

COUNTIES

CHAPTER 151

HOUSE BILL NO. 1566
(Representative Lindgren)
(Senator Holmberg)

ELIMINATION OF COUNTY CONSTABLE OFFICE

AN ACT to amend and reenact sections 11-03-08, 11-08-06, 11-08-08, 11-08-13, 11-10-02, 11-10-06, 11-15-22, 11-15-28, 11-16-15, 11-19-04, 11-19-05, 11-19-13, 11-19.1-08, 11-28-10, 18-02-09, 19-01-13, 20.1-01-04, 20.1-02-14, 23-07.1-05, 23-15-04, 23-15-05, 27-07.1-16, 29-02-08, 29-05-23, 29-05-26, 32-22-29, 36-01-18, 40-20-06, 44-04-06, 44-08-09, 44-11-12, 53-03-06, 55-08-04.1, and 55-08-15 of the North Dakota Century Code, relating to the office of county constable; and to repeal sections 11-09-26 and 11-15-27 of the North Dakota Century Code, relating to county constables.

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

SECTION 1. AMENDMENT. Section 11-03-08 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-03-08. Board of county commissioners to appoint county officers - Exception. The board of county commissioners appointed by the governor, after the members thereof have qualified, shall appoint all the county officers of the newly organized county. Such officers, after having qualified, shall hold their offices until the first general election thereafter and until their successors are elected and qualified. ~~All Any county judges and constables judge~~ in office within the boundaries of a county organized under this chapter shall continue to hold ~~such offices office~~ in the new county during the remainder of ~~their terms the term~~ and shall give ~~bonds bond~~ to the new county in the same amount and in the same manner as ~~to the original county as required by law.~~

SECTION 2. AMENDMENT. Section 11-08-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-06. Officers in county adopting consolidated office form of government. In addition to the board of county commissioners provided for by this title, ~~the following shall be the officers in a~~

county which has adopted the county consolidated office form of government are as follows:

1. One county auditor who shall be ex officio register of deeds and clerk of the district court.
2. One state's attorney.
3. One sheriff.
4. One county treasurer, ~~except such~~ unless the office with its attendant powers and duties may be is combined with and conferred upon the county auditor by the board of county commissioners but no added compensation ~~shall~~ may be paid the county auditor in said capacity.
5. One county superintendent of schools.
6. One coroner.
7. One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering into the agreement.
- 8- ~~Four constables-~~

SECTION 3. AMENDMENT. Section 11-08-08 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-08. When appointment of officers made - Qualification. The county officers ~~shall~~ must be appointed by the board of county commissioners at the following times in the year in which the county consolidated office form of government goes into effect:

1. On or before the fifteenth day of January, the sheriff, state's attorney, county superintendent of schools, and coroner, ~~and four constables shall~~ must be appointed, and such officers shall qualify within ten days thereafter.
2. Not less than ten days prior to April first, the county auditor ~~shall~~ must be appointed, and ~~he shall~~ the appointee qualify within ten days thereafter.
3. Not less than ten days prior to May first, the county treasurer ~~shall~~ must be appointed, and ~~he shall~~ the appointee shall qualify within ten days thereafter.

Thereafter, the appointments ~~shall~~ must be made within ten days prior to the expiration of the terms of office of ~~such~~ the officers. The failure of the board of county commissioners to make any appointment within the time prescribed ~~shall~~ does not impair its

power to make ~~such~~ the appointment subsequently for the remainder of the term of office of the officer so appointed.

SECTION 4. AMENDMENT. Section 11-08-13 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-13. Powers and duties of other officers. The sheriff, state's attorney, county superintendent of schools, and coroner, ~~and constables~~ appointed under the provisions of this chapter shall perform the duties and exercise the powers conferred by law upon ~~such officers respectively~~ them.

* SECTION 5. AMENDMENT. Section 11-10-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-02. Number and election of officers. Each organized county, unless it has adopted one of the optional forms of county government, provided by the code, shall have the following officers:

1. One county auditor.
2. One register of deeds.
3. One clerk of the district court.
4. One state's attorney.
5. One sheriff.
6. One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering the agreement.
7. One county treasurer.
8. One coroner.
9. One county superintendent of schools.
10. ~~Four constables-~~
11. ~~One public administrator-~~
12. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of six thousand or less, the register of deeds ~~shall~~ must be ex officio clerk of the district court. In counties having a population of twenty-five thousand ~~inhabitants~~ or more, the county judge may appoint a clerk of county

* NOTE: Section 11-10-02 was also amended by section 1 of House Bill No. 1060, chapter 153.

court. In counties with a population of less than twenty-five thousand ~~inhabitants~~, the clerk of district court shall must be clerk of county court. The required officers shall must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge, and clerk of the district court, who shall be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who shall be chosen in the manner prescribed in section 11-11-02, ~~the public administrator, who shall be chosen in the manner prescribed in section 11-21-01,~~ and the county coroner, who shall be chosen in the manner prescribed in section 11-19.1-03, ~~and the constables, who shall be appointed by the board of county commissioners.~~

SECTION 6. AMENDMENT. Section 11-10-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-06. Bonds of county officers. Before entering upon the duties of their respective offices, the following county officers ~~herein named~~ shall must be bonded for the faithful discharge of their respective duties in the same manner as other civil officers are bonded and in the following amounts:

1. The county auditor, clerk of the district court, register of deeds, and sheriff, fifteen thousand dollars, except in counties having a population of less than ten thousand ~~inhabitants~~, and in such counties, where the amount shall must be ten thousand dollars.
2. A county commissioner, two thousand dollars.
3. The county coroner, ~~or a county constable~~, five hundred dollars.
4. The state's attorney, three thousand dollars.
5. The county surveyor, ~~such~~ an amount, not to exceed two thousand dollars, as may be determined by the board of county commissioners.
6. The public administrator, not less than ten thousand dollars.
7. The county treasurer, an amount fixed by the board of county commissioners, ~~which amount shall be~~ of not less than seventy-five thousand dollars, except in counties having a population of less than ten thousand ~~inhabitants~~, and in such counties, an amount of not less than forty thousand dollars. When the total amount of taxes to be collected by the county treasurer in any one year is less than the minimum amount of bond specified in this

subsection, the bond ~~shall~~ may be in a sum equal to the amount of taxes to be collected.

8. A county judge, ten thousand dollars.
9. A county superintendent of schools, five hundred dollars.

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

SECTION 7. AMENDMENT. Section 11-15-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-22. Service of process on sheriff. In all actions or proceedings to which the sheriff is a party, by virtue of ~~his~~ office or otherwise, the coroner or ~~any constable~~ other peace officer of the county ~~of which such sheriff is an officer~~ may serve all necessary process on ~~such~~ the sheriff and make return thereon, and the return of the officer making ~~such~~ service ~~shall have~~ has the same credit as a sheriff's return. ~~Such~~ The officer shall receive the same fees as a sheriff receives for like services.

SECTION 8. AMENDMENT. Section 11-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-28. Sheriff ~~or constable~~ prohibited from collecting notes - Penalty. No sheriff, deputy sheriff, or employee in the sheriff's office; ~~or constable~~, while holding such office; or employment, ~~shall~~ may accept for collection, collect, or attempt to collect from any person, firm, or association within ~~his~~ the county for pay, profit, or remuneration any note, account, or claim of any nature or description except as required in the performance of the duties of ~~his~~ office. Any violation of the provisions of this section ~~shall constitute~~ constitutes an infraction.

SECTION 9. AMENDMENT. Section 11-16-15 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-16-15. Criminal act causing death - Felony - Inquiry - State's attorney may subpoena witnesses. If a state's attorney ~~shall~~ be notified by any officer or other person; or be cognizant himself is aware of any violation or criminal act causing a death; or in any manner connected therewith; or have has reason to believe a felony has been committed, ~~he~~ the state's attorney may, prior to a crime being charged, inquire into the facts of ~~such~~ the violation or criminal act, and, with the consent and approval of the district judge of the county, for such purpose ~~he~~ the state's attorney may issue a subpoena for any person who ~~he~~ the state's attorney has reason to believe has any information or knowledge of ~~such~~ the violation, to appear ~~before him~~ at a time and place designated in such subpoena; ~~then and there~~ to testify concerning ~~any such~~ the violation. The subpoena ~~shall~~ must be directed to the sheriff ~~or~~

any constable of the county and shall must be served and returned to the state's attorney in the same manner as subpoenas are served and returned in criminal cases. Each witness shall must be sworn by the state's attorney to testify under oath, and to make true answer to all questions which may be propounded to him the witness by such the state's attorney touching any such the violation or criminal act. The testimony of every witness shall must be reduced to writing, and shall must become a part of the coroner's files in the case of a death and of the state's attorney's files in all other cases. For all purposes in this section the state's attorney may:

1. Administer oaths or affirmations to all witnesses.
2. Apply to the district court for the punishment of any witness for contempt for ~~or on account of~~ any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness, or a refusal to sign ~~his~~ testimony of the witness.
3. Compel the attendance of witnesses by attachment in the manner and with the effect provided in title 27 under the North Dakota Rules of Criminal Procedure. Any witness compelled to testify under the provisions of this section shall be is entitled to counsel and all other constitutional rights.

SECTION 10. AMENDMENT. Section 11-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-04. Peace officer to be summoned - Warrant issued to summon jurors. When the coroner has notice that the dead body of a person supposed to have died by unlawful means has been found in his the county, he the coroner shall summon the sheriff, a police officer, or the state's attorney to accompany him the coroner, and shall issue his a warrant to the sheriff, ~~or to a constable of his county,~~ requiring him the sheriff to summon forthwith three electors who have the qualifications of jurors of the county to appear before the coroner at the time and place named in the warrant.

SECTION 11. AMENDMENT. Section 11-19-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-05. Form of warrant to summon coroner's jury. The warrant to summon a coroner's jury shall be in substantially the following form:

State of North Dakota,

ss.

County of -----

To the sheriff ~~or any constable~~ of said county:

You are hereby required to summon forthwith three electors, having the qualifications of jurors of your county, to appear before me at (name the place) at (name the day and hour or say forthwith), then and there to hold an inquest on the dead body

of ----- there lying and find by what means he
that person died.

Witness my hand this ----- day of -----, 19-----.

 Coroner.

SECTION 12. AMENDMENT. Section 11-19-13 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-13. Coroner may order arrest. If the person charged by the jury with the commission of a crime is present, the coroner may order his that person's arrest by an officer or by any other person present, and then he shall must make a warrant requiring the officer or other person to take him that person before a county judge. If the person charged is not present and the coroner believes he that person can be arrested, the coroner may issue a warrant to the sheriff and ~~constables~~ of the county requiring them the sheriff to arrest the person and take him that person before a county judge.

SECTION 13. AMENDMENT. Section 11-19.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-08. Records of coroner's office. It ~~shall be~~ is the duty of the coroner to keep a full and complete record and to fill in the cause of death upon the death certificate in all cases coming under ~~his the coroner's~~ jurisdiction. All records ~~shall must~~ be kept in the office of the coroner, if the coroner maintains an office as coroner, and if ~~no such office is so maintained the coroner maintains no separate office~~, then in the office of the clerk of the district court of the county, and ~~shall must~~ be properly indexed, stating the name, if known, of every deceased person, the place where the body was found, date of death, cause of death, and all other available information required by this chapter. The report of the coroner, and the detailed findings of the autopsy, if one was performed, ~~shall must~~ be attached to the report of every case. The coroner shall promptly deliver or cause to be delivered to the state's attorney of the county in which ~~such~~ a death occurred, copies of all necessary records relating to every death in which, ~~in the judgment of the coroner or state's attorney, determines~~ further investigation ~~may be deemed~~ advisable. The sheriff of the county, the police of the city, or the state highway patrolmen on duty in that county, ~~or the constable of the township~~ in which the death occurred, may be requested to furnish more information or make further investigation ~~when requested~~ by the coroner or ~~his the coroner's~~ deputy. The state's attorney may obtain from the office of the coroner, copies of records and ~~such~~ other information ~~as he may deem~~ necessary for further investigation. All records of ~~said office of~~ the coroner shall become and remain the property of the county, and ~~shall be considered~~ are public records.

SECTION 14. AMENDMENT. Section 11-28-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28-10. Police, ~~constables,~~ and ~~sheriff to enforce chapter.~~ It ~~shall be~~ is the duty of all police ~~and constables and,~~ the sheriff, and other peace officers to enforce ~~the provisions of~~ this chapter and of the rules ~~and regulations of~~ the board of county park commissioners within their respective jurisdictions.

SECTION 15. AMENDMENT. Section 18-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-02-09. Powers of rangers, wardens, and deputies.

1. Forest rangers, fire wardens, emergency fire wardens, and other duly appointed deputies shall take prompt action against the spread and illegal setting of forest fires. They ~~shall~~ have the power of sheriffs to arrest, without warrant, for violations of the statutes relating to ~~such~~ forest fires. They may execute and serve all warrants and processes issued by any ~~county or municipal judge, or by~~ any court having jurisdiction in the same manner as any ~~constable~~ peace officer may serve and execute ~~such those~~ processes, and ~~to~~ arrest any person detected in the actual violation, or whom ~~such the~~ officer has reasonable cause to believe guilty of a violation of any of the provisions of the statutes relating to forest fires, and ~~to~~ take ~~such~~ the person before any court in the county where the offense was committed and make proper complaint.
2. They ~~shall~~ have the authority to call upon any able-bodied citizen to assist in fighting ~~such forest~~ forest fires in ~~such~~ any manner as they may direct.
3. All ~~such~~ forest rangers, fire wardens, emergency fire wardens, and other duly appointed deputies may in the performance of their official duty go on the lands of any person or corporation to fight forest fires, and in doing so may set backfires, dig trenches, cut and plow firelines, or carry on all other activities customary in the fighting of forest fires, without incurring liability to anyone.

SECTION 16. AMENDMENT. Section 19-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-13. Department may seize unlawful products, articles, compositions, or things without search warrant. The department may seize any product, article, composition, or thing which is manufactured, sold, used, transported, kept, or offered for sale, use, or transportation, or which is held in possession with intent to use, sell, or transport the same, in violation of any provision of this title applicable to such product, article, composition, or thing, or in violation of any rule, regulation, standard, or definition relating to ~~such the~~ such the

product, article, composition, or thing established pursuant to any provision of this title. The director, assistant director, inspector, agents, or employees of the department, shall have the powers of a ~~constable~~ peace officer. ~~Such~~ A seizure may be made without warrant, but ~~in such case~~, as soon as practicable, the person suspected of violation shall must be arrested and prosecuted ~~therefor~~ for the violation.

SECTION 17. AMENDMENT. Section 20.1-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-04. Attorney general, state's attorneys, sheriffs, ~~constables,~~ and peace officers to enforce game and fish laws. The attorney general, and all state's attorneys, sheriffs, ~~constables,~~ and other peace officers shall enforce this title. The attorney general and the state's attorney of the county in which an action is to be brought or is pending shall appear for the commissioner in all civil actions in which the commissioner or any of the game wardens may be interested officially, and shall appear in the prosecution of criminal actions arising under this title.

SECTION 18. AMENDMENT. Section 20.1-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-14. Writs served and executed by game wardens - Peace officers and others to aid wardens, when. The commissioner, deputy commissioner, and all wardens and deputy wardens may serve and execute, in the same manner as any sheriff ~~or constable~~, all warrants and legal process issued by a court in enforcing this title. ~~Such~~ The officers of the department may call to their aid any sheriff, deputy sheriff, ~~constable,~~ police officer, or other person to enforce this title. All ~~such~~ peace officers or other persons, when called upon ~~therefor~~, shall enforce and aid in enforcing this title.

SECTION 19. AMENDMENT. Section 23-07.1-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07.1-05. Reports - Temporary orders for the custody of persons. Upon a report to or receipt of information by the state health officer or any physician in the state that any person is afflicted with tuberculosis and as a source of infection endangers other persons, a report ~~shall~~ must be made to the state health officer. Upon the receipt of ~~such information by the report~~, the state health officer, ~~an investigation shall be made~~ investigate the matter and if the state health officer is convinced that an active case of infectious tuberculosis in a communicable and contagious stage which endangers other persons exists, the state health officer shall request ~~such~~ the person to voluntarily seek appropriate care and treatment. If ~~the~~ person refuses to accept voluntary care and treatment, the state health officer, under the guidelines of the state health council, ~~is authorized to~~ may issue a temporary order

for care and treatment as ~~is~~ determined by the state health officer. If the state health officer's temporary order is ignored, the state health officer may issue an order directing the sheriff or any ~~constable~~ peace officer of the county where the alleged tubercular person resides to compel the attendance of the alleged tubercular person and may provide for suitable housing and care of the person until a hearing is held pursuant to section 23-07.1-08.

Prior to issuing a temporary order ~~pursuant to~~ under this section, the state health officer or ~~his~~ a designee, under the guidelines of the state health council, shall hear all relevant testimony for or against the temporary order ~~and the~~. The examination and hearing on the order ~~shall~~ must be in the presence of the alleged tubercular person. The alleged tubercular person and any relative may resist the order and the parties may be represented by counsel.

SECTION 20. AMENDMENT. Section 23-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-15-04. Exceptions. Nothing in this chapter ~~shall~~ be construed to prohibit prohibits the following:

1. Any licensed wholesaler, dealer, or jobber from selling at wholesale ~~such~~ fireworks as which are not herein prohibited.
2. The sale of any kind of fireworks for shipment directly out of the state.
3. The use of fireworks by airplanes, railroads, or other transportation agencies for signal purposes or illumination.
4. The sale or use of blank cartridges for a show or theater, ~~or~~ for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

Application for a license as distributor ~~shall~~ must be made to the state fire marshal on forms prescribed by ~~him~~ the state fire marshal. Application for a license as a retailer ~~shall~~ must be made to the county sheriff on forms prescribed by the state fire marshal. Each application ~~shall~~ must be accompanied by the required fee, which shall be two hundred ~~and~~ fifty dollars for a distributor's license and five dollars for a retailer's license. Fees for distributors' licenses ~~shall~~ must be deposited in the general fund in the state treasury and fees for retailers' licenses ~~shall~~ must be deposited in the county general fund. The license ~~shall~~ be good is valid only for the calendar year in which issued and ~~shall~~ must at all times be displayed at the place of business of the ~~holder thereof~~ licensee. Such distributors' and retailers' licenses shall be are in addition to any other license required by law or municipal ordinance. Provided, however, that the The licensing provisions of this section ~~shall~~ do not, however, apply to a

retailer who is required to become licensed by any municipality ~~and any.~~ Any license fee levied by ~~such~~ a municipality ~~shall~~ must be deposited in the municipality's general fund.

It ~~shall~~ is unlawful for any person not licensed as a wholesaler or retailer to bring any fireworks into this state, and it ~~shall~~ is unlawful for any retailer in this state to sell any fireworks which have not been purchased from a wholesaler licensed under ~~the provisions of~~ this chapter. Any persons licensed under ~~the provisions of~~ this chapter ~~shall~~ must keep available for inspection by the state fire marshal or any sheriff, police officer, ~~constable~~ or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on ~~such~~ the invoice are held in ~~his~~ the licensee's possession, which invoice ~~shall~~ must show the license number of the wholesaler from whom the purchase was made.

SECTION 21. AMENDMENT. Section 23-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-15-05. State fire marshal or sheriff to seize all fireworks or combustibles. The state fire marshal or any sheriff, police officer, ~~constable~~, or local fire marshal shall seize, take, remove, or cause to be removed at the expense of the owner all fireworks or combustibles offered or exposed for sale, stored, or held for use in violation of this chapter.

SECTION 22. AMENDMENT. Section 27-07.1-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-16. Bailiffs of county courts - Appointment, terms, powers, compensation. The judge of a county court may appoint one or more competent persons as bailiffs of the court. ~~Such~~ The bailiffs ~~shall~~ hold office at the pleasure of the judge, ~~shall~~ have the same powers as a ~~constable~~ peace officer, and ~~shall~~ are entitled to receive for their services an amount which ~~shall equal~~ equals the compensation and mileage which is provided for jurors for required attendance at sessions of the district or county court under the provisions of section 27-09.1-14.

SECTION 23. AMENDMENT. Section 29-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-02-08. Magistrate must issue warrant. If it appears from a complaint to a magistrate that there is just reason to fear the commission of an offense threatened by the person complained of, the magistrate must issue a warrant directed generally to the sheriff of the county, ~~or any constable~~, marshal, or policeman of the city, reciting the substance of the complaint and commanding the officer forthwith to arrest the person complained of and to bring ~~him~~ that person before ~~such~~ the magistrate.

SECTION 24. AMENDMENT. Section 29-05-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-05-23. Warrant transmitted by telegraph. Whenever a warrant for the arrest of a person accused of a crime or public offense is issued by a magistrate, the delivery of such the warrant by telegraph may be authorized by a judge of the supreme or district court by an endorsement authorizing such telegraphic delivery, at any place within this state, upon the warrant of arrest under the hand of such the judge, directed generally to any sheriff, constable, marshal, or policeman peace officer in the state. After such endorsement, a telegraphic copy of such the warrant may be sent by telegraph to one or more of such officers any peace officer within the state, and such the copy is as effectual in the hands of any such peace officer, and he who must serve the same and in all regards proceed thereunder, as though he the peace officer held an original warrant issued by the magistrate making the endorsement thereon.

SECTION 25. AMENDMENT. Section 29-05-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-05-26. Arrest directed by telegraph. In all cases in which by law a peace officer of this state may arrest a person without a warrant, or having a warrant for the arrest of a person accused of a crime or public offense and such when the person otherwise may escape from this state, such the peace officer may direct any sheriff, constable, marshal, or policeman other peace officer in this state, by telegraph, to arrest such the person and designate the accused in said order, who must be designated by name or description or both.

SECTION 26. AMENDMENT. Section 32-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-22-29. Person restrained in danger of being taken out of jurisdiction - Warrant. When it appears to any court authorized by law to issue the writ of habeas corpus that anyone is illegally held in custody, confinement, or restraint, and that there is reason to believe that such the person will be carried out of the jurisdiction of the court before whom the application is made, or will suffer some irreparable injury before compliance with the writ of habeas corpus can be enforced, such the court may cause a warrant to be issued reciting the facts and directed to the sheriff, or coroner, or a constable of the county, commanding such the officer to take such the person thus held in custody, confinement, or restraint, and forthwith bring him that person before such the court to be dealt with according to law. The court also may insert in such the warrant a command for the arrest of the person charged with such the illegal detention and restraint.

SECTION 27. AMENDMENT. Section 36-01-18 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-18. Inspection of livestock in transit - Execution of orders of board by peace officers - Powers of officers - Penalty. Authorized representatives of the state livestock sanitary board, for purposes of inspecting livestock in transit for health or ownership identification, may stop vehicles transporting livestock on public highways of this state. When signaled by such representative to stop, the operator of any vehicle shall stop the same and cause to be shown vehicle, show any health or identification forms which are required to be carried in transportation of livestock, and to permit such the inspector to make an inspection of the livestock being transported if deemed by the inspector to be necessary. Failure to stop when so directed constitutes a class A misdemeanor. Any vehicle used for such purposes shall by an inspector for purposes of inspecting livestock in transit must be clearly identified in letters not smaller than three inches [7.62 centimeters] and. The inspector is authorized to use a stop signal.

The state livestock sanitary board may call any sheriff, or deputy sheriff, or constable to execute its orders, and such those officers shall must obey the orders of said the board. Any peace officer may arrest and take before any county judge of the county any person found violating any of the provisions of this chapter, and such officers. The peace officer shall notify the state's attorney immediately of such the arrest, and the state's attorney shall prosecute the person so offending.

SECTION 28. AMENDMENT. Section 40-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-20-06. Arrest by chief of police or policeman outside of city - Fees. No chief of police or policeman shall receive any fee for going outside of the city to make an arrest for violation of a state law unless the board of county commissioners is satisfied that a delay in obtaining the sheriff, his or a sheriff's deputy, or a constable to make the arrest would have permitted an escape.

SECTION 29. AMENDMENT. Section 44-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-04-06. Peace officers to report law violations. The state's attorney, assistant state's attorney, sheriff, deputy sheriff, constable, or peace officer of any county, township, or city in this state, having any evidence, knowledge, or notice of any violation of any liquor, gambling, cigarette, snuff, pool hall, bawdyhouse, prostitution, white slave, or habit forming drug laws of North Dakota shall investigate the same and shall seek evidence of such the violation, and the names of witnesses by whom such the violation may be proved, and in the case of any. Any peace officer shall report the same information to the state's attorney of the county in which such the violation occurs and shall give him assistance assist the state's attorney in the prosecution of the violators of said laws.

SECTION 30. AMENDMENT. Section 44-08-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-09. Fees paid in advance or security given. The clerk of the supreme court, the clerk of each district court, the county judge, sheriff, ~~constable~~, or register of deeds, in all cases, may require the party for whom any service is to be rendered to pay the fees in advance of the ~~rendition of such~~ service, or to give security for the ~~same costs of service~~, to be approved by the officer.

SECTION 31. AMENDMENT. Section 44-11-12 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-12. Powers of commissioner - Subpoenas - Service - Fees. ~~Upon having taken and filed such~~ After taking and filing the oath of office, the commissioner ~~shall have~~ has authority to issue subpoenas for persons and subpoenas duces tecum; and to administer oaths to witnesses the same as ~~now~~ is conferred upon county judges. ~~Such~~ The subpoenas may be directed to any sheriff, ~~constable~~, or chief of police, who immediately shall serve the ~~same~~ subpoenas. ~~Such~~ The officer ~~shall be~~ is entitled, ~~for his services in serving the same,~~ to such fees as ~~now~~ are allowed to ~~constables~~ sheriffs for serving subpoenas in county court. ~~Such~~ The fees ~~shall~~ must be paid in the same manner as is provided in this chapter for witness fees and commissioner's fees. The ~~procedure in taking the testimony shall be the same as is provided by law in the district court as to admissibility of testimony.~~ ~~Such~~ The commissioner, upon taking and filing his oath, shall have ~~has~~ the same powers as ~~now~~ are conferred upon district judges ~~to take testimony~~ and shall rule on, admit, or exclude testimony accordingly. He ~~shall~~ have the power ~~to~~ The commissioner may punish for contempt in the same manner as ~~is provided by law for contempt in the district court.~~

SECTION 32. AMENDMENT. Section 53-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-03-06. Board to enforce provisions - Free access of officers. The ~~said~~ governing body or fair board shall enforce the provisions of the carnival contract ~~and~~ of this chapter, and of any ordinances of the municipality regulating carnivals. Each permit ~~shall~~ must contain a provision that sheriffs, ~~constables~~, and police officers shall have free access to the grounds and all booths, shows, and concessions thereon at all times, and all officers present at such carnival shall enforce all the provisions of this chapter and other governing statutes of this state.

SECTION 33. AMENDMENT. Section 55-08-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-04.1. Writs served and executed by department peace officers - Others to aid department peace officers - When. The director and all other

department peace officers may serve and execute, in the same manner as any sheriff ~~or constable~~, all warrants and legal process issued by the court in enforcing this chapter. ~~Such~~ The officers of the department may call to their aid any sheriff, deputy sheriff, ~~constable~~, police officer, or other person to enforce this chapter. All ~~such~~ peace officers or other persons, when called upon ~~thereof~~, shall enforce and aid in enforcing this chapter.

SECTION 34. AMENDMENT. Section 55-08-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-15. Attorney general, state's attorneys, sheriffs, ~~constables~~, and peace officers to enforce park and recreation laws. The attorney general, and all state's attorneys, sheriffs, ~~constables~~, and other peace officers shall enforce this chapter.

SECTION 35. REPEAL. Sections 11-09-26 and 11-15-27 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1985

CHAPTER 152

HOUSE BILL NO. 1083
(Legislative Council)
(Interim Political Subdivisions "B" Committee)

COUNTY HOME RULE

AN ACT to provide for the establishment and operation of home rule in counties; and to amend and reenact sections 12.1-01-05 and 57-01-02.1 of the North Dakota Century Code, to provide that home rule counties' charters or ordinances may not supersede state laws defining crimes and to allow home rule counties to enter sales tax collection agreements with the tax commissioner.

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

SECTION 1. Methods of proposing home rule charter. The board of county commissioners may on its own motion cause a home rule charter to be drafted and submitted for adoption to the electors of the county in the manner provided in this Act. A home rule proposal may be initiated in a petition filed with the board of county commissioners and signed by qualified electors of the county not fewer in number than two percent of the population of the county.

SECTION 2. Charter commission - Membership - Preparation and submission of charter - Compensation and expenses - Publication. Within sixty days after proceedings have been initiated for a home rule charter, the board of county commissioners shall appoint a five-member charter commission to draft the charter. The board shall designate one of the charter commission members as chairman of the charter commission. The board shall set the compensation and expenses of charter commission members. The board, from its general funds, may furnish the charter commission with office space, clerical help, supplies, and legal and other assistance. The charter commission shall hold at least one public hearing on the proposed charter and shall prepare and submit the charter to the board of county commissioners within one year after appointment. The charter must contain a list of county offices to be elected and any elected offices that will be eliminated or combined if the charter is adopted. The board of county commissioners shall publish the proposed charter once in the official newspaper of the county.

SECTION 3. Submission of charter to electors. At least sixty days after publication, the proposed charter must be submitted to a vote of the qualified electors of the county at the next primary or general election.

SECTION 4. Ratification by majority vote - Supersession of existing charter and conflicting state laws - Filing of copies of new charter. If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January following the election, and extends to all its county matters. The charter and the ordinances made pursuant to the charter in county matters must be liberally construed to supersede within the territorial limits and jurisdiction of the county any conflicting state law except for any state law as it applies to cities or any power of a city to govern its own affairs, without the consent of the governing body of the city. No ordinance of a home rule county shall supersede section 49-22-16. One copy of the charter as ratified and approved must be filed with the secretary of state, one with the clerk of district court for the county, and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

SECTION 5. Powers. After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, the county and its citizens may, if included in the charter and implemented through ordinances:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law, and establish debt and mill levy limitations; provided, that all property in order to be subject to the assessment provisions of this subsection must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law which determines what property or acts are subject to, or exempt from, ad valorem or sales and use taxes.

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election. Notwithstanding the other provisions of this subsection, a charter or ordinance or act of a governing body of a home rule county may not supersede any state law concerning the office or jurisdiction of the county court or county judge.
4. Provide for all matters pertaining to county elections, except as to qualifications of electors.
5. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
6. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
7. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.
8. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
9. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

SECTION 6. Amendment or repeal. The home rule charter adopted by any county may be amended or repealed by a proposal by the governing body of the county or by petition of the number of electors provided in section 1 of this Act, submitted to and ratified by the qualified electors of the county. A petition to amend or repeal a home rule charter must be submitted to the governing body of the county. Within thirty days of receipt of a

valid petition or approval of a proposal to amend or repeal a home rule charter, the governing body of the county shall publish any proposed amendment or repeal of a home rule charter once in the official newspaper of the county. At least sixty days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or a repeal by a majority vote of electors voting at the election.

SECTION 7. Commission - Terms of office - Vacancies. The board of county commissioners shall determine the term of office of the members of the charter commission at the time the members are appointed. The board of county commissioners shall fill any vacancy on the charter commission.

SECTION 8. Restriction on proposals to amend or repeal. Any proposal to amend or repeal a home rule charter may not be submitted to the electorate more often than every two years.

SECTION 9. Manner of calling and holding elections. The elections provided for in this chapter are subject to the laws applicable to other elections of the county. All qualified electors of the county are eligible to vote at the election. The charter commission, for proposals to adopt a home rule charter, or the governing body of the county, for proposals to amend or repeal a home rule charter, shall prescribe the form of ballot so that the voter may signify whether the voter is for or against the proposed home rule charter or the amendment or repeal.

SECTION 10. Effect of amendment or repeal on salary or term of office. On the first day of January following repeal of a home rule charter the county reverts to the form of government of the county immediately preceding adoption of the home rule charter. If positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the county reverts upon repeal, the elected officials shall continue to exercise the authority of their positions for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter may shorten the term for which any official was elected or reduce the salary of the official's office for that term.

SECTION 11. General powers preserved. All powers granted counties by general law are powers of home rule counties.

SECTION 12. Vested property - Rights of action - Actions saved. The adoption of any charter or amendment does not destroy any property, action, right of action, claim, or demand of any nature vested in the county. All rights of action, claims, or demands are preserved to the county and to any persons asserting any claims against the county as completely as though the charter or amendment had not been adopted. The adoption of any charter or amendment affects neither the right of the county to collect special

assessments previously levied under any law or charter for the purpose of public improvements, nor impairs the obligation of any existing contract to which the county is a party.

SECTION 13. AMENDMENT. Section 12.1-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-01-05. Crimes defined by state law shall not be superseded by city or county ordinance or by home rule city's or county's charter or ordinance. No offense defined in this title or elsewhere by law shall be superseded by any city or county ordinance, or city or county home rule charter, or by an ordinance adopted pursuant to such a charter, and all such offense definitions shall have full force and effect within the territorial limits and other jurisdiction of home rule cities or counties. This section shall not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law.

* **SECTION 14. AMENDMENT.** Section 57-01-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-02.1. Tax collection agreements with home rule cities or counties.

1. The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1, or of any county which has adopted the home rule provisions of sections 1 through 12 of this Act, and the tax commissioner are hereby authorized and empowered to enter into contractual agreements whereby the tax commissioner shall have authority to collect any sales and or use taxes assessed by such incorporated city or county.
2. It shall be the duty of the tax commissioner to deposit with the state treasurer all money collected by him under this section and to accompany each remittance with a certificate showing the city or county for which it was collected. The state treasurer, quarterly, shall pay to the ~~city~~ auditors of the several cities or counties the money to which they are entitled under this section.
3. The agreements entered into under this section may also provide for an agreed amount to be allowed the tax commissioner for services rendered in connection with such collections. Any sums collected for services rendered shall be paid to the state treasurer for deposit in the general fund.

Approved March 31, 1985

* NOTE: Section 57-01-02.1 was also amended by section 1 of House Bill No. 1657, chapter 598.

CHAPTER 153

HOUSE BILL NO. 1060
(Legislative Council)
(Interim Elections Committee)

COUNTY PUBLIC ADMINISTRATOR APPOINTMENT

AN ACT to amend and reenact sections 11-10-02, 11-21-01, and 11-21-04 of the North Dakota Century Code, relating to the office of public administrator.

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

* SECTION 1. AMENDMENT. Section 11-10-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-02. Number and election of officers. Each organized county, unless it has adopted one of the optional forms of county government, provided by the code, shall have the following officers:

1. One county auditor.
2. One register of deeds.
3. One clerk of the district court.
4. One state's attorney.
5. One sheriff.
6. One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering the agreement.
7. One county treasurer.
8. One coroner.
9. One county superintendent of schools.
10. Four constables.

* NOTE: Section 11-10-02 was also amended by section 5 of House Bill No. 1566, chapter 151.

11. ~~One public administrator.~~

- 12- A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of six thousand or less, the register of deeds shall be ex officio clerk of the district court. In counties having a population of twenty-five thousand inhabitants or more, the county judge may appoint a clerk of county court. In counties with a population of less than twenty-five thousand inhabitants, the clerk of district court shall be clerk of county court. The required officers shall be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge, and clerk of the district court, who shall be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who shall be chosen in the manner prescribed in section 11-11-02, ~~the public administrator, who shall be chosen in the manner prescribed in section 11-21-01,~~ the county coroner, who shall be chosen in the manner prescribed in section 11-19.1-03, and the constables, who shall be appointed by the board of county commissioners.

SECTION 2. AMENDMENT. Section 11-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-21-01. Public administrator - Appointment - Term of office of public administrator - When elected. Every county shall elect a public administrator in each year in which a national presidential election is held. The county judge may appoint a public administrator for the county. The initial appointments under this section may be made upon completion of the terms of public administrators elected in 1984. The public administrator shall hold his office for four years and until his successor is elected or appointed and qualified.

SECTION 3. AMENDMENT. Section 11-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-21-04. Filing of bond, and oath, certificate of election. The public administrator shall file his oath, certificate of election, and bond with the judge of the county court. The bond, and oath, and certificate shall be recorded at length in the record books of the court.

Approved February 4, 1985

CHAPTER 154

HOUSE BILL NO. 1247
(Conmy)

COUNTY OFFICERS' SALARIES

AN ACT to amend and reenact subsections 2 and 5 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of county officers.

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

* SECTION 1. AMENDMENT. Subsections 2 and 5 of section 11-10-10 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The county treasurer, county superintendent of schools, register of deeds, county auditor, clerk of district court, and state's attorney each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. ~~Thirteen~~ Fifteen thousand one hundred dollars in counties having a population of less than eight thousand.
 - b. ~~Thirteen~~ Fifteen thousand five hundred ~~twenty~~ dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.
 - c. State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full time and shall not be an attorney or counsel for any

* NOTE: Section 11-10-10 was also amended by section 1 of House Bill No. 1447, chapter 155, and amended by section 1 of Senate Bill No. 2364, chapter 156.

party except the state or county, shall receive a salary of twenty-two thousand dollars to twenty-nine thousand seven hundred dollars, to be determined by resolution of the board of county commissioners.

5. Each county commissioner may receive an annual salary or per diem as provided by resolution of the board, which salary or per diem shall not exceed the following limits: in counties having a population of eight thousand or less, four thousand five hundred forty-five dollars; in counties having a population of over eight thousand and less than fifteen thousand, five thousand three hundred thirty dollars; and in counties having a population of over fifteen thousand, six thousand three hundred sixty dollars. For the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census with a maximum of seven thousand five hundred dollars. In addition, there shall be an allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15, and shall be evidenced by a subvoucher or receipt as provided by section 21-05-01. As used in this section, the words "official business" shall include statewide meetings of the North Dakota county commissioners association.

If a board shall resolve to pay an annual salary pursuant to this subsection, it shall be paid in monthly installments.

Approved March 27, 1985

CHAPTER 155

HOUSE BILL NO. 1447
(Representative Rydell)
(Senator Olson)

SHERIFFS' SALARIES

AN ACT to amend and reenact subsection 6 of section 11-10-10 of the North Dakota Century Code, relating to salaries of county sheriffs.

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

* SECTION 1. AMENDMENT. Subsection 6 of section 11-10-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Sheriffs shall receive the following annual salary, payable monthly, for official services rendered:
 - a. ~~Fifteen~~ Seventeen thousand ~~five~~ nine hundred dollars in counties having a population with less than eight thousand.
 - b. ~~Sixteen~~ Eighteen thousand ~~five~~ nine hundred dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.

Approved March 22, 1985

- * NOTE: Section 11-10-10 was also amended by section 1 of House Bill No. 1247, chapter 154, and amended by section 1 of Senate Bill No. 2364, chapter 156.

CHAPTER 156

SENATE BILL NO. 2364
(Naaden, Stenehjem)

STATE'S ATTORNEYS' SALARIES

AN ACT to amend and reenact section 11-10-10 of the North Dakota Century Code, relating to the salary of state's attorneys.

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

* SECTION 1. AMENDMENT. Section 11-10-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-10. Salaries of county officers.

1. The salary of the county auditor, county treasurer, county superintendent of schools, register of deeds, county judge, ~~state's attorney~~, clerk of district court, and sheriff shall be regulated by the population in the respective counties according to the last preceding official federal census from and after the date when the official report of such census shall have been published by the director of the census or such other official as may be charged with the duty of making such official publication. Notwithstanding any decreases in population, the salaries paid county officers as of July 1, 1981, reduced by any discretionary salary increase authorized by the county commissioners pursuant to this section, shall be at least the minimum amount payable for that office when filled on a full-time basis in the future.
2. The county treasurer, county superintendent of schools, register of deeds, county auditor, and clerk of district court, ~~and state's attorney~~ each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. Thirteen thousand one hundred dollars in counties having a population of less than eight thousand.

* NOTE: Section 11-10-10 was also amended by section 1 of House Bill No. 1247, chapter 154, and amended by section 1 of House Bill No. 1447, chapter 155.

- b. Thirteen thousand five hundred twenty dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.
- e- State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full time and shall not be an attorney or counsel for any party except the state or county, shall receive a salary of twenty-two thousand dollars to twenty-nine thousand seven hundred dollars, to be determined by resolution of the board of county commissioners.
3. Repealed by S.L. 1975, ch. 87, § 2.
4. The salaries of the judges of county courts shall be as provided in section 27-07.1-04. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official provided in this section, if, in the judgment of such board, by reason of duties performed, the official merits the increase. The salary of a county official shall not be reduced during the official's term of office. Any county official performing duties on less than a full-time basis may be paid a reduced salary set by the board of county commissioners. In the event the county has for its employees, a group insurance program for hospital benefits, medical benefits, or life insurance, or a group retirement program, financed in part or entirely by the county, such benefits may be in addition to the salaries payable to county officials.
5. Each county commissioner may receive an annual salary or per diem as provided by resolution of the board, which salary or per diem shall not exceed the following limits: In counties having a population of eight thousand or less, four thousand five hundred forty-five dollars; in counties having a population of over eight thousand and less than fifteen thousand, five thousand three hundred thirty dollars; and in counties having a population of over fifteen thousand, six thousand three hundred sixty dollars. For the purpose of fixing the maximums herein

provided, population figures shall be those established by the most recent federal census. In addition, there shall be an allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15, and shall be evidenced by a subvoucher or receipt as provided by section 21-05-01. As used in this section, the words "official business" shall include statewide meetings of the North Dakota county commissioners association.

If a board shall resolve to pay an annual salary pursuant to this subsection, it shall be paid in monthly installments.

6. Sheriffs shall receive the following annual salary, payable monthly, for official services rendered:
 - a. Fifteen thousand five hundred dollars in counties having a population with less than eight thousand.
 - b. Sixteen thousand five hundred dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.
7. State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full time and shall not be an attorney or counsel for any party except the state or county, shall receive the same minimum annual salary paid to a county court judge as provided in section 27-07.1-04 as of January 1, 1985, but the county may increase that amount up to the same salary as a county court judge. State's attorneys not considered full time shall receive an annual salary of at least forty-five percent of the minimum salary paid to a county court judge as provided in section 27-07.1-04 as of January 1, 1985. The increase in salary necessary to meet the minimum may be spread over a two-year period with a minimum of a fifty percent increase for the first year. In addition, the county may increase that amount, if, in the judgment of such board, by reason of duties performed, the state's attorney merits the increase.

Approved March 31, 1985

CHAPTER 157

HOUSE BILL NO. 1260
(Representatives O'Connell, Martin, Smette)
(Senators Christensen, Wogsland)

MILEAGE EXPENSES OF COUNTY EMPLOYEES

AN ACT to amend and reenact sections 11-10-15, 11-10-16, and 11-15-12 of the North Dakota Century Code, relating to mileage expenses paid to county officials and employees.

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

SECTION 1. AMENDMENT. Section 11-10-15 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-15. Mileage of officials and employees. Unless otherwise provided by the laws of this state, every county official, whether elective or appointive, and every deputy of a county official, and any county employee entitled by law to travel or mileage expense, shall be allowed or paid the same amounts is entitled to mileage expenses of at least the amount allowed state officers and employees under section 54-06-09 for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duties.

SECTION 2. AMENDMENT. Section 11-10-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-16. Official must file statement Statement to claim mileage. Before an allowance for mileage or travel expense may be paid by a county, the county official or his deputy person for whose travel the same is claimed claim is made shall file with the county auditor an itemized statement verified by his affidavit showing the number of miles traveled, the mode of travel, the days of traveling, the purpose of the travel, and the destination. The statement and affidavit shall be submitted to the board of county commissioners and the claim shall be approved by the board before it shall be Before a claim for mileage is allowed or paid the claimant shall file the statement and affidavit with the board of county commissioners which shall decide whether to allow the claim.

SECTION 3. AMENDMENT. Section 11-15-12 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-12. Sheriff's mileage. A sheriff or his deputy, for each mile [1.61 kilometers] actually and necessarily traveled within this state in the performance of official duties, shall be allowed and paid only the following amounts:-

- 1- The sum of twenty cents minimum per mile {1.61 kilometers} when travel is by motor vehicle.
- 2- When travel is by rail or other common carrier the amounts actually and necessarily expended therefor.

When such travel is outside the state in the performance of official duties, whether by motor vehicle or by rail or other common carrier, such officer shall be allowed and paid not less than fifteen cents per mile {1.61 kilometers} when such travel is by motor vehicle, including travel on extradition, and if by rail or other common carrier his actual and necessary travel expenses is entitled to reimbursement for mileage expenses in accordance with section 11-10-15.

Approved March 14, 1985

CHAPTER 158

SENATE BILL NO. 2372
(Senators Nelson, Dotzenrod)
(Representatives Vander Vorst, L. Hanson)

WATER MAIN RIGHT OF WAY

AN ACT to amend and reenact subsection 13 of section 11-11-14 and subsection 10 of section 58-06-01 of the North Dakota Century Code, relating to the authority of boards of county commissioners and boards of township supervisors to grant rights of way for water or wastewater systems; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subsection 13 of section 11-11-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. To grant to any person the right of way for the erection of telephone lines, electric light systems, water or wastewater systems, or gas or oil pipeline systems over, under, or upon public grounds, county streets, roads, or highways.

SECTION 2. AMENDMENT. Subsection 10 of section 58-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. To grant to any person the right of way for the erection of telephone lines, electric light systems, water or wastewater systems, or gas or oil pipeline systems over, under, or upon public grounds, streets, alleys, or highways.

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

Approved March 22, 1985

CHAPTER 159

SENATE BILL NO. 2310
(Stenehjelm, Holmberg, Ingstad)

COUNTY LAND PURCHASE

AN ACT to amend and reenact section 11-11-19 of the North Dakota Century Code, relating to authority of county commissioners to purchase land without an election.

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

SECTION 1. AMENDMENT. Section 11-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-19. When commissioners may purchase land without election. If, in the opinion of a majority of the members of the board of county commissioners, ~~the acquisition of land adjoining the courthouse is, or may become, necessary for the enlargement of the courthouse or the jail, or for the purpose of beautifying county buildings, or to prevent the erection of other buildings so near to the courthouse and jail that the transaction of public business will be inconvenienced,~~ the board, by a majority vote of its members, may purchase such land without submitting the question to a vote of the electors of the county. The money required for the purchase of the additional land shall be raised in the manner in which money is raised for general county purposes.

Approved March 22, 1985

CHAPTER 160

HOUSE BILL NO. 1618
(Sauter, Tollefson)

COUNTY SPOUSE ABUSE PROGRAMS

AN ACT to provide for county spouse abuse programs; and to declare an emergency.

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

SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

Spouse abuse programs - Expenditure of funds. The board of county commissioners may establish or maintain spouse abuse programs. For the purposes of this section, a spouse abuse program is a program that provides emergency housing for victims of domestic violence and their dependents, plus some or all of these additional services: counseling, advocacy, community education on domestic violence, support groups, twenty-four-hour crisis lines, or referral to other sources for services not provided by the spouse abuse program. The board of county commissioners may expend funds received from governmental or nongovernmental sources for the purpose of providing spouse abuse programs and providing grants to private organizations or agencies who provide such programs. No expenditure authorized by this section may be made to defray any expense of an organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board in regard to the manner in which such funds will be expended and the services will be provided. An organization or agency and its program which receives these funds must be reviewed for approval annually by the board of county commissioners to determine its continued eligibility to receive funds under this section.

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 27, 1985

CHAPTER 161

HOUSE BILL NO. 1390
(Representatives Unhjem, Moore)
(Senators Reiten, Todd, Holmberg)

JOB DEVELOPMENT AUTHORITIES

AN ACT to provide authority for the creation and operation of job development authorities or for a tax levy to support industrial development organizations; and to create and enact a new subsection to section 57-15-06.7 of the North Dakota Century Code, relating to a county tax levy for operation of job development authorities or for support of industrial development organizations.

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

SECTION 1. Job development authority - Board of directors' members qualifications. The board of county commissioners, by resolution, may create a job development authority for the county, or may discontinue a job development authority which has been created for the county. If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition signed by electors of the county equal in number to ten percent of the votes cast in the county for the office of governor in the last general election. The question to discontinue the authority requires a majority of the electors voting on the question for passage. If the authority is created, a board of directors of not fewer than ten nor more than twenty members shall be appointed by the county commissioners and shall consist of representatives from the following groups, as they may exist:

1. Two members from the county commission.
2. One member from the city council or commission of each city within the county which has a population of five hundred or more.
3. One member selected from among the city governments of the remaining cities of the county.
4. The remaining members shall be selected from a list of candidates from the following fields:

- a. A representative of the local job service office nearest the county seat.
- b. A member of the local airport authority.
- c. A member of a local institution of higher education.
- d. A member from among the school boards of the county.
- e. A member from a local industrial development organization.
- f. A member of the regional planning council serving the county.
- g. A member of the legislative assembly representing a district within the county.
- h. Members at large from the business community within the county.

The county commissioners shall make these appointments from a slate of candidates submitted by the chambers of commerce within the county. If no chamber of commerce exists in the county, the nominations may be submitted by any civic or patriotic organization within the county. If names submitted are unacceptable, the county commission may request additional nominees. The members shall be appointed without regard to political affiliation and upon their fitness to serve as members by reason of character, experience, and training.

SECTION 2. Members of the job development authority board of directors - Term of office - Oath - Expenses. The members of the job development authority board of directors shall serve for a term of three years or until their successors are duly qualified. Terms of office shall begin on January first and shall be arranged so that the terms of office of approximately one-third of the members shall expire on December thirty-first of each year. Each member of the board shall qualify by taking the oath provided for civil officers. The oath shall be filed with the county auditor.

The board of directors shall annually elect members to serve as chairman, vice chairman, secretary and treasurer. They shall also select an executive committee with such powers and duties as may be delegated by the board of directors. Members may be reimbursed from funds available to the authority for mileage and expenses as provided in sections 44-08-04 and 54-06-09 but shall receive no compensation for service.

SECTION 3. Powers and duties of job development authorities. The job development authority shall use its financial and other resources to encourage and assist in the development of employment within the county. In fulfilling this objective, the job development authority may exercise the following powers:

1. To sue and be sued.
2. To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.
3. To hire professional personnel skilled in seeking and promoting new or expanded opportunities within the county.
4. To make, amend, and repeal resolutions consistent with the provisions of this chapter as necessary to carry into effect the powers and purposes of the authority.
5. To acquire by gift, trade, or purchase, and to hold, improve, and dispose of real or personal property.
6. To certify a tax levy as provided in section 4 of this Act and to expend moneys raised by the tax for the purposes provided in this Act.
7. To insure or provide for insurance of any real or personal property in which the authority has an insurable interest.
8. To invest any funds held by the authority.
9. To cooperate with political subdivisions in exercising any of the powers granted by this section.
10. To exercise any other powers necessary to carry out the purposes and provisions of this Act.

SECTION 4. Tax levy for job development authorities. The board of county commissioners of a county which has a job development authority shall establish a job development authority fund and levy a tax not exceeding the limitation in section 7 of this Act. The county treasurer shall keep the fund separate from other money of the county and transmit all funds received pursuant to this section within thirty days to the board of directors of the job development authority. The funds when paid to the job development authority shall be deposited in a special account in which other revenues of the job development authority are deposited and may be expended by the job development authority as provided in sections 2 and 3 of this Act.

SECTION 5. Organization of authorities - Temporary mill levy. During 1985 only, the board of county commissioners of a county in which a job development authority has been formed shall levy and collect a tax of one mill on the dollar of taxable valuation of property in the county, and shall make payment of the amount collected to the board of directors of the job development authority which may expend the funds as provided in sections 2 and 3 of this Act. Expense reimbursement of board members for meetings held before receipt of tax levy funds shall be made after the funds are received.

SECTION 6. Alternative levy for industrial development organizations. In lieu of establishing a job development authority as provided in sections 1 through 5 of this Act, the board of county commissioners in a county where an active industrial development organization exists may levy a tax not exceeding the limitation in section 7 of this Act. The funds from the levy may be used to enter into a contract with the industrial development organization for performance of the functions of a job development authority as provided in sections 1 through 5 of this Act.

SECTION 7. A new subsection to section 57-15-06.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

A county levying a tax for a job development authority as provided in section 4 of this Act or for the support of an industrial development organization as provided in section 6 of this Act may levy a tax not exceeding four mills.

Approved March 28, 1985

CHAPTER 162

HOUSE BILL NO. 1438
(Larson)

SHERIFFS' COMMISSIONS

AN ACT to amend and reenact sections 11-15-08 and 11-15-09 of the North Dakota Century Code, relating to a sheriff's commission.

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

* SECTION 1. AMENDMENT. Section 11-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-08. Sheriff's commissions Commissions collected by sheriff. Except as otherwise provided in section 11-15-09, the sheriff shall receive is entitled to collect commissions on all moneys received and disbursed by him on an execution, order of sale, order of attachment, or decree for the sale of real or personal property, as follows:

1. On the first four hundred dollars, three percent.
2. On all moneys in excess of four hundred dollars and not exceeding one thousand dollars, two percent.
3. On all moneys in excess of one thousand dollars, one percent.

In all cases where personal property shall be is taken by the sheriff on an execution or under a warrant of attachment and applied in satisfaction of the debt without sale, he shall receive the sheriff is entitled to collect the percentage specified in this section based upon the appraised value of the property. The sheriff shall deliver the commissions to the county treasurer in accordance with section 11-15-14.

SECTION 2. AMENDMENT. Section 11-15-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-09. Sheriff's allowances Allowances when plaintiff bids in property at sale. When the person in whose favor an execution or order of sale shall have has been issued in by the district court shall bid in the property sold under the execution or pursuant to the

* NOTE: Section 11-15-08 was also amended by section 20 of Senate Bill No. 2086, chapter 82.

judgment, the sheriff or other person making the sale shall ~~receive~~ collect on behalf of the county the following fee, and no more:

1. When the amount for which the property is bid ~~is~~ on does not exceed one thousand dollars, ten dollars.
2. When the amount for which the property is bid ~~is~~ on exceeds one thousand dollars, twenty dollars.

Approved March 27, 1985

CHAPTER 163

HOUSE BILL NO. 1273
(Strinden)

MAINTENANCE OF NATURALIZATION RECORDS

AN ACT to amend and reenact section 11-17-02 of the North Dakota Century Code, relating to maintenance of naturalization records by the clerk of district court.

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

SECTION 1. AMENDMENT. Section 11-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-02. Clerk to keep naturalization records - Transfer to state
archivist. The clerk shall keep such books, records, and files, and such indexes as may be required by the government of the United States of America with reference to persons who, from the organization of the court, have declared, or may declare, their intention to become citizens of the United States, and with regard to persons who have been or may be admitted to citizenship in the United States of America by the district court in which he is clerk. Prior to July first of each year, the clerk shall transfer to the state archivist all records that have been kept under this section for five years or more. The state archivist shall maintain these records as archival resources under chapter 55-02.1.

Approved March 14, 1985

CHAPTER 164

SENATE BILL NO. 2393
(Senators Tallackson, Ingstad)
(Representatives Kingsbury, Skjerven)

RESOLUTION TO RECORD INSTRUMENTS

AN ACT to create and enact a new subsection to section 11-18-03 of the North Dakota Century Code, relating to recording of instruments by the register of deeds.

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

SECTION 1. A new subsection to section 11-18-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any plat, replat or auditor's lot accompanied by a resolution requesting the recording of the plat, replat or auditor's lot by the governing body of a political subdivision.

Approved March 22, 1985

CHAPTER 165

HOUSE BILL NO. 1610
(Ulmer)

PROPERTY BOUNDARY ALTERATION

AN ACT to create and enact a new section to chapter 11-18 of the North Dakota Century Code, relating to requiring the filing of a plat depicting any change in the existing boundaries of real property resulting from a court action or arbitration proceeding.

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

SECTION 1. A new section to chapter 11-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

Alteration of existing boundary lines by court or arbitrator - Filing of plat required. Within thirty days of the issuance of any judgment or final decision in a court action or arbitration proceeding which establishes a boundary for real property that deviates from the existing boundaries established by the United States public land surveys, surveys using the North Dakota coordinate system, or any other official survey depicting the boundaries of real property, a plat must be filed in the office of the register of deeds in the county where the property is located, containing a diagrammatic depiction of the boundary as it existed prior to the judgment or final decision, and as established by the judgment or final decision. The plat must be prepared by a land surveyor registered pursuant to chapter 43-19.1. The plat must be filed in the same manner as provided in section 47-20.1-06, and must clearly indicate that it depicts changes in existing boundaries ordered by the judgment of a court or the final decision of an arbitrator. Specific reference to the property affected must appear prominently in the title of the plat. Liability for the costs and responsibility for filing of the plat must be set by the court or arbitrator issuing the judgment or final decision. The requirements of this section are in addition to any other filing or recordation otherwise required in this state.

Approved March 27, 1985

CHAPTER 166

SENATE BILL NO. 2268
(Senators Waldera, Holmberg, Matchie)
(Representatives Conmy, Kelly, Wentz)

CORONER FEES AND NOTICES

AN ACT to amend and reenact sections 11-19.1-15, 11-19.1-16, and 11-19.1-17 of the North Dakota Century Code, relating to the duties of coroners to notify relatives and fee responsibilities of the counties.

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

SECTION 1. AMENDMENT. Section 11-19.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-15. Notice of next of kin, disposition of personal belongings - Disposition of body where next of kin cannot be found. The coroner ~~having taken of the county where a death is discovered shall take charge of the case shall~~ and notify relatives or friends of the deceased person, if known, as soon as possible by telephone, telegram, or otherwise, giving details of the death and disposition of the deceased person. If the relatives or friends of ~~such the~~ the deceased are unknown, the coroner shall dispose of the personal effects and body in the following manner:

1. After using such clothing as may be necessary in the burial of the body, the remaining personal effects of the deceased shall be turned over to the public administrator for disposition of such personal property in accordance with the laws, regulations, and policies governing the office of the public administrator.
2. The remains shall be:
 - a. Disposed of in accordance with the provisions of section 23-06-14; or
 - b. Buried in accordance with the laws governing the burial of indigent persons within this state.

SECTION 2. AMENDMENT. Section 11-19.1-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-16. Coroner's fees paid out of county treasury - Fees to be charged by coroner - Duty of county auditor - Certain expenses paid by the state.

1. The fees and mileage as provided by section 11-10-15 allowed to the coroner shall be paid out of the county treasury of the county of residence of the deceased person and the coroner's bill shall be presented to the county auditor and shall be paid upon approval and order of the board of county commissioners.
2. The state health department of health shall audit, and if found correct, certify for payment by the state treasurer duly itemized and verified claims of the coroner, his medical deputy and pathologist for the necessary expenses incurred or paid by him in the performance of an autopsy of a child whose cause of death was suspected to have been the sudden infant death syndrome.

SECTION 3. AMENDMENT. Section 11-19.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19.1-17. Application. The provisions of this This chapter shall apply applies to every county in this state having a population of eight thousand or more according to the last preceding official federal census, and the provisions of chapter 11-19 and section 11-10-02 shall are not be applicable to such counties. The provisions of this This chapter shall does not apply to counties having a population of less than eight thousand according to the last preceding official federal census and such counties shall be are governed by the provisions of chapter 11-19 and section 11-10-02, except that coroners shall be appointed in these counties according to section 11-19.1-03 and these counties shall pay coroner's fees to other counties under subsection 1 of section 11-19.1-16.

Approved March 22, 1985

CHAPTER 167

SENATE BILL NO. 2360
(Senator Freborg)
(Representatives Hill, O'Shea)

COUNTY ZONING COMMISSION MEMBERSHIP

AN ACT to amend and reenact section 11-33-04 of the North Dakota Century Code, relating to membership on county zoning commissions.

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

SECTION 1. AMENDMENT. Section 11-33-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-33-04. County planning commissions authorized - Membership. The board of county commissioners of any county desiring to avail itself of the powers conferred by this chapter, shall establish, by resolution, a county planning commission to recommend the boundaries of the various county zoning districts and appropriate regulations and restrictions to be established therein. Membership of such commission shall be composed of nine members, two of whom shall be appointed from the board of county commissioners, and two from the governing body of the city designated as the county seat of the county to serve for their respective terms of elective office. In counties with three-member boards of county commissioners, the planning commission consists of seven members, of whom at least one must be appointed from the governing body of the city that is the county seat, and of whom at most one may be appointed from the board of county commissioners. In counties with five-member boards of county commissioners the planning commission consists of nine members, of whom at least two must be appointed from the governing body of the city that is the county seat, and of whom at most two may be appointed from the board of county commissioners. The term of an ex officio member is coterminous with the member's term in the underlying office. The remaining five members shall be appointed from the county at large. In counties that elect county commissioners from districts, at least one at large member of the planning commission must be appointed from each district. When appointments to said commission are first made, three members-at-large shall be appointed for a two-year term and two members-at-large for a four-year term, after which all subsequent appointments for members-at-large shall be for a four-year term. Appointments to fill vacancies shall be for the unexpired portion of the term. All appointments to the county planning commission shall be made by the board of county commissioners.

Approved March 27, 1985