

# MUNICIPAL GOVERNMENT

## CHAPTER 320

HOUSE BILL NO. 1415  
(Metzger)

### ABOLITION OF OFFICE OF CITY TREASURER

AN ACT to create and enact sections 40-16-11, 40-16-12, 40-16-13, 40-16-14, 40-16-15, and 40-16-16 of the North Dakota Century Code, relating to functions and responsibilities of city auditors; to amend and reenact sections 18-04-07, 18-05-04, subsection 5 of section 40-01-01, sections 40-14-01, 40-14-07, 40-16-01, subsections 1, 3, 14, 15, and 16 of section 40-16-03, sections 40-16-10, 40-45-03, 40-46-06, and 40-49-08 of the North Dakota Century Code, relating to functions and responsibilities of city auditors; to authorize the legislative council to delete references to "city treasurer" in other places in the Century Code; and to repeal chapter 40-17 of the North Dakota Century Code, relating to the office of city treasurers.

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

SECTION 1. AMENDMENT.) Section 18-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-07. DISBURSEMENT OF FUND BY CITY AUDITOR.) Moneys received by the city auditor under the provisions of this chapter shall be disbursed as follows:

1. In a city having a paid fire department, such amount shall be placed in a fund to be disbursed by the governing body of the municipality in maintaining such fire department. If the municipality has a duly organized and incorporated firemen's relief association, the amount shall be disbursed in accordance with section 18-05-04.
2. In a city having no paid fire department, such amount shall be paid over to the treasurer of the fire department, or to the treasurer of each separately organized fire company which satisfies the requirements of section 18-04-01 in equal proportions when there are more than one in the municipality, upon the written order of such department or companies approved by the governing body of the municipality.

3. For the purpose of this section, a nonpaid or volunteer fire department shall be any department where less than fifty percent of the personnel of said department are full-time regularly salaried firemen. A volunteer fireman shall be a fireman who does not receive a regular monthly salary though he may receive compensation for each fire call he responds to.

SECTION 2. AMENDMENT.) Section 18-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-05-04. APPORTIONING INSURANCE TAX RECEIVED BY MUNICIPALITY.) The amount received under section 18-04-06\* by the municipal auditor in a municipality having a paid fire department and a duly organized and incorporated firemen's relief association except as hereinafter provided shall be apportioned as follows: one-half thereof shall be placed in a fund to be disbursed by the governing body in maintaining the fire department, and one-half thereof shall be paid to the treasurer of the firemen's relief association. Instead of making such apportionment the governing body in its discretion may pay all or any portion of the one-half of the amount so received which would otherwise be disbursed in maintaining the fire department to the treasurer of the firemen's relief association if its financial condition shall make such disposition necessary or advisable.

SECTION 3. AMENDMENT.) Subsection 5 of section 40-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Warrant" shall mean an order drawn by the proper official of the city on its treasury, the warrant or order to be so drawn that when signed by the auditor in an appropriate place it becomes a check on the depository of such city, and no warrant upon the treasury shall be delivered or mailed to the payee or his agent or representative until such warrant has been signed by the auditor and entered on the auditor's books as a check drawn on a bank depository.

SECTION 4. AMENDMENT.) Section 40-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-14-01. OFFICERS TO BE ELECTED IN COUNCIL CITIES.) The following officers shall be elected in each city operating under the council form of government:

1. A mayor;
2. The aldermen required under the provisions of sections 40-08-03 and 40-08-04; and

3. A municipal judge.

SECTION 5. AMENDMENT.) Section 40-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-14-07. HOLDING OF OTHER OFFICES BY CERTAIN CITY OFFICERS PROHIBITED.) No city auditor shall hold any other office under the city government during his term of office.

SECTION 6. AMENDMENT.) Section 40-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-16-01. OFFICE OF CITY AUDITOR - LOCATION - SALARY.) Each city auditor of each city shall keep his office at the meeting place of the governing body or at such place as designated by them. The auditor's salary shall be fixed by the city governing body and he shall receive no fees or per diem in addition thereto.

SECTION 7. AMENDMENT.) Subsections 1, 3, 14, 15, and 16 of section 40-16-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. MEETINGS. To attend all meetings of the governing body and keep a complete record of its proceedings. The official proceedings are to be signed by the auditor when they are prepared and by the executive officer upon board approval at a subsequent meeting;
3. RECORDS. To maintain a complete record of all financial transactions of the city which includes receipts, disbursements, fund balances, other assets, liabilities, and equity. Records shall be maintained as prescribed by the state auditor;
14. RECEIPTS. To issue prenumbered duplicate receipts for all moneys paid into the city treasury from whatever source received specifying the date and amount of such payment and upon what account such money is paid. Such receipts shall be recorded numerically in the record of receipts;
15. DISBURSEMENTS. Submit all claims against the city to the governing body for approval. Upon approval the auditor shall draw and countersign, along with the executive officer, a warrant in payment of the claim. No warrant shall be delivered or mailed until such warrant has been recorded in the disbursement record. All claims shall be recorded in the official proceedings of the governing body showing the warrant number, payee, and amount, except that salaries and wages may be consolidated in one order;

16. MONTHLY RECONCILEMENT. To reconcile monthly the bank statements listing all deposits in transit and outstanding checks; and

SECTION 8. AMENDMENT.) Section 40-16-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-16-10. DESTRUCTION OF CITY RECORDS.) After the same have first been offered to the state historical society, the city auditor shall destroy by burning any of the following records, forms, or blanks after the same have become five years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of any kind and description except abstracts of votes;
5. Assessment slips;
6. Claims vouchers which have been audited and paid;
7. Certificates of officials' bonds;
8. Insurance policies which have become obsolete; and
9. Any other documents the governing body deems necessary.

SECTION 9.) Section 40-16-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-11. FUNDS - CONTROLLED BY GOVERNING BODY - EXCEPTIONS - DISBURSEMENT ON ORDER.) All funds in the city treasury, except school funds, funds created and set apart for the payment of interest and principal of the debt of the city, and funds collected on special assessments, shall be under the control of the governing body of the city and shall be drawn out when authorized by a vote of the governing body, upon the order of the executive officer countersigned by the city auditor.

SECTION 10.) Section 40-16-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-12. SPECIAL FUNDS NOT TO BE PAID OUT FOR ANY OTHER PURPOSE.) The city auditor shall pay out funds appropriated for special purposes only for the purposes for which they were appropriated even though the governing body directs to the contrary.

SECTION 11.) Section 40-16-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-13. WARRANTS - CANCELLATION - DESTRUCTION - DESCRIPTION IN MINUTES.) The governing body, at a regular meeting, may cancel and destroy all warrants drawn on any fund of the city which have remained on file for a period of one year or more next preceding the regular meeting at which the cancellation takes place. The governing body may cancel and destroy all warrants and checks which have been subject to payment and which have not been presented for payment for a period of one year or more next preceding such regular meeting. The governing body, before cancelling and destroying any such warrants or checks, shall cause to be entered in the minutes of its proceedings a brief description of the warrant or check, containing the name of the payee, and the number, date, and amount of each warrant or check to be cancelled and destroyed. If the party entitled to any such warrant or check, or to payment thereon, shall appear thereafter and give good and sufficient reason for his delay in calling for such warrant or check or in presenting the same for payment, the governing body may issue to him a new warrant or check in the amount to which he is entitled, except for the statute of limitations.

SECTION 12.) Section 40-16-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-14. AUDITOR NOT TO COMMINGLE CITY'S MONEY - VIOLATION FORFEITS OFFICE.) The city auditor shall keep the city's money separate from other moneys, and he shall not, either directly or indirectly, use the city's money, warrants, or other obligations in his custody and keep it for his own use and benefit or for that of any other person or persons. If the auditor is convicted of a violation of this section, his office shall be forfeited and shall become vacant.

SECTION 13.) Section 40-16-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-15. ASSUME THE DUTIES OF THE CITY TREASURER.) The city auditor shall assume all functions and duties of the city treasurer where indicated in other chapters of the Code.

SECTION 14.) Section 40-16-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-16. DELEGATION OF POWERS AND DUTIES.) The city council or city commission may delegate any functions and duties of the city auditor to an officer appointed under 40-14-04 or 40-15-05.

SECTION 15. AMENDMENT.) Section 40-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-03. BOARD OF TRUSTEES - OFFICERS - BOND OF TREASURER - COMPENSATION.) The board of trustees for management of the policemen's pension fund shall consist of the chief of police, the city auditor, the city attorney ex officio, and two persons elected by and from the members of the police department who are currently being assessed. No member shall be eligible for election until he or she has eight years' service. The election shall be held on the second Tuesday in June of each year. Each elected member shall serve for a term of two years, except that at the first election one trustee shall be elected for a term of one year and the other for a term of two years. The terms of elected members shall commence on July first of each year. The chief of police shall be the president and the city auditor shall be the treasurer of the board. The faithful performance of the duties of the treasurer shall be secured by his official bond as the city auditor. Such trustees shall receive no compensation for their services as members of the board.

SECTION 16. AMENDMENT.) Section 40-46-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-06. BOARD OF TRUSTEES - MANAGEMENT OF PENSION FUND - WHAT CONSTITUTES - OFFICERS - BOND OF AUDITOR - COMPENSATION.) The executive officer, the auditor, and the attorney of the city ex officio, shall constitute the board of trustees for the management of the city employees' pension fund. The executive officer shall be the president and the city auditor shall be the treasurer of the board. The faithful performance of the duties of the treasurer shall be secured by his official bond as the city auditor. Such trustees shall receive no compensation for their services as members of the board.

SECTION 17. AMENDMENT.) Section 40-49-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-08. ORGANIZATION OF BOARD OF PARK COMMISSIONERS - MUNICIPAL AUDITOR TO ACT AS TREASURER OF BOARD.) On the third Tuesday in April after their election, the members of the board of park commissioners shall organize the board by selecting a president and a vice president. The auditor of the municipality shall be ex officio treasurer of the park district and shall take oath prescribed for civil officers and shall furnish such bond as may be required by the board.

SECTION 18.) The North Dakota legislative council is hereby authorized to delete, where appropriate, references to the office of city treasurer wherever they appear in the North Dakota Century Code or in the Supplements thereto and to insert in lieu of each deletion references to the office of city auditor. Such changes are to be made when any Volume or Supplement of the North Dakota Century Code is being reprinted.

SECTION 19. REPEAL.) Chapter 40-17 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1973

## CHAPTER 321

HOUSE BILL NO. 1447  
(Lodoen)

## FIRE PROTECTION CONTRACTS

AN ACT to allow for the contracting of fire protection services and providing a method for the financing thereof.

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

SECTION 1. CONTRACTING FOR FIRE PROTECTION SERVICE - PROVIDING FOR THE FINANCING THEREOF.) Any city may, upon resolution of its governing body, execute a contract with a non-profit corporation for the provision of fire protection and fire fighting services. Such contracts may be executed only with non-profit corporations which shall have been in existence and shall have provided fire protection and fire fighting services to the contracting municipality for a period of not less than 20 years.

Upon approval of sixty percent of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of 15 mills on the net taxable assessed valuation, for the purpose of paying for contracted fire protection services and may also expend monies otherwise available for the provision of such service. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

Approved March 28, 1973

## CHAPTER 322

HOUSE BILL NO. 1397  
(Strinden)PUBLICATION OF PROPOSED  
HOME RULE CHARTERS

AN ACT to amend and reenact sections 40-05.1-03 and 40-05.1-04 of the North Dakota Century Code, relating to the publication of proposed home rule charters.

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

SECTION 1. AMENDMENT.) Section 40-05.1-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05.1-03. CHARTER COMMISSION - MEMBERSHIP - PREPARATION AND SUBMISSION OF CHARTER - COMPENSATION AND EXPENSES - PUBLICATION OR DISTRIBUTION.) 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. However, cities with a population of one thousand or less may, in lieu of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city. In the event a city does not publish the charter in a newspaper, it must still publish a notice of the election.

SECTION 2. AMENDMENT.) Section 40-05.1-04 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05.1-04. SUBMISSION OF CHARTER TO ELECTORS.) Not earlier than sixty days nor later than six months after such publication or distribution, the proposed charter shall be submitted to a vote of the qualified electors of the city at a regular or special city

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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.

Approved February 25, 1973

## CHAPTER 323

HOUSE BILL NO. 1435  
(Stoltenow)

## NUMBER OF CITY ALDERMEN

AN ACT to amend and reenact section 40-08-03 of the North Dakota Century Code, relating to the determination of the number of aldermen in cities.

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

SECTION 1. AMENDMENT.) Section 40-08-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-03. NUMBER OF ALDERMEN DETERMINED BY POPULATION - CENSUS TO GOVERN.) The number of aldermen shall be as follows:

1. In cities of two hundred inhabitants or less, four, except that the city council may by resolution duly adopted reduce the number of aldermen to two.
2. In cities of more than two hundred but not more than six hundred inhabitants, four.
3. In cities of more than six hundred but not more than two thousand inhabitants, six.
4. In cities of more than two thousand but not more than four thousand inhabitants, eight.
5. In cities of more than four thousand but not more than ten thousand inhabitants, twelve.
6. In cities of more than ten thousand inhabitants, fourteen.
7. 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.

The population of the cities shall be determined by the last official federal, state, or municipal census. Whenever a census of the city shall show a population requiring more aldermen than are

in the council at the time of taking such census, the city council shall not be required to make a change in the number of aldermen and the corresponding change in the number of wards of such city unless a majority of the electors thereof, to be determined by the number of names on the poll list of the last city election, petition therefor.

Approved February 25, 1973

## CHAPTER 324

HOUSE BILL NO. 1332  
(Metzger)

## CITY COUNCIL MEETING DATES

AN ACT to amend and reenact section 40-08-10 of the North Dakota Century Code, relating to conduct of regular meetings which fall upon a holiday.

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

SECTION 1. AMENDMENT.) Section 40-08-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-10. MEETINGS OF COUNCIL - REGULAR, SPECIAL, AND FOR ORGANIZATION.) The city council shall hold its regular meetings on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings may be called as well as the establishment of any additional regular meetings desired. If a regular meeting falls upon a holiday, such meeting shall be held upon the next business day with the same effect as if conducted upon the day appointed. All regular and special meetings shall be held at a time and place to be designated by the city council. The first meeting for the organization of the city council shall be held on the third Tuesday in April of each even-numbered year.

Approved February 25, 1973

## CHAPTER 325

HOUSE BILL NO. 1513  
(Kretschmar)

## INTEREST OF OFFICERS IN CONTRACTS

AN ACT to amend and reenact section 40-13-05 of the North Dakota Century Code, relating to an exception to the prohibition against officers being interested in contracts or work of municipality.

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

SECTION 1. AMENDMENT.) Section 40-13-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-13-05. OFFICERS NOT TO BE INTERESTED IN CONTRACTS OR WORK OF MUNICIPALITY - EXCEPTION.) Except as otherwise provided by law, no municipal officer, in a municipality having a population of ten thousand or more according to the last federal decennial census, shall be directly or indirectly interested in:

1. Any contract, work, or business of the municipality;
2. The sale of any article the expense, price or consideration of which is paid from the municipal treasury or by any assessment levied by any act or ordinance; or
3. The purchase of any real estate or other property belonging to the municipality or which shall be sold for taxes or assessments or by virtue of any process issued in any suit brought by the municipality.

Provided, however, that the foregoing shall not be applicable if unanimously approved by the other members of the governing body of the political subdivision by a finding unanimously adopted by such other members and entered in the official minutes of the governing body, to be necessary for the reason that the services or property obtained are not otherwise available at equal cost.

Approved March 21, 1973

## CHAPTER 326

HOUSE BILL NO. 1501  
(Metzger)

## QUALIFICATIONS FOR MUNICIPAL JUDGES

AN ACT to amend and reenact section 40-18-01 of the North Dakota Century Code, relating to the office of municipal judge and providing that in cities of less than three thousand population he shall not be required to be either a licensed attorney or a resident of the city in which he is to serve.

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

SECTION 1. AMENDMENT.) Section 40-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-01. JURISDICTION OF MUNICIPAL JUDGE.) The municipal judge within a city having a population of three thousand or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city and shall have exclusive jurisdiction of, and shall hear, try and determine, all offenses against the ordinances of the city. The offices of county justice and municipal judge may not be held by the same person. In a city with a population of less than three thousand the municipal judge may be, but need not be, an attorney licensed to practice law in this state, nor shall he be required to be a resident of the city in which he is to serve.

Approved March 3, 1973

## CHAPTER 327

HOUSE BILL NO. 1493  
(Hentges)

## JURY TRIALS IN MUNICIPAL COURTS

AN ACT to amend and reenact section 40-18-15 of the North Dakota Century Code, to repeal sections 40-18-16 and 40-18-17 of the North Dakota Century Code, and to repeal section 40-18-18 of the 1971 Supplement to the North Dakota Century Code relating to jury trials in municipal courts.

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

SECTION 1. AMENDMENT.) Section 40-18-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-15. TRIALS IN CASES ARISING UNDER THE ORDINANCE OF A CITY.) An action for the violation of a city ordinance shall be tried and determined by the municipal judge, without the intervention of a jury. Nothing in this section shall deprive a defendant of the right to a trial by jury. In the event of an adverse verdict in a municipal court trial a defendant may exercise his right of appeal as provided in section 40-18-19 and a defendant shall have the right to a trial by jury upon appeal from the determination of a municipal judge.

SECTION 2. REPEAL.) Section 40-18-16 of the North Dakota Century Code is hereby repealed.

SECTION 3. REPEAL.) Section 40-18-17 of the North Dakota Century Code is hereby repealed.

SECTION 4. REPEAL.) Section 40-18-18 of the 1971 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 15, 1973

## CHAPTER 328

SENATE BILL NO. 2403  
(Goodman)

COMPENSATION OF MUNICIPAL  
ELECTION OFFICIALS

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

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

SECTION 1. AMENDMENT.) Section 40-21-05 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-05. COMPENSATION OF INSPECTORS, JUDGES, AND CLERKS AT MUNICIPAL ELECTIONS.) Each inspector, judge, or clerk of any regular or special municipal election, for services performed at such election, shall receive as compensation therefor the sum of twelve dollars. When the number of votes cast at such election exceeds one hundred, each such officer shall receive as additional compensation the sum of two dollars for each additional one hundred votes cast, or major fraction thereof, but not more than twenty-five dollars in all for such services. In the event a special municipal election is held on the same date as a statewide, districtwide, or countywide election; and if the same election officials perform services for both elections, the city shall not be required to pay the election officials except for any extra officials necessary for such special municipal election.

Approved March 19, 1973

## CHAPTER 329

HOUSE BILL NO. 1330  
(Backlin, Metzger)

COMPENSATION OF SPECIAL ASSESSMENT  
COMMISSION MEMBERS

AN ACT to amend and reenact section 40-23-02 of the North Dakota Century Code, relating to compensation of the special assessment commission members.

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

SECTION 1. AMENDMENT.) Section 40-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-02. COMMISSIONERS - APPOINTMENTS SUBJECT TO CONFIRMATION - QUALIFICATIONS - CHAIRMAN - COMPENSATION.) All appointments made to the special assessment commission shall be subject to the confirmation of the governing body. Upon his appointment and confirmation, each commissioner shall file with the city auditor a written acceptance of the appointment and shall take and subscribe the oath required of other municipal officers, which shall be filed with the city auditor. The member of the commission having the shortest term to serve shall act as chairman. No member of the commission shall hold any other municipal office while serving as such member. Each member of the commission shall receive such suitable compensation for his services while actually engaged in the duties of the commission as determined by the governing body.

Approved February 25, 1973

## CHAPTER 330

HOUSE BILL NO. 1107  
(Strinden)

## ELIMINATION OF BOARDS OF BUDGET REVIEW

AN ACT to amend and reenact section 40-24-10 and subsection 2 of section 40-61-10 of the North Dakota Century Code, relating to municipal bonds and debts being approved by boards of budget review, and to repeal chapter 40-41 of the North Dakota Century Code, relating to boards of budget review.

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

SECTION 1. AMENDMENT.) Section 40-24-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-10. ONE-FIFTH OF COST OF IMPROVEMENT MAY BE PAID BY GENERAL ASSESSMENT WITHIN CONSTITUTIONAL DEBT LIMIT.) Any municipality, at the option of its governing body, may provide for the payment by general taxation of all the taxable property in the municipality of not more than one-fifth of the cost of any improvement financed by the levying of special assessments other than the opening and widening of streets or the laying of sewer or water connections from the main to the curb line. Any amount which the municipality shall determine to pay by general assessment shall be considered as a part of the debt of the municipality and shall not be valid unless such amount is within the constitutional debt limit of such municipality, computed on the portion of the last equalized value of property to which the mill rate of general property taxes is applied. Any incorporated city, by a two-thirds vote of the qualified voters thereof voting upon the question at a general or special election, may increase its limit of indebtedness three percentum on the assessed valuation of taxable property in such city beyond five percentum of the valuation thereof, and by a majority vote, in like manner, may increase its limit of indebtedness four percentum of such valuation without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, provided that such increase or increases must be duly voted before the levy of any general taxes exceeding the existing debt limit may be made to pay part of the cost of any such improvement. In making any contract with reference to any special improvement, the governing body may take into consideration such portion of the cost of the improvement as will be paid by general assessment, and may make appropriations and levy

taxes and assessments therefor in annual installments extending over the same period of time as is provided in the special assessments for such improvement. The appropriation may be made at such time as occasion may require and shall be included in the municipality's first annual tax levy thereafter. The appropriation and levy, whether it is made as a part of the regular annual appropriation ordinance or otherwise, shall state the specific improvement for which the assessment is made and the tax levied, the amount thereof, and the district in which the improvement is made. The amount of such assessment and the moneys collected thereon shall become a part of the district fund upon which the warrants issued in payment for the improvement are to be drawn.

SECTION 2. AMENDMENT.) Subsection 2 of section 40-61-10 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-57, and of all other applicable laws now in force or hereinafter enacted.

SECTION 3. REPEAL.) Chapter 40-41 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1973

## CHAPTER 331

SENATE BILL NO. 2377  
(Fritzell)

## SIDEWALK ASSESSMENT WARRANTS

AN ACT to amend and reenact section 40-29-15 of the North Dakota Century Code, relating to permission to sell sidewalk assessment warrants for cash at not less than ninety-eight percent of the par value thereof.

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

SECTION 1. AMENDMENT.) Section 40-29-15 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-15. WARRANTS - PAYABLE - INTEREST - INTEREST COUPONS - CONTENTS - SIGNED - DENOMINATIONS - USES.) All sidewalk assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than eight percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used in making payment on contracts for making the improvements or may be sold for cash at not less than ninety-eight percent of the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

Approved March 19, 1973

## CHAPTER 332

SENATE BILL NO. 2376  
(Fritzell)

## CURBING AND GUTTER ASSESSMENT WARRANTS

AN ACT to amend and reenact section 40-31-09 of the North Dakota Century Code, relating to permission to sell curbing and gutter assessment warrants for cash at not less than ninety-eight percent of the par value thereof.

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

SECTION 1. AMENDMENT.) Section 40-31-09 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-31-09. WARRANTS - PAYABLE - INTEREST COUPONS - CONTENTS - DENOMINATIONS - USES.) All curbing assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than eight percent per annum, payable annually, and may have coupons attached representing each year's interest. The warrants shall state upon their face the purpose for which they were issued and the fund from which they are payable and shall be signed by the executive officer of the city, and countersigned by the city auditor under the seal of the city, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making the improvements or may be sold for cash at not less than ninety-eight percent of the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

Approved March 15, 1973

## CHAPTER 333

SENATE BILL NO. 2107  
(Committee on Education)  
(At the request of the State Library Commission)

## FINANCING OF PUBLIC LIBRARIES

AN ACT to amend and reenact sections 40-38-02, 40-38-03, 40-38-04, 40-38-05, 40-38-09, and 40-38-10 of the North Dakota Century Code, relating to the financing of public libraries and the powers and duties of library boards of directors.

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

SECTION 1. AMENDMENT.) Section 40-38-02 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-02. LIBRARY FUND - LEVY - COLLECTION - KEPT SEPARATE.) For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. Such library fund shall consist of annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in such municipality and not to exceed two mills on the net taxable assessed valuation of property in such county, and any other moneys received for library purposes from federal, state, county, municipal, or private sources. The treasurer of the municipality or county shall keep such fund separate and apart from the other money of the county or municipality, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. Such fund shall be used exclusively for the establishment and maintenance of public library service. Whenever a tax for county library service is levied, any municipality already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of such county, be exempted from such county tax levy to the extent that the municipality making such application levies taxes for a library fund during the year for which such tax levy is made. If such municipality has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in such

county less the total number of votes cast at the last general election in such municipality, and if an election on the question is held, the voters of any municipality so exempted from the county library tax shall not be entitled to vote on the establishment or discontinuance of the county library service. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters in the last general election of any city, school district, township, or county, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether such governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. Upon approval by sixty percent of the voters voting in such election, the governing body shall increase the levy for public library service in the amount approved by the voters.

SECTION 2. AMENDMENT.) Section 40-38-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-03. BOARD OF DIRECTORS - APPOINTMENT - TERM OF OFFICE - NO COMPENSATION - FILLING VACANCIES - ORGANIZATION.) The school board of a school district which embraces a municipality which has established a public library and reading room, or the board of county commissioners for a county library, shall appoint a board of five directors who must be residents of the municipality or county, as the case may be, to govern such library and reading room. One member of the school board or designated representative 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 or designated representative shall be a member of the county board of directors. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or the board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president. The governing board of a municipality or county establishing public library service may, in lieu of appointing a library board, contract directly with a library board established by another governing body of a municipality or county for the purpose of extending public library service.

SECTION 3. AMENDMENT.) Section 40-38-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-04. GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS.) The board of directors shall have the following powers and duties:

1. To make and adopt such bylaws, rules and regulations relating to the duties of the officers of the board as may be expedient and not inconsistent with the provisions of this chapter.
2. To make and adopt such bylaws, rules and regulations for the management of the library and reading room as are expedient and not inconsistent with the provisions of this chapter.
3. To control, exclusively, the expenditures of all moneys collected for or contributed to the library fund.
4. To have the supervision, care and custody of the library property, and of the rooms or buildings constructed, leased or set apart for use of library purposes.
5. To contract to furnish library service and to receive library service from other counties, school districts, and municipalities, and the state library commission.

SECTION 4. AMENDMENT.) Section 40-38-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-05. BOARD OF DIRECTORS MAY PURCHASE, BUILD, OR LEASE BUILDING FOR LIBRARY - LIBRARY BUILDING FUND - PUBLIC HEARING REQUIRED.) The board of directors, with the approval of the municipal or county governing body, may build, lease, lease-purchase, or purchase an appropriate building for a library and purchase a site therefor. Such lease, purchase, or contract shall not be valid without the approval of the governing body of the municipality or county. Prior to any actions on such proposals, the governing body shall hold a public hearing on the proposals. Notice of the hearing shall be published at least once, not less than six days prior to the hearing, in a newspaper of general circulation within the city or county. The governing body shall seek the advice and comment of the state library commission and the general public at the hearing. After such hearing, the governing body of a municipality or county may establish by resolution a library building fund for the purpose of construction, enlargement, or alteration of a building or for the purchase of an existing building to be used as a public library. The municipal or county treasurer shall place in the library building fund all moneys for such purposes as may be appropriated by the governing body or received for such purposes from federal, state, county, municipal, or private sources. The library building fund shall not revert to the library general fund or the general fund of the municipality or county without authorization by formal resolution from both the library's board of directors and the governing body

of the municipality or county.

SECTION 5. AMENDMENT.) Section 40-38-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-09. ANNUAL REPORT OF BOARD OF DIRECTORS - CONTENTS - TO WHOM MADE.) The board of directors shall make a report on July first of each year to the board of education or school board or board of county commissioners, as the case may be, stating:

1. The condition of the library and property;
2. The various sums of money received from all sources;
3. How much money has been expended and for what purpose;
4. The number of books and periodicals on hand;
5. The number of books and periodicals added by purchase or gift during the year and the number thereof lost or loaned out;
6. The character and kind of books contained in the library; and
7. Such other statistics, information, and suggestions as the board may deem of general interest or as may be required by the state library commission.

Copies of the report shall be filed with the governing body of the political subdivision and with the state library commission.

SECTION 6. AMENDMENT.) Section 40-38-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-10. CONTRIBUTIONS BY POLITICAL SUBDIVISION TO ESTABLISHMENT OF LIBRARY WITHOUT ELECTION AUTHORIZED.) To aid and facilitate the organization of library service, the governing body of any city where the population is less than twenty-five hundred may appropriate annually from its general fund, or from any other moneys received for library purposes from federal, state, and private sources, a sum not to exceed five dollars per capita for the purchase of books and periodicals to remain the property of the city and to be loaned to any local library for free public use. The governing body shall appoint a book committee of three which shall select the books and periodicals from standard and recommended lists furnished by the state library commission. The selection so made by such committee shall be submitted to the governing body for approval and purchase by such governing body, provided that the amount so expended for such books and periodicals shall be within the amount appropriated therefor. Books and periodicals purchased with this fund shall be properly stamped as belonging to the city. Such appropriation shall be made and books and periodicals purchased without submitting the same to vote as provided in section 40-38-02. As an alternative, the governing body may contract with a library operated by a city, county, school district, or the state library commission for the provision of public library service for the city.

## CHAPTER 334

SENATE BILL NO. 2391  
(Tveten)

COMPENSATION OF  
CIVIL SERVICE COMMISSIONERS

AN ACT to amend and reenact section 40-44-06 of the North Dakota Century Code, relating to compensation and expenses of a civil service commissioner and commission members.

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

SECTION 1. AMENDMENT.) Section 40-44-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-44-06. COMPENSATIONS AND EXPENSES OF MEMBERS OF COMMISSION OR OF COMMISSIONER.) The compensation of the commissioner or of a member of the commission shall be determined by the governing body of the city for the time actually devoted to the performance of his duties, plus his actual expenses.

Approved March 19, 1973

## CHAPTER 335

HOUSE BILL NO. 1492  
(Hentges, Hensrud)

## POLICE PENSION MILL LEVIES

AN ACT to amend and reenact section 40-45-02 of the North Dakota Century Code, relating to police pension fund mill levies.

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

SECTION 1. AMENDMENT.) Section 40-45-02 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 24, 1973

## CHAPTER 336

SENATE BILL NO. 2384  
(Redlin)

## COMPENSATION OF PARK DISTRICT CLERKS

AN ACT to amend and reenact subsection 5 of section 40-49-12 of the North Dakota Century Code, to increase the maximum compensation payable to a clerk of a park district.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 40-49-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Employ such engineers, surveyors, clerks, and other employees, including a police force, as may be necessary, define and prescribe their respective duties, and fix and pay their compensation;

Approved March 19, 1973

## CHAPTER 337

HOUSE BILL NO. 1352  
(Strinden, Hentges)

CLASSIFICATION OF AGRICULTURAL  
LANDS ANNEXED TO CITIES

AN ACT to amend and reenact section 40-51.2-06, subsection 3 of section 40-51.2-07, and sections 40-51.2-16 and 57-02-27 of the North Dakota Century Code, relating to continued classification as agricultural lands for tax purposes of agriculture areas annexed to cities.

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

SECTION 1. AMENDMENT.) Section 40-51.2-06 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-06. PETITION OF OWNERS AND ELECTORS - ANNEXATION OR EXCLUSION - CLASSIFICATION OF ANNEXED AGRICULTURAL LANDS FOR TAX PURPOSES.) If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall then be effective. Annexation shall be effective for the purpose of general taxation on and after the first day of April next ensuing; provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are put to another use. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation.

SECTION 2. AMENDMENT.) Subsection 3 of section 40-51.2-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

and recorded with the county register of deeds, whereupon annexation shall become effective. Annexation shall be effective for the purpose of general taxation on and after the first day of April next ensuing; provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are put to another use.

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 3. AMENDMENT.) Section 40-51.2-16 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 4. AMENDMENT.) Section 57-02-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-27. PROPERTY TO BE ASSESSED AT FULL VALUE - LIMITATION ON ASSESSMENT OF ANNEXED AGRICULTURAL LANDS.) All property subject to taxation based on the value thereof shall be assessed at its true and full value in money. In determining the true and full value of real and personal property the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price at which said property would sell at auction, or at forced sale, or in the aggregate with all the property in the town or district, but he shall value each article or description by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract, or lot of real property, there shall be determined the value of the land, exclusive of improvements, and the value of all taxable improvements and structures thereon, and the aggregate value of the property, including all taxable structures

and other improvements, excluding the value of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands within the corporate limits of a city, whether or not platted, shall constitute agricultural property and be so classified and valued for ad valorem property tax purposes until such lands are put to another use. Such valuation shall be uniform with the assessed value of adjoining unannexed agricultural land.

Approved March 14, 1973

## CHAPTER 338

SENATE BILL NO. 2375  
(Fritzell)

## GRAVEL ASSESSMENT WARRANTS

AN ACT to amend and reenact section 40-54-10 of the North Dakota Century Code, relating to permission to sell gravel assessment warrants for cash at not less than ninety-eight percent of the par value thereof.

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

SECTION 1. AMENDMENT.) Section 40-54-10 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-54-10. GRAVEL ASSESSMENT WARRANTS - HOW PAID - INTEREST - CONTENTS.) All gravel assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by such special assessments. Such shall bear interest at a rate of not more than eight percent per annum, and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued, and from what fund they are payable, and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. Such warrants shall be used in making payment on the contract for the furnishing of gravel, or may be sold for cash at not less than ninety-eight percent of the par value thereof, and proceeds credited to the special fund and used to pay for such gravel project.

Approved March 15, 1973

## CHAPTER 339

HOUSE BILL NO. 1063  
(Strinden)HOSPITALS INCLUDED AS PROJECTS  
UNDER DEVELOPMENT ACT

AN ACT to amend and reenact section 40-57-02 of the North Dakota Century Code, relating to definitions of "projects" and "municipalities", and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 40-57-02 of the 1971 Supplement to 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, with the exception of the undertaking defined in section 40-35-02 pertaining to the purchase, acquisition, construction, maintenance, and operation of a hospital.

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

Approved February 2, 1973

\*NOTE: Section 40-57-02 was also amended by section 1 of Senate Bill No. 2411, chapter 340.

## CHAPTER 340

SENATE BILL NO. 2411  
(Reiten, Lips, Pyle)

## DEFINITION OF PROJECTS

AN ACT to amend and reenact section 40-57-02 of the North Dakota Century Code, defining "projects" under the Municipal Industrial Development Act of 1955 as amended, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 40-57-02 of the 1971 Supplement to 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. Improvements or equipment used or to be used for the abatement or control of environmental pollution in connection with any new or existing revenue-producing enterprise.
4. 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, with the exception of the undertaking defined in section 40-35-02 pertaining to the

\*NOTE: Section 40-57-02 was also amended by section 1 of House Bill No. 1063, chapter 339.

purchase, acquisition, construction, maintenance, and operation of a hospital and improvements or equipment used or to be used for the abatement or control of environmental pollution in connection with any new or existing revenue-producing enterprise.

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

Approved March 28, 1973

## CHAPTER 341

SENATE BILL NO. 2380  
(Ringsak, Butler)

## TAX EXEMPTIONS FOR NEW INDUSTRIES

AN ACT to create and enact a new section to chapter 40-57.1 and to amend and reenact section 40-57.1-02 of the North Dakota Century Code, relating to tax exemptions for new industries.

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

SECTION 1.) A new section to chapter 40-57.1 of the 1971 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

EXEMPTIONS - TIME FOR MAKING APPLICATION.) No exemption shall be granted under this chapter unless the application for it is granted as provided in this chapter prior to the commencement of construction of the project as that term is defined in section 40-57.1-02.

SECTION 2. AMENDMENT.) Section 40-57.1-02 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.1-02. "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 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 manufacturing.

Approved March 28, 1973

## CHAPTER 342

SENATE BILL NO. 2352  
(Lips)

## URBAN RENEWAL TAX INCREMENTS

AN ACT to create and enact section 40-58-20 of the North Dakota Century Code, relating to the computation, certification, and remittance of tax increments resulting from urban renewal for reimbursement of the cost of renewal and the interest and redemption premiums on obligations issued to pay such costs.

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

SECTION 1.) Section 40-58-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-58-20. TAX INCREMENTS.)

1. At any time after the governing body of a municipality has approved an urban renewal plan for any urban renewal area, it may request the county auditor and treasurer to compute, certify, and remit tax increments resulting from the renewal of the area in accordance with the plan and any modifications thereof, and the county auditor and treasurer shall do so in accordance with the provisions of this section.
2. The auditor shall compute and certify the original taxable value of each lot and parcel of real estate in the area, as last assessed and equalized before the date of the request, including the taxable value of any lot or parcel theretofore acquired by the municipality or its urban renewal agency, as last assessed and equalized before it was acquired.
3. In each subsequent year the auditor shall compute and certify the net amount by which the original taxable value of all lots and parcels of real estate in the area, as then assessed and equalized (including real estate then held by the municipality or urban renewal agency at zero), has increased or decreased in comparison with the original taxable value of all such real estate. The net amount of the increase or decrease is referred to in this section as the incremental value or the lost value for that year, as the case may be.

4. In any year when there is an incremental value, the auditor shall exclude it from the taxable value upon which he computes the mill rates of taxes levied in that year by the state, the county, the municipality, the school district, and every other political subdivision having power to tax the urban renewal area, until the cost of renewal of the area has been reimbursed in accordance with this section. However, he shall extend the aggregate mill rate of such taxes against the incremental value as well as the original taxable value, and the amount of taxes received from such extension against the incremental value is referred to in this section as the tax increment for that year.
5. In any such year when there is a lost value, the auditor shall compute and certify the amounts of taxes which would have resulted from the extension against the lost value of the mill rate of taxes levied that year by the state and each political subdivision having power to tax the urban renewal area. The amounts so computed are referred to in this section as the tax losses for that year.
6. The county auditor shall segregate all tax increments from the urban renewal area in a special fund, crediting to the fund, in each year when there is an incremental value, that proportion of each collection of taxes on real estate within the area which the incremental value bears to the total taxable value in that year.
7. Upon receipt of any tax increments in the fund the county treasurer, at the times when he distributes collected taxes to the state and to each political subdivision for which a tax loss has previously been recorded, shall also remit to each of them from the tax increment fund an amount proportionate to the amount of such tax loss, until all such tax losses have been reimbursed. Thereafter, at the time of each such distribution, he shall remit the entire balance then on hand in the fund to the municipality, until the cost of renewal of the area has been reimbursed to the municipality as provided in this section.
8. The cost of renewal subject to reimbursement from the tax increment fund for each urban renewal area shall include all expenditures incident to carrying out the urban renewal plan for the area and any modifications thereof, not otherwise reimbursed in one of the ways referred to below; including but not limited to all expenses of the clearance, redevelopment, rehabilitation, and conservation of the area as defined in section 40-58-19, and all interest and redemption premiums paid on bonds, notes, or other obligations issued by the municipality or urban renewal agency to provide funds for payment of such expenses. From

the total cost to be reimbursed there shall be deducted all amounts received from the federal government or others, and all special assessments, revenues, and other receipts except property taxes, which are actually collected and applied to the payment of such cost or such bonds, notes, or other obligations, at the times when such payments are due.

9. The tax increments from any urban renewal area may be appropriated by the governing body of the municipality for the payment of any general obligation bonds, special improvement warrants, or refunding improvement bonds issued by the municipality to provide funds for payment of the cost of renewal, together with interest and redemption premiums thereon, other than that portion, if any, of such principal, interest, and redemption premiums which can be paid when due from collections of special assessments, revenues, or other funds, excluding property taxes, which are pledged for the payment thereof. When special improvement warrants or refunding improvement bonds are issued to pay the cost of public improvements of special benefit to properties within the urban renewal area, the governing body may cause such special benefits to be computed, together with the cost properly assessable against such properties, and may appropriate the tax increments from the area to the payment of such cost, in lieu of levying special assessments upon such property. In this event the amount so appropriated, divided into the same number of installments as the special assessments and with interest at the same rate on the declining balance thereof, shall be deemed a part of the special assessments appropriated for payment of the cost, within the meaning of section 40-26-08.
10. When the cost of renewal of any urban renewal area has been fully paid and all bonds, notes, or other obligations issued by the municipality to pay such cost have been retired, or funds sufficient for the retirement thereof have been received by the municipality, the governing body shall cause this to be reported to the county auditor, who shall thereafter compute the mill rates of all taxes upon the total taxable value of the urban renewal area. Any balance then on hand in the tax increment fund shall be distributed by the county treasurer to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the amounts of the tax losses previously reimbursed to them.

Approved March 28, 1973