

MUNICIPAL GOVERNMENT

CHAPTER 365

H. B. No. 145
(Strinden, Froelich, Emerson)

AUDITING CLAIMS AGAINST MUNICIPALITIES

AN ACT

To amend and reenact section 40-01-12 of the North Dakota Century Code, relating to audit of claims and accounts against municipalities.

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

Section 1. Amendment.) Section 40-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-12. 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 until a full itemized statement in writing has been filed with the governing body or unless otherwise authorized by the governing body pursuant to contract or other action. 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 or claim which is allowed by the governing body shall be shown in the minutes of the proceedings of the governing body except that wages and salaries of persons employed by the city may be consolidated and allowed in one order as provided by section 40-17-06 and reference made in the proceedings of the governing body to the payroll record certified to the city treasurer.

Approved March 8, 1969.

CHAPTER 366

S. B. No. 63
(Unruh)

**AUTHORIZING COUNCIL CITIES TO CHANGE
TO MODERN COUNCIL FORM**

AN ACT

Relating to a change from the council system of government to the modern council form of government, providing the petition required therefor, the determination of the sufficiency of the petition by the city auditor, the procedure to be followed when the petition is filed, and for a special election and ballot thereon.

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

Section 1. Change from Council System of Government—
Petition Required.) Any city incorporated as a city under the council form of government may change its organization thereunder and adopt the modern council form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than one-third of the qualified electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election of the city. The signatures to such petition need not be contained in a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the address of each petitioner, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

Section 2. City Auditor to Pass on Sufficiency of Petition.) Within thirty days after a petition to change from the council system of government is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An

insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

Section 3. Procedure When Petition to Change from Council System of Government is Filed—Special Election—Ballot.)

When a petition to change from the council system of government, together with the city auditor's certificate of sufficiency, is filed with the governing body of a municipality, the governing body shall call a special election at which only the question of changing from the council system of government will be submitted. The date of such election shall not be less than thirty days nor more than ninety days after the date of the auditor's certificate has been filed. The election shall be conducted, returns thereof made, and the result thereof declared in all respects as are other city elections. Notice of such election shall be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of such election. The ballots to be used at the election provided for in this section shall be in substantially one of the following forms:

Shall the city of _____ change from its organization under the council system of government and become a city under the modern council form of government with a five-man council?

Yes
 No

Shall the city of _____ change from its organization under the council system of government and become a city under the modern council form of government with a seven-man council?

Yes
 No

Shall the city of _____ change from its organization under the council system of government and become a city under the modern council form of government with an eleven-man council?

Yes

No

Approved March 5, 1969.

CHAPTER 367

S. B. No. 210
(Ruemmele, Freed)

CONTRACTING BY MUNICIPALITIES

AN ACT

To create and enact a new subsection to section 40-05-01 of the North Dakota Century Code, relating to the grant of power to all municipalities to contract and be contracted with.

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

Section 1. Amendment.) Section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted by creating a new subsection to read as follows:

To contract and be contracted with.

Approved March 5, 1969.

CHAPTER 368

S. B. No. 370
(Litten, Goldberg)

**MUNICIPAL PUBLIC TRANSPORTATION
SYSTEM**

AN ACT

To create and enact subsection 28 of section 40-05-02 of the North Dakota Century Code, relating to provision of a municipal public transportation system, and its operation.

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

Section 1. Amendment.) Subsection 28 of section 40-05-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

28. Public Transportation.) To provide by ordinance for the purchase, acquisition, or establishment, and operation of a public transportation system. In the alternative to provide for payments under a contract, approved by the governing body of the city, with a private contractor, for the provision and operation of a public transportation system within the city.

Approved March 13, 1969.

CHAPTER 369

H. B. No. 397
(J. Peterson)

LIMITATION ON CITY FINES
AND PENALTIES

AN ACT

To amend and reenact section 40-05-06 of the North Dakota Century Code, relating to city fines and penalties limited.

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

Section 1. Amendment.) Section 40-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-06. City Fines and Penalties Limited.) The fine or penalty for the violation of any ordinance, resolution, or regulation of a city shall not exceed five hundred dollars, and the imprisonment shall not exceed thirty days for one offense.

Approved March 25, 1969.

CHAPTER 370

H. B. No. 481
(Giffey, Matheny)

SALE OF UNCLAIMED MOTOR VEHICLES

AN ACT

To amend and reenact section 40-05-15 of the North Dakota Century Code, relating to unclaimed motor vehicles.

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

Section 1. Amendment.) Section 40-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-15. Unclaimed Motor Vehicles—When Sale Permitted—Bill of Sale Evidence of Title.) Whenever any motor vehicle coming into the possession of any law enforcement agency of any county or municipal corporation of this state shall remain unclaimed and the towing, storage or other charges thereon are unpaid for a period of one month after coming into the possession of such law enforcement agency, and the owner cannot be found upon diligent inquiry or, being found and notified of the possession of such motor vehicle, shall refuse or neglect to receive the same and pay the legal charges thereon, such law enforcement agency shall sell such motor vehicle at public auction after giving the registered owner fifteen days' notice of such sale by ordinary mail addressed to the registered owner at his post-office address, if known, of the time and place of sale and by advertising such notice of sale in one issue of a newspaper published in the county where such sale is to be made or in the official newspaper of said county at least fifteen days prior to such sale. Out of the proceeds of said sale the towing, storage, and other charges and costs of sale shall be paid, and the balance of proceeds if any, shall be paid to the registered owner of such motor vehicle, or if such registered owner cannot be found the balance shall be paid to the general fund of the county or municipal corporation, as the case may be. If the address of the registered owner is unknown, the advertising

of the notice of such sale shall be sufficient notice to the registered owner.

If the sale price of said motor vehicle shall amount to one hundred dollars or more, the law enforcement agency shall give the purchaser a bill of sale for said motor vehicle and said bill of sale shall be evidence of valid ownership for the issuance of a certificate of title by the registrar of motor vehicles.

Approved March 25, 1969.

CHAPTER 371

H. B. No. 41

(Aamoth, Bullis, Eagles, Freeman, Kelsch)

(Sanstead, Strinden)

(From Legislative Research Committee Study)

HOME RULE IN CITIES

AN ACT

To provide for the establishment of home rule in cities under section 130, Constitution of the state of North Dakota.

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

Section 1. Enabling Clause.) Any city with a population of 100 or more persons as determined by the last federal census and desiring to avail itself of the provisions of this Act may proceed to frame, adopt, amend, or repeal home rule charters as herein provided in this Act.

Section 2. Methods of Proposing Home Rule Charter.) The governing body of any city may on its own motion cause a home rule charter to be framed and submitted for adoption to the electors of the city in the manner provided in this Act, or such proposal may be made in a petition filed with the governing body and signed by not less than fifteen percent of the qualified electors of the city voting in the last city election.

Section 3. Charter Commission—Membership—Preparation and Submission of Charter—Compensation and Expenses—Publi-

ca­tion.) Where proceedings have been initiated for a home rule charter the governing body of the city shall appoint a charter commission composed of five members to frame such charter. The chairman of the charter commission shall be designated by the governing body and shall be a charter commission member. Compensation and expenses of commission members shall be as determined by the governing body. The governing body may furnish the charter commission with office space, clerical help, legal and other assistance and supplies, and may appropriate and pay for same out of its general funds. The commission shall prepare and submit the charter within one year after appointment. The proposed charter shall then be published once in a newspaper in the city where the charter is to be considered, or, if there is no newspaper published in the city then in the official county newspaper of the county in which the city is located.

Section 4. Submission of Charter to Electors.) Not earlier than sixty days nor later than six months after such publication the proposed charter shall be submitted to a vote of the qualified electors of the city at a regular or special city election, or at any primary or general election that is to be held within such period of time, or at a special city election held concurrently with any primary or general election.

Section 5. Ratification by Majority Vote—Supersession of Existing Charter and State Laws in Conflict Therewith—Filing of Copies of New Charter.) If a majority of the qualified voters voting on the charter at the election shall vote in favor of the home rule charter it shall be deemed to be ratified and shall become the organic law of such city, and extend to all its local and city matters. Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict therewith, and shall be liberally construed for such purposes. One copy of the charter so ratified and approved shall be filed with the secretary of state, one with the clerk of district court for the county in which the city is located, and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter.

Section 6. Powers.) From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this Act, such city, and the citizens thereof, shall, if included in the charter and imple-

mented through ordinances, have the following powers set out in this Act:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; to contract debts, borrow money, issue bonds, warrants and other evidences of indebtedness; to establish charges for any city or other services, and to establish debt and mill levy limitations, provided that all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments.
3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation.
5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.

8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
10. To engage in any utility, business, or enterprise permitted by the Constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, or corporation.
11. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state or federal program, project or works.

It is the intention of this Act to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

Section 7. Amendment or Repeal.) The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in

the same general manner provided in section 2 and section 4 for the adoption of such charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 2 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of such amendments by a majority vote of electors voting at the election. A proposal to repeal a home rule charter that has been adopted shall likewise be submitted to the electors of the city as set forth in this section.

Section 8. Commission—Terms of Office—Vacancies.) The terms of office of the members of the charter commission shall be four years. Any vacancy on said commission shall be filled by the governing body of the city.

Section 9. Restriction on Proposals to Amend or Repeal.) Any proposal to amend or repeal home rule charters shall not be submitted to the electorate more often than every two years.

Section 10. Manner of Calling and Holding Elections.) The elections provided for in this Act shall be called and held in the same manner as is provided for the calling and holding of a city elections except that all qualified voters of the city shall be eligible to vote at such elections and the form of ballot shall be prescribed by the charter commission so that the voter may signify whether he is for or against the proposed home rule charter or the amendment or repeal, as the case may be.

Section 11. Effect of Amendment or Repeal on Salary or Term of Office.) Repeal of a home rule charter shall cause the city affected by such repeal to revert to the form of government of such city immediately preceding adoption of the home rule charter and where positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the city reverts upon repeal, such elected officials shall continue to exercise the authority of such position for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter shall shorten the term for which any official was elected or reduce the salary of his office for that term.

Section 12. Former Powers Preserved.) All powers heretofore granted any city by general law are hereby preserved to each home rule city, respectively, and the powers so conferred

upon said cities by general law, are hereby granted to home rule cities.

Section 13. Vested Property—Rights of Action—Actions Saved.)

The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, rights of action, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such rights of action, claims, or demands shall vest in and inure to the city and to any persons asserting any such claims against the city as fully and completely as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the city to collect by special assessment any special assessment theretofore levied under any law or charter for the purpose of public improvements, nor affect any right of any contract or obligation existing between the city and any person, firm, or corporation for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

Approved March 8, 1969.

CHAPTER 372

H. B. No. 494
(Strinden, Boustead)

**MAYOR AND TEN ALDERMEN
FORM OF CITY GOVERNMENT**

AN ACT

To create and enact subsection 6 of section 40-08-03 of the North Dakota Century Code, providing a ten aldermen and mayor organization under the council form of government; amending and reenacting 40-08-04, and heading only of 40-08-06 of the North Dakota Century Code.

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

Section 1.) Subsection 6 of section 40-08-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten aldermen and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure hereinafter provided.

Section 2. Change to Ten Aldermen and Mayor—Petition Required.) Any city of more than ten thousand inhabitants operating under the council form of government may change its organization thereunder and operate with ten aldermen and mayor. The proceeding to change shall be initiated by a petition asking for such change signed by not less than one-third of the electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name, address, and age of each petitioner, and the length of his residence in the city. Any peti-

tioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

Section 3. City Auditor to Pass on Sufficiency of Petition Requesting Change to Ten Aldermen and Mayor.) Within thirty days after a petition to change to ten aldermen and mayor is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

Section 4. Procedure When Petition to Change to Ten Aldermen and Mayor is Filed—Special Election—Ballot.) When a petition to change to ten aldermen and mayor, together with the city auditor's certificate of sufficiency, is filed with the governing body of a municipality, the governing body shall call a special election at which only the question of changing to ten aldermen and mayor will be submitted. The date of such election shall not be less than thirty days nor more than ninety days after the date of the auditor's certificate has been filed. The election shall be conducted, returns thereof made, and the result thereof declared in all respects as are other city elections. Notice of such election shall be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of such election. The ballot to be used at the election provided for in this section shall be in substantially the following form:

Shall the city of _____ change its organization and operate with ten aldermen and mayor?

Yes ()

No ()

Section 5. Terms of Office Under Ten Aldermen—Staggered Terms Provided For—Nominating Petition Requirements.) When a city operating under the council form of government changes to the ten aldermen and mayor organization, the alternation of the terms of the aldermen thereof shall be perfected as follows: The five aldermen receiving the greater number of votes shall serve until the third Tuesday in April following the second succeeding biennial election while the remaining five aldermen shall serve until the third Tuesday in April following the biennial election succeeding their election, and thereafter each alderman shall be elected to four-year terms and until their successors are elected and qualified. In cities electing ten aldermen, the candidates by means of their nominating petitions, must announce their intentions to seek a ward seat or an at-large seat. Upon approval of a change of organization to ten aldermen and mayor, all incumbent aldermen shall serve until the next biennial election at which time the aldermen seats shall be filled, however, the mayor shall complete his unexpired term for which elected.

Section 6. Amendment.) Section 40-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-04. Election of Aldermen.) In cities containing six hundred inhabitants or less, the aldermen shall be elected at large. In all other cities operating under the council form of government, except in a city operating with ten aldermen and mayor, the aldermen shall be elected by wards, and two aldermen shall be elected from each ward. In cities operating under ten aldermen and mayor, one alderman shall be elected from each of the seven wards and three aldermen and mayor shall be elected at large.

Section 7. Amendment.) The heading only of section 40-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-06. Term of Office of Aldermen—Staggered Terms Provided for in Cities Where Other Than Ten Aldermen Elected.

Approved March 25, 1969.

CHAPTER 373

H.B. No. 169

(Aas)

**TERM OF OFFICE OF ELECTED OFFICIALS UNDER
COUNCIL FORM OF GOVERNMENT****AN ACT**

To amend and reenact section 40-14-02 of the North Dakota Century Code extending the term of elected officials in a city operating under the council form of government to four (4) years.

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

Section 1. Amendment.) Section 40-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-14-02. Terms of Elective Officers.) The terms of office of the mayor and aldermen shall be as provided in chapter 40-08. All other elective officers in a city operating under the council form of government shall hold their respective offices for four years and until their successors are elected and qualified.

Approved March 29, 1969.

CHAPTER 374

S. B. No. 230

(Lowe, Unruh, Butler, Sands)

NOTICE TO CONSTRUCT, REBUILD, OR
REPAIR SIDEWALKS

AN ACT

To amend and reenact section 40-29-03 and to repeal section 40-29-12 of the North Dakota Century Code, relating to notice requirements for construction and repair of sidewalks.

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

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

40-29-03. Notice to Construct, Rebuild, or Repair Sidewalks.) Except as otherwise provided in this chapter, if the governing body deems it necessary to construct, rebuild, or repair any sidewalk in the municipality, it shall notify each owner of record at the last address shown in the office of the register of deeds or the county treasurer and occupant of any lot or parcel of land adjoining the sidewalk to construct, rebuild, or repair the same at his own expense and subject to the approval of the street commissioner or city engineer, within the time designated in the notice. The notice shall be directed in the manner hereinbefore provided to the owner of record and occupant and shall set forth what work is to be done, the character of the same as specified in the ordinance, and the time within which he is required to do the work. The work shall be done to the satisfaction of the street commissioner or city engineer. The notice may be general as to the owner of record and occupant but shall be specific as to the description of the lot or parcel of ground adjacent to where the sidewalk is to be built or repaired. The street commissioner or city engineer shall serve such notice by certified mail or delivering a copy thereof to the occupant and owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years

residing therein. If any lot or parcel of land is not occupied and service by mail is deemed impractical, the commissioner or city engineer may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner or city engineer, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund.

Section 2. Repeal.) Section 40-29-12 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.

CHAPTER 375

H. B. No. 371

(Diehl, Tweten, Kingsbury, Berg, Bunker)

TRANSFER OF SURPLUS IN A
MUNICIPAL UTILITY FUND

AN ACT

To amend and reenact subsection 2 of section 40-33-12 of the North Dakota Century Code, relating to surplus in municipal utilities fund.

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

Section 1. Amendment.) Subsection 2 of section 40-33-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body may transfer from the surplus in the fund to the general fund of the municipality or to any other fund of the municipality a total sum of not more than twenty percent of the gross receipts of the municipal utilities for the fiscal year of the municipality during which the transfer or transfers are made. In addition the governing body, upon adoption of a resolution declaring it necessary and upon approval of a majority of the votes cast at a regular city election, may transfer to the general fund of the municipality or to any other fund of the municipality from the surplus in the municipal utilities fund at the end of any fiscal year. The resolution and ballot shall state the specific amount or percentage to be transferred as hereinbefore provided.

Approved March 29, 1969.

CHAPTER 376

S. B. No. 174
(Stroup, Redlin)

REGULATION AND SALE OF POLITICAL
SUBDIVISION BONDS

AN ACT

Relating to the sale of municipal obligations and authorizing their sale for not less than ninety-eight percent of par value, and relating to provisions regulating municipal revenue bonds with respect to maximum interest rates and amending sections 2-06-10, 21-03-28, 40-27-09, 40-34-03, 40-35-08, 40-35-09, and 40-36-13, North Dakota Century Code, as amended.

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

Section 1. Amendment.) Section 2-06-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-10. Bonds and Other Obligations.) An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public or private sale at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery thereof and shall bear interest at a rate or rates not exceeding seven per centum per annum. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, shall be payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and shall so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue shall be an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within such limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds shall be

liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.

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

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

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

For the security of any such bonds the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over ten thousand population, the governing body of the municipality shall be required, in the event that at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, to levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency and at any time a deficiency is likely to occur within one year for

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

Section 2. Amendment.) Section 21-03-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-28. Bids—Accompanied by Draft—Sale to Best Bidder—Rejection of All Bids.) All bids shall be accompanied by a certified check, cashier's check, or bank draft, in the amount of not less than two percent of the bid. After all bids have been received, they shall be delivered forthwith to the governing body of the municipality, which shall award the sale of such bonds to the bidder who agrees to purchase them upon the terms most favorable to the municipality, unless the governing body determines to reject all bids. The governing body shall have the right to reject any and all bids. No sale shall be for less than ninety-eight percent of the par value of such bonds plus the interest accrued on the bonds to the date of the delivery thereof.

Section 3. Amendment.) Section 40-27-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-09. Sale or Exchange of Refunding Warrants—Issuance—Agreement by Governing Body to Exchange.) Refunding warrants or bonds may be sold for cash in such manner as the governing body may direct, and the proceeds used to pay the warrants described in the initial resolution, or may be exchanged for such warrants, but no exchange shall be made at less than par plus accrued interest, and no sale shall be made at less than ninety-eight percent of par plus accrued interest

on the refunding warrants or bonds. Refunding warrants may be issued from time to time as the original warrants mature or are called for payment and redemption or may be sold to pay, or, by agreement with the holders thereof, may be exchanged for, warrants which are not due. The governing body may enter into an agreement with the holders of outstanding warrants relating to an exchange of such warrants for refunding warrants and may provide, in its discretion, that the agreement shall be effective only when the holders of not less than seventy-five percent of the warrants shall have entered into the agreement.

Section 4. Amendment.) Section 40-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-34-03. Mortgages and Mortgage Bonds—Issuance Over Debt Limit—Not General Obligations—Vote Required to Issue—Conditions.) Municipalities may issue mortgage bonds beyond the general limits of the bonded indebtedness prescribed by law for the purpose of defraying the cost, or a part thereof, of a sewage disposal plant and system or of a garbage disposal plant in accordance with the provisions of section 40-34-02. Such bonds shall not impose any general liability upon the issuing municipality but shall be paid only out of the revenues received from the service charges as provided in this chapter or from the sale of the property under foreclosure of the mortgage or deed of trust. Such bonds shall be sold for not less than ninety-eight percent of par and shall bear interest at a rate of not more than seven percent per annum. No such bonds shall be issued, however, except upon the affirmative vote of three-fifths or more of the members of the governing body of the issuing municipality, and the form, recitals, maturities, rate of interest, and whether the bonds shall be payable annually or semiannually, shall be determined by the same vote. A municipality is authorized to execute and deliver any mortgage or deed of trust contemplated under the provisions of this chapter.

Section 5. Amendment.) Subsection 1 of section 40-35-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The rate or rates of interest, payable, semiannually, but not exceeding seven percent per annum, which such bonds shall bear;

Section 6. Amendment.) Section 40-35-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-35-09. Sale of Revenue Bonds—When Private Sale Authorized—Public Sale and Notice Thereof.) Revenue bonds shall be sold at not less than ninety-eight percent of par. Such bonds may be sold at private sale to the United States of America or any agency, instrumentality, or corporation thereof, or to the state of North Dakota or any agency or instrumentality thereof. Unless the bonds are sold to the United States, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, such bonds shall be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in a financial newspaper published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California.

Section 7. Amendment.) Section 40-36-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-36-13. Exchange or Sale of Refunding Bonds—Regulations Governing.) Refunding bonds may be sold or exchanged in installments at different times, or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time, and such bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates, or other obligations to be refinanced thereby. If the governing body shall determine to:

1. Exchange any refunding bonds, such bonds may be exchanged privately for, and in payment and discharge of, any of the outstanding notes, bonds or other obligations of the municipality issued to finance or to aid in financing the acquisition, construction, improvement, or refinancing of an enterprise. The refunding bonds may be exchanged for a like or a greater principal amount of such notes, bonds, or other obligations of the municipality. The principal amount of the refunding bonds, however, may exceed the principal amount of outstanding notes, bonds, or other obligations for which they are

exchanged only to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if, and to the same extent that, interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered;

2. Sell any refunding bonds, such bonds shall be sold at not less than ninety-eight percent of par at public or private sale in such manner and upon such terms as the governing body shall deem for the best interests of the municipality.

Approved March 20, 1969.

CHAPTER 377

H. B. No. 247
(Hentges)

BOARD OF DIRECTORS OF PUBLIC LIBRARIES

AN ACT

To amend and reenact section 40-38-03 of the North Dakota Century Code, relating to the appointment, organization, and term of office of members of the board of directors of public libraries.

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

Section 1. Amendment.) Section 40-38-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-03. Board of Directors—Appointment—Term of Office—No Compensation—Filling Vacancies—Organization.) The school board of a city establishing a public library and reading room, or of the school district within which such city is included, or the board of county commissioners for a county library, shall appoint a board of five directors representing both sexes who

must be residents of the county or city, as the case may be, to govern such library and reading room. One member of the school board shall be a member of the board of directors of a municipal library, and must be a resident of the municipality which establishes and maintains such municipal library; and one member of the board of county commissioners shall be a member of the county board of directors. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president and a secretary from among its number.

Approved March 13, 1969.

CHAPTER 378

H. B. No. 362
(Hilleboe, Sanstead)

CITY POLICEMEN'S PENSION PLAN

AN ACT

To amend and reenact section 40-45-09 of the 1967 Supplement to the North Dakota Century Code and section 40-45-11 of the North Dakota Century Code, relating to police pensions in cities.

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

Section 1. Amendment.) Section 40-45-09 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-09. Who May Be Retired on Pension—Amount Paid to Retiring Member—Retiring Member Not Paid.) Any member of the police department, including officers and police matrons, who shall have served twenty-two years or more in the department and shall have reached the age of sixty years, or who, while a member of such department shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he may be paid out of the pension fund of the department a monthly pension equal to sixty percent of the average monthly salary received during the highest paid consecutive thirty-six month period of his employment in the department. If any member shall have served twenty-two years in the department but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years, except as provided in section 40-45-11 of the North Dakota Century Code.

Section 2. Amendment.) Section 40-45-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-11. Eligibility for Retirement Because of Disability.) No member of the police department who shall become unable mentally or physically to perform his duties, nor his dependents, shall be entitled to receive benefits under this chapter because of such disability unless such member shall have been

on active duty with the department for a period of at least ten years prior to such disability unless such mental or physical impairment was received in the line of duty and permanently disabled such member. Provided, however, that any member of the department who shall have served twenty-two years, retired, and subsequently suffered a permanent disability prior to his attaining age sixty, may, in the discretion of the pension board and providing that the same is actuarially sound, be eligible for disability retirement. The question of disability shall be determined by the board of trustees upon the concurring report of at least two out of three physicians designated by the board of trustees to make a complete physical examination of the member.

Approved March 25, 1969.

CHAPTER 379

H. B. No. 372

(Anderson, Emerson, J. Peterson, Aamoth)
(Bullis, Haugland, R. Peterson, Aas)
(Sanstead, Strinden, Metzger)

CITY EMPLOYEES' PENSION PLANS

AN ACT

To amend and reenact sections 40-46-09 and 40-46-13 of the North Dakota Century Code, relating to city employees' eligibility for retirement on city pension plan and including full-time employees of city recreation commission, and providing for immediate benefits for dependents upon death of employee.

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

Section 1. Amendment.) Section 40-46-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-09. Who May Be Retired on Pension—Amount Paid to Retiring Employee.) Any appointed full-time employee, who shall be a member of a city employees' pension fund, including but not limited to librarians and other employees of a public library, and full-time employees of a city recreation commis-

sion, of a city having an employees' pension fund who shall have served two hundred forty months or more, whether or not consecutive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of one-twelfth of his highest five-year average annual earnings as provided for in the plan adopted by the governing body of the city. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

Section 2. Amendment.) Section 40-46-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-13. Payments to Widow, Surviving Husband, Children and Surviving Parents Upon Death of Active or Retired Member.) Upon the death of any active or retired employee of a city maintaining an employees' pension fund under this chapter, leaving a widow or dependent husband or minor child, or dependent father or mother surviving him or her, there shall be paid out of the fund as follows:

1. To the surviving widow or husband as long as he or she remains unmarried and of good moral character, a sum equal to two-thirds of the pension to which the employee would have been entitled not less, however, than forty dollars per month;
2. If there is no surviving widow or husband, or if such widow or husband shall die or remarry, then to the dependent father and mother, if both survive, or to either dependent parent if one survives, the sum of forty dollars per month;
3. To the father or mother of each surviving child, if such parent survives, for the benefit of such surviving child, until he or she shall arrive at the age of eighteen years, a sum not to exceed twenty-five dollars per month, and in case no parent of any such surviving child survives, then to the guardian of each surviving child a sum not to

exceed twenty-five dollars per month until he or she shall arrive at the age of eighteen years. The aggregate of all such payments shall not exceed the amount provided for in the plan and in no event more than sixty percent of the highest five-year average earnings of such employee during the most recent two hundred forty months of his employment, if he was employed that long, and if not, during the total period of his employment, or the maximum amount fixed by the governing body by ordinance.

Approved March 25, 1969.

CHAPTER 380

S. B. No. 213
(Decker)

MUNICIPAL PLANNING COMMISSIONS

AN ACT

To amend and reenact sections 40-48-03, 40-48-04, and 40-48-10 of the North Dakota Century Code, relating to municipal planning commissions and the adoption of municipal master plans.

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

Section 1. Amendment.) Section 40-48-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-03. Planning Commission—Creation—Members—Ex Officio Members.) The governing body of any municipality may create, by ordinance, a planning commission to consist of not more than ten members to be appointed by the executive officer of the municipality with the approval of its governing body. The executive officer, the engineer, and the attorney of the municipality shall be ex officio members of the commission.

Section 2. Amendment.) Section 40-48-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-04. Term of Members of Commission—Vacancies.) The present members of the commission shall hold office for the balance of their tenure. Of the members of the commission newly appointed, pursuant to this Act, the first member appointed, if one be appointed, shall hold office for the term of one year, if a second member is appointed he shall hold office for the term of two years, if a third member is appointed he shall hold office for the term of three years, if a fourth member is appointed he shall hold office for the term of four years, and if a fifth member is appointed he shall hold office for the term of five years from and after his appointment. Thereafter, the members shall be appointed for terms of five years. The terms of the ex officio members of the commission shall correspond to their respective official tenures. If a vacancy occurs otherwise than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term.

Section 3. Amendment.) Section 40-48-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-10. Hearing on Plan Before Adoption by Commission—Resolution to Adopt—Action Recorded on Plan and Maps—Governing Body to Receive Copy of Plan.) Before adopting the master plan or any part of it or any substantial amendment thereof, the planning commission shall hold at least one public hearing thereon. Notice of the time of such hearing shall be given by one publication in the official municipal newspaper. The adoption of the plan, or of a part thereof or amendment thereto, shall be by a resolution of the commission carried by the affirmative votes of not less than two-thirds of the members thereof. The resolution shall refer expressly to the maps and descriptive matter intended by the commission to form the whole or part of the plan or amendment. The action taken by the commission shall be recorded on the map, plan, and descriptive matter by the identifying signature of the secretary of the commission. An attested copy of the master plan shall be certified to the governing body of the municipality.

Approved March 13, 1969.

CHAPTER 381

H. B. No. 496
(Kelsch, J. Peterson, Sanstead)

MUNICIPAL ANNEXATION

AN ACT

Providing for annexation of unincorporated areas by municipal corporation; validating certain annexation ordinances; repealing chapter 40-51 and chapter 40-51.1 of the North Dakota Century Code; and declaring an emergency.

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

Section 1. Short Title.) This Act may be cited as "The Municipal Annexation Act of 1969".

Section 2. Declaration of Purpose.) It is hereby declared that the policies and procedures contained in this Act are necessary and desirable for the orderly growth of urban communities in the state of North Dakota. It is the purpose of this Act:

1. To encourage natural and well-ordered development of municipalities of the state;
2. To extend municipal government to areas which form a part of the whole community;
3. To simplify government structure in urban areas;
4. To recognize the interrelationship and interdependence between a municipal corporation and areas contiguous or adjacent thereto;

and to these ends this Act shall be liberally construed. For the purposes of this Act contiguity will not be affected by the existence of a platted street or alley, a public or private right-of-way, or a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway between the annexing municipality and the land to be annexed.

Section 3. Annexation by Petition of Owners and Electors.) Upon a written petition signed by not less than three-fourths of

the qualified electors or by the owners of not less than three-fourths in assessed value of the property in any territory contiguous or adjacent to any incorporated municipality and not embraced within the limits thereof, the governing body of the municipality, by ordinance, may annex such territory to the municipality.

Section 4. Exclusion by Petition of Owners and Electors.) Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and contiguous or adjacent to such limits, the governing body of the municipality, by ordinance, may in its discretion, disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either chapter 40-50 or section 57-02-39, and where no municipal improvements have been made or constructed therein or adjacent thereto.

Section 5. Notice—Petition of Owners and Electors.) The governing body shall not take final action on a petition presented by owners and electors until the petitioners have given notice of presentation of their petition by one publication in the official newspaper of the municipality, and if none, in the official newspaper of the county.

Section 6. Petition of Owners and Electors—Annexation or Exclusion.) If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation.

Section 7. Annexation by Resolution of Municipal Corporation.) The governing body of any municipality may adopt a resolution to annex contiguous or adjacent territory as follows:

1. The governing body of the municipality shall adopt a resolution describing the property to be annexed; and
2. Shall cause said resolution together with a notice of the

time and place it will meet to hear and determine the sufficiency of any written protests against such proposed annexation to be published in the official newspaper once each week for two consecutive weeks. The owners of any real property within the territory proposed to be annexed within thirty days of the first publication of such resolution may file written protests with the city auditor protesting against the proposed annexation. The governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof; and

3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, and shall become effective at the time and manner set forth in section 16 of this Act.

If the owners of one-fourth or more of the territory proposed to be annexed protest, the city may seek annexation by petition to the annexation review commission as hereinafter provided.

Section 8. Annexation by Petition of Municipal Corporation.) The governing body of any municipal corporation may petition the attorney general for annexation of any territory contiguous or adjacent to it. The petition shall set forth an accurate map of the area sought to be annexed, its description, and the reasons for its annexation.

Section 9. Annexation Review Commission To Be Constituted—Hearing Set.) Upon receipt of such petition the attorney general shall issue an order to constitute an annexation review commission to hear such petition and he shall designate a time and place at which the commission shall meet to consider the petition. The time of such hearing shall be not less than thirty days after receipt of such petition.

Section 10. Annexation Review Commission—Composition.) The annexation review commission shall be composed of

the attorney general, one county member and one city member. The board of county commissioners shall appoint one member of the board of supervisors, selected by said board of supervisors, from the township in which the territory sought to be annexed is situated as the county member on such annexation review commission and in the event such territory is not situated in an organized township then the board of county commissioners shall appoint one of its members who resides outside the corporate boundaries of the annexing municipality as the county member on such commission and the governing body of the municipality instituting the annexation proceedings shall appoint one of its members as the city member on such commission. The attorney general shall be chairman of such commission, and he may designate one of his assistant attorneys general to serve and act in his stead on such commission.

Section 11. Notice Required.) At the time he sets the time and place of hearing, the chairman of such commission shall direct the annexing municipality to cause a notice of such hearing and a copy of its petition to be published at least once a week for two successive weeks in the official newspaper of such municipal corporation, and to serve a copy of such notice and petition upon the chairman of the governing body of the county and township, if organized, wherein the territory to be annexed lies. Such hearing shall be held not less than thirty days after the first publication of such notice. Proof of publication and service of the notice and petition as required herein shall be filed with the chairman of such commission prior to the time of such hearing.

Section 12. Annexation Review Commission—Hearing.) At the time of the hearing the commission shall hear all evidence with respect to such annexation and it shall consider all studies, surveys, maps, data, reports and other material prepared by any state or local governmental subdivision, planning or zoning commission in the performance of their functions. Any resident of or person owning property or having any interest in the area proposed to be annexed and any elector of the annexing municipality or his representatives may appear at such hearing and present evidence upon any matter to be determined by the commission. All proceedings at the hearing and any continuances thereof shall be recorded but the same need not be transcribed unless proceedings for judicial review are initiated as provided in section 15.

Section 13. Decision.) Upon the completion of the hearing, the commission shall determine if the annexation should be granted after considering and finding that from the evidence one or more of the following factors are present with respect to the proposed annexation which will constitute a more harmonious and compatible metropolitan community:

1. The present and future uses or development of the area sought to be annexed;
2. Whether a community of interest exists between the area sought to be annexed and the annexing municipality;
3. The educational, recreational, civic, social, religious, industrial, commercial, or municipal facilities and services made available by or in the annexing municipality to any resident, business, industry or employee of such business or industry located in the area sought to be annexed;
4. Whether any governmental services or facilities of the annexing municipality are or can be made available to the area sought to be annexed;
5. The economic, physical and social relationship of the inhabitants, businesses, or industries of the area sought to be annexed to the annexing municipal corporation, and to the school districts and other political subdivisions affected thereby.

If a majority of the commission are satisfied that the annexation should be granted, it shall determine the terms and conditions upon which annexation is to be had and shall enter an order granting the petition. In all cases, the commission shall set forth in writing its findings of fact, its conclusions based thereon and its decision, and shall mail a copy thereof to all parties to the annexation proceedings.

The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted and the effective date thereof. Such order together with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded in the

office of the register of deeds of the county wherein the annexed territory is situated.

Section 14. Powers of the Commission—Decision—Terms.)

The commission in making its decision, shall balance the equities presented by the evidence and shall enter an order setting forth what it deems to be fair and reasonable terms and conditions and shall direct the annexation in conformity therewith. It shall have power:

1. To approve or disapprove, with or without amendment, wholly, partially, or conditionally the petition for annexation;
2. To determine the metes and bounds of the territory to be annexed and may include the same area or a smaller area than that described in the petition;
3. To require payment by the municipal corporation of a sum determined by the commission payable to compensate for the value of public improvements acquired by the annexation proceedings and to require the assumption by the municipal corporation of a pro rata share of any existing bonded indebtedness of any township from which territory is annexed.

Section 15. Review of Determination of Commission by Certiorari.) Within thirty days after receipt of the commission's order, any interested party dissatisfied with the decision made by the annexation review commission may make an application to the district court for a writ of certiorari. The review upon such writ shall extend only to the determination of whether such commission has pursued its authority regularly and has not exceeded its jurisdiction or abused its discretion under the provisions of this Act.

Section 16. Effective Date of Annexation.) Territory annexed to a municipality under the provisions of this Act shall be annexed as of the date of the order of the commission, except for tax purposes, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. Annexation shall be effective for the purpose of general taxation on and after the first day of January next ensuing, provided, however,

the municipal corporation shall continue to classify as agricultural lands for tax purpose all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are subdivided, or put to another use.

Section 17. Cost of Annexation.) The costs of annexation proceedings shall be paid by the municipal corporation instituting the proceeding and shall be the same as those allowed in any civil action.

Section 18. Validating Certain Ordinances and Resolutions.) Any ordinance or resolution annexing any territory adopted by a municipal corporation pursuant to chapter 338 of the Session Laws of 1967 subsequent to the first day of July 1967 and prior to the sixth day of March 1969, is hereby validated, ratified, approved and confirmed as of the effective date of such ordinance or resolution, provided, that after public hearing thereon, the governing body finds that as of the time the annexation proceedings were commenced by such municipal corporation:

1. Such annexation was undertaken upon the written petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in the territory annexed under such ordinance; or
2. That the governing body of such municipal corporation commenced such annexation proceedings by adopting a resolution describing the property proposed to be annexed and caused such resolution to be published once a week for two successive weeks in the official newspaper of the city and that there was an absence of protests filed by more than one-fourth of the property owners as of the date of the adoption of said resolution by number within the territory that was annexed pursuant to such resolution.

The provisions of this section shall be applicable to any municipality provided the governing body thereof shall adopt a resolution stating its intent to validate any such annexations and shall cause a copy of said resolution together with a notice of the time and place it will meet to hear and determine facts with respect to subsections 1 and 2 of this section, to be pub-

lished once each week for two successive weeks in the official newspaper of such municipality. The date of such hearing shall be not less than thirty days after the first publication of such resolution of intent. Upon finding that the facts set forth in either subsections 1 or 2 of this section were present at the time such annexation proceedings were commenced, the governing body shall pass a resolution validating the same and shall cause a copy thereof certified by the executive officer of the municipality to be filed in the office of the register of deeds of the county wherein the annexed territory is situated.

Section 19. Relation of This Act to Other Laws.) The powers conferred and the limitations imposed by this Act shall be in addition and supplemental to, and not in substitution for, powers conferred by any other law.

Section 20. Savings Clause.) If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

Section 21. Repeal.) Chapters 40-51 and 40-51.1 of the North Dakota Century Code are hereby repealed.

Section 22. 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 29, 1969.

CHAPTER 382

S. B. No. 175
(Unruh)

DISSOLUTION OF CITIES

AN ACT

To provide a method for use in the dissolution of cities.

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

Section 1. Dissolution—Petition—Notice of Election.)

1. If qualified electors of a city equal in number to one-fourth of the number of voters voting at the last regular city election petition the board of county commissioners of the county wherein the city is situated to dissolve the city, the board of county commissioners shall order a special election to be held within the city on the question of dissolving the city.
2. Notice of the election shall be published once each week for four consecutive weeks and shall state that the question of dissolving the city will be submitted to the qualified electors of the city on the designated day.

Section 2. Dissolution—Ballots.) The form of the ballot shall be:

“For the dissolution of _____
(insert name of city) .”

Against the dissolution of _____
(insert name of city) .”

Section 3. Dissolution—Conduct of Election.) The election shall be conducted in the same manner as a regular city election except that all election officials shall be appointed by the board of county commissioners. The election returns shall be made to the board of county commissioners and canvassed in the same manner as are general election returns.

Section 4. Dissolution—Vote Required—Effect on Debts and Contracts.) If a majority of the votes cast are in favor of dissolution the county commissioners shall, by motion and proclamation, set a date upon which dissolution will become effective and the city shall be dissolved, provided provision has been made for payment of its current indebtedness, contracts, and obligations, and for levying the requisite tax to do so. The current indebtedness, contracts, and obligations do not include funded or bonded indebtedness nor any contract whose termination date is more than one year beyond the date the election was held.

Section 5. Disposition of Records After Dissolution—Pending Business.) All public records and the corporate seal of the dissolved city shall be deposited with the county auditor.

Section 6. Notice of Dissolution—Publication.) Whenever a city is dissolved, the county auditor shall publish a notice once a week for four consecutive weeks that the city is dissolved. A certified copy of the notice shall be sent to the secretary of state.

Section 7. Dissolution—Care of Property—Manager—Disposition of Funds.) If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property. He shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that he will faithfully perform his duties and will promptly pay all money he receives to the county treasurer monthly on the first day of each month. The bond shall be executed by him and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds if any; if none, from county funds.

Section 8. Income from Property of a Dissolved Municipality.) Money received from the operation of property of a dissolved city shall be used in the following priority:

1. To pay employees engaged in the operation, maintenance, and protection of the property.

2. To pay the interest on the bonded indebtedness of the municipality.
3. To purchase or redeem bonded indebtedness of the municipality.
4. After all bonded indebtedness has been paid, to the general fund of the county.

Section 9. Dissolution—Insufficient Income to Pay Obligations—Levy of Tax—Duty Vested in Board of County Commissioners.) If insufficient money is received from the operation of the property of the dissolved city to pay the obligations in the order designated, the board of county commissioners shall levy a tax on all taxable property within the boundary of the city at the time of its dissolution. This tax shall be sufficient to pay the obligations incurred in the operation of the property of the city and to comply with the terms and conditions of the evidences of the bonded indebtedness. The board of county commissioners shall, without charge, perform the duties of the governing body of the dissolved city to satisfy the terms of the bonds, obligations, or contracts of the dissolved city.

Section 10. Dissolution by District Court—Application.) Any city not subject to dissolution under existing laws may be dissolved by the district court upon presentation of an application by the state's attorney of the county. The application shall contain:

1. The name of the city
2. The date of incorporation
3. Boundaries
4. Original plat and additions thereto
5. Names of the officers
6. Assets
7. Debts
8. A general statement of the reasons for dissolution

Section 11. Filing Application—Order.) If the court is satisfied the petition contains the required information, it shall order the petition be filed, and the clerk of the district court shall give notice thereof by publication once each week for four consecutive weeks.

Section 12. Objections.) Any time during the period of publication and within a period of thirty days after the last publication, any person may file objections to the application.

Section 13. Hearing on Application—Order of Dissolution.) After the period of publication, but not less than thirty days thereafter, the court, upon five days' notice to any person who has filed objections to the application, or without further notice, if no objections have been filed, shall hear and determine the application. If the court finds the city should be dissolved, it shall dissolve the same upon such terms or conditions as justice may require; vacate the boundaries; order the sale of assets and the payment of debts; and order any surplus paid into the general fund of the county treasury.

Section 14. Judgment Roll—Right of Appeal.) The petition, notice and proof of service thereof, objections, orders of the court, and the judgment shall constitute the judgment roll, and an appeal may be taken from the judgment in the same manner as in a civil action.

Approved March 13, 1969.

CHAPTER 383

S. B. No. 265
(Freed, Roen, Lips)

DEFINITION OF "PROJECT" AND "MUNICIPALITY"

AN ACT

To amend and reenact section 40-57-02 of the North Dakota Century Code, relating to the definition of "project" under the Municipal Industrial Development Act.

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

Section 1. Amendment.) Section 40-57-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-02. "Projects" and "Municipalities" Defined.) As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" shall include counties as well as municipalities of the types listed in section 40-01-01, subsection 1, and the term "project" shall mean any real property, buildings and improvements on real property or the buildings thereon, and any equipment located on such real property or in such buildings, or elsewhere, or personal property which is used or useful in connection with revenue producing enterprises, or any combination of two or more such enterprises, engaged or to be engaged in:

1. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof.
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.
3. Any other industry or business not prohibited by the Constitution or laws of the state of North Dakota.

In no event, however, shall the term "project" include those undertakings defined in chapter 40-35.

Approved March 13, 1969.

CHAPTER 384

H. B. No. 40

(Backes, Bernabucci, Bunker, Burke, Dahl)

(Froelich, Halcrow, Hoghaug, Kingsbury)

(McDonald, Strinden)

(From Legislative Research Committee Study)

TAX EXEMPTION FOR MUNICIPAL INDUSTRIAL
DEVELOPMENT PROJECTS

AN ACT

To amend and reenact section 40-57-17 of the North Dakota Century Code, relating to exemption from taxation of projects under the Municipal Industrial Development Act.

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

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

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

within thirty days from the date of the granting of the leasehold referred to in this section. The application for exemption from taxation on corporate income shall be made within sixty days from the time the corporate lessee commences business operations on the leased premises. The project lessee may waive, in writing or by the act of making a payment, all or any portion of the tax exemptions granted by this section.

Approved March 12, 1969.

CHAPTER 385

S. B. No. 39

(Butler, Decker, Hernett, G. Larson, Lowe, Wilhite)
(From Legislative Research Committee Study)

TAX EXEMPTIONS FOR NEW INDUSTRIES

AN ACT

To give political subdivisions the authority to grant ad valorem taxation exemptions to new industries, providing for the approval of the state board of equalization, and granting authority to the state board of equalization to also exempt these industries from state income taxation.

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

Section 1. Declaration and Finding of Public Purpose.) The legislative assembly of the state of North Dakota hereby declares and finds that it is and has been its purpose in preparing and adopting the provisions of this chapter to sanction, authorize, and encourage activities in the public interest and for the welfare of the state of North Dakota, its subdivisions and people by assisting in the establishment of additional industrial plants and promotion of economic activities within the state, and thereby increasing production of wealth, and adding to the volume of employment, particularly during those seasons when employment in farming and ranching is slack, thus alleviating unemployment among the people of the state.

It is the intent of the legislative assembly that political subdivisions and the state board of equalization in their determina-

tion of whether the tax exemptions authorized by this chapter shall be granted, shall give due weight to their impact and effect upon existing industry and business to the end that an unfair advantage shall not be given to new enterprises which is to the substantial detriment of existing enterprises.

Section 2. "Projects" and "Municipalities" Defined.) As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" shall include counties as well as municipalities of the types listed in section 40-01-01, subsection 1 and the term "project" shall mean any real property, buildings and improvements on real property or the buildings thereon, and any equipment permanently located on such real property or in such buildings, which are used or useful in connection with revenue producing enterprises, or any combination of two or more such enterprises, engaged or to be engaged in:

1. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof.
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.
3. Any other industry or business not prohibited by the Constitution or laws of the state of North Dakota.

Section 3. Municipalities' Authority to Grant Tax Exemption—Limitations.) Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project for a period of five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax re-

duction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines shall give its approval. The board shall, after making its determination, certify the findings back to the municipality and to the tax commissioner.

Section 4. Exemption from Income Tax—Limitations.) The net income of any project granted an exemption from ad valorem taxation may be exempt from state income tax for a like period, provided application for the exemption is made by the municipality on behalf of the project to the state board of equalization, and the board, after full investigation, determines the granting of the exemption is in the best interest of the people of North Dakota and approves the exemption. The board shall, after making its determination, certify the findings back to the applicant and to the tax commissioner. Nothing contained herein shall have the effect of exempting the project from filing an annual income tax return.

Approved March 21, 1969.

S. B. No. 416
(Redlin)

**COUNTY AND CITY AGREEMENTS FOR
PLANNING SURVEYS AND VOCATIONAL
EDUCATION SERVICES**

AN ACT

Relating to agreements for economic, industrial, and planning surveys and vocational and on-the-job training services between cities and counties and other persons, associations, or corporations; and providing for a tax levy.

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

Section 1. Cities and Counties May Enter Into Agreements for Surveys for Industrial Development and Vocational and On-The-Job Training.) The governing body of any city or county of this state is authorized in accordance with the provisions of this Act to enter into contracts with any person, firm, association, or corporation for the purpose of obtaining site surveys and site development plans, structural and mechanical plans and surveys, market surveys, and similar plans and surveys relating to industrial development and plant location, design, construction, equipment, and operation. Similar contracts may be entered into by such political subdivisions in accordance with the provisions of this Act for the providing of vocational and on-the-job training for residents of this state in industries located within this state. Such agreements shall be entered into only with a financially and educationally reliable person, firm, association, or corporation that has been approved for such agreement by a local development corporation located in such city or county and organized to encourage industrial and commercial development and growth.

Section 2. Content of Surveys.) The surveys permitted by this Act shall consist of a detailed plan which may include, among such items required by the city or county, the following:

1. An evaluation of proposed sites, the various methods of utilization, and the suitability of the sites for industrial development for specific types of industry.

2. An evaluation of consumer demand for the various types of products that could be processed, assembled, fabricated, or manufactured by an industry or the different types of industry that could utilize the site, and the benefits to the city to be realized from each in terms of economic growth.
3. The available labor supply, skilled and unskilled, and what effect various types of industries would have on the supply.
4. Any other matters relating to planning, designing, and costs pertaining to plant buildings and plant equipment for specific plant location sites.

Section 3. Declaration of Legislative Intent.) It is hereby declared to be the intent of the legislative assembly to promote the growth and development of small industry, and to assist in the creation and expansion of local skills and talents in North Dakota.

Section 4. City or County May Make Tax Levy.) Any city or county in this state, after resolution by its governing body that the question be submitted to its electors shall upon the approval thereof at a regular or special election by 60% of the qualified electors of such city or county voting in said regular or special election may levy a tax of not to exceed one mill upon its net taxable assessed valuation for the purpose of providing funds for vocational and on-the-job training services and surveys and otherwise carry out the provision under this Act. The levy provided for in this section shall be over and above any tax levy limitations provided by law. No levy for a specific year shall be made if the balance in the fund remaining from levies in prior years is in excess of ten thousand dollars.

Approved March 29, 1969.

CHAPTER 387

H. B. No. 121
(Aamoth)

MUNICIPAL PARKING AUTHORITIES

AN ACT

To provide for the financing of parking projects and facilities by municipal parking authorities; to amend and reenact sections 40-61-01, 40-61-02, 40-61-03, 40-61-09, 40-61-10, and 40-61-12, and subsection 1 of section 40-61-14 of the North Dakota Century Code, relating to definitions, powers, and financing procedures of municipal parking authorities; and to repeal section 40-61-18 of the North Dakota Century Code, relating to termination of municipal parking authorities; and declaring an emergency.

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

Section 1. Financing Projects and Facilities.) An authority may provide funds for its purposes by using the following methods or any combination thereof:

1. Issuing bonds of an authority as authorized by section 40-61-08 of this chapter.
2. Issuing notes of an authority as authorized by section 40-61-09 of this chapter.
3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or special assessments or by any combination of these means pursuant to or in accordance with the provisions of North Dakota Century Code, chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41, and 40-57 and all other applicable laws now in force or hereafter enacted.

Section 2. Amendment.) Section 40-61-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Authority" shall mean any corporation created under the authority of this chapter.
2. "City" shall mean any city with a municipal parking authority.
3. "Bonds" shall mean the bonds authorized in this chapter.
4. "Board" shall mean the members of the authority.
5. "Real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years.
6. "Project" shall mean any area or place operated or to be operated by an authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above, or under the ground which are used and usable in connection with such parking or storing of such vehicles in the area of the city.
7. "Projects" shall mean more than one project.
8. "Property owner" shall mean either a real estate owner, the beneficial owner of a leasehold on a building constructed on railroad property, or the owner of a retail or wholesale personal property inventory subject to an annual tax in excess of one thousand dollars.

Section 3. Amendment.) Section 40-61-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-02. Municipal Parking Authorities.) Any city may create a board to be known as a "municipal parking authority". Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the governing body of the city. Three members of the board shall be property owners within the benefited areas and two members of the board shall be guarantors of the bonds of the authority if any have been issued and guaranteed by property owners. If the authority has not issued bonds or if property owners have not guaranteed said bonds as hereinafter provided, then two member may be appointed at large. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice chairman. The governing body of the city may remove any member of the board for inefficiency, neglect of duty, or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents, and employees such powers and duties as it may deem proper. Such board and the corporate existence of the authority shall continue until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged and until the existence of the authority is terminated by official action of the governing body of the city. Upon its ceasing to exist, all its rights and properties shall pass to the city.

Section 4. Amendment.) Section 40-61-03 of the North Dakota Century Code is hereby amended and reenacted to read

as follows:

40-61-03. Purpose and Powers of an Authority.) The purpose of an authority shall be to construct, operate, and maintain one or more projects in the city and to promote and acquire municipal parking facilities in accordance with the provisions of this chapter and to promote municipal development by making space above, below, or adjacent to parking facilities available for commercial development and use in order to further purposes outlined in this chapter and in chapter 40-60 of the North Dakota Century Code. To carry out said purpose, an authority shall have power:

1. To sue and be sued.
2. To have a seal and alter the same at pleasure.
3. To acquire, hold, and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property.
4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by a city.
5. To make bylaws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project.
6. To appoint officers, agents, and employees, to prescribe their qualifications, and to fix their compensation; provided, however, the officers, agents and employees shall not be subject to the civil service law.
7. To appoint an attorney, who may be the city attorney, and to fix his compensation.
8. To make contracts and leases, and to execute all instruments necessary or convenient.

9. To construct such buildings, structures, and facilities as may be necessary.
10. To reconstruct, improve, maintain, and operate the projects.
11. To accept grants, loans, or contributions from the United States, the state of North Dakota, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority.
12. To fix and collect rentals, fees, and other charges for the use of the projects or any of them, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided.
13. To construct, operate, or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation, or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city, or any agency of an authority or city, or any other person, firm, or corporation shall, within or on any property comprising a part of any project authorized by this chapter, sell, dispense, or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this chapter; provided further, that the location of sites of the projects shall be subject to the prior approval of the governing body of the city.
14. To encourage commercial development and use of space above, below, or adjacent to parking facilities by exercising the powers granted municipalities under subsection 5 of section 40-60-02 of the North Dakota Century Code; provided, however, that subdivision c of subsection 5 of section 40-60-02 shall not be applicable to leases entered into by the authority.

Section 5. Amendment.) Section 40-61-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-09. Notes of an Authority.) An authority shall have power from time to time to issue notes and from time to time to issue renewal notes, herein referred to as notes, maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever an authority shall determine the payment thereof can be made in full from any moneys or revenues which an authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans, or other matters relating to any proposed or existing project. An authority may pledge such moneys or revenues, subject to any other pledge thereof, for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds and may also secure the notes by the guarantee of two or more property owners. The notes shall be issued in the same manner as bonds. An authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and an authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of an authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

Section 6. Amendment.) Section 40-61-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-10. Debt Guarantee.) Prior to the issuance of any bonds authorized by this chapter the authority shall require that the payment of not less than ten percent of the principal and interest of the bonds issued for any project be guaranteed through the use of one or more of the following methods:

1. A contract of personal guarantee entered into between the authority, the bondholders and at least three benefited property owners.
2. The guarantee of said payments by the municipality through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or

special assessments or by any combination of these pursuant to and in accordance with the provisions of North Dakota Century Code chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41, and 40-57 and of all other applicable laws now in force or hereinafter enacted.

Section 7. Amendment.) Section 40-61-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-61-12. State and City not Liable on Bonds—Exceptions as to Cities.) The bonds and other obligations of an authority shall not be a debt of the state of North Dakota and the state shall not be liable thereon. The bonds and other obligations of an authority shall not be a debt of a city and a city shall not be liable thereon unless a city agrees to assist in financing projects and facilities through the issuance of municipal bonds or other obligations which are considered to be a part of the debt of the city as provided in section 1 of this Act.

Section 8. Amendment.) Subsection 1 of section 40-61-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city which has authorized it and its environs, and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this chapter and shall be required to pay no ad valorem taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

Section 9. Repeal.) Section 40-61-18 of the North Dakota Century Code is hereby repealed.

Section 10. 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, 1969.