commissioner, two thousand dollars.
3. The county coroner, five hundred dollars.
4. The state's attorney, three thousand dollars.
5. The county surveyor, an amount, not to exceed two thousand dollars, as may be determined by the board of county commissioners.
6. The public administrator, not less than ten thousand dollars.
7. The county treasurer, an amount fixed by the board of county commissioners of not less than seventy-five thousand dollars, except in counties having a population of less than ten thousand, an amount of not less than forty thousand dollars. When the total amount of taxes to be collected by the county treasurer in any one year is less than the minimum amount of bond specified in this subsection, the bond may be in a sum equal to the amount of taxes to be collected.
8. Repealed by S.L. 1989, ch. 137, § 10.

When the amount of any bond required under this section is dependent upon the population of a county, the population must be determined as provided in section 11-10-10.

11-10-07. Bonds required in counties where offices consolidated.

In counties where any offices are consolidated under the provisions of this title, only one bond shall be required for the offices consolidated, and such bond shall be in the highest amount required for any one of the offices so consolidated.

11-10-08. Bonds of county officers to be recorded.

Unless a county officer is bonded in the state bonding fund, the bond of each county officer, immediately after the approval thereof, shall be recorded at length in the office of the recorder in a book provided for that purpose except as otherwise provided by the laws of this state. Immediately after the recording of such bond, it shall be filed as provided in title 44.

11-10-09. Oath of county officers.

Every county officer, before entering upon the discharge of the officer's duties, shall take and subscribe the oath prescribed for civil officers.

11-10-10. Salaries of elected county officers.

1. The salary of an elected county auditor, county treasurer, county superintendent of schools, recorder, and sheriff must be regulated by the population in the respective counties according to the last preceding official federal census from and after the date when the official report of the census has been published. Notwithstanding any decreases in population, the salaries paid county officers as of July 1, 1981, reduced by any discretionary salary increase authorized by the county commissioners pursuant to this section, must be at least the minimum amount payable for that office when filled on a full-time basis in the future.
2. An elected county treasurer, county superintendent of schools, recorder, and county auditor are entitled to the following minimum annual salary, payable monthly, for official services rendered:

a. Nineteen thousand dollars in counties having a population of less than eight thousand.
b. Nineteen thousand five hundred dollars in counties having a population of or 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 in this subsection within the limitations contained in this subdivision.

3. The county superintendent of schools is entitled to receive for any trips necessarily made within the county in the performance of school district reorganization duties the same mileage received under section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official provided in this section, if, in the judgment of such board, by reason of duties performed, the official merits the increase. The salary of a county official may not be reduced during the official's 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. If the county has for its employees a group insurance program for hospital benefits, medical benefits, or life insurance, or a group retirement program, financed in part or entirely by the county, the benefits may be in addition to the salaries payable to county officials.
4. Each county commissioner may receive an annual salary or per diem as provided by resolution of the board.
5. An elected sheriff is entitled to the following minimum annual salary, payable monthly, for official services rendered:
   a. Twenty-one thousand nine hundred dollars in counties having a population of less than eight thousand.
   b. Twenty-two thousand nine hundred 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 in this subsection within the limitations contained in this subdivision.
6. An elected state's attorney 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 must be full time and may not be an attorney or counsel for any party except the state or county, is entitled to receive a minimum salary of forty-seven thousand dollars. State's attorneys not considered full time are entitled to an annual salary of at least forty-five percent of the minimum salary paid to a full-time state's attorney.

11-10-10.1. Legislative intent in regard to county salaries.

It is the intent of the legislative assembly that the several boards of county commissioners shall exercise the responsibility of setting the salaries of county officials within the limits imposed by section 11-10-10. A board of county commissioners, in making a decision in regard to a county official's salary, should take into account the financial status of the county, the responsibilities of the position, and any factors that the board deems relevant in arriving at the decision.

11-10-10.2. Salary of clerk of the district court.

Repealed by S.L. 1975, ch. 87, § 2.

11-10-10.3. Salaries of county superintendents of schools for 1947, 1948, 1949, and 1950.

Repealed by omission from this code.

11-10-10.4. Compensation and expenses of county commissioners for 1949, 1950, 1951, and 1952.

Repealed by omission from this code.

11-10-10.5. County superintendent of schools - Officer.

For purposes of sections 11-10-10, 11-10-15, and 11-10-20, the county superintendent of schools employed by the board of county commissioners is an officer of the county. A board of county commissioners shall employ a county superintendent of schools, as provided for in section 15.1-11-01, or assign the duties of the county superintendent of schools, as provided for in section 15.1-11-02.

11-10-11. Appointment and salary of deputies and clerks.

The salaries of deputies, clerks, and assistants for the county auditor, county treasurer, sheriff, recorder, ex officio clerk of the district court, and state's attorney must be fixed by a resolution of the board of county commissioners. Each of the named officers may appoint such deputies, clerks, and assistants, in accordance with the budget, except none of the officers mentioned in this section may appoint as deputy any other officer mentioned in this section.

11-10-12. Deputy county officials - Bonds.

Any county official may require that official's deputy to be bonded for the faithful performance of the deputy's duties in an amount to be fixed by the board of county commissioners. A bond of a deputy shall be issued, and the premium thereon paid, in the same manner as in the case of a county official.

11-10-13. Oath of deputies.

Each deputy county officer shall take and subscribe the same oath as the deputy's principal, naming the deputyship, which shall be endorsed upon and filed with the deputy's certificate of appointment.

11-10-14. Fees received by county officers turned over to county treasurer.

The salaries fixed by this chapter shall be full compensation for all county officials, deputies, clerks, and assistants, respectively, and all fees and compensation received by any official, deputy, clerk, or assistant for any act or service rendered in an official capacity shall be accounted for and paid over monthly to the county treasurer and be credited to the general fund of said county, except that such official, deputy, clerk, and assistant shall be entitled to retain such fees as now are allowed to that officer and permitted by law or as may be hereafter permitted and allowed.

11-10-15. Mileage of officials and employees.

Unless otherwise provided by the laws of this state, every county official, whether elective or appointive, every deputy of a county official, and any county employee entitled by law to travel or mileage expense is entitled to mileage expenses of at least the amount allowed state officers and employees under section 54-06-09 for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duties.

11-10-16. Statement to claim mileage.

Unless the expense was incurred by the use of a purchasing card, before an allowance for mileage or travel expense may be paid by a county, the individual for whose travel the claim is made shall file with the county auditor an itemized statement verified by affidavit showing the number of miles traveled, the mode of travel, the days of traveling, the purpose of the travel, and the destination. Before a claim for mileage is allowed or paid, the claimant shall file the

statement and affidavit with the board of county commissioners which shall decide whether to allow the claim.

11-10-17. Officers to make settlement.

Every county officer chargeable with money belonging to the county shall render that officer's account to and settle with the board of county commissioners at such times as are provided by the laws of this state. A county officer shall pay into the county treasury any balance which may be due the county, taking duplicate receipts therefor, and deposit one of the receipts with the county auditor within five days thereafter.

11-10-18. Penalty for failure to render or settle accounts.

If any person chargeable with money belonging to the county shall neglect or refuse to render true accounts to or settle with the county therefor, the board of county commissioners shall adjust the accounts of such delinquent according to the best information it can obtain and ascertain the balance due the county and order suit brought in the name of the county therefor. The delinquent shall not be entitled to any salary during the time the person is delinquent and shall forfeit and pay to the county a penalty of twenty percent on any amount of funds due the county and withheld by the person.

11-10-19. Use of photography in making county records.

Whenever the board of county commissioners shall deem it expedient to do so, photography may be used in the making of permanent county records. When permanent photographic or photostatic copies of any instrument, document, or decree which is required to be recorded are thus made, such copies may be filed and kept instead of the record books or records of instruments or documents required by any provision of this code.

11-10-19.1. Use of photography in making county records.

Whenever a statute requires an order, will, or other instrument, document, or decree to be transcribed into a record book of a county official, the same may be done by affixing a photostatic or photographic copy thereof to a page of the record book. Such photostatic or photographic copy shall be certified as to correctness by the county official. The photostatic or photographic copy and the certificate shall then be affixed to the page of the record book, and the county official shall inscribe on such page the nature of the instrument affixed, the date recorded, and the official's signature.

11-10-20. Board of county commissioners to provide offices, courtroom, jail - Where public records kept - Authorization for central filing of documents of recorder and clerk of district court.

The board of county commissioners shall provide a courtroom and jail, and shall provide offices in the courthouse of the county for the sheriff, county treasurer, recorder, auditor, clerk of the district court, state's attorney, county superintendent of schools, and any other officer who has charge of public records. If there is no courthouse in the county or if the courthouse erected has insufficient capacity, such offices must be furnished by the county in a suitable building at the county seat for all elected officials, and at any place within the county for appointive or administrative officials, at the lowest rent to be obtained, provided that this section does not apply where county officials may serve more than one county as may be otherwise authorized by law. The board of county commissioners may provide by resolution for the filing in a single location of documents maintained by the recorder and the clerk of the district court. The resolution must state in which office the filing is to be done, the persons who are to have custody of and access to the central files, and must list the documents which are to be centrally filed.

11-10-21. Committee to purchase certain supplies for county.

The county auditor, county treasurer, and the chairman of the board of county commissioners, or such other member of the board as may be designated thereby, shall

constitute a committee which shall purchase and provide all necessary blanks, books, and other stationery for the use in their official capacities of all county officers and emergency supplies and equipment required by the county.

11-10-22. Unlawful for officer to purchase county warrant or evidence of debt - Penalty.

Every person who, while an officer of any county of this state or the deputy or clerk of any such officer, directly or indirectly, buys or traffics in, or in anywise becomes a party to the purchase of, any county warrant or order, or any bill, account, claim, or evidence of indebtedness of the person's county, for any sum less than the full face value thereof, is guilty of an infraction.

11-10-23. Fee bill to be posted - Penalty.

Any county officer whose fees are fixed by law shall make a schedule thereof and shall keep the same in the officer's office in a conspicuous place. If any such officer shall neglect to do so, the officer, for such neglect, shall forfeit and pay the sum of five dollars to be recovered by a civil action for the use of the county in which the offense was committed.

11-10-24. Authorization to organize associations of county governments.

1. Counties, organized under the Constitution of North Dakota or organized under any form of county government authorized by the statutes of North Dakota, are hereby authorized upon motion of the board of county commissioners to organize and participate in an association of counties.
2. The organization or organizations authorized hereunder must be organized pursuant to chapter 10-33.

11-10-25. Nepotism by county officials restricted.

No head of any executive or administrative department or agency, either elective or appointive, of any county in this state, may appoint that official's spouse, son, daughter, brother, or sister to any position under the control or direction of that official, unless the appointment has been previously approved by resolution of the board of county commissioners.

11-10-26. Appeal after deposit for taking.

When the county seeks acquisition of right of way through eminent domain proceedings authorized by chapter 32-15, the board of county commissioners may make an offer to purchase the right of way and deposit the amount of the offer with the clerk of the district court and thereupon take immediate possession of the right of way as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of property as authorized in this section, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the board of county commissioners, and the matter must be tried at the next regular or special term of court with a jury unless a jury is waived, in the manner prescribed for trials under chapter 32-15.

11-10-27. Presumption of regular adoption, enactment, or amendment of resolution or ordinance.

Three years after adoption or amendment of a resolution or the enactment or amendment of an ordinance by the board of county commissioners it is conclusively presumed that the resolution or ordinance was adopted, enacted, or amended and published as required by law.

11-10-28. Newly elected or appointed county officials - Training.

Within one year of assuming office, an individual who is elected or appointed to the office of county commissioner, auditor, clerk of district court, recorder, or treasurer shall attend training based upon a curriculum specific to that office and approved by the statewide association for that office.

11-10-29. Refund of taxes or fees - Minimum amount.

Notwithstanding any other provision of law, a person is not entitled to a tax or fee refund, to be paid or approved by a county officer or employee, unless the amount of the refund is five dollars or more.

11-10-30. Acceptance of payment by credit card or other payment method.

A county may accept payment by wire transfer, electronic transfer, automated clearinghouse, or a nationally recognized credit or debit card for any fee charged by, or compensation, tax, or assessment due to a county. A reasonable fee not exceeding the discount, exchange fee, or other fee incurred by the county may be added to the payment as a service charge for the acceptance of payment by a method authorized by this section. The county auditor or individual functioning as county auditor for a county may determine which nationally recognized cards or other payment methods will be accepted for payments made under this section and the amount of the applicable service charge. A person's liability for a payment is not discharged until the county has received payment or credit from the institution responsible for making the payment or credit.

11-10-31. Addition of penalty to traffic signs - Requirements.

1. The department of transportation shall allow a county, city, or township to affix to any traffic sign prohibiting engine brakes and signifying that a vehicle noise ordinance is enforced and the amount of the penalty for violation of an offense corresponding with the purpose of the sign.
2. A county, city, or township may affix the amount of the penalty to a traffic sign under subsection 1 only if the:
   a. County, city, or township has adopted an ordinance indicating a traffic offense;
   b. Ordinance states the penalty for violation of the offense;
   c. Ordinance is actively being enforced;
   d. Department of transportation procures the sign for the county, city, or township; and
   e. County, city, or township covers or reimburses the department of transportation all labor, equipment, and material costs related to the installation of the sign.
3. The penalty sign must be uniform in size and text in relation to the traffic sign to which it is affixed and in compliance with the manual on uniform traffic control devices.
4. This section applies only to state highways within a county, city, or township.

11-10-32. Prohibition - Connection of utility services.

Notwithstanding any other provision of law, a county may not adopt or enforce an ordinance, resolution, or policy that prohibits or impedes, or has the effect of prohibiting or impeding, the connection or reconnection of an electric, natural gas, propane, or other energy utility service based on fuel source provided by a public utility, municipal utility, cooperative utility, or propane service.

11-10-33. When a county may maintain or vacate streets in a dissolved city.

If a dissolved city is located in an unorganized township, the county may choose to maintain or vacate, under chapter 40-39, the streets and alleys in the dissolved city.