

## MUNICIPAL GOVERNMENT

### CHAPTER 256

Senate Bill No. 10  
(Legislative Research Committee  
at the request of the League of North Dakota Municipalities)

#### CLAIMS AGAINST MUNICIPALITIES

##### AN ACT

To amend and reenact sections 40-0112, 40-1606 and 54-1406 of the North Dakota Revised Code of 1943, relating to claims against municipalities and prescribing penalties.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-0112 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0112. CLAIMS AND ACCOUNTS AGAINST MUNICIPALITIES AUDITED.) No account or claim against a municipality to be paid from any fund, including a municipal utilities fund, shall be allowed by the governing body thereof unless the claim is made out in full and is both itemized and certified in the form prescribed in section 54-1404. The governing body, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe. Every account which is allowed by the governing body shall be shown in the minutes of the proceedings of the governing body or reference thereto shall be made in such proceedings to such accounts or claims on file with the city auditor and approved by the proper officials of the municipality.

SECTION 2. AMENDMENT.) Section 40-1606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1606. CLAIMS AND DEMANDS AGAINST CITY FILED WITH AUDITOR; DUTY OF AUDITOR.) All claims and demands against a city, whether founded on contract or otherwise, and to be paid from any fund including a municipal utilities fund, shall be filed with the city auditor. He shall examine each claim filed and determine whether or not it is properly itemized and certified in the form prescribed in section 54-1404. If a claim is filed on

a contract, he shall determine whether or not the items charged are correct and were incurred by proper authority. The auditor shall endorse his approval upon any claim which he finds to be correct. If he disapproves any claim in whole or in part, he shall report his reasons therefor to the governing body. He shall report all evidence taken by him in connection with any claim. No claim shall be considered by the governing body until it shall have been examined and reported upon by the auditor and audited and adjusted by the proper committee or member of the governing body.

SECTION 3. AMENDMENT.) Section 54-1406 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1406. PENALTY FOR CERTIFYING FALSE CLAIM.) Any person, firm, or company falsely certifying, or certifying to any false bill, claim, account, or demand against the state or any political subdivision therein, is guilty of a misdemeanor and shall forfeit his right to collect such bill, claim, account, or demand, or any part thereof.

Approved February 25, 1949.

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## CHAPTER 257

Senate Bill No. 23

(Legislative Research Committee

at the request of the League of North Dakota Municipalities)

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### MUNICIPAL PARKING LOTS AND MOTOR VEHICLE FACILITIES

#### AN ACT

To amend and reenact subsection 8 of section 40-0501 of the North Dakota Revised Code of 1943, relating to powers of municipalities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Subsection 8 of section 40-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0501. POWERS OF ALL MUNICIPALITIES.)

8. STREETS, SIDEWALKS, AND PUBLIC GROUNDS.)

To lay out, establish, open, alter, repair, clean, widen, vacate, grade, pave, park, or otherwise improve and regulate the use of streets, alleys, avenues, sidewalks, cross-

ings, and public grounds, and to acquire, construct, maintain and operate parking lots and facilities for motor vehicles; to regulate or prevent any practice having a tendency to annoy persons frequenting the same; and to prevent and regulate obstructions and encroachments upon the same.

Approved February 26, 1949.

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CHAPTER 258

House Bill No. 95  
(Allen)

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MUNICIPAL FLOOD CONTROL PROJECTS

AN ACT

Creating subsection 68 of section 40-0501 of the North Dakota Revised Code of 1943, relating to powers of municipalities and authorizing municipal governing bodies to acquire, construct, maintain, operate, control, and finance flood control projects, both within and adjacent to such municipalities, acquire the necessary real estate and easements therefor by purchase and eminent domain, and to adopt ordinances regulating the same.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1.) Subsection 68 of section 40-0501 of the North Dakota Revised Code of 1943, is hereby created to read as follows:

40-0501. POWERS OF ALL MUNICIPALITIES.)

68. To acquire, construct, maintain, operate, finance and control flood control projects, both within and adjacent to such municipality, and for such purpose to acquire the necessary real property and easements therefor by purchase and eminent domain, and to adopt such ordinances as may reasonably be required to regulate the same.

Approved February 9, 1949.

## CHAPTER 259

House Bill No. 191  
(Sellens, Fleck and Murray)

## MUNICIPAL PUBLIC RESTROOMS AND FACILITIES

## AN ACT

Creating subsection 69 of Section 40-0501 of the North Dakota Revised Code of 1943, relating to powers of municipalities and authorizing municipal governing bodies to acquire, construct, maintain, operate, finance and control public rest rooms and facilities, acquire the necessary real estate therefor by purchase and eminent domain, and to adopt ordinances regulating the same.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1.) Subsection 69 of Section 40-0501 of the North Dakota Revised Code of 1943, is hereby created to read as follows:

## 40-0401. POWERS OF ALL MUNICIPALITIES.)

69. To acquire, construct, maintain, operate, finance and control public rest rooms and facilities within such municipality, and for such purpose to acquire the necessary real property therefor by purchase and eminent domain, and to adopt such ordinances as may reasonably be required to regulate the same.

Approved March 9, 1949.

## CHAPTER 260

House Bill No. 30  
(Langley)

## VILLAGE FINES AND PENALTIES; LIMITATION; ETC.

## AN ACT

To amend and reenact section 40-0507 of the North Dakota Revised Code of 1943, relating to fines and penalties for violation of village by-laws or ordinances.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-0507 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0507. VILLAGE FINES AND PENALTIES LIMITED; REMISSION.) The fine or penalty for the violation of a village by-law or ordinance shall not exceed fifty dollars and the costs of prosecution, and the imprisonment shall not exceed five days for any one offense. The justice of the peace of a village may suspend the whole or any part of a fine, penalty, or forfeiture, or of costs assessed for any such violation and may suspend any sentence imposed during the good behavior of the person sentenced or for other reasonable cause.

Approved February 8, 1949.

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## CHAPTER 261

Senate Bill No. 11

(Legislative Research Committee

at the request of the League of North Dakota Municipalities)

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### DISBURSEMENT OF CITY FUNDS; SINGLE PAYROLL ORDER

#### AN ACT

To amend and reenact section 40-1706 of the North Dakota Revised Code of 1943, relating to the disbursement of city funds and permitting the issuance of payroll checks by the city treasurer upon a single order from the governing board.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-1706 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1706. FUNDS: CONTROLLED BY GOVERNING BODY; EXCEPTIONS; DISBURSEMENT ON ORDER; PAYROLLS.) All funds in the city treasury, except school funds, funds created and set apart for the payment of interest and principal of the debt of the city, and funds collected on special assessments, shall be under the control of the governing body of the city and shall be drawn out when authorized by a vote of the governing body, upon the order of the executive officer countersigned by the city auditor. All orders drawn upon the treasurer shall specify the purposes for which they are drawn and shall be payable out of the funds in the treasury on which they are drawn. All orders may be transferred by endorsement. The orders shall be payable to the persons in whose favor they are drawn unless, in the case of payment of salaries and wages, the governing body otherwise directs. The governing body of any city may direct that the wages and salaries of persons employed by the city be paid by

checks issued by the city treasurer upon a single order, authorized by a vote of the governing body and signed by the executive officer and countersigned by the city auditor. If such optional procedure is followed the city auditor shall certify to the city treasurer the names of the city employees and the amounts due each, and the order shall be issued to the city treasurer for the total amount of all such payroll payments due. Upon the receipt of such order the city treasurer shall issue payroll checks against the funds of the city to the several employees in the amounts due them respectively as shown by the certificate of the city auditor.

Approved February 25, 1949.

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## CHAPTER 262

Senate Bill No. 12  
(Legislative Research Committee  
at the request of the League of North Dakota Municipalities)

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### APPOINTMENT ASSISTANT CITY ATTORNEY; PAYMENT SPECIAL COUNSEL

#### AN ACT

To amend and reenact section 40-2002 of the North Dakota Revised Code of 1943, relating to assistant city attorneys.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-2002 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2002. ASSISTANT CITY ATTORNEY: APPOINTMENT: SPECIAL COUNSEL AUTHORIZED.) With the consent and approval of the governing body of the city, the city attorney may appoint assistants to do any or all of the acts which the city attorney is required to do under this chapter, but the city attorney shall be responsible to the city for the acts of such assistants. The governing body of the city, however, may employ and pay special counsel when it deems such counsel to be necessary for the best interests of the city.

Approved February 25, 1949.

## CHAPTER 263

Senate Bill No. 13  
(Legislative Research Committee  
at the request of the League of North Dakota Municipalities)

## ELECTION HOURS IN COUNCIL CITIES

## AN ACT

To amend and reenact section 40-2103 of the North Dakota Revised Code of 1943, relating to elections in council cities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-2103 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2103. ELECTIONS IN COUNCIL CITIES: POLLING PLACES; POLLS OPEN; NOTICE.) Biennial municipal elections in cities operating under the council form of government shall be held on the first Monday in April in each even numbered year at such place or places as the city council shall designate. In cities where aldermen are elected at large, the council shall designate one polling place only. The polls shall be kept open continually from nine o'clock a. m. to seven o'clock p. m. Ten day's notice of the time and place of holding each election and of the offices to be filled thereat shall be given by the city auditor by publication in at least two newspapers published in said city if two are published therein. Publication in one such newspaper shall be sufficient if only one newspaper is published in the city.

Approved February 25, 1949.

## CHAPTER 264

Senate Bill No. 14  
 (Legislative Research Committee  
 at the request of the League of North Dakota Municipalities)

## COMPENSATION MUNICIPAL ELECTION OFFICERS

## AN ACT

To amend and reenact section 40-2105 of the North Dakota Revised Code of 1943, relating to compensation of inspectors, judges and clerks at municipal elections.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-2105 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2105. COMPENSATION OF INSPECTORS, JUDGES, AND CLERKS AT MUNICIPAL ELECTIONS.) Each inspector, judge, or clerk of any regular or special municipal election, for services performed at such election, shall receive as compensation therefor the sum of six dollars. When the number of votes cast at such election exceeds one hundred, such officers shall receive one dollar for each additional one hundred votes cast or major fraction thereof.

Approved February 25, 1949.

## CHAPTER 265

House Bill No. 12  
 (Legislative Research Committee)  
 (at the request of The League of North Dakota Municipalities)

## RESIDENTIAL AREA PAVING PROJECTS; STANDARD WIDTH OF PAVING; PAYMENT EXCESS WIDTH; PROTESTS; SPECIAL ASSESSMENT PROCEDURE GOVERNS

## AN ACT

Defining residential property, block of pavement, residential block, and residential paving project, providing for the establishment of standard width of paving, permitting cities to pay cost of excess width of paving, providing for protests to bar improvements, providing the special assessment procedure to be followed, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Residential property" shall mean and include property actually used for residential purposes, all schools, churches, apartments, and the yards appurtenant thereto, vacant or unoccupied lots, and all other lots not actually used for or occupied by business or commercial structures or businesses;
2. "Block of pavement" shall mean the length of any street between two intersecting streets;
3. "Residential block" shall mean any block in which sixty percent or more of the property abutting the street shall be residential property, such percentage to be computed by dividing the total front feet of residential property on both sides of the street by the total front feet of both sides of the street in said block; and
4. "Residential paving project" shall mean any paving project involving the pavement of any street or streets when seventy-five percent or more of the block of paving therein shall be residential block.

SECTION 2. ESTABLISHMENT OF STANDARD WIDTH OF PAVING.) The governing body of any city may, by ordinance, establish a standard width of paving for residential areas which standard width shall not be less than twenty-four feet, and shall be uniform throughout the entire city, and said ordinance may be amended or repealed in the same manner as other ordinances of the city.

SECTION 3. CITY TO PAY COST OF EXCESS WIDTH OF PAVING.) When any city has, by ordinance, established a standard width of paving for residential areas, the city as a whole, by action of its governing body, may pay not to exceed twenty percent of the cost of paving, and if because of heavy traffic upon such street or for other valid reason, the governing body determines that the paving to be included in any residential paving project should be of greater width than the established standard width, the entire cost of such excess width shall be born by the city as a whole. The cost of such excess width shall be deemed to be that proportion of the entire cost which the excess width bears to the entire width of the paving.

SECTION 4. PROTESTS TO BAR IMPROVEMENTS.) If the city's total share of the costs equals or exceeds fifty percent of the entire cost of the project, the governing body may initiate, carry out, and construct the project, and special assessments may be levied against the benefited property in the manner provided by law, unless within thirty days after the first publication of the resolution declaring the work to be necessary, the owners of seventy-five percent or more, by area, of the property liable to be specially assessed for the improvement, shall file written protest against said improvement with the city auditor.

SECTION 5. SPECIAL ASSESSMENT PROCEDURE TO BE FOLLOWED.) The procedure set forth by chapters 40-22, 40-23, 40-24, 40-25, 40-26, 40-27 and 40-28 of the North Dakota Revised Code of 1943 shall be followed in all proceedings for the initiating, advertising, and contracting for paving improvements under the provisions of this chapter, for levying special assessments against benefited property, and for paving the city's share of such special assessments.

SECTION 6. EMERGENCY.) This action is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 11, 1949.

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## CHAPTER 266

House Bill No. 154  
(Graham and Fitch)

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### CITY CONTRACTS FOR CONSTRUCTION OF IMPROVEMENTS, ETC.; LEGALIZING AND VALIDATING

#### AN ACT

Legalizig and validating contracts by cities for the construction of improvements and the sale of special improvement warrants to finance the costs thereof, notwithstanding omission of cash basis provision in call for bids or omission of notice of meeting for considering and acting upon bids, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. VALIDATION.) In all cases where any city, in accordance with the provisions of chapter 40-22 of the North Dakota Revised Code of 1943, has by resolution or ordinance, within a period of not less than two years prior to the effective date of this act created more than fifteen improvement districts, has advertised for bids and awarded a contract for the construction of an improvement in each of such districts, and has contracted for the sale of warrants payable from the special improvement funds of said districts for the purpose of paying costs of said improvements, such proceedings and the contracts based thereon for the construction of said improvements and the sale of said warrants are hereby legalized and declared valid notwithstanding the omission, in the advertisement for bids for any of said improvements, of an express statement calling for bids on the basis of cash payment for the work and notwithstanding failure to cause notice to be published of the time and place of meeting for considering and acting

on bids for any of said improvements, where notice of advertisement for such bids has been duly published, showing the time and place of opening the same; and such cities are authorized to issue and deliver special improvement warrants in accordance with said proceedings, and said warrants when so issued and delivered shall be valid obligations according to their terms.

SECTION 2. EMERGENCY.) That this act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1949.

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## CHAPTER 267

House Bill No. 11

(Legislative Research Committee)

(at the request of The League of North Dakota Municipalities)

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### MUNICIPAL IMPROVEMENTS BY SPECIAL ASSESSMENTS; CREATING AND REGULATING IMPROVEMENT DISTRICTS

#### AN ACT

To amend and reenact section 40-2201 of the 1947 Supplement to the North Dakota Revised Code of 1943 and sections 40-2208 and 40-2209 of the North Dakota Revised Code of 1943, relating to defraying expense of improvements by special assessments, creation of improvement districts, size and form thereof, and regulations governing the same.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-2201 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2201. POWER OF MUNICIPALITIES TO DEFRAY EXPENSE OF IMPROVEMENTS BY SPECIAL ASSESSMENTS.) Any municipality, upon complying with the provisions of this chapter, may defray the expense of any or all of the following improvements by special assessments:

1. The construction of a waterworks system, including the construction and erection of pumping stations, settling basins, filtration plants, standpipes, water towers, reservoirs, and other contrivances and structures necessary for a complete waterworks system;
2. The construction of a sewer system, including the construction and erection of all contrivances, appurtenances and structures, and the laying of all mains and pipes

- necessary for a complete sewer system and the construction, relaying, replacement, or repair thereof;
3. The laying, extending, enlarging, relaying, replacing, reconstructing, or repairing of water mains and all the contrivances and appurtenances thereto;
  4. The grading, graveling, paving, repaving, hard surfacing, resurfacing, resealing, repairing, and curbing of any street, highway, avenue, alley, or public place within the municipality;
  5. The construction of gutters upon any street, highway, avenue, alley or public place within the municipality;
  6. The planting of trees, the construction of grass plots and the sowing of grass seed therein, and the maintenance and preservation of such improvements by the watering of such trees and grass, the cutting of such grass, and the trimming of such trees, or otherwise in any manner which may appear necessary and proper to the governing body of the municipality;
  7. The acquiring of the necessary land and the construction of the necessary works for flood protection; and
  8. The acquiring of the necessary property and the construction of parking lots and facilities for motor vehicles.

SECTION 2. AMENDMENT.) Section 40-2208 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2208. IMPROVEMENT DISTRICT TO BE CREATED.) For the purpose of making improvements specified in this chapter and defraying the cost thereof by special assessments, a municipality shall create sewer districts, flood protection districts, paving districts, watermain districts, waterworks districts, parking lot districts, or districts for the purpose of grading, graveling, or curbing streets, for the purpose of constructing gutters, or for the purpose of planting trees, constructing grass plots, or sowing grass seed or for any two or more of such purposes, and may extend any such districts when necessary. Any municipality which shall finance the making of any of the improvements specified in this chapter through special assessments shall create the appropriate special improvement district or districts by ordinance or resolution. The district shall be designated by the name of the improvement for the making of which it is created, and districts created for the same kind of improvement shall be numbered consecutively.

SECTION 3. AMENDMENT.) Section 40-2209 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2209. SIZE AND FORM OF IMPROVEMENT DISTRICTS; REGULATIONS GOVERNING.) Improvement districts created by a municipality may embrace two or more separate property areas, each or all of which may be of the following size and form:

1. A sewer district or flood protection district shall be of such size and form as the governing body, after consultation with the engineer for the municipality or with another competent engineer, shall decide is most practicable for the drainage of the portion or portions of the municipality included in the district as established by the governing body;
2. A paving district shall be of such size and form as the governing body, after consultation with the engineer for the municipality or with another competent engineer, shall decide is to be benefited by the construction or reconstruction of paving therein;
3. Watermain districts, waterworks districts, and districts for the purpose of grading, graveling, curbing, planting trees, constructing grass plots, sowing grass seed, and constructing gutters shall be of such size and number as the governing body shall decide most practicable after consultation with the engineer for the municipality or other competent engineer; and
4. Parking lot districts shall be of such size and form as the governing body of the municipality shall decide, including such property as in the opinion of such governing body, is specially benefited thereby.

Approved February 8, 1949.

## CHAPTER 268

House Bill No. 10

(Legislative Research Committee  
at the request of The League of North Dakota Municipalities)

## SPECIAL IMPROVEMENTS IN MUNICIPALITIES

## AN ACT

To amend and reenact sections 40-2212, 40-2215, 40-2219, 40-2225 and 40-2226 of the North Dakota Revised Code of 1943, relating to plans and specifications and estimates for special improvements, call for bids, contents, and advertising for special improvements, opening of bids for same, and petition by property owners for different kinds of paving materials in municipalities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-2212 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2212. REQUIREMENTS OF PLANS, SPECIFICATIONS, AND ESTIMATES WHEN IMPROVEMENT IS PAVING OR BEAUTIFICATION OF STREETS.) If an improvement to be financed by special assessments consists in paving or repaving any street, alley, or public place, the governing body of the municipality may require the plans, specifications, and estimates for the improvement to be made for one kind of pavement or several different kinds of pavement as it may deem advisable. If the contemplated improvement consists of planting trees, constructing grass plots, sowing grass seed thereon, or otherwise parking or beautifying any of the streets, highways, avenues, alleys, lanes, or other public grounds within the municipal limits, the governing body may require the plans, specifications, and estimates to show the probable costs of making, constructing, or maintaining such improvements or any of them.

SECTION 2. AMENDMENT.) Section 40-2215 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2215. RESOLUTION DECLARING IMPROVEMENTS NECESSARY: EXCEPTION FOR SEWER AND WATER MAINS: CONTENTS OF RESOLUTION.) After the plans, specifications, and estimates for an improvement have been filed and approved, the governing body of the municipality, by resolution, shall declare that it is necessary to make the improvements described therein. Such resolution shall not be required, however, if the improvement consists of

the construction or alteration of sewer or water mains, unless it is determined that the cost thereof shall be paid in part as is provided in section 40-2216. The resolution shall refer intelligibly to the plans, specifications, and estimates, and shall be published once each week for two consecutive weeks in the official newspaper of the municipality.

SECTION 3. AMENDMENT.) Section 40-2219 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2219. CALL FOR BIDS: CONTENTS: ADVERTISING.) Proposals for the work of making improvements provided for in this chapter shall be advertised for by the governing body in the official newspaper of the municipality once each week for two consecutive weeks. The advertisement for bids may be published at the same time as the resolution of necessity and shall:

1. Specify the work to be done according to the plans and specifications on file in the office of the city auditor or village clerk, as the case may be;
2. Call for bids upon the basis of cash payment for the work;
3. Describe the several kinds of paving material if the governing body shall have required plans, specifications and estimates for the improvement to be made for more than one kind of pavement;
4. State the time within which the bids will be received; and
5. State the time within which the work on the improvement is to be completed.

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

SECTION 4. AMENDMENT.) Section 40-2225 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2225. OPENING OF BIDS: BIDS TO BE ENTERED ON MINUTES: FINAL ACTION ON BIDS TO BE DEFERRED.) After the bids have been opened and made public, they shall be entered upon the minutes of the meeting of the governing body of the municipality at which they are considered, and they shall be preserved carefully by the city auditor or village clerk, as the case may be. If the governing body has called for bids on more than one kind of pavement, action on the bids shall be deferred for a period of at least five days, and not less than five days after the opening of the

bids, a meeting of the governing body shall be held for the purpose of considering and acting upon such bids. Notice of the time and place of such meeting shall be published by the city auditor or village clerk, as the case may be, in at least one issue of the official newspaper of the municipality not less than five days before the date fixed for such meeting.

SECTION 5. AMENDMENT.) Section 40-2226 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2226. PETITION BY PROPERTY OWNERS TO HAVE PAVING OF CERTAIN MATERIAL: CONTENTS.) If the governing body has called for bids on more than one kind of pavement, after the opening of the bids in connection with an improvement consisting of paving or repaving and before the meeting of the governing body to consider the same, the owners of a majority of the property liable to be specially assessed for such paving or repaving may file a written petition with the city auditor or village clerk, as the case may be, indicating that the petitioners have a preference for a certain type of paving or paving material for which bids have been invited. Upon receiving such petition, it shall be obligatory upon the governing body to cause the paving or repaving to be constructed of a kind of paving material indicated in the petition. The petition may consist of a single petition or several separate petitions signed by the owners of a majority of the property liable to be specially assessed for such improvement, or by their authorized agents.

Approved March 8, 1949.

## CHAPTER 269

Senate Bill No. 215

(Rue by request)

SPECIAL IMPROVEMENTS, LEVY OF ASSESSMENTS TO PAY  
COST

## AN ACT

Amending and reenacting Section 40-2305 of the North Dakota Revised Code of 1943, relating to the levy of assessments to pay the cost of special improvements, to define the items of cost to be assessed and permit such assessment prior to completion of the work, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) That Section 40-2305 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

40-2305. NOTICE TO SPECIAL ASSESSMENT COMMISSION.) At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor or village clerk, as the case may be, shall notify the chairman of the special assessment commission and shall certify to him the items of the total cost thereof so far as the same have been ascertained. The chairman immediately shall call a meeting of the commission, which shall proceed as expeditiously as possible to make and return the special assessment as provided in this chapter. The total cost of the improvement which may be certified to the assessment commission shall include the estimated construction cost under the terms of the contract, a reasonable allowance as determined by the governing body for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents' and attorneys' fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessments therefor. In the event that any error is made in estimating the cost, the governing body may direct a supplemental assessment to be made as provided in section 40-2602.

SECTION 2.) That this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 8, 1949.

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CHAPTER 270

Senate Bill No. 22

(Legislative Research Committee)

(at the request of the League of North Dakota Municipalities)

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ASSESSMENT OF COSTS OF WORK DONE BY MUNICIPALITIES  
FOR GENERAL WELFARE

AN ACT

To provide for the assessment of costs of work done by municipalities necessary for the general welfare.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. ASSESSMENT OF COSTS OF WORK DONE NECESSARY FOR THE GENERAL WELFARE.) Whenever it becomes necessary for the general welfare, public health, fire protection, or public safety to order an owner or occupant of property to do certain work provided for by ordinance, and such owner or occupant refuses to conduct or comply with such order, the work may be done by the municipality and the owner or occupant of such property billed for the same by the municipality. If such bill is not paid when due, the amount thereof may be assessed against the premises on which such work is done and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned.

SECTION 2.) This act shall not be construed to limit or affect in any manner any methods which now or in the future may be used for the collection of costs incurred by the municipality for the purposes set forth in section 1 hereof, but the remedies provided for herein shall be in addition to such methods.

Approved February 26, 1949.

## CHAPTER 271

Senate Bill No. 27

(Legislative Research Committee)

(at the request of the Bank of North Dakota)

PAYMENT OF PART OF MUNICIPAL IMPROVEMENT COST BY  
GENERAL ASSESSMENT

## AN ACT

To amend and reenact section 40-2410 of the North Dakota Revised Code of 1943, relating to payment of part of cost of improvement by municipalities through general taxation, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-2410 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2410. ONE-FIFTH OF COST OF IMPROVEMENT MAY BE PAID BY GENERAL ASSESSMENT WITHIN CONSTITUTIONAL DEBT LIMIT.) Any municipality, at the option of its governing body, may provide for the payment by general taxation of all the taxable property in the municipality of not more than one-fifth of the cost of any improvement financed by the levying of special assessments other than the opening and widening of streets or the laying of sewer or water connections from the main to the curb line. Any amount which the municipality shall determine to pay by general assessment shall be considered as a part of the debt of the municipality and shall not be valid unless such amount is within the constitutional debt limit of such municipality, computed on the portion of the last equalized value of property to which the mill rate of general property taxes is applied. No municipality having a board of budget review shall incur such debt or hold any election to increase its limit of indebtedness to carry such debt until after compliance with the provisions of sections 40-4106 and 40-4107, the same as for bond issues. Any incorporated city, by a two-thirds vote of the qualified voters thereof voting upon the question at a general or special election, may increase its limit of indebtedness three per centum on the assessed valuation of taxable property in such city beyond five per centum of the valuation thereof, and by a majority vote, in like manner, may increase its limit of indebtedness four per centum of such valuation without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, provided that such increase or in-

creases must be duly voted before the levy of any general taxes exceeding the existing debt limit may be made to pay part of the cost of any such improvement. In making any contract with reference to any special improvement, the governing body may take into consideration such portion of the cost of the improvement as will be paid by general assessment, and may make appropriations and levy taxes and assessments therefor in annual installments extending over the same period of time as is provided in the special assessments for such improvement. The appropriation may be made at such time as occasion may require and shall be included in the municipality's first annual tax levy thereafter. The appropriation and levy, whether it is made as a part of the regular annual appropriation ordinance or otherwise, shall state the specific improvement for which the assessment is made and the tax levied, the amount thereof, and the district in which the improvement is made. The amount of such assessment and the moneys collected thereon shall become a part of the district fund upon which the warrants issued in payment for the improvement are to be drawn.

SECTION 2. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 26, 1949.

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## CHAPTER 272

House Bill No. 347  
(Baker, by Request)

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### MUNICIPAL WATER TREATMENT PLANTS

#### AN ACT

Authorizing and relating to contracts by cities for the purchase and installation of water treatment plants and the financing thereof out of the net earnings of such plants, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1.) Any city owning and operating a system of waterworks supplying water for municipal purposes and to its inhabitants and industries may enter into a contract in the manner hereinafter set forth, with any person, firm, or public or private corporation able and willing to perform such contract, for the purchase and installation of a plant for the treatment of such

water supply by the removal of minerals, gases, and other impurities therefrom, including, but without limiting the generality hereof, the construction of reservoirs or settling basins and furnishing of machinery and equipment for such purpose, the construction of buildings necessary to house the same, and any modifications, improvements, and additional mains necessary to connect such plant with the existing water supply system.

SECTION 2.) Any such contract shall be authorized by resolution or resolutions duly adopted by the governing body of the city. Such resolutions and contract shall provide that the cost of the plant shall be paid solely out of the net revenue thereof, to be derived from special rates and charges imposed and collected for the service thereof to users of the municipal waterworks system, after payment of the reasonable and current expenses of operation and maintenance of such plant. The governing body may provide for the payment of such cost by the issuance of revenue bonds in accordance with the provisions of chapter 40-35 of the North Dakota Revised Code of 1943, as amended, which bonds may be sold as provided in said chapter or may be delivered to the contractor in payment of the contract price, or it may be provided in said resolutions and contract that such price shall be payable in stated installments over a period not exceeding ten years, with interest at a rate not exceeding five percent per annum, payable annually or semiannually. Said payments may be evidenced by certificates executed by the executive and recording officers and sealed with the corporate seal of the city, and such certificates may have interest coupons attached.

SECTION 3.) In and by such resolutions and contract the city may bind itself to establish and maintain special rates and charges for the service of said plant, over and above its regular water rates, sufficient to produce net revenues adequate to make all payments of principal and interest on said revenue bonds or certificates when such payments become due, or to establish and maintain a prescribed schedule of such rates and charges, to pay, at an agreed rate or rates, for treatment of all water used by the city and not resold, and to do and perform any other acts or things which, in the discretion of the governing body, are deemed reasonable and appropriate for the construction, operation, and financing of said plant on the most efficient and economical basis, and the city may make covenants and agreements with respect to any and all of the matters stated in section 40-3513 of the North Dakota Revised Code of 1943.

SECTION 4.) No indebtedness on the general credit of the municipality shall be deemed to be incurred by reason of any covenant or agreement contained in said contract or in the resolu-

tions of the city with reference thereto. No revenues received from taxes or any other source, other than the revenues derived from said plant as hereinabove provided, shall be pledged for the payment of any contract executed or revenue bonds or certificates issued under the provisions of this act. Such contract, bonds, or certificates shall not constitute a lien or charge on any property of the city, except that if the contract price is not paid by the issuance of revenue bonds, title to the plant or any specified portion thereof may be retained by the contractor as security for the purchase price, with right of repossession in the manner provided for property sold under a conditional sales contract, until full payment of the purchase price.

SECTION 5.) The powers conferred by this act shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this act shall not affect the powers conferred by, any other law, and no other law shall be deemed repealed hereby. So far as the provisions of this act are inconsistent with any other laws of this state, the provisions of this act shall be controlling with reference to the making of contracts and the issuance of revenue bonds or certificates of the type and for the purposes herein mentioned.

SECTION 6. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1949.

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CHAPTER 273

House Bill No. 287  
(Langseth by request)

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SANITARY CONDITION FOR ROADS TO GARBAGE DISPOSAL  
GROUNDS

AN ACT

Requiring municipalities to maintain in sanitary condition roads leading to grounds for the disposal of garbage, and setting forth exceptions to the application of said Act.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. MUNICIPALITIES TO MAINTAIN SANITARY CONDITIONS ON CERTAIN ROADS.) It shall be the duty of any incorporated city, town or village, to maintain in a sanitary condition

the road or highway leading to the grounds maintained by said municipality for the disposal of garbage collected in said municipality. Such road shall be kept free from refuse or garbage resulting from the transportation of the same by the municipality maintaining said grounds.

SECTION 2. EXCEPTION TO APPLICATION OF ACT.) Nothing in this Act shall be construed to limit the right of a municipality to provide penalties applying to any persons found guilty of depositing refuse or garbage on said road or roads leading to such grounds maintained by the municipality for the disposal of refuse and garbage.

Approved March 17, 1949.

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## CHAPTER 274

House Bill No. 14

(Legislative Research Committee)

(at the request of the League of North Dakota Municipalities)

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### PURPOSES FOR WHICH MUNICIPALITIES MAY ISSUE REVENUE BONDS

#### AN ACT

To amend and reenact section 40-3502 of the North Dakota Revised Code of 1943, relating to purposes for which municipalities may issue revenue bonds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-3502 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-3502. "UNDERTAKING" DEFINED.) The term "undertaking," as used in this chapter, unless a different meaning clearly appears from the context, shall mean systems, plants, works, instrumentalities, and properties used in revenue producing undertakings, or any combination of two or more of such undertakings, which are used or useful in connection with:

1. The obtaining of a water supply and the conservation, treatment, and disposal of water for public and private uses;
2. The collection, treatment, and disposal of sewage, waste, and storm water;

3. The generation, production, transmission, and distribution of natural, artificial, or mixed gas, or electric energy, for lighting, heating, and power for public and private uses; and
4. The operation of parking lots and facilities for motor vehicles;

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

Approved February 9, 1949.

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### CHAPTER 275

Senate Bill No. 181  
(Day, Shure and Torno)

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#### MUNICIPAL REVENUE BONDS FOR SEWERAGE FACILITIES, ETC.

#### AN ACT

To amend and reenact Sections 40-3503 and 40-3513 of the North Dakota Revised Code of 1943, relating to the issuance of revenue bonds by municipalities authorizing municipalities and state institutions to enter into contracts with other municipalities and with industrial establishments relative to sewerage facilities, and to accept loans or grants from the Federal Government in connection with revenue-producing undertakings, and providing for the subordination of revenue bonds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) That section 40-3503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-3503. POWERS OF MUNICIPALITY.) Any municipality, in addition to the powers prescribed elsewhere by the laws of this state, shall have the power to:

1. Acquire by gift, purchase or the exercise of the right of eminent domain, property required to construct, reconstruct, improve, better, or extend any undertaking, whether wholly within or wholly without the municipality, and easements, rights in lands, and water rights in connection therewith;

2. Operate and maintain any undertaking for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the municipality ;
3. Prescribe, revise, and collect rates, fees, tolls, or charges for the services, facilities, or commodities furnished by such undertaking, and in anticipation of the collection of the revenues of such undertaking, issue revenue bonds to finance in whole or in part the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension of any undertaking ;
4. Pledge to the punctual payment of said bonds and the interest thereon all or any part of the revenues of such undertaking, including the revenues of improvements, betterments, or extensions thereof which may constructed or acquired subsequent to the issuance of such bonds as well as the revenues of existing systems, plants, works, instrumentalities, and properties of the undertaking so improved, bettered, or extended, or of any part of such undertaking ;
5. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties or in order to secure the payment of its bonds, but no encumbrance, mortgage, or other pledge of property of the municipality shall be created by any such contract or instrument ;
6. Enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities, when the governing body of the municipality determines such action to be in the public interest and necessary for the protection of the public health, in order to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment, and for the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such governing body, to compensate the municipality for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment ;
7. Enter into and perform such contracts and agreements with other municipalities, political subdivisions

and state institutions, as the respective governing bodies of the same may deem proper and feasible for or concerning the planning, construction, lease or other acquisition and the financing of sewerage facilities and the maintenance and operation thereof. Any such municipalities so contracting with each other may also provide in any contract or agreement for a board, commission or such other body as their governing bodies may deem proper for the supervision and general management of the sewerage facilities and for the operation thereof, and may prescribe its powers and duties and fix the compensation of the members thereof; and

8. Accept from any authorized agency of the federal government loans or grants for the planning, construction, acquisition, lease, or other provision of any undertaking, and to enter into agreements with such agency respecting such loan or grants.

No property of the municipality shall be liable to be forfeited or taken in payment of any bonds issued under this chapter, and no debt on the general credit of the municipality shall be incurred in any manner for any purpose under any provision of this chapter.

SECTION 2. AMENDMENT.) That section 40-3513 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-3513. COVENANTS THAT MAY BE INSERTED IN ORDINANCE OR RESOLUTION AUTHORIZING BONDS.) Any ordinance or resolution authorizing the issuance of bonds under this chapter to finance, in whole or in part, the acquisition, construction, reconstruction, improvement, betterment, or extension of an undertaking may contain covenants, notwithstanding that such covenants may limit the exercise of powers conferred by this chapter, as to:

1. The rates, fees, tolls, or charges to be charged for the services, facilities, and commodities of said undertaking;
2. The use and disposition of the revenues of said undertaking;
3. The creation and maintenance of reserves or sinking funds and the regulation, use and disposition thereof;
4. The purpose or purposes to which the proceeds of the sale of said bonds may be applied and the use and disposition of such proceeds;

5. The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of bonds issued under this chapter may bring any suit or action on said bonds or on the coupons thereof;
6. The payment by the municipality to the account of said undertaking of a fair and reasonable amount for the services, facilities, or commodities furnished said municipality or any of its departments by said undertaking;
7. The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of such undertaking;
8. The insurance to be carried upon the undertaking and the use and disposition of insurance moneys;
9. The keeping of books of account and the inspection and audit thereof;
10. The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;
11. The rights, liabilities, powers, and duties arising upon the breach by the municipality of any covenants, conditions, or obligations;
12. The vesting in a trustee or trustees of the right to enforce any covenants made to secure, to pay, or in relation to, the bonds, the powers and duties of such trustee or trustees, and the limitation of liabilities thereof;
13. The terms and conditions upon which the holders of the bonds, or the any proportion or percentage of them, may enforce any covenants made under this chapter or any duties imposed thereby;
14. A procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bondholders, including, but not limited to, an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; and
15. The subordination of the security of any bonds issued hereunder and the payment of principal and interest thereon, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of the municipality issued to finance the

undertaking or that may be outstanding when the bonds thus subordinated are issued and delivered.

Nothing in this section or in any other section of this chapter, however, shall authorize any municipality to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness, or the issuance of any instrument, which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or a debt.

Approved March 8, 1949.

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## CHAPTER 276

Senate Bill No. 100  
(Feton)

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### DONATIONS TO PUBLIC LIBRARIES

#### AN ACT

To amend and reenact section 40-3808 of the North Dakota Revised Code of 1943, relating to donations made to public libraries.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-3808 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-3808. DONATIONS; HOW ACCEPTED; BOARD OF DIRECTORS AS TRUSTEE.) All persons desirous of making donations of money, books, personal property, or real estate for the benefit of the library may vest the same in the board of directors. The board shall hold and control all property accepted for the use of the library and reading room as a special trustee. The treasurer of the city or other political subdivision establishing such library shall be exofficio treasurer of the board as such special trustee, and shall, under the direction of the board, keep, invest, and disburse all funds and securities so vested in said board. Such treasurer shall be deemed a public employee and as such insured in the state bonding fund in the amount fixed by the board and at the expense of the board, as are other public employees under the provisions of chapter 26-23.

Approved February 26, 1949.

## CHAPTER 277

Senate Bill No. 16  
(Legislative Research Committee)  
(at the request of the League of North Dakota Municipalities)

## VACATING STREETS AND ALLEYS IN MUNICIPALITIES

## AN ACT

To amend and reenact section 40-3904 of the North Dakota Revised Code of 1943, relating to vacating of streets and alleys in municipalities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-3904 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-3904. VACATION OF STREETS AND ALLEYS WHERE SEWERS, WATER MAINS, PIPES, AND LINES LOCATED; CONDITIONS.) No public grounds, streets, alleys, or parts thereof over, under, or through which shall have been constructed, lengthwise, any sewers, water mains, gas, or other pipes, or telephone or telegraph lines, of the municipality or the municipality's grantees of the right-of-way therefor, shall be vacated unless such sewers, mains, pipes, or lines have been abandoned and are not in use, or unless such grantee shall consent thereto, or unless perpetual easements for the maintenance of such sewers, water mains, gas or other pipes, or telephone or telegraph lines have been given.

Approved February 25, 1949.

## CHAPTER 278

House Bill No. 23  
(Legislative Research Committee)

at the request of  
(The League of North Dakota Municipalities)

## PRELIMINARY STATEMENT MUNICIPAL BUDGET

## AN ACT

To amend and reenact sections 40-4005, 40-4008 and 40-4021 of the North Dakota Revised Code of 1943, relating to municipal budgets.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-4005 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4005. CONTENTS OF PRELIMINARY BUDGET STATEMENT.)  
The preliminary budget shall set forth specifically:

1. The detailed expenses of the municipality for the last fiscal year;
2. The estimated expenditures for the current fiscal year, segregated and itemized under three groups as follows:
  - a. Group A shall cover all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenses of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there shall be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Cities may include as an item of expense an amount which shall be placed in a fund known as the equipment replacement fund. Such amount shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, all equipment owned by the city, provided that no expenditure shall be paid out of said equipment replacement fund except for the purchase of equipment to replace equipment which is worn out, damaged or obsolete. The term "equipment" shall not include building structures or building fixtures;

- b. Group B shall cover all capital and betterment expenditures, including new construction, major repairs, and all other items which go toward adding to the permanent improvement and value of the municipal property;
  - c. Group C shall cover all debt retirement requirements, including all amounts required to retire floating indebtedness, bonded indebtedness, and to pay interest thereon during the current fiscal year, and also a statement showing the amounts and terms of bond issues, certificates of indebtedness, and warrants or other debts to be taken care of by the levies for debt retirement.
3. The cash balance standing to the debit or credit of the municipality at the end of the last fiscal year;
  4. An estimate of the probable amounts that may be received during the current fiscal year from sources other than direct property taxes, and a statement of all the uncollected taxes due to the municipality.

In addition to the specific sums provided for under groups A and B, the governing body may include in group A, and may appropriate for contingent expenses not otherwise provided for, a sum not exceeding five percent of the total amount of the sums set forth in groups A and B.

SECTION 2. AMENDMENT.) Section 40-4008 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4008. HEARING OF PROTESTS AND OBJECTIONS: CHANGES IN PRELIMINARY BUDGET: PREPARATION OF FINAL BUDGET; CONTENTS.) The governing body shall meet at the time and place specified in the notice and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the governing body shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall prepare the final budget, which shall consist of the preliminary budget with the addition of columns showing:

1. The final appropriations made on account of the various items of expenditures specified in the preliminary budget statement, but the final appropriation, as to any group total, shall not exceed the amount specified in the preliminary budget estimate;

2. The amount of unencumbered cash on hand, which amount shall not include cash or investments of the equipment replacement fund as provided for in section 40-4005;
3. The amount of uncollected taxes standing to the credit of the municipality which, in the opinion of the governing body, may be collected during the ensuing fiscal year;
4. The estimated income that may be received during the ensuing year from sources other than direct property taxes;
5. The net amount which it will be necessary to raise by taxation to meet the appropriations; and
6. The amount of levy estimated to be necessary to provide such net amount of revenue during the fiscal year.

SECTION 3. AMENDMENT.) Section 40-4021 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4021. BALANCE AT END OF FISCAL YEAR TO BECOME PART OF UNAPPROPRIATED BALANCE; WHEN SPECIAL APPROPRIATION TO LAPSE.) At the end of the fiscal year on June thirtieth, the balance to the credit of each annual appropriation shall become a part of the general unappropriated balance in the municipal treasury, except in the case of an appropriation made during the war for post-war construction purposes, and except that the unused balance to the credit of the equipment replacement fund provided for in section 40-4005 shall not become a part of the general unappropriated balance in the municipal treasury, but no special appropriation shall lapse until the work for which it was made has been completed, the bills paid, and the accounts closed.

Approved February 25, 1949.

## CHAPTER 279

House Bill No. 6  
(Legislative Research Committee)

## BOARD OF BUDGET REVIEW

## AN ACT

To amend and reenact sections 40-4101 of the 1947 Supplement to the North Dakota Revised Code of 1943 and 40-4102, 40-4103 and 40-4104 of the North Dakota Revised Code of 1943, relating to boards of budget review.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-4101 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4101. BOARD OF BUDGET REVIEW; REQUIRED IN CERTAIN MUNICIPALITIES; HOW CONSTITUTED.) Every municipality in this state, except townships, shall have a board of budget review. The board shall consist of seven members and shall be constituted as follows:

1. Two members from the governing body of the municipality;
2. Two members from the local school board;
3. One member from the park board; and
4. Two members representing the public at large.

If the municipality has no park board, three members shall represent the public at large. In cases where a member of a board of budget review is not a resident of the governmental subdivision submitting a budget or bond issue for consideration, such member shall not vote upon the question submitted. In the event the remaining members constitute an even number the chairman shall not vote.

SECTION 2. AMENDMENT.) Section 40-4102 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4102. APPOINTMENT TO BOARD; CERTIFICATION TO CITY AUDITOR OR VILLAGE CLERK; FAILURE OF LOCAL BOARDS TO APPOINT MEMBERS.) On or before the fifteenth day of July of each year, the governing body of each municipality, school board, and park board mentioned in section 40-4101 shall appoint its representatives to serve on the board of budget review for the current year. The appointments shall be certified to the city auditor or village clerk, as the case may be. The auditor or clerk shall

notify each governing body failing to certify its appointments that the board of budget review will meet for the purpose of organization and the appointment of members at large, giving the time and place of such meeting, and that unless such governing body shall certify the appointment of its representatives on the board on or before the date of the organization meeting, it will be without representation on the board for the current year.

SECTION 3. AMENDMENT.) Section 40-4103 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4103. ORGANIZATION MEETING; CLERK; MEMBERS AT LARGE APPOINTED; MEMBERS RECEIVE NO COMPENSATION; OATH OF OFFICE; VACANCIES.) The representatives of the local boards shall meet on the day appointed by the city auditor or village clerk, which shall not be later than July twentieth, and shall organize by electing a chairman and vice chairman. The city auditor or village clerk, as the case may be, shall serve as clerk of the board of budget review. Such representatives shall appoint the members at large from the resident freeholders of the municipality or school district. All members shall serve without compensation. Before entering upon the duties of his office, each member shall take, subscribe, and file with the city auditor or village clerk, as the case may be, the oath required of civil officers. Vacancies on the board shall be filled in the manner in which the original appointment was made.

SECTION 4. AMENDMENT.) Section 40-4104 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4104. LOCAL BOARDS TO SUBMIT PRELIMINARY BUDGET TO BOARD OF BUDGET REVIEW FOR EXAMINATION.) The governing body of the municipality, the board of education or the school board, and the park board, if there is one, shall submit to the board of budget review its annual preliminary budget before it finally is adopted. The board of budget review shall review and examine in detail the items of each preliminary budget submitted to it by such local boards and shall certify its approval, disapproval, or modification thereof before the time provided in chapter 40 of this title for the final adoption of the budgets. Whenever under the provisions of this chapter a budget or bond issue would have to be submitted to more than one board of budget review, such boards of budget review shall combine and sit as one body to pass upon such budget or bond issue and shall be known as the board of budget review for the governmental subdivision proposing such budget or bond issue. Such combined board of budget review shall elect a chairman and a secretary from its combined membership but the chairman shall not vote except in case of a tie.

Approved March 8, 1949.

## CHAPTER 280

Senate Bill No. 19  
(Legislative Research Committee  
at the request of the League of North Dakota Municipalities)

## CIVIL SERVICE SYSTEM IN PARK DISTRICTS

## AN ACT

Providing for civil service systems in park districts within certain cities.

*Be It Enacted by the Legislative Assembly of the State of  
North Dakota:*

SECTION 1. PARK DISTRICTS MAY ADOPT CIVIL SERVICE SYSTEMS.) The board of park commissioners of a park district in any city which has adopted a civil service system pursuant to the provisions of chapter 40-44 of the North Dakota Revised Code of 1943, may, with the consent of the governing body of such city, provide that the employees of such park district shall be subject to the provisions of said chapter 40-44, provided that appointments to positions of employment within such park district shall be made by the board of park commissioners of the district.

Approved February 25, 1949.

## CHAPTER 281

House Bill No. 242  
(Committee on Veterans and Military Affairs)

## CITY POLICE PENSIONS

## AN ACT

To amend and reenact section 40-4510 of the North Dakota Revised Code of 1943, relating to police pensions and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State  
of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-4510 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4510. PERIOD OF SERVICE SPENT IN ARMY, NAVY, OR MARINES TO BE INCLUDED AS SERVICE IN DEPARTMENT.) Any member of a police department who has resigned therefrom or who

shall resign therefrom, or who has been granted or shall be granted a leave of absence to serve in the army, navy, or marine corps of the United States, or as a member of the United States army, navy, or marine reserve, or who shall have been selected for training under the selective service provisions of the laws of the United States and has returned with an honorable discharge from, or other document showing honorable service in, such service to the police department, shall have the period of such service included as part of his period of service in the department.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1949.

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## CHAPTER 282

House Bill No. 344  
(Brickner by request)

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### CITY EMPLOYEES PENSIONS

#### AN ACT

To amend and reenact section 40-4601 of the North Dakota Revised Code of 1943 with reference to pensions for city employees and providing that members of the police force and the firemen's relief association of any city may not be considered employees of said city for the purpose of the provisions of chapter 40-46 of the North Dakota Revised Code of 1943, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-4601 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4601. ADOPTION OF EMPLOYEES' PENSION PLAN; EXCLUSION OF POLICE AND MEMBERS OF FIREMEN'S RELIEF ASSOCIATIONS.) The provisions of this chapter shall become operative in any city qualified to adopt the same by:

1. The adoption by the governing body of the city of a plan substantially setting forth the provisions of this chapter; and
2. The concurrence in such plan by the employees of the city by a majority vote thereof.

Thereafter, all employees of the city shall be bound by the provisions of such plan without further action by the governing body

or by the employees of the city. For the purposes of this chapter, members of the police force of the city shall not be considered employees of the city, and members of a firemen's relief association shall not be considered employees of the city, if by a majority vote of the members thereof, they exclude themselves. Upon the adoption of the employees' pension plan provided for by this chapter, the city may elect to withdraw from the old age and survivor insurance system provided for by chapter 52-09 of the 1947 Supplement to the North Dakota Revised Code of 1943. Such withdrawal will be effective upon the city giving written notice thereof to the North Dakota unemployment compensation division of the North Dakota workmen's compensation bureau.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1949.

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## CHAPTER 283

House Bill No. 248

(Committee on Veterans' and Military Affairs)

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### CITY EMPLOYEES' PENSIONS

#### AN ACT

To amend and reenact section 40-4611 of the North Dakota Revised Code of 1943, relating to employees' pensions in cities and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. AMENDMENT.) Section 40-4611 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4611. PERIOD OF SERVICE SPENT IN ARMY, NAVY, OR MARINES INCLUDED AS SERVICES TO CITY.) Any employee of a city having an employees' pension fund who resigns therefrom or who has been granted or shall be granted a leave of absence to serve in the army, navy, or marine corps of the United States, or as a member of the United States army, navy, or marine reserve, or who shall have been selected for training under the selective service provisions of the laws of the United States, and who has returned to the employ of the city with an honorable discharge from, or other document showing honorable service in, such service, shall have the period of such service included as part of his period of service to such city.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1949.

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CHAPTER 284

Senate Bill No. 20  
(Legislative Research Committee  
at the request of the League of North Dakota Municipalities)

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PARK DISTRICT EMPLOYEES PENSIONS AND TAX LEVY

AN ACT

Providing for employees pension in certain park districts, providing for a tax to be levied for the same.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SECTION 1. PARK DISTRICTS MAY PROVIDE FOR EMPLOYEES PENSIONS.) The board of park commissioners of a park district in any city which has adopted an employees pension system pursuant to the provisions of chapter 40-46 of the North Dakota Revised Code of 1943 and acts amendatory thereof and supplementary thereto, may, with the consent of the governing body of such city and the consent of not less than a majority of the city employees covered by the provisions of such chapter, provide for employees pensions pursuant to such chapter 40-46, and payments made by employees or taxes levied by such park district shall be paid into the employees pension fund of such city, and the benefits provided for the employees of such park district shall be the same as provided for employees of such city.

SECTION 2. TAX LEVY FOR PARK DISTRICT EMPLOYEES PENSION FUND.) Any park district adopting the provisions of section 1 of this act may levy a tax not in excess of the ratio which the total amounts paid to the employees of such city per annum bears to the amount of taxes levied by such city for such employees pension fund, which tax levy shall be in addition to all other taxes now authorized by law to be levied by park districts. The proceeds of such tax levy shall be placed in the employees pension fund of the city.

Approved February 26, 1949.