

GOVERNMENTAL FINANCE

CHAPTER 278

SENATE BILL NO. 2219
(Committee on Political Subdivisions)
(At the request of the Bank of North Dakota)

CERTIFICATES OF INDEBTEDNESS

AN ACT to amend and reenact section 21-02-13 of the North Dakota Century Code, relating to certificates of indebtedness issued in anticipation of revenues to be received from the state.

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

SECTION 1. AMENDMENT. Section 21-02-13 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-13. Certificates of indebtedness in anticipation of revenue to be received from the state. Any political subdivision which will receive a distribution of revenue pursuant to ~~section 57-58-01~~ during any calendar year a state appropriation or statutory or constitutional provision shall, in anticipation of such revenue, have power to borrow not more than the amount it will receive from that source during that fiscal year. For the purpose of borrowing, all such political subdivisions may issue certificates of indebtedness.

A ~~certificate~~ Certificates of indebtedness shall provide for payment by the political subdivision of a stated sum on or before a specified date not more than six months ~~in the future~~ after the anticipated date of receipt of the revenue, together with interest thereon at a specified rate not exceeding twelve percent per annum if sold at private sale. There is no interest rate ceiling on a ~~certificate~~ certificates sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. The ~~certificate~~ certificates shall be payable out of the anticipated revenue received pursuant to ~~section 57-58-01~~ but shall, however, be a general obligation of the issuing political subdivision.

For the purpose of administering the provisions of this section, all of the provisions of this chapter, to the extent consistent herewith, that relate to signing and issuance of certificates of indebtedness, the certificate of the county auditor on the certificates of indebtedness, the registration of certificates of indebtedness, certifying the amount to be received

from the state by a political subdivision ~~for the year~~, setting aside the amount to be received for payment of the certificates, order of payment of such certificates, except for municipalities over four thousand in population, and advertising for bids shall govern the administration of the provisions of this section.

Approved April 14, 1983

CHAPTER 279

SENATE BILL NO. 2256
(Senators Tweten, Thane)
(Representative Kent)

BOND ISSUE FOR HIGHWAY CONSTRUCTION AND MAINTENANCE

AN ACT to amend and reenact subsection 1 of section 21-03-06 of the North Dakota Century Code, relating to bond issues by counties for construction or maintenance of highways; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 21-03-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. By any county:

- a. To provide county buildings, but all outstanding unpaid bonds for this purpose shall not exceed in amount at any one time five percent of the value of taxable property in such county.
- b. To construct, enlarge, or repair, or aid in the construction, enlargement, or repair, of bridges within or without the county, but all outstanding unpaid bonds for this purpose shall not exceed in amount at any one time one percent of the value of taxable property in the county.
- c. To provide funds for the original construction and for the improvement and maintenance of highways, but all outstanding unpaid bonds for these purposes shall not exceed in amount at any one time ~~one~~ four percent of the value of taxable property in such county.
- d. To provide funds for the construction of solid waste disposal facilities, for the acquisition of real estate for that purpose, for facilities and equipment for the collection of solid wastes, and for facilities and equipment to dispose of waste products.

* NOTE: Section 21-03-06(1) was also amended by section 2 of House Bill No. 1589, chapter 149.

- e. To provide funds for improvements in rural platted, zoned, and recorded subdivisions with restrictive covenants, in accordance with chapter 11-33.1. Any bonds issued for this purpose shall not be considered against the general bonding authority of the county.

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

Approved March 4, 1983

CHAPTER 280

HOUSE BILL NO. 1204
(Committee on Political Subdivisions)
(At the request of the Bank of North Dakota)

MUNICIPAL GENERAL OBLIGATION BONDS

AN ACT to amend and reenact section 21-03-19 of the North Dakota Century Code, relating to the terms of municipal general obligation bonds.

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

SECTION 1. AMENDMENT. Section 21-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-19. Bonds - ~~Serial maturities~~ Terms. Bonds issued under the authority of this chapter shall be of ~~serial maturities~~. The first installment of principal shall fall due not more than three years must be authorized by resolution, bear such date or dates, be in such denomination or denominations, be in such form, be subject to redemption with or without premium, and be subject to such other terms or conditions as in the judgment of the municipality are in the public interest of the municipality, and must provide that the last installment of principal falls due not more than twenty years from the date of the bonds. ~~No installment of principal shall be less than one-third of the amount of the largest installment payable in any subsequent year, except that the amount of such installments of principal may be such that the increase thereof from year to year approximately shall equal the decrease from year to year in the interest on the bonds remaining unpaid.~~ The requirements of this section shall apply to each new issue of bonds, or if so determined by the governing body, to the bonds of a new issue combined with all of the outstanding bonds of one or more designated issues of bonds previously issued and similarly payable from taxes or other sources of revenues, or both, as the case may be.

Approved March 3, 1983

CHAPTER 281

SENATE BILL NO. 2492
(Lodoen, Parker)

REGISTRATION OF PUBLIC OBLIGATIONS

AN ACT to create and enact a new chapter to title 21 of the North Dakota Century Code, relating to the registration of public obligations; to amend and reenact subsection 3 of section 41-08-02 of the North Dakota Century Code, relating to the definition of a clearing corporation; and to declare an emergency.

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

SECTION 1. A new chapter to title 21 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. As used in this Act, the following terms have the following meanings:

1. "Authorized officer" means any individual required or permitted, alone or with others, by any provision of law or by the issuing public entity, to execute on behalf of the public entity a certificated registered public obligation or a writing relating to an uncertificated registered public obligation.
2. "Certificated registered public obligation" means a registered public obligation which is represented by an instrument.
3. "Code" means the Internal Revenue Code of 1954, as amended.
4. "Financial intermediary" means a bank, broker, clearing corporation or other person or the nominee of any of them, which in the ordinary course of its business maintains registered public obligation accounts for its customers, when so acting.
5. "Issuer" means a public entity which issues an obligation.

6. "Obligation" means an agreement of a public entity to pay principal and any interest thereon, and includes a share, participation, or other interest in any such agreement.
7. "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered public obligation.
8. "Official or official body" means the officer that is empowered under the laws of this state to provide for original issuance of an obligation of the issuer, by defining the obligation and its terms, conditions and other incidents, the successor or successors of any such official or official body, and such other person or group of persons as shall be assigned duties of such official or official body with respect to a registered public obligation under applicable law from time to time.
9. "Public entity" means any entity, department or agency which is empowered under the laws of this state, to issue obligations any interest with respect to which may, under any provision of law, be provided an exemption from the income tax referred to in the Code.
10. "Registered public obligation" means an obligation issued by a public entity pursuant to a system of registration.
11. "System of registration" and its variants means a plan that provides:
 - a. With respect to a certificated registered public obligation that
 - (1) The certificated registered public obligation specify a person entitled to the registered public obligation and the rights it represents, and
 - (2) Transfer of the certificated registered public obligation and the rights it represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and
 - b. With respect to an uncertificated registered public obligation, that
 - (1) Books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify a person entitled to the registered public obligation and the rights evidenced thereby, and

(2) Transfer of the uncertificated registered public obligation and the rights evidenced thereby be registered upon such books.

12. "Uncertificated registered public obligation" means a registered public obligation which is not represented by an instrument.

Systems of registration.

1. Each issuer is authorized to establish and maintain a system of registration with respect to each obligation which it issues. The system may either be
 - a. A system pursuant to which only certificated registered public obligations are issued, or
 - b. A system pursuant to which only uncertificated registered public obligations are issued, or
 - c. A system pursuant to which both certificated and uncertificated registered public obligations are issued. The issuer may amend, discontinue and reinstitute any system, from time to time, subject to covenants.
2. The system shall be established, amended, discontinued, or reinstated for the issuer by, and shall be maintained for the issuer as provided by, the official or official body.
3. The system shall be described in the registered public obligation or in the official actions which provide for original issuance of the registered public obligation, and in subsequent official actions providing for amendments and other matters from time to time. Such description may be by reference to a program of the issuer which is established by the official or official body.
4. The system shall define the method or methods by which transfer of the registered public obligation shall be effective with respect to the issuer, and by which payment of principal and any interest shall be made. The system may permit the issuance of registered public obligations in any denomination to represent several registered public obligations of smaller denominations. The system may also provide for the form of any certificated registered public obligation or of any writing relating to an uncertificated registered public obligation, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to holders or owners of obligations, and for accounting, canceled certificate destruction

- registration and release of security interests and other incidental matters. Unless the issuer otherwise provides, the record date for interest payable on the first or fifteenth day of a month shall be the fifteenth day or the last business day of the preceding month, respectively, and for interest payable on other than the first or fifteenth day of a month, shall be the fifteenth calendar day before the interest payment date.
5. Under a system pursuant to which both certificated and uncertificated registered public obligations are issued, both types of registered public obligations may be regularly issued, or one type may be regularly issued and the other type issued only under described circumstances or to particular described categories of owners and provision may be made for registration and release of security interests in registered public obligations.
 6. The system may include covenants of the issuer as to amendments, discontinuances, and reinstatutions of the system and the effect of such on the exemption of interest from the income tax provided for by the Code.
 7. Whenever an issuer shall issue an uncertificated registered public obligation, the system of registration may provide that a true copy of the official actions of the issuer relating to such uncertificated registered public obligation be maintained by the issuer or by the person, if any, maintaining such system on behalf of the issuer, so long as the uncertificated registered public obligation remains outstanding and unpaid. A copy of such official actions, verified to be such by an authorized officer, shall be admissible before any court of record, administrative body or arbitration panel without further authentication.
 8. Nothing in this Act shall preclude a conversion from one of the forms of registered public obligations provided for by this Act to a form of obligations not provided for by this Act if interest on the obligation so converted will continue to be exempt from the income tax provided for by the Code.
 9. The rights provided by other laws with respect to obligations in forms not provided for by this Act shall, to the extent not inconsistent with this Act, apply with respect to registered public obligations issued in forms authorized by this Act.

Execution - Authentication.

1. A certificated registered public obligation shall be executed by the issuer by the manual or facsimile signature or signatures of authorized officers. Any

signature of an authorized officer may be attested by the manual or facsimile signature of another authorized officer.

2. In addition to the signatures referred to in subsection 1 of this section any certificated registered public obligation or any writing relating to an uncertificated registered public obligation may include a certificate or certificates signed by the manual or facsimile signature of an authenticating agent, registrar, transfer agent or the like.
3. At least one signature of an authorized officer or other person required or permitted to be placed on a certificated registered public obligation shall be a manual signature.

Signatures.

1. Any certificated registered public obligation signed by the authorized officers at the time of the signing thereof shall remain valid and binding, notwithstanding that before the issuance thereof any or all of such officers shall have ceased to fill their respective offices.
2. Any authorized officer empowered to sign any certificated registered public obligation may adopt as and for the signature of such officer the signature of a predecessor in office in the event that such predecessor's signature appears on such certificated registered public obligation. An authorized officer incurs no liability by adoption of a predecessor's signature that would not be incurred by such authorized officer if the signature were that of such authorized officer.

Seal. When a seal is required or permitted in the execution of any certificated registered public obligation, an authorized officer may cause the seal to be printed, engraved, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

Agents - Depositories.

1. An issuer may appoint for such term as may be agreed, including for so long as a registered public obligation may be outstanding, corporate or other authenticating agents, transfer agents, registrars, paying or other agents specify the terms of their appointment, including their rights, their compensation and duties, limits upon their liabilities and provision for their payment of liquidated damages in the event of breach of certain of the duties imposed, which liquidated damages may be made payable to the issuer, the owner or a financial

intermediary. None of such agents need have an office or do business within this state.

2. An issuer may agree with custodian banks and financial intermediaries, and nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the transfer or pledge of registered public obligations. Any such custodian banks and financial intermediaries, and nominees, may, if qualified and acting as fiduciaries, also serve as authenticating agents, transfer agents, registrars, paying or other agents of the issuer with respect to the same issue of registered public obligations.
3. Nothing shall preclude the issuer from itself performing, either alone or jointly with other issuers, any transfer, registration, authentication, payment or other function described in this section.

Costs - Collection.

1. An issuer, prior to or at original issuance of registered public obligations, may provide as a part of a system of registration that the transferor or transferee of the registered public obligations pay all or a designated part of the costs of the system as a condition precedent to transfer, that costs be paid out of proceeds of the registered public obligations, or that both methods be used. The portion of the costs of the system not provided to be paid for be the transferor or transferee or out of proceeds shall be the liability of the issuer.
2. The issuer may as part of a system of registration provide for reimbursement or for satisfaction of its liability by payment by others. The issuer may enter into agreements with others respecting such reimbursement or payment, may establish fees and charges pursuant to such agreements or otherwise, and may provide that the amount or estimated amount of such fees and charges shall be reimbursed or paid from the same sources and by means of the same collection and enforcement procedures and with the same priority and effect as with respect to the obligations.

Security for deposits. Obligations issued by public entities under the laws of this state which are in registered form, whether or not represented by an instrument, and which, except for their form, satisfy the requirements with regard to security for deposits of moneys of public agencies prescribed pursuant to any law of this state, shall be deemed to satisfy all such requirements even though they are in registered form if a security interest in such obligations is perfected on behalf of the public agencies whose moneys are so deposited.

Public records - Locations.

1. Records, with regard to the ownership of or security interests in registered public obligations, are not subject to inspection or copying under any law of this state relating to the right of the public to inspect or copy public records, notwithstanding any law to the contrary.
2. Registration records of the issuer may be maintained at such locations within or without this state as the issuer shall determine.

Applicability - Determination.

1. Unless at any time prior to or at original issuance of a registered public obligation the official or official body of the issuer determines otherwise, this Act shall be applicable to such registered public obligation notwithstanding any provision of law to the contrary. When this Act is applicable, no contrary provision shall apply.
2. Nothing in this Act limits or prevents the issuance of obligations in any other form or manner authorized by law.
3. Unless determined otherwise pursuant to subsection 1 of this section, the provisions of this Act shall be applicable with respect to obligations which have heretofore been approved by vote, referendum or hearing, authorizing or permitting the authorization of obligations in bearer and registered form, or in bearer form only, and such obligations need not be resubmitted for a further vote, referendum or hearing, for the purpose of authorizing or permitting the authorization of registered public obligations pursuant to this Act.

Construction. This Act shall be construed in conjunction with the Uniform Commercial Code and the principles of contract law relative to the registration and transfer of obligations.

Amendment or repeal - Effect. The state hereby covenants with the owners of any registered public obligations that it will not amend or repeal this Act if the effect may be to impair the exemption from income taxation of interest on registered public obligations.

SECTION 2. AMENDMENT. Subsection 3 of section 41-08-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A "clearing corporation" is the Bank of North Dakota or a corporation:

- a. At least ninety percent of the capital stock of which is held by or for one or more persons (other than individuals), each of whom:
- (1) Is subject to supervision or regulation pursuant to ~~the provisions of~~ federal or state banking laws or state insurance laws; or
 - (2) Is a broker or dealer or investment company registered under the Securities Exchange Act of 1934 or the Investment Company Act of 1940; or
 - (3) Is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934, and none of whom, other than a national securities exchange or association, holds in excess of twenty percent of the capital stock of such corporation; and
- b. Any remaining capital stock of which is held by individuals who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who have purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors.

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

Approved March 17, 1983

CHAPTER 282

HOUSE BILL NO. 1327

(Lipsiea, Gates, Serenus Hoffner, Lloyd, Sanstead)

DEPOSITORIES OF PUBLIC FUNDS

AN ACT to create and enact subsection 6 to section 21-04-01 of the North Dakota Century Code, defining financial institutions; to amend and reenact sections 21-04-03, 21-04-05, 21-04-06, 21-04-07, 21-04-08, 21-04-09, 21-04-10, 21-04-12, 21-04-14, 21-04-15, 21-04-17, 21-04-18, and 21-04-21 of the North Dakota Century Code, relating to including financial institutions within class of depositories for public funds.

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

SECTION 1. Subsection 6 to section 21-04-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. "Financial institutions" includes state and national banks insured by the federal deposit insurance corporation, state chartered or federally chartered savings and loans insured by the federal savings and loan insurance corporation, and state chartered or federally chartered credit unions insured by the national credit union administration.

SECTION 2. AMENDMENT. Section 21-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-03. Funds of public corporations to be deposited in designated depository. Public funds belonging to or in the custody of any public corporation shall be deposited in the Bank of North Dakota or in ~~banks~~ financial institutions which have been duly designated as depositories in the manner prescribed in this chapter.

SECTION 3. AMENDMENT. Section 21-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-05. ~~State or national bank~~ Financial institutions - Designation as depository. Any ~~state bank~~ financial institution duly incorporated in this state under and pursuant to the laws governing

the incorporation of banking corporations financial institutions, and any national bank financial institution situated and doing business within this state, and the Bank of North Dakota, may be designated a depository of public funds by the proper board as herein defined. The board may select two or more banks financial institutions in the same county as depositories, but if more than one bank financial institution is designated, the board shall deal with the banks financial institutions selected and designated impartially, both as to the deposit of funds and the withdrawal of funds and the requirement as to bonds. The board shall take into consideration in selecting and designating the depository or depositories, the condition of each bank financial institution and the capital, surplus, and general credit thereof.

SECTION 4. AMENDMENT. Section 21-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-06. Designating public depositories where there is only one bank financial institution or no bank financial institution. In a county where only one bank financial institution is located or functioning, the board may designate such bank financial institution as a depository, or it may designate another state or national bank financial institution or banks financial institutions, within the state, or the Bank of North Dakota, as depository in the manner and upon the conditions provided in this chapter. In a county where no bank financial institution is in existence or functioning, the board may designate the Bank of North Dakota, or any state or national bank financial institution, outside of such county and within the state, as depository in the manner and upon the conditions provided in this chapter for the selection of depositories of public funds. In case there is no bank financial institution within any city, township, or school district, the governing board thereof, if it deems it more advantageous and for the best public interest and convenience, may select as a depository a conveniently located bank financial institution in an adjoining county, which thereupon shall qualify as a depository by giving such bond as is required from a bank financial institution within said county. Said bond shall be approved by such governing board as to sufficiency and by the state's attorney of the county in which such city, township, or school district is located as to form, and shall be deposited in the office of the county auditor of such county.

SECTION 5. AMENDMENT. Section 21-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-07. Limitation on county deposit in bank financial institution. In no case shall the amount of county funds deposited by the board of county commissioners in any one bank financial institution exceed the combined capital and surplus of such bank financial institution. In a county where the deposits to be made by the board of county commissioners of county funds exceed the combined capital and surplus of all the banks financial institutions in the county, qualified as depositories, the board of county commissioners nevertheless may deposit such county funds within the

county upon the condition that such banks financial institutions furnish sufficient bonds as required in this chapter.

SECTION 6. AMENDMENT. Section 21-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-08. **Bond of depository - Approval or disapproval - Term.** Except as is otherwise provided in sections 21-04-16 and 21-04-17, and before any deposit shall be made in any depository other than the Bank of North Dakota, by or in behalf of any public corporation, such depository shall furnish a bond payable to the public corporation making such deposit in an amount that at least shall equal the largest deposit that at any time may be in such depository. Such bond shall be approved as to form by the state's attorney and as to amount and sufficiency by the board. If the board fails or refuses to approve any such bond, the same may be presented to the judge of the district court, upon three days' notice to the clerk of the public corporation to which such bond was submitted, and the judge shall proceed forthwith to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond, the said bank financial institution shall be declared a depository of the funds of such public corporation. The sureties on all bonds required by public corporations according to the provisions of this chapter shall justify as required by chapter 32-02. In lieu of such personal bond, the governing board of the public corporation involved may require the bank financial institution designated as a depository to file a surety bond for a sum equal to the amount of funds such bank financial institution may receive according to the provisions of this chapter. Such bond, when approved, shall be deposited with the county auditor. Such bond shall be a continuing bond and shall be binding until the proper board of the public corporation shall require a new or different bond, but in no case involving the deposit of funds of public corporations shall such bond be continued without a renewal thereof for a longer period than four years.

SECTION 7. AMENDMENT. Section 21-04-09 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-09. **Pledge of security in place of depository bond.** The board of any public corporation may accept from any banking corporation financial institution, as security for repayment of deposits, a pledge of securities in lieu of a personal or surety bond. When securities are so pledged to the board of any public corporation, such board shall require security in the amount of one hundred ten dollars for every one hundred dollars of public deposits. Securities which shall be eligible for such pledge shall be bills, notes, or bonds issued by the United States government, its agencies or instrumentalities, all bonds and notes guaranteed by the United States government, Federal Land Bank bonds, bonds, notes, warrants, certificates of indebtedness and all other forms of securities issued by the state of North Dakota, its boards, agencies, or

instrumentalities, or by any county, city, township, school district, park district, or other political subdivision of the state of North Dakota, whether payable from special revenues or supported by the full faith and credit of the issuing body, and bonds issued by any other state of the United States. Such securities may be delivered to and held for safekeeping by any ~~bank or trust company~~ financial institution, other than the depository, which the depository and the public corporation may agree upon, which ~~bank or trust company~~ financial institution prior thereto has been approved as a custodian for such purpose by the state auditor. Whenever any such securities are so deposited for safekeeping with any custodian, such custodian shall issue a receipt therefor jointly to the depository and the public corporation.

Any bank financial institution pledging such securities, at any time it deems it advisable or desirable, and without the consent of the board of the public corporation, may substitute other eligible securities for all or any part of the securities so pledged. The securities so substituted shall, at the time of such substitution, have a market value at least equal to the market value of the securities released and delivered to the depository.

In the event of such substitution the holder or custodian of the pledged securities shall, on the same day, forward by registered or certified mail to the public corporation and the depository bank financial institution a receipt specifically describing and identifying both the securities so substituted and those released and returned to the depository bank financial institution.

No pledge of security or bond shall be required for any funds deposited with a financial institution to the extent that such deposits are insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation or the national credit union association.

SECTION 8. AMENDMENT. Section 21-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-10. Interest payable to bank financial institution - Sale of pledged securities on default. All interest which becomes due and is paid on securities pledged to secure public deposits shall be paid over to the depository bank financial institution until such time as it shall default in the repayment of the funds of the public corporation deposited as provided herein. After thirty days from such default, upon demand in writing made by the public corporation involved, the custodian shall deliver the securities to the public corporation with which pledged, and such securities may be sold as in the case of other pledges, and the proceeds thereof, or so much thereof as may be necessary, shall be applied to the repayment of the public deposit.

SECTION 9. AMENDMENT. Section 21-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-12. Termination of depository relationship. Whenever any depository ~~banking corporation~~ financial institution desires to terminate the liability for any deposits of any public corporation for which such depository has given a bond or pledged assets for the repayment, it shall notify the board of the public corporation affected of such desire. Thereupon such public corporation immediately shall withdraw such funds from such depository and upon withdrawal, immediately shall release and surrender to such depository ~~banking corporation~~ financial institution, the bonds or securities which are pledged for the repayment of such deposit.

SECTION 10. AMENDMENT. Section 21-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-14. Proposals for deposit. A proposal for deposit shall be sealed and delivered to the clerk and shall have attached to it a statement showing the financial condition of the ~~bank~~ financial institution at that time and as disclosed in the several statements of financial condition made during the last preceding twelve months. The clerk shall lay the proposals before the board at the January meeting. Such proposals shall be opened by the clerk in the presence of the board and the board, thereupon, shall proceed to designate a depository of public funds under its control.

SECTION 11. AMENDMENT. Section 21-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-15. Townships and public school districts - Selection of depositories at any time. The board of supervisors of any township and the school board of any public school district may designate depositories at any meeting of such board and no notice to ~~banks~~ financial institutions need be given and no formal proposals need be received.

SECTION 12. AMENDMENT. Section 21-04-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-17. When bonds are required. If at any time it shall appear that the benefit of the federal act guarantying deposits in ~~banks~~ financial institutions has been withdrawn or is about to be withdrawn from the ~~bank~~ financial institution in which any public funds are deposited, the board having control of or supervision over such public funds immediately shall withdraw the full amount thereof from said ~~bank~~ financial institution, or forthwith shall require the usual bond required to secure the deposits of such public funds, and it shall be unlawful to continue any ~~bank~~ financial institution as a depository of public funds unless and until said bonds shall have been furnished.

SECTION 13. AMENDMENT. Section 21-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-18. Interest or dividend rates. Depositories of public funds in this state shall pay substantially the same rate of

interest or dividend thereon as such ~~banks~~ financial institutions pay upon individual deposits.

SECTION 14. AMENDMENT. Section 21-04-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-21. Public corporations with less than five hundred dollars. This chapter shall not apply to a public corporation unless the amount in the treasury of such corporation equals or exceeds the sum of five hundred dollars. The board of a public corporation having on hand less than five hundred dollars, and therefore not within the provisions of this chapter, shall deposit all the funds of such public corporation nevertheless in some ~~bank~~ financial institution selected by the board thereof under such conditions and restrictions as shall seem adequate to such board to protect the public interest.

Approved March 18, 1983

CHAPTER 283

SENATE BILL NO. 2209
(Committee on Political Subdivisions)
(At the request of the State Auditor)

CLAIMS AGAINST TOWNSHIPS, COUNTIES, AND PARK DISTRICTS

AN ACT to amend and reenact sections 21-05-01, 21-05-02, 21-05-07, 21-05-08, and 40-49-14 of the North Dakota Century Code, relating to claims against townships, counties, or park districts; and to repeal section 21-05-05 of the North Dakota Century Code, relating to the provision that all blank forms for bills, claims, accounts, or demands against a county or township shall have printed thereon the provisions of section 12.1-11-02.

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

SECTION 1. AMENDMENT. Section 21-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-05-01. Claims against township or county - How accounts stated. Any account, claim, or demand against any township or county of this state for any property or services for which such township or county shall be liable shall be audited or allowed by the board of officers authorized by law to audit and allow the same. The person in whose favor such account, claim, or demand shall be, or his agent, shall reduce the same to writing in items and shall verify the same to the effect that such account, claim, or demand is just and true, that the money therein charged actually was paid for the purposes therein stated, or that the property therein charged for actually was delivered or used for the purposes therein stated and was of the value therein charged, or that the services therein charged actually were rendered and of the value therein charged, or in case such services were official services for which fees are prescribed by law, then that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand has been paid. Where charges are made for money expended in the performance of official duties in any claim, account, or demand against a North Dakota county, all items of one dollar or more, so expended and charged for, shall be covered by a subvoucher or receipt, which shall be signed by the person to whom the money was paid. The subvoucher or receipt shall show at what place, on what date, and for what, the money expended was paid. The subvoucher or

receipt shall be forwarded with the bill, claim, account, or demand against the county. No account or claim against any township or county of this state may 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. The provisions of this section, however, shall not apply to any claim or demand for an annual salary or per diem of jurors or witnesses fixed by or in pursuance of any statute. Whenever the county auditor is not readily available to sign and issue warrants upon the county treasurer for the payment of the salary or per diem of jurors or witnesses, the county treasurer shall be authorized to pay such salary or per diem upon the written order of the judge of the court in which such jurors or witnesses have served and in such cases the county treasurer shall furnish the county auditor with statements of all claims paid.

SECTION 2. AMENDMENT. Section 21-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-05-02. Accounts ~~must~~ may be verified. The verification ~~required~~ described in section 21-05-01 ~~shall~~ may be in substantially the following form:

Certificate

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged actually was paid for the purpose therein stated; that the services therein charged actually were rendered and of the value therein charged, that no part of such bill, claim, account, or demand has been paid; and that the goods therein charged actually were delivered and were of the value charged.

Sign Here -----

 If signed for a firm or
 company show authority
 on this line.

SECTION 3. AMENDMENT. Section 21-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-05-07. Consideration of account - Action thereon. Whenever an account, claim, or demand against any township or county shall have been ~~verified~~ reviewed in the manner prescribed in section ~~21-05-02~~ 21-05-01, the board to which the same is presented may receive and consider the same and may allow or disallow the same, in whole or in part, as to the board shall appear just and lawful, saving to such claimant the right of appeal. Approval by the board shall be recorded in the record of its proceedings and this shall be

sufficient to indicate approval without requiring a majority of the members of the board to sign or initial the voucher or order for payment.

SECTION 4. AMENDMENT. Section 21-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-05-08. Penalty for auditing account not ~~verified~~ itemized. Any person, whether or not acting as a member of any board, who audits and allows any account, claim, or demand against any county or township required to be itemized ~~and verified~~, without having the same first duly itemized ~~and verified~~, shall be guilty of a class B misdemeanor.

SECTION 5. AMENDMENT. Section 40-49-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-14. When yea and nay vote taken - Letting contracts - Debt limit - Bills, claims, and demands against commission. Yea and nay votes shall be taken on all propositions involving the expenditure of money, levying of taxes, or the issuance of bonds or certificates of indebtedness. Approval of an expenditure of money shall be recorded in the record of the board's proceedings and this shall be sufficient to indicate approval without requiring the members to sign or initial the voucher or order for payment. All contracts shall be let to the lowest responsible bidder after advertisement in the official newspaper of the municipality once each week for three successive weeks. The board may reject any or all bids. All contracts shall be in writing and shall be signed by the president and clerk of the board and unless so executed, they shall be void. The debt of a park district shall not exceed one percent of the taxable property within the district according to the last preceding assessment. No bill, claim, account, or demand against the district shall be audited, allowed, or paid until a full, written, itemized statement thereof shall be filed with the board with a certificate in substantially the following form 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 or as noted below:

CERTIFICATE

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the services therein charged were actually rendered and of the value therein charged; and that no part of such bill, claim, account, or demand, has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign here -----

If signed for a firm or company,
show authority on this line.

SECTION 6. REPEAL. Section 21-05-05 of the 1981 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 10, 1983

CHAPTER 284

HOUSE BILL NO. 1573
(O'Shea, Hill)

LAND LEASE FOR FLOOD CONTROL

AN ACT to amend and reenact section 21-06-10 of the North Dakota Century Code, relating to leasing of federal lands for water control.

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

SECTION 1. AMENDMENT. Section 21-06-10 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads. The funds so received, as in said Public Law 79-526 [60 Stat. 642; 33 U.S.C. 701c-3] set forth, by any county in this state, the treasurer of the state of North Dakota shall pay over to the county or counties entitled thereto as in said public law set forth. The first one-half of such funds shall be distributed to the school districts which have lost land subject to taxation by reason of the acquisition of lands by the United States on the basis of the proportionate amount of such lands acquired by the United States. If all of the land in any such district shall have been acquired by the United States the share of such funds assignable to such district shall be paid into, and disbursed in the manner provided by law for the county tuition fund. The next quarter of such funds shall be paid to such counties for road purposes to be expended as the county commissioners shall determine. The final quarter of such funds shall be distributed to the organized townships, if any, within each county for road purposes to be expended as the township supervisors shall determine. This amount shall be allocated among the various organized townships which have lost lands subject to taxation by reason of the acquisition of such lands by the United States on the basis of the proportionate amount true and full valuation, including property valued pursuant to section 57-02-14, of such lands property within that county. If any area of a county does not lie within an organized township but creates an impact whereby such land is only assessable through an organized township such funds shall be allocated to that township. If any area of a county does not lie within an organized township, a portion of the final quarter of such funds shall be allocated to the county on the basis of the proportionate ~~amount~~ true and full valuation, including property valued pursuant to section 57-02-14, of such lands property within that county. This section shall apply to all funds heretofore received or to be received by the counties entitled thereto.

Approved March 15, 1983

CHAPTER 285

SENATE BILL NO. 2263
(Senator Lodoen)

VALIDATION OF BONDS

AN ACT to amend and reenact section 21-09-05 of the North Dakota Century Code, relating to the validation of bonds and other evidences of indebtedness issued by public bodies of the state prior to July 1, 1983.

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

SECTION 1. AMENDMENT. Section 21-09-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-05. Application of chapter. The provisions of this chapter relating to validation apply to all bonds issued and proceedings taken by any public body prior to July 1, ~~1981~~ 1983.

Approved March 4, 1983

CHAPTER 286

HOUSE BILL NO. 1214
(Committee on State and Federal Government)
(At the request of the Industrial Commission)

LEGAL INVESTMENTS OF STATE INVESTMENT BOARD

AN ACT to amend and reenact section 21-10-07 of the North Dakota Century Code, relating to legal investments of the state investment board.

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

SECTION 1. AMENDMENT. Section 21-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-07. **Legal investments.** The following types of securities shall be legal investments for funds, the investment of which is under the supervision of the board:

1. Securities which are a direct obligation of the treasury of the United States or of an instrumentality thereof.
2. Bonds or certificates of indebtedness of the state of North Dakota.
3. General obligation bonds of any other state.
4. Bonds, certificates of indebtedness, or warrants of any political subdivision of the state of North Dakota which constitute the general or contingent general obligations of the issuing tax authority, or revenue bonds of a political subdivision issued for public utility purposes or under the authority of the Municipal Industrial Development Act contained in chapter 40-57.
5. Loans and mortgage investments, insured or guaranteed in any manner, wholly or in part, or for which a commitment to so insure or guarantee has been issued by the United States or any instrumentality or agency thereof; or other investments that are issued by or fully insured or guaranteed by the United States or any instrumentality or agency thereof or the state of North Dakota or any instrumentality or agency thereof.

6. Bank of North Dakota certificates of deposit.
7. Building and loan association certificates of North Dakota building and loan associations, to the extent that such certificates are fully insured or guaranteed by the United States or an instrumentality or agency thereof.
8. Short term commercial and finance company paper traded on a national basis and issued by a corporation having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.
9. Bonds, notes or debentures of any corporation duly incorporated under the laws of any state of the United States rated as "A" or higher by a nationally recognized rating service approved by the board.
10. Nonrated bonds, notes, or debentures of any corporation duly incorporated under the laws of any state of the United States and whose principal business operations are carried on within the state of North Dakota, having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.
11. Evidence of indebtedness issued by instrumentalities of this state, including evidence of indebtedness issued by the North Dakota housing finance agency.
12. Mortgage loans purchased from lenders or certificates of indebtedness representing pools of mortgage loans purchased from lenders if the mortgages are made to persons to finance the purchase or substantial rehabilitation of owner-occupied, single family residential dwellings, including mobile homes and manufactured housing. The loans purchased must be secured by mortgages on real property located in this state. "Lender" means any bank or trust company chartered in this state, any national banking association located in this state, any state or federal savings and loan association located in this state, and any federal housing administration approved mortgagee or other mortgage lending institution engaged in home mortgage lending in this state.

13. Investments enumerated under chapter 15-03 as legal investments for the board of university and school lands.

As used in this section the term "net income" shall mean income after deducting operating and maintenance expenses, all taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income and expense.

The term "fixed charges" shall include interest on funded and unfunded debt, amortization of debt discount and expense, and rentals for leased property.

Approved March 3, 1983