

COUNTIES

CHAPTER 107

HOUSE BILL NO. 1389

(Representatives Belter, Dalrymple)

(Senator G. Nelson)

HOME RULE COUNTY AUTHORITY LIMITATIONS

AN ACT to amend and reenact subsection 2 of section 11-09.1-05 of the North Dakota Century Code, relating to limitations on the authority of a home rule county to supersede certain laws relating to special assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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. A charter or ordinance or act of the governing body of a home rule county may not supersede the provisions of section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects.

Approved March 25, 1997

Filed March 26, 1997

CHAPTER 108

HOUSE BILL NO. 1299 (Representative Kretschmar)

BALLOT ISSUE APPROVAL REQUIREMENT

AN ACT to amend and reenact sections 4-02-27.2, 4-02-31, 11-09.1-06, 11-10.2-02, 11-10.3-01, 15-27.3-19, 15-27.3-21, subsection 2 of section 15-27.6-10, subsection 2 of section 15-28-01, section 15-48-05, subsection 3 of section 21-03-38.1, sections 23-14-01, 23-14-13, 23-14-13.1, 23-29-07, 27-19-02, 38-02-02, 40-02-10, 40-02-11, 40-04-04, 40-04-11, 40-05.1-07, 40-10-02, 40-10-08, 40-33-12, 40-38-01, 40-49-07.2, 40-49.1-02, 40-53.1-04, 40-53.2-03, 54-40.4-01, subsection 1 of section 54-40.4-05, sections 54-40.4-06, 57-15-08, 57-15-12, 57-15-12.1, 57-15-12.3, 57-15-14.5, 57-15-44, 57-15-50, 57-15-51, 57-15-55, 57-15-55.1, subsection 3 of section 57-15-56, subsection 3 of section 57-15-60, sections 61-04.1-29, 61-04.1-30, and 61-04.1-31 of the North Dakota Century Code, relating to the required vote for approval of ballot issues by the qualified electors of political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-02-27.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-02-27.2. Additional levy in certain counties. The board of county commissioners of any county, when petitioned by at least five percent of the qualified electors of the county, including qualified electors residing in at least one-half of the voting precincts of the county as determined by the number of votes cast in the county for the office of governor at the preceding general election, shall submit to the qualified electors of the county at any general election or special election called for such purpose, the proposition of authorizing the board of county commissioners to purchase or lease in the name of the county not to exceed two hundred forty acres [97.12 hectares] of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the conduct of a county fair and authorizing the board of county commissioners, if the county general fund is deemed insufficient to provide funds therefor, to levy a tax not exceeding the limitation in subsection 2 of section 57-15-06.7. If a majority of the votes cast by qualified electors on the question at the election are in favor of the proposition, including the proposed levy, the tax must be levied and collected as are other property taxes, with the proceeds to be placed into a fund to be known as the "county fair fund". The tax is in addition to any mill levy limitations provided by law, including the levies authorized by sections 4-02-27 and 4-02-27.1.

SECTION 2. AMENDMENT. Section 4-02-31 of the North Dakota Century Code is amended and reenacted as follows:

4-02-31. Purchase or lease of land - Election required. The board of county commissioners in any county in the state may submit, or when petitioned by at least five percent of the qualified electors of the county in at least one-half of the voting precincts, based upon the votes cast in the county for secretary of state at the last general election, shall submit, to the qualified electors of the county at any general election the proposition of purchasing or leasing not more than eighty acres [32.37 hectares] of land in the name of the county to be used for county fair purposes. If a

majority of the qualified electors voting on the question at the election vote in favor of purchasing or leasing land for such purposes, the board of county commissioners shall purchase or lease, in conformity with this chapter, a tract of land not to exceed eighty acres [32.37 hectares], in the name of the county. The board of county commissioners shall construct such buildings and improvements on the land as it shall deem necessary for the operation and management of the fair. The election on the purchase or lease of land must be conducted and the votes counted as at other elections.

SECTION 3. AMENDMENT. Section 11-09.1-06 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-06. 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 11-09.1-01, 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 qualified electors voting on the question at the election.

SECTION 4. AMENDMENT. Section 11-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

11-10.2-02. Methods of accomplishing office combination, separation, or redesignation of elective or appointive status. The combination or separation of elective county offices, or redesignation of a county office as elective or appointive, may be accomplished:

1. By resolution of the board of county commissioners, subject to the right of referendum in the county electors. The board of county commissioners may by a majority vote adopt a preliminary resolution incorporating a proposed plan for combining or separating county offices, or redesignating a county office as elective or appointive. The board shall cause the complete text of the proposed plan to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately following the adoption of the preliminary resolution. The board of county commissioners shall hold public hearings and community forums or use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose, conclusions, and recommendations of the plan. Within two years after the adoption of the preliminary resolution, the board of county commissioners may by final resolution approve the plan or amend the plan and approve it for implementation according to its terms. The final resolution may be referred to the qualified electors of the county by a petition protesting the plan. The petition must be signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election, and filed with the county auditor, or functional equivalent of that office, before four p.m. on the thirtieth day after the final resolution is adopted. Within ten days after the filing of

the petition, the county auditor shall examine the petition and ascertain from the voter list whether the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of an amended petition within ten days after the county auditor declares the insufficiency. The final resolution is suspended upon a determination by the county auditor that the petition was timely filed and contains the signatures of a sufficient number of qualified electors. The board of county commissioners shall reconsider the referred resolution, and if it does not repeal the resolution in its entirety, shall submit the resolution to a vote of the qualified electors of the county at the next regular election. The county auditor shall cause the complete text of the resolution to be published in the official newspaper of the county, not less than two weeks nor more than thirty days, before the date of the election. If a majority of the qualified electors voting on the question approves the resolution, the plan incorporated in the resolution is effective and becomes operative according to its terms as if it had not been suspended.

2. By initiative of county electors. A petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election may be submitted to the board of county commissioners, calling upon the board to submit to the electors the question of adopting a plan described in, or annexed to, the petition. The county auditor, or the functional equivalent of that officer, shall examine the petition and ascertain from the voter list whether or not the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of an amended petition within thirty days after the county auditor declares the insufficiency. When a plan for the combination or separation of county offices or redesignation of county offices as elective or appointive is proposed pursuant to this subsection, the board of county commissioners shall submit the proposed plan to a vote of the qualified electors of the county at a primary or general election not less than sixty days nor more than two years, as specified in the petition, after determining that the petition is sufficient. The question on the ballot at the election must be framed in a manner that fairly and accurately describes the substance of the proposed plan. The board shall cause the complete text of the proposed plan to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately preceding the date of the election. The board of county commissioners may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose, conclusions, and recommendations of the plan. If a majority of the qualified electors voting on the ~~proposed plan~~ approves the question approves of its adoption, the plan is effective according to its terms.

SECTION 5. AMENDMENT. Section 11-10.3-01 of the North Dakota Century Code is amended and reenacted as follows:

11-10.3-01. Multicounty combination of elective officers.

1. A county may combine any county elective office with one or more elective offices of one or more other counties for the purpose of sharing that combined office for the performance of functions and the provision

of services among those counties. The procedures set forth in this chapter apply to the combination, unless a specific procedure for combining particular elective county offices is otherwise provided by law.

2. A proposal for combining county elective offices may be accomplished:
 - a. By the boards of county commissioners of each affected county by entering into a joint powers agreement incorporating a plan for the office combination, subject to the right of referendum in the electors of each of the counties; or
 - b. By initiative of the electors of each affected county. A petition signed by ten percent or more of the total number of qualified electors of each county voting for governor at the most recent gubernatorial election may be submitted to the boards of county commissioners of each county, calling upon the boards to submit to the electors the question of adopting a plan described in, or annexed to, the petition.
3. A joint powers agreement entered into between counties for combining the functions of any county elective office pursuant to subdivision a of subsection 2 may be referred to the qualified electors of an affected county by a petition protesting the agreement. The petition must be signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election, and filed with the county auditor, or functional equivalent of that office, before four p.m. on the thirtieth day after the agreement is adopted. Within ten days after the filing of the petition, the county auditor shall examine the petition and ascertain from the voter list whether the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of an amended petition within ten days after the county auditor declares the insufficiency. The implementation of the terms of the joint powers agreement is suspended upon a determination by the county auditor that the petition was timely filed and contains the signatures of a sufficient number of qualified electors. The board of county commissioners shall reconsider the referred agreement and, if the board does not terminate the agreement in its entirety, shall submit the question to a vote of the qualified electors of the county at the next regular election. The county auditor shall cause the complete text of the agreement to be published in the official newspaper of the county, not less than two weeks nor more than thirty days, before the date of the election. The boards of county commissioners may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose and provisions of the plan. If a majority of the qualified electors voting on the question in the county approve the question, the plan incorporated in the agreement is effective and becomes operative according to the terms of the agreement as if the agreement had not been suspended. If the electors of either county ~~disapprove~~ do not approve the question, the plan does not become effective.
4. The question of combination of the functions of elective county offices brought by petition pursuant to subdivision b of subsection 2 must be submitted by the boards of county commissioners to the electors in each

of the affected counties at a primary or general election not less than sixty days nor more than two years, as specified in the petition, after the petition is determined sufficient by each board. The question on the ballot at the election must be framed in a manner that fairly and accurately describes the substance of the proposed office-sharing arrangement. The board of county commissioners in each affected county shall cause the complete text of the proposed plan for combining offices to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately preceding the date of the election. The boards of county commissioners may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose and provisions of the plan. If a majority of the qualified electors of each county voting on the ~~proposed plan~~ approves the question approves of its adoption, the plan is effective according to its terms.

5. One copy of the plan as approved must be filed with the district court for each county and one with each county auditor or functional equivalent to remain as a part of each county's permanent records. The boards of county commissioners may take any action necessary to bring about an orderly transition in implementation of the plan.
6. A plan, or part of a plan, adopted pursuant to this chapter may be revised or terminated through another joint powers agreement or petition submitted pursuant to the procedure set forth in this chapter for adopting a plan, or pursuant to provisions for termination or revision provided in the original joint powers agreement.

SECTION 6. AMENDMENT. Section 15-27.3-19 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.3-19. Changes in reorganization proposal. At any time after the reorganization proposal has become effective, any provision of the reorganization proposal, including provisions affecting the adjustment of assets and liabilities but excepting provisions defining the boundaries of the district, may be changed by a majority vote of the qualified electors voting on the question without approval of the state board or the county committee. The school board in the reorganized district may, upon its own motion, or shall, upon the filing with it of a petition signed by qualified electors equal in number to twenty percent or more of the persons enumerated in the most recent school district census, unless the census is greater than four thousand, in which case only fifteen percent or more of the number of persons enumerated in the school census is required, submit the question of authorizing a change in the school district's adopted reorganization proposal at the next regular or special election. However, not fewer than twenty-five signatures of qualified electors is required unless the district has fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In districts with fewer than twenty-five qualified electors, the county superintendent for the county in which the school is located shall determine the number of qualified electors in the district. If a majority of all votes cast on the question by the electors residing in the district is in favor of the proposed change, then the proposed change is effected. If a reorganization plan has been in effect for at least ten years, any proposed change to geographic voting areas is effective upon a majority vote in an election at large by the qualified electors of the district voting on the question. A school board in a

reorganized school district may change, by resolution, to at large voting for school board candidates if there is a variance of more than ten percent in the population between any of the district's established geographic areas with resident candidates.

SECTION 7. AMENDMENT. Section 15-27.3-21 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-21. Proportionate tax rate on agricultural property. Any school district which imposed a proportionate tax rate for school purposes levied on agricultural property different from the school district levy on other taxable property as permitted by sections 15-53.1-37 and 15-53.1-38, as they existed on December 31, 1984, must continue to levy that proportionate tax rate unless it is discontinued by the school board upon a majority of the ~~voters~~ qualified electors of the school district voting on the question. No other school district may impose such a proportionate tax rate for different classes of property within the school district.

SECTION 8. AMENDMENT. Subsection 2 of section 15-27.6-10 of the North Dakota Century Code is amended and reenacted as follows:

2. If a majority of qualified electors residing within each school district and voting on the question vote in favor of the formation of the new district, the county superintendent shall make the proper adjustments and perform all necessary duties as provided in subsection 5 of section 15-27.3-08.

SECTION 9. AMENDMENT. Subsection 2 of section 15-28-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The number of school board members in any public school district may be increased to either five, seven, or nine or decreased to seven or five if a petition signed by at least one-third of the qualified electors of the school district as determined by the number of persons voting at the most recent annual school district election is filed with the school board asking for such change, and the change is approved by a majority of the qualified electors of the district voting on the question at a special election called for that purpose. If approved, the additional members must be elected to the board at the next annual school district election in the same manner as other school board members. If the total number of board members after the increase is approved is five, two shall serve until the first annual election, two until the second annual election, and one until the third annual election thereafter. If the total number of board members after the increase is approved is seven, three shall serve until the first annual election, two until the second annual election, and two until the third annual election thereafter. If the total number of board members after the increase is approved is nine, three shall serve until the first annual election, three until the second annual election, and three until the third annual election thereafter. All such members shall serve for the terms prescribed ~~above~~ in this section and until their successors are elected and qualified, and the length of the respective terms of those members elected as a result of the increase in membership of the board shall be determined by lot. The length of any term which existed prior to the increase in membership and which is held by a member who has duly qualified, may not be modified by such determination. Terms subsequent to the first must be for the normal term of three years, and until a successor is elected and qualified.

School board members must be elected at large, except that if the district in which they are elected has been reorganized, such members may be elected either at large or by geographical area. In reorganized districts, in which an increase in the membership of the board is proposed, the election on the reorganization proposal takes the place of the petition and election requirements of this subsection, and approval of the reorganization proposal has the same effect as if the approval were by the election provided for in this subsection. Should a decrease to not fewer than five members be approved by the qualified electors voting on the question, the excess number of members will serve out existing terms until the number approved by the qualified electors has been reached.

SECTION 10. AMENDMENT. Section 15-48-05 of the North Dakota Century Code is amended and reenacted as follows:

15-48-05. Record of proceedings - Certificate filed with county auditor. A record of the proceedings connected with the submission of the question of increasing the debt limit, the result of the election, and the number of votes cast for and against the proposition, respectively, must be made and preserved in the records of the school district. If a majority of votes cast on the question are in favor of increasing the debt limit, a certificate, signed by the president of the school board and attested by the business manager of the school district, reciting the result of the election and the fact that the limit of indebtedness of said school district has been increased to ten percent of the assessed valuation of the taxable property of said district, and stating the number of votes cast for and against such increase, respectively, must be filed with the county auditor of the county in which said school district is situated, where the said certificates must be preserved and kept on file.

SECTION 11. AMENDMENT. Subsection 3 of section 21-03-38.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body, upon approval by a majority vote of the qualified electors, voting on the question at an election called therefor, may use the funds for some other purpose authorized by law.

SECTION 12. AMENDMENT. Section 23-14-01 of the North Dakota Century Code is amended and reenacted as follows:

23-14-01. Formation of health districts. When in the opinion of the state health officer, on information obtained in cooperation with local health officers and local boards of health, the health needs of any given area may be better served by the formation of a health district, as hereinafter provided, the state health officer shall so notify the county auditor of each county involved and the city auditor of each city having a population in excess of fifteen thousand persons. Each county auditor and city auditor shall place the matter before the governing board of the county or city at its next regular meeting, and the governing board by resolution either shall adopt or reject the plan at the same or the first subsequent meeting. If resolutions are adopted by the governing boards of the cities and counties as hereinbefore provided, adopting the health district plan, all laws and parts of laws in conflict therewith automatically become inoperative throughout the territory embraced within the district, and particularly the laws relative to city, township, and county boards of health. If the board of county commissioners of any county or the city council or city commission of any city, rejects the plan, it may submit the question of adoption of the provisions of this chapter to the qualified electors of the county or city at the next ensuing general or special election to be held in said county or city. In all elections held under this chapter, the votes cast in the cities

having a population in excess of fifteen thousand inhabitants must be considered separate and apart from the votes cast elsewhere in the county, and the participation in the health district by any city must be governed by the votes cast in the city as distinguished from the vote cast elsewhere in the county. If a majority of the qualified electors voting on the question vote in favor of the adoption of the provisions of this chapter, the board of county commissioners, within ten days after the canvass of said election, shall adopt such resolution, and, upon the adoption of such resolution such county or counties, together with the cities voting in favor of the plan, must be considered a district health unit or health district. On a petition filed with the county auditor containing names of qualified electors of the county equal to ten percent or more of the votes cast for the office of governor at the last general election, an election on the question of forming a health district must be held as heretofore provided. The health districts must follow county lines, and in case the district as outlined by the state health officer includes more than one county, and the plan is adopted in any of said counties or cities, and rejected in any one or more of the other counties or cities, it becomes effective in the county or counties and city or cities adopting the plan, if ~~in the exercise of his discretion~~ the state health officer deems the same operative.

SECTION 13. AMENDMENT. Section 23-14-13 of the North Dakota Century Code is amended and reenacted as follows:

23-14-13. Dissolution. After a district health unit organized as provided in this chapter has been in operation for two years, the same may be dissolved in the following manner: On a petition filed with the county auditor of each county of a health district containing names of qualified electors of the county equal to ten percent or more of the votes cast for governor at the last general election in each county, an election on the question of dissolution must be presented to the qualified electors in each county in the district at the next general or special election held in each county in the district. If a majority of the votes cast on the question in a majority of the counties favor dissolution, the health unit must be dissolved on January first following the election. If a majority of the votes cast on the question in a majority of the counties are against dissolution, no other election may be held until a period of two years has again expired.

SECTION 14. AMENDMENT. Section 23-14-13.1 of the North Dakota Century Code is amended and reenacted as follows:

23-14-13.1. Withdrawal. After a district health unit organized as provided in this chapter has been in operation for two years, any county may withdraw from the district in the following manner: On a petition filed with the county auditor containing names of qualified electors of the county equal to ten percent or more of the votes cast for governor at the last general election in that county, an election on the question of withdrawal must be presented to the qualified electors in the county at the next general or special election held in the county. If a majority of the votes cast on the question favor withdrawing from the district, the county will be considered withdrawn from the unit on January first following the election. If a majority of the votes cast on the question are against withdrawal, no other election may be held until a period of two years has again expired.

SECTION 15. AMENDMENT. Section 23-29-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-29-07. Permits.

1. The department may issue permits for solid waste management facilities and solid waste transporters. It is unlawful for any person to own, operate, or use a facility for solid waste disposal or transport solid wastes without a valid permit. Upon receipt of a permit application, the department shall give public notice, in the official newspaper of the county in which the facility is to be located, that the department is considering an application for a solid waste management facility. The notice must state the name of the applicant, the location of the facility, and a description of the facility. The department shall require as a condition of a permit for a solid waste management facility, not owned or operated by the state or a political subdivision, that any entity that controls the permitholder agrees to accept responsibility for any remedial measures, closure and postclosure care, or penalties incurred by the permitholder. For purposes of this section, "control" means ownership or control, directly, indirectly, or through the actions of one or more persons of the power to vote twenty-five percent or more of any class of voting shares of a permitholder, or the direct or indirect power to control in any manner the election of a majority of the directors of a permitholder, or to direct the management or policies of a permitholder, whether by individuals, corporations, partnerships, trusts, or other entities or organizations of any type. All permits are nontransferable, are for a term of not more than ten years from the date of issuance, and are conditioned upon the observance of the laws of the state and the rules adopted under this chapter.
2. For any permit application completed after July 1, 1994, the department shall notify the board of county commissioners of a county in which a new solid waste management facility will be located of the department's intention to issue a permit for the facility. The board of county commissioners may call a special election to be held within sixty days after receiving notice from the department to allow the qualified electors of the county to vote to approve or disapprove of the facility based on public interest and impact on the environment. If a majority of the qualified electors voting on the question in the election vote to disapprove of the facility, the department may not issue the permit and the facility may not be located in that county.
3. Notwithstanding subsection 2, if the new solid waste management facility for which the permit application was completed after July 1, 1994, will be owned or operated by a solid waste management authority, a special election to approve or disapprove of a facility may be called only if the boards of county commissioners from a majority of the counties in the solid waste management district call for a special election. However, a special election must be conducted in each county within the authority. If a majority of the qualified electors voting on the question in the election vote to disapprove of the facility, the department may not issue the permit.
4. Subsections 2 and 3 do not apply to a solid waste management facility operated as part of an energy conversion facility or part of a surface coal mining and reclamation operation, if the solid waste management facility disposes of only waste generated by the energy conversion facility or surface coal mining and reclamation operation.

SECTION 16. AMENDMENT. Section 27-19-02 of the North Dakota Century Code is amended and reenacted as follows:

27-19-02. Method of acceptance. Acceptance of jurisdiction may be by either of the following methods:

1. Upon petition of a majority of the enrolled residents of a reservation who are eighteen years of age or older; or
2. The affirmative vote of the majority of the enrolled residents voting on the question who are eighteen years of age or older, at an election called and supervised by the North Dakota Indian affairs commission upon petition of fifteen percent or more of those eligible to vote at such an election.

SECTION 17. AMENDMENT. Section 38-02-02 of the North Dakota Century Code is amended and reenacted as follows:

38-02-02. Width of lode claims - Extension - Reduction. The width of lode claims is one hundred fifty feet [45.72 meters] on each side of the center of the vein or crevice, except that any county, at any general election by a majority of the votes cast on the question at such election, may determine upon a greater width not exceeding three hundred feet [91.44 meters] on each side of the center of the vein or lode. By a like vote, any county may determine upon a width less than that specified in this section, except that a width of less than twenty-five feet [7.62 meters] on each side of the vein or lode is prohibited.

SECTION 18. AMENDMENT. Section 40-02-10 of the North Dakota Century Code is amended and reenacted as follows:

40-02-10. Election returns - To whom made - Duty of board of county commissioners. The election officials acting in each place in which votes are cast in an election held under this chapter shall return to the board of county commissioners which ordered the election a verified statement of the results of the election showing the number of votes cast for and against incorporation at their voting place. The returns shall be verified by the affidavit of the election officials. The returns shall be canvassed by the board of county commissioners, and the results of the canvass and of the election shall be entered upon the minutes of the proceedings of such board. If a majority of the votes cast on the question at the election favored incorporation, the board shall make an order declaring that the territory described in the petition has been incorporated as a city under the council form of government or as a city under the commission system of government, as the case may be, by the name described in the petition, stating that name, and shall cause the order to be entered in the minutes of its proceedings. If the territory is located in more than one county, a certified copy of such order shall be submitted immediately to each of the other counties within which a portion of the territory described in the order is situated. The auditor of each county to which a certified copy of the order is submitted shall make a record thereof in the minutes of the board of county commissioners of such county.

SECTION 19. AMENDMENT. Section 40-02-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-02-11. Division into wards. If a majority of the votes cast on the question at the election provided for in this chapter favored incorporation as a city, the board of county commissioners that ordered the election shall, if the territory has been incorporated as a city under the council form of government, divide the city into wards. The city may not be divided into wards unless it has more than six hundred inhabitants. If the city has more than six hundred inhabitants, one ward must be

formed for each two council members to which the city is entitled. In cities of more than fifteen thousand inhabitants, however, the number of wards is limited to seven originally, and that number may be increased thereafter as provided in this title. Each ward must be formed from contiguous territory, and all wards must be numbered consecutively and must have, as nearly as practicable, the same number of inhabitants. After the election of council members, the governing body of the city shall form or establish wards pursuant to law.

SECTION 20. AMENDMENT. Section 40-04-04 of the North Dakota Century Code is amended and reenacted as follows:

40-04-04. Returns and canvass of election - Certificate to secretary of state - Officers to continue until election. The officials of an election held under the provisions of this chapter shall make a return of such election to the governing body of the city and such governing body shall canvass such returns and cause the result of the canvass to be entered upon the records of the city. If a majority of the votes cast on the question at such election shall be for city organization under the commission system, the auditor shall certify the adoption of such form of government and a copy of the proceedings concerning the same to the secretary of state together with the result of any special census taken in such city. The city officers then in office shall exercise the powers conferred upon like officers of a city operating under the commission system of government until their successors are elected and qualified.

SECTION 21. AMENDMENT. Section 40-04-11 of the North Dakota Century Code is amended and reenacted as follows:

40-04-11. Procedure when election favors changing from commission system of government. If a majority of the votes cast on the question at the election provided for in section 40-04-10 favor the proposition submitted at such election, the officers elected at the next biennial election shall be those prescribed by the provisions of this title relating to cities organized under the city council form of government. Upon the qualification of such officers, the city shall become a city under the council form of government.

SECTION 22. AMENDMENT. Section 40-05.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-07. Amendment or repeal. The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in section 40-05.1-02 and section 40-05.1-04 for the adoption of such charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of such amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted shall likewise be submitted to the electors of the city as set forth in this section.

SECTION 23. AMENDMENT. Section 40-10-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-10-02. Vote required to adopt plan - Effective date. If a majority of the votes cast on the question at the election favors the adoption of the city manager plan, the governing body shall declare the plan adopted, and shall fix the date when

the plan becomes effective. The date must be after the first regular meeting of the governing body in the month of July following the election.

SECTION 24. AMENDMENT. Section 40-10-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-10-08. Election to determine question of retention of city manager plan - Procedure thereafter. At any time after the city manager plan has been in force in any city for a period of five years or more, the governing body of the city may submit at any regular election the question of whether or not such plan shall be retained. If a petition signed by forty percent or more of the qualified electors of the city as shown by the votes cast for the executive officer at the preceding city election, requesting the submission of such question is filed with the city auditor, the governing body shall submit such proposal to the qualified electors of the city at an election to be held within ninety days after the filing of such petition. The signatures to such petition need not be appended to a single paper, but each single paper so used shall clearly state the purpose of the petition at the top of the paper, and each signature shall have been placed thereon not more than ninety days prior to the date on which the petition is filed in the office of the city auditor. Upon each paper one of the qualified electors signing such petition shall, under oath before an officer competent to administer oaths, swear that ~~he~~ that person witnessed the signing of each signature appearing on such paper and that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street and the number of the house in which each petitioner resides, the length of ~~his~~ the petitioner's residence in the state of North Dakota, ~~the length of his residence~~ and in the city, and the date on which the petitioner signed the petition. Any petitioner shall be permitted to withdraw ~~his~~ the petitioner's name from a petition at any time prior to action by the governing body calling the election as provided herein. Such question shall not be submitted more than once in every five years. If a majority of the votes cast on the question at the election shall be against retaining the city manager plan, the city shall revert to the plan in force previous to the adoption of the city manager plan, and the provisions of this chapter shall not be applicable to such city except after another compliance with its terms. The governing body shall fix the date, not less than three months nor more than six months after an election at which the majority vote on the question is against the retention of the city manager plan, when such plan shall cease to be operative in the municipality.

SECTION 25. AMENDMENT. Section 40-33-12 of the North Dakota Century Code is amended and reenacted as follows:

40-33-12. Surplus in municipal utilities fund - How expended. When the governing body of the municipality ~~shall determine~~ determines that there is a cash surplus in the municipal utilities fund over and above any amount necessary to provide adequately for the operation, maintenance, repair, enlargement, alteration, improvement, and extension of the plant or plants, it, ~~in its discretion,~~ may invest the surplus or transfer it or a portion thereof as follows:

1. All or any part of the surplus may be invested by the governing body in interest-bearing bonds of the United States government, the state of North Dakota, or any bonds or special improvement district warrants of the municipality in which the municipal plant is located, and all the principal and interest on the warrants and bonds, when repaid, shall be placed back in the municipal utilities fund; or

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

SECTION 26. AMENDMENT. Section 40-38-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-38-01. Public library and reading room - Establishment - Election. The governing body of any city or county upon petition of not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election or upon a majority vote of the qualified electors thereof voting on the question shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library, or with one or more cities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act [20 U.S.C. 351-358], and acts amendatory thereof. Such question shall be submitted to the qualified electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of qualified electors of the city or county that voted at the last general election, filed with the governing body not less than sixty days before the next regular election. Library service may be discontinued within any city or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

SECTION 27. AMENDMENT. Section 40-49-07.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-49-07.2. Dissolution of city park district - Election.

1. A city park district may be dissolved pursuant to a plan adopted pursuant to this section. A proposal for dissolving a city park district may be initiated:
 - a. By resolution incorporating a dissolution plan, approved by a majority vote of the board of park commissioners and submitted to the governing body of the city; or
 - b. By a petition incorporating a dissolution plan, signed by twenty-five percent or more of the total number of qualified electors of the city park district voting at the last regular city election and submitted to the governing body of the city.
2. The governing body of the city shall submit the question of dissolution to the electors of the park district at any regular city election or primary or general election as specified in the resolution or petition submitted pursuant to subsection 1. The plan incorporated in the resolution or petition is effective and becomes operative according to its terms if a

majority of the qualified electors voting on the question approves the plan.

3. A plan for dissolving a city park district may specify:
 - a. The disposition and maintenance of land and other property acquired by the board of park commissioners of the dissolved park district;
 - b. The manner for payment of any current indebtedness, evidences of indebtedness in anticipation of user fee revenues, bonded indebtedness, and other obligations of the dissolved park district;
 - c. The disposition of any outstanding special assessments or other anticipated revenues;
 - d. The transition in implementing the plan, including elements that consider the reasonable expectations of current officeholders and personnel such as delayed effective dates for implementation; and
 - e. Other considerations and provisions that are consistent with state law.
4. The governing body of the city shall cause the complete text, or a fair and accurate summary, of the plan to be published in the official newspaper of the city, not less than two weeks nor more than thirty days, before the date of the election. The governing body may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose and provisions of the plan.

SECTION 28. AMENDMENT. Section 40-49.1-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-49.1-02. Election on combination plan. If a plan for combining boards of park commissioners is proposed by agreement or petition, the participating or affected boards shall immediately submit the proposed plan to the governing bodies of the affected cities and, if applicable, to the board of county commissioners of any affected county. Those boards shall jointly submit the question of combination to the qualified electors of the affected cities and counties at a primary or general election as specified in the agreement or petition within two years of the initial submission of the agreement or petition, and shall cause the complete text, or a fair and accurate summary, of the plan to be published in the official newspapers of the affected cities and counties, not less than two weeks nor more than thirty days, before the date of the election. The boards of park commissioners may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose and provisions of the plan. The plan incorporated in the agreement or petition is effective and becomes operative according to its terms if a majority of the qualified electors voting on the question in each affected city or county approves the plan.

SECTION 29. AMENDMENT. Section 40-53.1-04 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-04. Dissolution - Vote required - Effect on debts and contracts. If a majority of the votes cast on the question are in favor of dissolution the county commissioners shall, by motion and proclamation, set a date upon which dissolution will become effective and the city shall be dissolved, provided provision has been made for payment of its current indebtedness, contracts, and obligations, and for levying the requisite tax to do so. The current indebtedness, contracts, and obligations do not include funded or bonded indebtedness nor any contract whose termination date is more than one year beyond the date the election was held.

SECTION 30. AMENDMENT. Section 40-53.2-03 of the North Dakota Century Code is amended and reenacted as follows:

40-53.2-03. Municipal consolidation review commission. Upon passage by a simple majority of the votes cast on the question in each of the cities seeking consolidation in the manner provided by section 40-53.2-02, the governing body of each of the cities seeking consolidation shall appoint an equal number of the members of each governing body who shall convene as the municipal consolidation review commission to make a finding as to whether or not there is sufficient reason to further consider consolidation of the cities seeking consolidation. If the commission finds insufficient reason, no further consideration shall be given to the matter of consolidation of the cities. If the commission finds sufficient reason for consolidation, it shall develop a recommended plan of consolidation, holding such hearings on the plan as it deems appropriate. The commission shall submit its recommended plan to the voters of both cities. Upon receiving a majority affirmative vote of the electors of each city, voting on the question at a special election or any regular election, the review commission's recommended plan shall become effective on July first of the next year.

SECTION 31. AMENDMENT. Section 54-40.4-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.4-01. County-city home rule - City participation. One or more counties and one or more cities within each county may frame and adopt a home rule charter to form a single unit of local government pursuant to this chapter. A county-city home rule charter may include a city that participates in proposing the charter if a majority of the qualified electors of the city voting on the question approve the proposed charter.

SECTION 32. AMENDMENT. Subsection 1 of section 54-40.4-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. If a majority of the qualified electors of the county and a majority of the qualified electors of at least one city in the county voting on the question approves the charter, it is ratified and becomes the organic law of the area on the first day of January or July next following the election. However, the proposed charter may condition the approval of the charter on separate approval by any number of specified counties or cities participating in the charter process.

SECTION 33. AMENDMENT. Section 54-40.4-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.4-06. Amendment or repeal - Discontinuance of participation.

1. A county-city home rule charter may be amended or repealed by a proposal submitted by the governing body of the unified county-city government or by a petition filed with the governing body signed by ten percent or more of the total number of qualified electors within the jurisdiction of the county-city government who voted in the last preceding general election. The governing body may appoint a charter commission to draft amendments to the charter. The proposals must be submitted to a vote of the qualified electors of the unified county-city government at the next primary or general election. The voters may accept or reject any amendment or a repeal by a majority vote of the qualified electors of the unified government voting on the question at the election.
2. A participating county or city may discontinue its participation in the unified county-city government by filing with the governing body a petition proposing the action that is signed by ten percent or more of the total number of qualified electors within the county or city. The proposal must be submitted to a vote of the qualified electors at the next primary or general election. The voters may accept or reject the proposal by a majority vote of the qualified electors of the county or city voting on the question at the election.

SECTION 34. AMENDMENT. Section 57-15-08 of the North Dakota Century Code is amended and reenacted as follows:

57-15-08. Tax levy limitations in cities. The aggregate amount levied for general city purposes may not exceed ~~such~~ an amount ~~as will be~~ produced by a levy of thirty-eight mills on the taxable valuation of property in the city; provided, that in cities with a population of over five thousand they be permitted to levy an additional one-half of one mill for each additional one thousand population in excess of five thousand, and provided, further, that the maximum levy for general city purposes may not exceed forty mills, except that ~~cities~~ a city, when authorized by a majority vote of the electors of ~~such cities~~ the city voting on the question upon the submission of such question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of ~~such cities~~ city, may increase the maximum mill levy for general city purposes by not more than ten mills, and that in a city supporting a band or public library an additional levy, not to exceed one mill on the taxable valuation of property in such city, may be made for a band, and an additional levy not to exceed four mills on the taxable valuation of property in such city may be made for a public library.

SECTION 35. AMENDMENT. Section 57-15-12 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12. Tax levy limitations in park districts. In park districts tax levies have the following limitations:

1. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, and levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, may not exceed ~~such an~~ amount ~~as will be~~ produced by a levy of four mills on the dollar of the taxable valuation of the district for the current year.

2. Any park district owning and operating an airport for which no city levy is made, may levy an additional tax, ~~regardless of the foregoing limitations and in addition to the levies hereinbefore provided for~~, of not to exceed four mills on the dollar of the taxable valuation of the district for the current year, such additional tax to be used solely for the purpose of purchasing or acquiring lands necessary for said airport, paying for land previously acquired for said airport, and for operating and maintaining the same.
3. Whenever the board of park commissioners deems it advisable to raise moneys by taxes in excess of the levy herein provided, for any purpose for which the park district is authorized to expend moneys raised by taxes, the board of park commissioners shall submit to the voters of the district the question of increasing the levy by a certain number of mills, but not to exceed fifteen mills, on the dollar of the taxable valuation of the district. When authorized by a majority of the qualified electors of the park district voting on the question at an election in which the question has been submitted, the board may increase the levy in the amount so authorized. This excess levy may be continued from year to year by action of the park board except that if a petition containing the signatures of not less than ten percent of the qualified electors of the park district, as determined by the city auditor of the municipality in which the park district is situated, is presented to the park board requesting an election on the question of continuing the excess levy, that question must be submitted to the qualified electors of the park district at the next regular park district election. If the majority of the qualified electors voting on the question at that election determine not to continue the excess levy, no further excess levy may be made except that the election does not affect the tax levy in the calendar year in which the election is held.

SECTION 36. AMENDMENT. Section 57-15-12.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12.1. City or park district tax levy or service charge for forestry purposes.

1. The governing body of a city or park district may annually levy a tax not in excess of two mills on the taxable valuation of property within the city or park district, for the purpose of providing funds for the establishment, operation, and maintenance of forestry activities within the city or park district. The governing board of a city or park district, upon approval by a majority vote of the qualified electors voting on the question at any citywide or districtwide election, may also annually levy an additional tax not in excess of three mills on the taxable valuation of property within the city or park district, for the purpose of providing funds for forestry activities within the city or park district. Any such tax is in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any such levy may be used for forestry activities, including; ~~but not limited to~~, the following: prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to

provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.

2. In lieu of a mill levy as specified in subsection 1, a city or park district may propose a service charge as an alternative form of financing. Such alternative form of financing must be approved by a majority vote of the qualified electors voting on the question at any general or special citywide or districtwide election. The proceeds of any service charge may be used for forestry activities, as specified in subsection 1.

SECTION 37. AMENDMENT. Section 57-15-12.3 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12.3. Tax levy for parks and recreational facilities. A board of park commissioners established pursuant to chapter 40-49, may levy taxes annually not exceeding the limitation in subsection 5 of section 57-15-12.2 for a fund for the purpose of acquiring real estate as a site for public parks, construction of recreational facilities, renovation and repair of recreational facilities, and the furnishing of recreational facilities. The tax is to be levied, spread, and collected in the same manner as are other taxes in the park district. The question of whether the levy is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent or more of the qualified electors voting in the last regular park district election, if the petition is filed not less than sixty days before the election. If the majority of the qualified electors voting on the question vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors voting on the question at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

¹ **SECTION 38. AMENDMENT.** Section 57-15-14.5 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-15-14.5. Long-distance learning and educational technology levy - Voter approval.

1. The school board of a public school district may, upon approval by a majority vote of the qualified electors of the school district voting on the question at any regular or special election, dedicate a tax levy for purposes of this section not to exceed five mills on the dollar of taxable valuation of property within the district.
2. All revenue accruing from the levy under this section must be used only for purposes of establishing and maintaining long-distance learning and purchasing and maintaining educational technology. For purposes of this section, educational technology includes computer software, computers and computer networks, and other computerized equipment, which must be used for student instruction.

¹ Section 57-15-14.5 was also amended by section 7 of House Bill No. 1146, chapter 175.

3. If the need for the fund terminates, the governing board of the public school district shall order the termination of the levy and shall transfer the remaining balance to the general fund of the school district.

SECTION 39. AMENDMENT. Section 57-15-44 of the North Dakota Century Code is amended and reenacted as follows:

57-15-44. City tax levy for acquiring real estate for public building. The governing body of any city may levy taxes annually, not exceeding the limitation in subsection 22 of section 57-15-10 for a fund which must be used for the purpose of acquiring real estate as a site for public buildings, construction of public buildings, renovation and repair of public buildings, and the furnishing of public buildings, or for a city's participating share in urban renewal programs. The tax is to be levied, spread, and collected in the same manner as are other taxes in the city. Whether the levy shall be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent or more of the qualified electors voting in the last regular city election, the petition to be filed not less than sixty days before the election. If the majority of the qualified electors voting on the question vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors voting on the question at a later regular election on the question of relieving the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

SECTION 40. AMENDMENT. Section 57-15-50 of the North Dakota Century Code is amended and reenacted as follows:

57-15-50. Levy authorized for county ambulance service. Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax not exceeding the limitation in subsection 23 of section 57-15-06.7, for the purpose of subsidizing county ambulance services; provided, that this tax must be approved by a majority of the qualified electors of the county voting on the question at a regular or special countywide election. The county may budget, in addition to its annual operating budget for subsidizing ambulance service, no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent ambulance sinking fund must be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent ambulance sinking fund may not exceed the approved mill levy. If the county contains a rural ambulance service district or rural fire protection district that levies for and provides ambulance service, the property within that district is exempt from the county tax levy under this section upon notice from the governing body of the district to the board of county commissioners of the existence of the district.

SECTION 41. AMENDMENT. Section 57-15-51 of the North Dakota Century Code is amended and reenacted as follows:

57-15-51. Levy authorized for city ambulance service. Upon petition of ten percent of the number of qualified electors of the city voting in the last election for governor or upon its own motion, the governing body of each city in this state shall levy annually a tax of not to exceed five mills upon its taxable valuation, for the purpose of subsidizing city ambulance services; provided, that such tax must be approved by a majority of the qualified electors of the city voting on the question at a regular or special city election. Whenever a tax for county ambulance services is levied by a county, any city levying a tax for, or subsidizing city ambulance services,

shall upon written application to the county board of such county be exempted from such county tax levy. The city may set aside, as a depreciation expense, up to ten percent of its annual ambulance service operating or subsidization budget in a dedicated ambulance sinking fund, deposited with the auditor for replacement of equipment and ambulances. The ten percent ambulance sinking fund may be in addition to the actual annual ambulance budget but the total of the annual ambulance budget and the annual ten percent ambulance fund may not exceed the approved mill levy.

SECTION 42. AMENDMENT. Section 57-15-55 of the North Dakota Century Code is amended and reenacted as follows:

57-15-55. Tax levy for public transportation. The governing body of any city, upon approval by a majority vote of the qualified electors of the city voting on the question at any citywide election, may annually levy a tax not exceeding the limitation in subsection 25 of section 57-15-10 to provide funds for the provision and operation of a public transportation system within the city under a contract approved by the governing body with a private contractor, or by the city itself.

SECTION 43. AMENDMENT. Section 57-15-55.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-55.1. City tax levy for transportation of public school students. The governing body of any city, upon approval by a majority vote of the qualified electors of the city voting on the question at any citywide election, may annually levy a tax on the taxable valuation of property within the city to provide funds for fees charged by a school district pursuant to section 15-34.2-06.1 for transportation for public school students who reside in the city but who attend school in another city in the same school district. A city levying a tax pursuant to this section may levy only so much as will be required to provide an amount representing the difference between the estimated state transportation payment to be received by the school district on behalf of students residing in the city but attending school outside of the city and the estimated actual cost to be incurred by the district in providing transportation for those students.

SECTION 44. AMENDMENT. Subsection 3 of section 57-15-56 of the North Dakota Century Code is amended and reenacted as follows:

3. The levy authorized by this section may be imposed or removed only by a vote of a majority of the qualified electors of the county or city voting on the question directing the governing body to do so. The governing body shall put the issue before the qualified electors either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election, is presented to ~~said~~ the governing body.

SECTION 45. AMENDMENT. Subsection 3 of section 57-15-60 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. The levy authorized by this section may be imposed or removed only by a vote of a majority of the qualified electors voting on the question in an election in the county, city, or park district. The governing body shall put the issue before the qualified electors either on its own motion or when a petition in writing, signed by qualified electors of the county or

city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election, is presented to that governing body.

SECTION 46. AMENDMENT. Section 61-04.1-29 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-29. Creation of weather modification authority by election. When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the establishment of a weather modification authority is presented to the board of county commissioners, not later than forty-five days prior to the next countywide election, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by a majority of the votes cast on the question, the board of county commissioners shall, by resolution, establish a weather modification authority as described in section 61-04.1-23 with all powers set out in this chapter, including the power to certify a tax levy as provided by section 61-04.1-26.

SECTION 47. AMENDMENT. Section 61-04.1-30 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-30. Abolishment of weather modification authority by election. When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for governor in the last preceding gubernatorial election, requesting an election upon the abolishment of a weather modification authority as created in sections 61-04.1-27 and 61-04.1-29 is presented to the board of county commissioners, not later than forty-five days prior to the next countywide election, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by a majority of the votes cast on the question, the board of county commissioners shall abolish the weather modification authority as of December thirty-first following the election. All unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall be deposited in the general fund of the county.

SECTION 48. AMENDMENT. Section 61-04.1-31 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-31. Creation of weather modification authority by vote after resolution of county commissioners. The board of county commissioners of any county may, by resolution after a public hearing, submit the question of the creation of a weather modification authority to the electors of the county at the next countywide election. Upon approval by a majority of the votes cast on the question, the board of county commissioners shall pass a resolution creating a weather modification authority, as described in section 61-04.1-23. Such an authority shall have all powers provided by this chapter, including the authority to levy a tax as provided by section 61-04.1-26.

Approved March 23, 1997
Filed March 24, 1997

CHAPTER 109

HOUSE BILL NO. 1255

(Representative Belter)
(Senator Christmann)

COUNTY GOVERNING BODY RESIDENCY REQUIREMENT

AN ACT to create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to the residency of appointed members of county boards, commissions, or committees; and to amend and reenact subsection 2 of section 63-01.1-04 of the North Dakota Century Code, relating to the residency of members of county weed boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

Board members must reside in taxing district. Unless otherwise provided by law, an appointed member of a county board, commission, or committee that has authority to levy taxes must be a resident of the area subject to taxation by the board, commission, or committee.

SECTION 2. AMENDMENT. Subsection 2 of section 63-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. The board of county commissioners shall establish the number of members of the board and shall establish board member areas. Each board member area must be contiguous. The board of county commissioners shall appoint a county weed board consisting of five or seven members. Members shall serve for a term of four years or until their successors are appointed and qualified. The terms of members must be staggered so that the terms of no more than two members expire each year. Any qualified elector in the board member area subject to taxation is eligible to represent that area on the board. In each county encompassing a city with a population of five thousand or more, one board member must be appointed from within the city limits of that city unless the city has established a city weed control program pursuant to section 63-01.1-10.1.

Approved March 23, 1997

Filed March 24, 1997

CHAPTER 110**SENATE BILL NO. 2370**

(Senators Kinnoin, Lee)
(Representatives Delmore, Devlin, Huether)

**COMMENCEMENT OF COUNTY COMMISSIONER
TERMS**

AN ACT to create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to terms of office for county commissioners; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

When terms of county commissioners commence. The regular term of office of each county commissioner, when the commissioner is elected for a full term, commences on the first Monday in December next succeeding the officer's election and each such commissioner shall qualify and enter upon the discharge of the commissioner's duties on or before the first Monday in December next succeeding the date of the commissioner's election or within ten days thereafter. If a commissioner is elected to fill an unexpired commission term held by an appointee, such officer may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the first Monday in December next succeeding the date of the commissioner's election to the unexpired term of office.

SECTION 2. EFFECTIVE DATE. This Act is effective for any full term of office of a county commissioner beginning after July 31, 1997.

Approved March 19, 1997
Filed March 19, 1997

CHAPTER 111

HOUSE BILL NO. 1420

(Representatives Soukup, Tollefson, Carlson)
(Senators Kinnoin, Nalewaja, Watne)

CLERK OF COURT FEES

AN ACT to amend and reenact subsection 1 of section 11-17-04 and section 14-03-22 of the North Dakota Century Code, relating to the fee for filing, depositing, or registering certain documents with the clerk of court and for performing marriage ceremonies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

² **SECTION 1. AMENDMENT.** Subsection 1 of section 11-17-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Ten dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14.
 - (3) For all other filings, fourteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - b. For filing an answer to a case that is not a small claims action, fifty dollars.
 - c. For filing a small claims action in district court, ten dollars.
 - d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ~~five~~ ten dollars.
 - e. For preparing, certifying, issuing, or transmitting any document, ~~five~~ ten dollars; or ~~such a~~ lesser fee as may be set by a ~~schedule to be promulgated~~ by the state court administrator.

² Section 11-17-04 was also amended by section 8 of Senate Bill No. 2002, chapter 31, and section 9 of Senate Bill No. 2002, chapter 31.

- f. For filing a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.
- g. For filing an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars.

SECTION 2. AMENDMENT. Section 14-03-22 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-03-22. Marriage license fee - Supplemental fee - Fee for marriage ceremony - Duties of officers. For the issuance and filing of a marriage license, the clerk of district court shall collect the sum of six dollars from the party applying for the license. The clerk shall also collect from the applicant a supplemental fee of twenty-nine dollars for aid to victims of domestic violence through the domestic violence prevention fund in accordance with chapter 14-07.1. ~~The clerk shall deposit the~~ For performing a marriage ceremony during regular courthouse hours, the clerk shall collect a fee of thirty dollars which is to be retained by the county. If the marriage ceremony is performed by the clerk at a time other than during regular courthouse hours, the clerk may collect and retain a fee in an amount to be determined by the clerk. Except as provided in this section, all collected sums fees must be deposited monthly with the county treasurer. The county treasurer shall forward the amount represented by supplemental fees to the state treasurer by the fifteenth of each month for crediting to the domestic violence prevention fund. The clerk shall prepare a copy of the license and certificate and transmit them to the registrar of vital statistics who shall record them in a book of records kept in the registrar's office for that purpose. The registrar shall index the records and upon request shall issue certified copies of the recorded license and certificate for a one dollar fee. The registrar shall keep an accurate account of these fees and shall turn them over to the state treasurer by the fifteenth of each month for crediting to the general fund.

Approved March 13, 1997
Filed March 13, 1997

CHAPTER 112

HOUSE BILL NO. 1247

(Representative Sveen)

RECREATION SERVICE DISTRICT COMMISSIONER COMPENSATION

AN ACT to amend and reenact section 11-28.2-02 of the North Dakota Century Code, relating to compensation of members of boards of recreation service district commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.2-02 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-02. Meetings of recreation service districts - Election of board. The first meeting of the recreation service district ~~shall~~ must be held within thirty days after the district is organized at a time and place designated by the board of county commissioners. At ~~such~~ the meeting, the qualified voters, as defined in section 11-28.2-03, shall elect not less than five qualified voters of the district to serve as members of the board of recreation service district commissioners. Each member elected and qualified shall serve until the first annual meeting of the district. The voters of the district shall assemble and hold an annual meeting during the month of June of each year, at a time and place within the county designated by the board of recreation service district commissioners. In addition to the annual meeting, the board of recreation service district commissioners may call a special meeting of the voters of the district at ~~such~~ the time and place ~~as the board may select~~ selects. For any annual or special meeting, the board shall publish notice of the meeting not less than fifteen days ~~prior to~~ before the meeting in the official county newspaper of the county in which the district is located and the notice ~~shall~~ must be mailed ~~by regular mail~~ to property owners of the district as recorded in the county treasurer's office in which the district is located not less than fifteen days ~~prior to~~ before the meeting. ~~Not less~~ No fewer than five qualified voters of the district ~~shall~~ must be elected to serve on the board of recreation service district commissioners at the annual meeting. Each member ~~so~~ elected shall serve a term of three years, until a successor is elected and qualified. The term of each member ~~shall~~ must be established so that the term of approximately one-third of the members ~~shall~~ terminate each year. The members of ~~such~~ the board ~~shall serve without~~ are entitled to receive compensation in an amount of no more than twenty-five dollars per meeting of the board, as determined by the board.

Approved March 7, 1997
Filed March 10, 1997