

MUNICIPAL GOVERNMENT

CHAPTER 453

SENATE BILL NO. 2258
(Senators Adams, Lodoen)
(Representatives Smette, Timm)

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS

AN ACT to create and enact a new subsection to section 11-11-14 and a new subsection to section 40-05-01 of the North Dakota Century Code, relating to powers of boards of county commissioners and governing bodies of cities regarding community development block grant funds; and to declare an emergency.

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

SECTION 1. A new subsection to section 11-11-14 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To loan or give money to and secure a mortgage from individuals, associations, or corporations as provided through the procedures established by the state's community development block grant program established pursuant to the Housing and Community Development Act of 1974 [Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301 et seq.]. This power applies to all community development block grant transactions of the board of county commissioners, including any transactions prior to the effective date of this Act. The county is not lending its funds or extending its credit to any individual, association, or organization under this subsection and no general liability on the part of the county is incurred.

SECTION 2. A new subsection to section 40-05-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Community development block grant program. To loan or give money to and secure a mortgage from individuals, associations, or corporations as provided through the procedures established by the state's community development block grant program established pursuant to the Housing and Community Development Act of 1974 [Pub. L.

93-383, 88 Stat. 633, 42 U.S.C. 5301 et seq.]. This power applies to all community development block grant transactions of the governing body, including any transactions prior to the effective date of this Act. A city is not lending its funds or extending its credit to any individual, association, or organization under this subsection and no general liability on the part of the city is incurred.

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 454

HOUSE BILL NO. 1650
(Kloubec, Unhjem)

(Approved by the Committee on Delayed Bills)

ART PROGRAM FUNDS

AN ACT to create and enact a new subsection to section 40-05-01 of the North Dakota Century Code, relating to the power of cities to accept certain moneys and to fund arts programs.

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

SECTION 1. A new subsection to section 40-05-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Encouragement of arts. To accept and disburse moneys received from federal, state, county, city, or private sources for the establishment, maintenance, or encouragement of arts within the municipality. The municipality may provide matching funds before or after receipt of the moneys. The authority of a municipality under this subsection is supplemental to the authority provided in chapter 40-38.1.

Approved March 27, 1985

CHAPTER 455

SENATE BILL NO. 2297
(Lashkowitz, Lodoen, Kilander)

HOME RULE CITY GOVERNMENT STRUCTURE

AN ACT to create and enact a new section to chapter 40-05.1 of the North Dakota Century Code, relating to definitions of the terms "city officers", "executive officer", and "governing body"; to amend and reenact subsection 4 of section 40-05.1-06 of the North Dakota Century Code, to allow a home rule city the power to provide for its own form and structure of government; 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 40-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "City officers" means the elected and appointed officers of the city and includes the governing body of the city and its members.
2. "Executive officer" means the chief officer in whom resides the power to execute the laws of the city.
3. "Governing body" means the body which performs the legislative functions of the city.

SECTION 2. AMENDMENT. Subsection 4 of section 40-05.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer, and city officers.

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 456

SENATE BILL NO. 2342
(Heinrich, Wright)

CITY OFFICERS' COMPENSATION

AN ACT to amend and reenact sections 40-08-07 and 40-09-06 of the North Dakota Century Code, relating to the compensation of city aldermen and commissioners.

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

SECTION 1. AMENDMENT. Section 40-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-07. Compensation of aldermen. ~~The aldermen shall~~ Each alderman may receive such compensation for ~~their~~ services as ~~shall be fixed established~~ by ordinance, but the compensation shall not exceed the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding two thousand in population, ~~to each alderman not to exceed fifty sixty~~ sixty dollars per month.
2. In cities over two thousand and not exceeding six thousand in population, ~~to each alderman not to exceed ninety one~~ hundred dollars per month.
3. In cities over six thousand and not exceeding thirty thousand in population, ~~to each alderman not to exceed one hundred seventy-five ninety-five~~ dollars per month.
4. In cities having a population of over thirty thousand, ~~to each alderman not to exceed four hundred forty-five~~ dollars per month.

SECTION 2. AMENDMENT. Section 40-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-09-06. Style of board - Oath and salary of commissioners. The commissioners and the president of the board ~~collectively shall constitute and be known as the "board of city commissioners of the city - - -"~~ and shall take an oath faithfully to perform the duties

of their respective offices. ~~The salaries~~ monthly salary of the city commissioners shall each city commissioner must be fixed by ordinance ~~subject to,~~ but the compensation shall not exceed the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ forty fifty dollars.
2. In cities over one thousand and not exceeding two thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ fifty sixty dollars.
3. In cities over two thousand and not exceeding four thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ seventy-five ninety dollars.
4. In cities over four thousand and not exceeding six thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ one hundred twenty dollars.
5. In cities over six thousand and not exceeding eight thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ one hundred seventy-five two hundred five dollars.
6. In cities over eight thousand and not exceeding twelve thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ two hundred twenty-five seventy dollars.
7. In cities over twelve thousand and not exceeding thirty thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ three hundred twenty-five ninety dollars.
8. In cities over thirty thousand and not exceeding forty thousand in population, ~~each commissioner may receive a monthly salary of not to exceed~~ five hundred fifty six hundred sixty dollars.
9. In cities having a population of over forty thousand, ~~each commissioner may receive a monthly salary of not to exceed~~ six hundred seventy-five eight hundred ten dollars.

The president of a commission may receive a salary of up to fifty percent more than the level set for ~~commissioners for his city by~~ this section each commissioner upon resolution by the board of city commissioners.

Approved March 31, 1985

CHAPTER 457

SENATE BILL NO. 2337
(Tennefos)CITY ORDINANCE INITIATIVE OR REFERRAL
PETITIONS

AN ACT to amend and reenact section 40-12-03 of the North Dakota Century Code, relating to the requirements for petitions initiating or referring municipal ordinances.

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

SECTION 1. AMENDMENT. Section 40-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-12-03. Requirements of petitions for initiative and referendum. Petitions provided for in this chapter shall be signed only by qualified electors of the city. Each petition, in addition to the names of the petitioners, shall contain the name of the street upon, and the number of the house in, which each petitioner resides, ~~his age, and length of residence in the city.~~ It also shall be accompanied by the affidavit of one or more qualified electors of the city stating that the signers were qualified electors of the city at the time of signing, and the number of signers upon the petition at the time when the affidavit was made.

Approved March 30, 1985

CHAPTER 458

HOUSE BILL NO. 1319
(Ulmer, Shaw)

SEWER AND WATER IMPROVEMENT APPROVAL

AN ACT to amend and reenact sections 40-22-15 and 40-22-16 of the North Dakota Century Code, relating to the publication of a resolution of necessity for the creation of sewer or water improvement districts if a portion of the cost is to be raised by service charges; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 40-22-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-15. Resolution declaring improvements necessary - Exception for sewer and water improvements - Contents of resolution - Publication of resolution. After the engineer's report required by section 40-22-10 has been filed and approved, the governing body of the municipality, by resolution, shall declare that it is necessary to make the improvements described therein. A resolution shall not be required, however, if the improvement constitutes a water or sewer improvement as described in subsection 1 of section 40-22-01, unless it is determined that the cost thereof shall be paid in part as is provided in section 40-22-16, nor if the governing body determines by resolution that a written petition for the improvement, signed by the owners of a majority of the area of the property included within the district, has been received. The resolution shall refer intelligibly to the engineer's report, and shall include a map of the municipality showing the proposed improvement districts. The resolution shall then be published once each week for two consecutive weeks in the official newspaper of the municipality.

SECTION 2. AMENDMENT. Section 40-22-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-16. Sewer or water improvements and parking lots in municipalities may be paid for by service charges. A municipality constructing a sewer or water improvement or a parking lot under the special assessment method may resolve in the resolution or ordinance required by section 40-22-08 in the case of a sewer or water improvement, or in

the resolution required by section 40-22-15 in the case of a parking lot, that a portion of the cost of the improvement shall be raised by service charges for the use of the improvement, and of the utility or parking system of which it forms a part. If the municipality so resolves, it may determine, in its resolutions, ordinances, and other proceedings relating to the levying of special assessments and the issuing of warrants to pay the cost of such improvement, that a specified portion or all of such cost shall be assessed specially against any property specially benefited and may cause to be assessed only the portion so determined. In such event the entire remainder of such cost, including interest as well as principal of any warrants issued, over and above the amount of special assessments actually collected and received from time to time in the fund of the improvement district, plus any general taxes pledged in accordance with section 40-24-10 and similarly collected and received, shall be paid from the net revenues derived from said service charges; provided, that nothing herein shall affect the power and duty of the governing body to levy a tax for the payment of a deficiency in the improvement district fund at the times and under the conditions set forth in section 40-26-08. All of the applicable provisions of this title relating to special assessments shall be applicable to such improvements except as to the portion of the cost thereof resolved or ordained to be paid by service charges. The governing body of the municipality shall provide for the establishment, imposition, and collection of service charges for the services furnished by such improvement and the utility or parking system of which it forms a part, and in connection therewith it shall have all the rights and powers respecting such service charges as it would have with respect to like matters if such improvement were made in accordance with chapter 40-35. The net revenues derived from the imposition and collection of such service charges or such portion thereof as shall be determined by the governing body in said resolutions and ordinances, shall be paid into the appropriate improvement district funds created pursuant to section 40-24-18. Such revenues when collected shall be used and applied in the same manner as moneys paid into such funds from the collection of special assessments. The governing body of any municipality issuing warrants to finance any such improvement may, in its resolutions and ordinances, establish an assessment reserve in the fund of the improvement district, to which it may appropriate net revenues of the utility or system from time to time received in excess of amounts required, with special assessments and taxes then on hand, to meet the principal and interest next due on such warrants. Prior to November first of any year the governing body may by resolution determine the proportion which the amount then on hand in said assessment reserve, and irrevocably appropriated to the payment of said warrant, bears to the aggregate amount of the installment of the special assessments and taxes levied for the improvement which is payable in the following year, including interest thereon; and the governing body may direct the county auditor to reduce, by not more than a proportionate amount, the total of such installment and interest which would otherwise be placed upon the tax list of the municipality for the current year, against each lot and tract of land assessed or taxed for the

improvement. If such installment of the special assessment on any property has been prepaid, the governing body may direct the city auditor to refund, out of the assessment reserve, to the owner of the property at the time of such refund as indicated in the records of the register of deeds of the county, a sum not exceeding a similar proportion of the principal amount of such installment, excluding interest.

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 14, 1985

CHAPTER 459

SENATE BILL NO. 2477
(Olson, Lips)

SPECIAL IMPROVEMENT BIDS

AN ACT to amend and reenact section 40-22-29 of the North Dakota Century Code, relating to limitations on awards of bids for improvements by special assessment.

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

SECTION 1. AMENDMENT. Section 40-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-29. Engineer's statement of estimated cost required - Governing body to enter into contracts. Before adopting or rejecting any bid filed under the provisions of this chapter, the governing body shall require the engineer for the municipality to make a careful and detailed statement of the estimated cost of the work. The governing body may not award the contract to any bidder if the engineer's estimate prepared pursuant to this section exceeds the engineer's estimate prepared pursuant to section 40-22-10 by forty percent or more. If all bids are not rejected, the governing body shall award the contract to the lowest responsible bidder, upon the basis of cash payment for the work, if such bidder has furnished the certified check and bidder's bond required under the provisions of this chapter.

Approved April 4, 1985

CHAPTER 460

SENATE BILL NO. 2205
(Committee on Political Subdivisions)
(At the request of the Bank of North Dakota)

MUNICIPAL ASSESSMENT APPEALS

AN ACT to amend and reenact section 40-23-15 of the North Dakota Century Code, relating to the meeting at which the governing body of a municipality shall hear and determine appeals and objections to assessments.

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

SECTION 1. AMENDMENT. Section 40-23-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-15. Governing body to hear and determine appeals and objections to assessments - Altering assessments - Limitations. At the regular or special meeting of the governing body at which the assessment list is to be acted upon, any person aggrieved by the determination of the special assessment commission in regard to any assessment who has appealed therefrom as provided in section 40-23-14 may appear before the governing body and present his reasons why the action of the commission should not be confirmed. The governing body shall hear and determine the appeals and objections and may increase or diminish any of such assessments as it may deem just, except that the aggregate amount of all the assessments returned by the commission shall not be changed and no assessments as adjusted shall exceed the benefits to the parcel of land on which it is assessed as determined by the assessment commission.

Approved March 30, 1985

CHAPTER 461

SENATE BILL NO. 2325
(Lodoen)

CERTIFICATION OF SPECIAL ASSESSMENTS

AN ACT to amend and reenact section 40-24-11 of the North Dakota Century Code, relating to the payment of special assessments.

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

SECTION 1. AMENDMENT. Section 40-24-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-11. Certification of assessments to county auditor. Annually, the city auditor shall certify to the county auditor all uncertified installments of assessments which are to be extended upon the tax lists of the municipality for the current year, in the manner provided in section 40-24-12. The annual certification shall continue until the amount of moneys on deposit in the fund established pursuant to section 40-24-18 is sufficient to cover outstanding principal of and interest on any obligations issued to fund such projects, and in addition thereto, to repay the city for any payments made by the city to fund deficiencies in the fund established pursuant to section 40-24-18.

Approved March 27, 1985

CHAPTER 462

HOUSE BILL NO. 1244
(Representatives Hughes, Strinden)
(Senator Lodoen)

REFUNDING SPECIAL ASSESSMENT WARRANTS OR BONDS

AN ACT to amend and reenact sections 40-27-06, 40-27-11, and 40-27-13 of the North Dakota Century Code, relating to refunding special assessment warrants or bonds.

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

SECTION 1. AMENDMENT. Section 40-27-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-06. Refunding special assessment warrants or bonds - Purpose for which issuable. Any municipality having valid outstanding special assessment warrants or bonds issued pursuant to this title which are past due, or to become due within one year, in whole or in part as to principal or interest or both or which are redeemable either at the option of the municipality or with the consent of the warrant holders or bondholders may issue refunding special assessment warrants or bonds if there is not sufficient money in the special improvement fund against which such warrants or bonds are drawn to pay the same principal or interest or both or if a deficiency is likely to occur in the fund within one year for payment of principal or interest thereon. Such refunding special assessment warrants or bonds may be issued for any of the following purposes:

1. To extend the maturities of the special assessment warrants or bonds.
2. To reduce the rate of interest on the special assessment warrants or bonds.
3. To equalize the general tax which the municipality may be, or may become, obligated to levy to discharge deficiencies in the fund against which the special assessment warrants or bonds are drawn.
4. To consolidate two or more outstanding issues of warrants or bonds.

SECTION 2. AMENDMENT. Section 40-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-11. Special fund created for payment of refunding special assessment warrants or bonds - Procedure on paying refunded warrants or bonds. A special fund or special funds shall be created in accordance with this section for the payment of refunding special assessment warrants or bonds. Such special fund may be created as a single consolidated fund for warrants or bonds issued to refund special assessment warrants or bonds of more than one district, or a separate special fund may be created for warrants or bonds issued to refund special assessment warrants or bonds of each district. In either case, the refunded warrants or bonds shall not be canceled but shall be retained by the municipality as an asset of the fund from which the refunding warrants or bonds are payable. The special fund or funds from which the refunded warrants or bonds are payable shall be continued, and payments therefrom shall be made on the warrants or bonds drawn thereon, in the same manner as though none of such warrants or bonds had been refunded. All payments made on the principal and on the interest of refunded warrants or bonds shall be credited to the fund from which the appropriate refunding warrants or bonds are payable and shall be applied in payment of the principal and on the interest on the refunding warrants or bonds in the manner prescribed by the resolution authorizing the issuance of such refunding warrants or bonds. To the extent refunding warrants or bonds are issued to refund the principal or interest, or both, of warrants or bonds, due or to become due within one year, for which a deficiency exists or is likely to exist in the fund or funds against which such outstanding warrants or bonds are drawn due to nonpayment or anticipated nonpayment of special assessments, any payments of such delinquent special assessments and such amounts of accrued interest and penalty thereon as necessary shall be set aside for the payment or redemption of the refunding warrants or bonds issued to fund such delinquencies.

SECTION 3. AMENDMENT. Section 40-27-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-13. Refunding callable funding bonds or refunding warrants - Terms and conditions. Any municipality may refund, according to the procedure set forth in this chapter, any funding bonds issued under this chapter which are callable prior to maturity or which shall be surrendered voluntarily for refunding, by the issuance of bonds upon the same terms and conditions except as to interest, whenever by so doing a saving in interest can be effected. Any municipality having valid outstanding refunding special improvement warrants or bonds issued pursuant to this chapter, which are ~~past~~ due, or to become due within one year, in whole or in part as to principal or interest or both or which are redeemable either at the option of the municipality or with the consent of the warrant or bondholders, may issue new refunding special improvement bonds to refund such outstanding warrants or bonds, if there is not sufficient money in the fund or funds against which such outstanding refunding warrants or bonds are drawn to pay the ~~same~~ principal or interest or both or

if a deficiency is likely to occur in the fund or funds within one year for payment of principal or interest thereon. Such new bonds may be issued for the purpose of extending the maturities of the outstanding refunding warrants or bonds, or reducing the debt service thereon, or equalizing the general tax which the municipality may be, or may become, obligated to levy to discharge deficiencies in the fund or funds against which they are drawn. Such new bonds shall be issued according to the procedure set forth in this chapter for the issuance of the original refunding special improvement warrants or bonds. In any case where refunding improvement bonds are issued and sold six months or more before the earliest date on which all outstanding refunding improvement warrants or bonds of the issue to be refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the new bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each warrant or bond refunded to its maturity or, if it is prepayable and called for redemption, to an earlier prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such warrant or bond at maturity or, if prepayable and called for redemption, at the earlier redemption date, and any premium required for redemption on such date. The governing body's resolution authorizing the new bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and may provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the new bonds. Moneys on hand in the refunding improvement bond fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

Approved March 27, 1985

CHAPTER 463

HOUSE BILL NO. 1200
(Committee on Political Subdivisions)
(At the request of the Bank of North Dakota)

SIDEWALK AND CURBING ASSESSMENT WARRANT PAYMENT

AN ACT to amend and reenact sections 40-29-16 and 40-31-10 of the North Dakota Century Code, relating to the payment by cities of sidewalk assessment warrants and curbing assessment warrants from the sidewalk special fund and the curbing special fund.

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

SECTION 1. AMENDMENT. Section 40-29-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-16. City auditor to pay warrants from special fund ~~--Cancellation of warrants.~~ The city auditor shall pay sidewalk assessment warrants and interest coupons attached thereto as they mature and are presented for payment thereon at the time or times and in the manner designated by the governing body out of the sidewalk special fund and shall ~~cancel~~ the same when paid.

SECTION 2. AMENDMENT. Section 40-31-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-31-10. City auditor to pay warrants from special fund ~~--Cancellation of warrants.~~ The city auditor shall pay curbing assessment warrants and interest coupons attached thereto as they mature and are presented for payment thereon at the time or times and in the manner designated by the governing body out of the curbing special fund, and he shall ~~cancel~~ the same when paid.

Approved March 1, 1985

CHAPTER 464

HOUSE BILL NO. 1270
(Representative Unhjem)
(Senator Waldera)

LIBRARY RECORDS NOT OPEN RECORDS

AN ACT to create and enact a new section to chapter 40-38 of the North Dakota Century Code, relating to records maintained by public libraries.

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

SECTION 1. A new section to chapter 40-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

Library records - Open records exception. Any record maintained or received by a library receiving public funds, which provides a library patron's name or information sufficient to identify a patron together with the subject about which the patron requested information, is considered private and is excepted from the public records disclosure requirements of section 44-04-18. These records may be released when required pursuant to a court order or a subpoena.

Approved March 14, 1985

CHAPTER 465

HOUSE BILL NO. 1174
(Committee on Political Subdivisions)
(At the request of the State Auditor)

PREPARATION OF CITY BUDGETS

AN ACT to amend and reenact section 40-40-05 of the North Dakota Century Code, relating to the preparation of municipal budgets.

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

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

40-40-05. Contents of preliminary budget statement. A preliminary budget shall be prepared as required by generally accepted accounting principles. The preliminary budget shall set forth specifically:

- 1- The estimated expenses of the municipality for the current fiscal year-
- 2- The estimated expenditures for the ensuing fiscal year, segregated and itemized under three groups as follows:
 - a- Group A shall cover all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenses of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there shall be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Municipalities may also include as items of expense the following, which shall be placed in separate funds:
 - (i) Equipment replacement. Such amount shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, on all equipment

- owned by the city, and no expenditure shall be paid out of said equipment replacement fund except for the purchase of equipment to replace equipment which is worn out, damaged or obsolete. The term "equipment" shall not include structures or building fixtures.
- (2) Snow removal reserve: Such amount shall not exceed the total of the anticipated reasonable costs of snow removal for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of removal reserve fund except for the removal of snow from the public streets or ways.
- (3) Flood control reserve: Such amount shall not exceed the total of the anticipated reasonable costs of flood control for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of said flood control reserve fund except for the actual costs of flood prevention and control to the municipality.
- b. Group B shall cover all capital and betterment expenditures, including new construction, major repairs, and all other items which go toward adding to the permanent improvement and value of the municipal property and may include an item which shall be placed in a separate fund as a building reserve. The building reserve fund item shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on original costs on all buildings and structures owned by the city, and no expenditures shall be paid out of the said fund except for purchase, construction, or reconstruction to replace buildings or structures which are obsolete, substandard, or generally unfit for public use.
- e. Group C shall cover all debt retirement requirements, including all amounts required to retire floating indebtedness, bonded indebtedness, and to pay interest thereon during the current fiscal year, and also a statement showing the amounts and terms of bond issues, certificates of indebtedness, and warrants or other debts to be taken care of by the levies for debts retirement.
- 3- The estimated cash balance standing to the debit or credit of the municipality at the end of the current fiscal year.
- 4- An estimate of the probable amounts that may be received during the ensuing fiscal year from sources other than

direct property taxes, and a statement of all the uncollected taxes due to the municipality:

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

1. An estimated revenue schedule for the general fund of the municipality, including the following information:
 - a. The actual revenues received from all sources during the preceding fiscal year.
 - b. The estimated revenues from all sources for the current fiscal year.
 - c. An estimate of the probable amounts that may be received during the ensuing fiscal year from sources other than direct property taxes.
2. An appropriations schedule for the general fund of the municipality, including the following information:
 - a. The actual expenditures for all purposes for the preceding fiscal year.
 - b. The estimated expenditures for all purposes for the current fiscal year.
 - c. The estimated expenditures for all purposes for the ensuing fiscal year. Expenditures shall be segregated and itemized as follows:
 - (1) Current expenditures. This shall include all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenditures of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there shall be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Municipalities may include an item of expense for equipment replacement, the amount of which shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, on all equipment owned by the city, and no expenditure shall be paid out of said equipment replacement fund except for the purchase of equipment to

replace equipment which is worn out, damaged, or obsolete. The term "equipment" shall not include structures or building fixtures. The expense for equipment replacement shall be placed in a separate fund. Current expenditures are categorized as general government, public safety, public works, health and welfare, culture and recreation, and other budgeted items of a current nature.

(2) Capital expenditures. This shall include all capital and betterment expenditures, including new construction, major repairs, and all other items which go toward adding to the permanent improvement and value of the municipal property an item which shall be placed in a separate fund as a building reserve. The building reserve fund item shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on the original costs of all buildings and structures owned by the city, and no expenditures shall be paid out of the said fund except for purchase, construction, or reconstruction to replace buildings or structures which are obsolete, substandard, or generally unfit for public use.

(3) Debt service expenditures. This shall cover all debt retirement requirements, including all amounts required to retire floating indebtedness, bonded indebtedness, and to pay interest thereon during the current fiscal year.

3. A separate schedule for each special revenue fund of the municipality, including the following information:

- a. The actual revenues received from all sources during the preceding fiscal year.
- b. The estimated revenues from all sources for the current fiscal year.
- c. An estimate of the probable amounts that may be received during the ensuing fiscal year from sources other than direct property taxes.
- d. The actual expenditures for all purposes for the preceding fiscal year.
- e. The estimated expenditures for all purposes for the current fiscal year.
- f. The estimated expenditures for all purposes for the ensuing fiscal year.

4. A separate schedule for each enterprise fund of the municipality, including the following information:
 - a. The estimated revenues for the current fiscal year.
 - b. The estimated revenues for the ensuing fiscal year.
 - c. The estimated expenditures for the current fiscal year.
 - d. The estimated expenditures for the ensuing fiscal year.
5. The estimated cash balance standing to the debit or credit of the municipality at the end of the current fiscal year for the general fund, each special revenue fund, and each enterprise fund.
6. A statement of all uncollected taxes due to the municipality.
7. A statement of all uncollected special assessments due to the municipality.
8. A statement showing the amounts and terms of bond issues, certificates of indebtedness, and warrants or other debts to be taken care of by the levies for debt retirement.

Approved March 14, 1985

CHAPTER 466

HOUSE BILL NO. 1206
(Riley)

REVIEW OF ZONING BOARD DECISIONS

AN ACT to amend and reenact section 40-47-11 of the North Dakota Century Code, or in the alternative to amend and reenact section 35 of House Bill No. 1082, as approved by the forty-ninth legislative assembly, relating to review of zoning board of adjustment decisions.

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

SECTION 1. AMENDMENT. If House Bill No. 1082 does not become effective, section 40-47-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-11. Determination of board of adjustment reviewable by ~~certiorari~~. Every decision of the board of adjustment shall be is subject to review by certiorari in the following manner:

1. A decision of the board of adjustment may be appealed to the governing body of the city by either the aggrieved applicant or by any officer, department, board, or bureau of the city. The appeal must be filed with the city auditor within fifteen days after notice of the decision of the board of adjustment. The governing body of the city shall fix a time, within thirty days, for the hearing of the appeal and shall give due notice of the hearing to the parties. The governing body of the city shall decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing of the governing body on the appeal. The governing body of the city may reverse or affirm the decision of the board of adjustment, in whole or in part, or may modify the order, decision, or determination appealed.
2. A decision of the governing body of the city on an appeal from a decision of the board of adjustment is subject to review by certiorari. The application for a writ of certiorari shall be made to the district court of the county in which the city is situated within fifteen days

after notice of the decision of the board, and such governing body of the city. The writ shall be returnable within twenty days after the rendition of the decision. The court may take such evidence as may be required to determine the questions presented. The supreme court, upon application filed within fifteen days after the determination of the district court, shall review the action of the district court by certiorari.

SECTION 2. AMENDMENT. Section 35 of House Bill No. 1082, as approved by the forty-ninth legislative assembly, is hereby amended and reenacted to read as follows:

SECTION 35. Determination of board of adjustment reviewable by certiorari. Every decision of the board of adjustment is subject to review by certiorari in the following manner:

1. A decision of the board of adjustment may be appealed to the governing body of the jurisdiction by either the aggrieved applicant or by any officer, department, board, or bureau of the jurisdiction. The appeal must be filed with the chief administrative officer of the jurisdiction within fifteen days after notice of the decision of the board of adjustment. The governing body of the jurisdiction shall fix a time, within thirty days, for the hearing of the appeal and shall give due notice of the hearing to the party. The governing body of the jurisdiction shall decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing of the governing body on the appeal. The governing body of the jurisdiction may reverse or affirm the decision of the board of adjustment, in whole or in part, or may modify the order, decision, or determination appealed.
2. A decision of the governing body of the jurisdiction on an appeal from a decision from the board of adjustment is subject to review by certiorari. The application for a writ of certiorari must be made to the district court within fifteen days after notice of the decision of the board, and the governing body of the jurisdiction. The writ is returnable within twenty days after the rendition of the board's decision of the governing body of the jurisdiction. The court may take such evidence as required to determine the questions presented. The supreme court, upon application filed within fifteen days after the determination of the district court, shall review the action of the district court by certiorari.

Approved March 14, 1985

CHAPTER 467

SENATE BILL NO. 2211
(Committee on State and Federal Government)
(At the request of the Economic Development Commission)

MIDA BOND ASSESSMENT FEE

AN ACT to repeal section 40-57-09.1 of the North Dakota Century Code, relating to the assessment of a two percent bond issuance fee for all municipal industrial development act bonds guaranteed by the industrial revenue bond guarantee program.

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

SECTION 1. REPEAL. Section 40-57-09.1 of the North Dakota Century Code is hereby repealed.

Approved March 22, 1985

CHAPTER 468

SENATE BILL NO. 2293
(Satrom, Lips)

CITY LODGING TAX REVENUES

AN ACT to amend and reenact section 40-57.3-04 of the North Dakota Century Code, relating to the payment, collection, and distribution of city lodging tax revenues.

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

SECTION 1. AMENDMENT. Section 40-57.3-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative expenses allowed - Rules. The tax imposed by this chapter is due and payable monthly and shall be collected monthly and administered by the state tax commissioner in accordance with the relevant provisions of chapter 57-39.2. The amount the tax commissioner shall remit ~~quarterly~~ monthly to each city as taxes collected for that city's visitors' promotion fund shall be reduced by three percent as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident to such collection. The administrative fee shall be deposited in the general fund in the state treasury. The tax commissioner shall adopt rules necessary for the administration of this chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 shall specifically apply to the filing of returns and administration of the tax imposed by this chapter.

Approved March 28, 1985

CHAPTER 469

SENATE BILL NO. 2427
(Reiten)

URBAN RENEWAL TAX EXEMPTION

AN ACT to create and enact a new subsection to section 40-58-20 of the North Dakota Century Code, relating to tax increments in urban renewal areas.

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

SECTION 1. A new subsection to section 40-58-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

As an alternative to the sale of bonds to be amortized with tax increments as provided in this section, the governing body of a municipality may, in its discretion, grant a total or partial tax exemption for the project in order to provide assistance to a project developer in an urban renewal area, pursuant to agreement with the municipality. The amount of annual tax exemption shall be limited to the increment as defined in this section as it applies to the project and may extend for a period not to exceed fifteen years. In determining the total amount of tax exemption to be authorized, the municipality shall give due consideration to the same elements as are involved in the sale of bonds to be amortized by tax increments. The amount to be reimbursed, by tax exemption, to the project developer shall be all or a portion of eligible public costs which have been paid by the developer, plus interest thereon at a rate not to exceed ten percent per annum. The amount of tax exemption shall be an amount sufficient to reimburse the project operator for such eligible costs, amortized pursuant to said agreement between the developer and the city.

Approved March 29, 1985