

# MUNICIPAL GOVERNMENT

## CHAPTER 405

HOUSE BILL NO. 1079  
(Legislative Council)  
(Interim Political Subdivisions Committee)

### INCORPORATION REQUISITES

AN ACT to create and enact a new section to chapter 40-02 of the North Dakota Century Code, relating to appeals from final actions by boards of county commissioners on petitions for incorporation; and to amend and reenact sections 40-02-01, 40-02-02, 40-02-04, 40-02-05, 40-02-06, 40-02-07, 40-02-10, 40-02-11, and 40-02-12 of the North Dakota Century Code, relating to the requisites of incorporation as a city, requirement of census, examination of survey, map, and census, notice of petition, petition for incorporation, notice of election, election returns, division of new city, and order of incorporation.

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

SECTION 1. AMENDMENT. Section 40-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-01. REQUISITES OF FOR INCORPORATION AS CITY. Any contiguous territory in this state, not exceeding four square miles in area, not already included within the corporate limits of any incorporated municipality, may become incorporated as a city whether such territory is located in one or more counties, under the following conditions:

1. If ~~such~~ the territory ~~shall have~~ has residing therein a population of not less ~~than fifty~~ than more than five hundred inhabitants, it may become incorporated as a city under the council or modern council form of government.
- 2- If ~~such~~ the territory ~~shall have~~ has residing therein a population of not less than five hundred inhabitants, it may become incorporated as a city under the council or modern council form of government, or as a city under the commission system of government.
2. If the proposed municipal corporation has, in the view of the board of county commissioners of the county in which

the proposed municipal corporation is located, all the qualities necessary to ensure continued viability as a functioning unit of municipal government.

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

40-02-02. CENSUS REQUIRED. Prior to the commencement of any proceedings to incorporate territory as a municipality, the persons intending to make submit the petition for ~~sueh~~ incorporation shall cause ~~an-accurate~~ a census of the resident population of ~~sueh~~ the territory to be ~~taken as--of--some--day~~ not more than sixty days previous to the time when the petition is ~~presented~~ submitted to the board of county commissioners as provided in this chapter. ~~Sueh~~ The census shall show the name of every elector and of every head of a family residing within ~~sueh~~ the territory on ~~sueh~~ that day and the number of persons then belonging to ~~sueh~~ that family, and the census shall be verified by the affidavit of the person taking ~~the-same~~ it.

SECTION 3. AMENDMENT. Section 40-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-04. SURVEY, MAP, AND CENSUS SUBJECT TO EXAMINATION - NOTICE. The survey, map, and census required under the provisions of this chapter, when completed and verified, shall be left for a period of not less than thirty days at some convenient place within the territory described therein for examination by those having any interest in the application for incorporation. There shall be attached to such survey, map, and census a notice ~~as-to-the~~ which explains:

1. The purpose of the map, survey, and census and-that-an application-by;
2. That a petition for incorporation is to be made circulated and will be presented-fer-hearing submitted to the board of county commissioners at a time certain as specified in the notice-;
3. That upon receipt of the petition the board of county commissioners will designate a time and place to consider the petition; and
4. That a notice of the time and place for the hearing will be published once a week for two weeks prior to the hearing in the official county newspaper and in other newspapers as the board of county commissioners may deem appropriate.

Copies of such notice, together with a statement showing where the survey, map, and census may be examined, shall be posted for at least thirty days in three conspicuous and public places within the territory to be affected.

SECTION 4. AMENDMENT. Section 40-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-05. PETITION FOR INCORPORATION - CONTENTS - CENSUS AND SURVEY TO ACCOMPANY. A petition for the incorporation of a municipality under this chapter shall be addressed to the board of county commissioners of the county in which the proposed municipality is located and if such municipality is located in more than one county, to the board of county commissioners of the county wherein the greater part of the territory is situated, and shall be signed by not less than one-third of the electors residing within the territory described in such petition, and by the owners of not less than fifty percent in assessed value of the property located within the territory described in such petition. ~~sueh~~

1. The petition shall show:

- 1- a. The boundaries of the proposed municipality, and the assessed valuation of all property located within such boundaries;
- 2- b. The number of inhabitants residing within such boundaries;
- 3- c. The name of the proposed municipality, which shall be different from that of every other municipality in this state;
- 4- d. A ~~prayer~~ request that the question of incorporating the territory described in the petition as a city under the council form of government or a city under the commission system of government, as the case may be, be submitted to the qualified voters residing within ~~sueh~~ the territory.

2. The petition, when submitted, shall be accompanied by:

- a. An incorporation plan showing how municipal services, including fire and police protection, street construction and maintenance, sewers, water, garbage disposal, planning, zoning, accounting, assessment, financing, and legal services, will be provided; and
- b. Any other information that may reasonably be required by the board of county commissioners to whom the petition is addressed including, but not limited to, population, population density, per capita assessed valuation, proximity to populated areas, likelihood of significant growth, need for services, present cost and adequacy of services, and effect of proposed action and alternative actions on adjacent areas.

The petition shall be filed in the office of the county auditor, accompanied by a verified copy of the census required under this

chapter and by a duplicate map of the survey of the proposed municipality, and shall be ~~presented~~ submitted to the board of county commissioners at the time indicated in the notice described in section 40-02-04 or as soon thereafter as the board can receive and consider the same. The board of county commissioners to whom the petition is addressed shall designate a time and place for consideration of the petition and shall notify the petitioners of that time and place. The petitioners shall then cause a notice containing the substance of the petition, and the time and place it will be heard to be published once a week for two consecutive weeks in the official county newspaper or newspapers of the county or counties and in other newspapers as deemed appropriate by the board of county commissioners of each county embracing the territory to be incorporated.

SECTION 5. AMENDMENT. Section 40-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-06. BOARD OF COUNTY COMMISSIONERS TO CONSIDER PETITION. Before hearing the petition, the board of county commissioners shall require proof, either by affidavit or by oral examination of witnesses before it, that notice as required by section 40-02-05 was given and that the survey, map, and census were subject to examination in the manner and for the period required by this chapter. All interested persons shall have the opportunity to comment at the hearing. The board shall have the authority to approve or disapprove, with or without amendment, the petition for incorporation. Before taking action on a petition, the board may consider such factors as the permanent nature of the community, the necessity for incorporation shown by the community, the ability of the community to assume municipal responsibilities, and the showing that the burdens and benefits of incorporation will be equal and just.

The board of county commissioners shall make a written record of its findings on each of the assertions contained in the petition and shall provide any interested person with a copy of those findings. If the board is satisfied that the ~~provisions--of--this chapter--have--been--fully--complied--with~~ petition should be approved, it shall make an order fixing the time and the places within the boundaries of the proposed municipality at which an election may be held to determine the question of incorporation as ~~prayed--for~~ requested in the petition. If the territory described in the petition is located in more than one county, the board shall, after consultation with the board of the other county involved, designate a separate election place in each county in which any part of the territory described in the petition is situated. The board shall name the persons to act as judges of the election in each such election place.

SECTION 6. AMENDMENT. Section 40-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-07. NOTICE OF ELECTION. The board of county commissioners to which a petition is addressed submitted under this chapter shall give notice of the election ~~to be held to determine on the question whether or not the municipality described in the petition shall be organized.~~ ~~Such~~ ~~The~~ notice shall be ~~given by publication of the same published in one issue of a newspaper or newspapers published within the territory described in the petition,~~ and such publication shall be made at least ten days prior to the date set for ~~such~~ the election. If no newspaper is published within ~~such~~ the territory, ~~such~~ the notice shall be published in the official county newspaper ~~or newspapers and in other newspapers as deemed appropriate by the board of county commissioners of each county embracing the territory to be incorporated.~~

SECTION 7. AMENDMENT. Section 40-02-10 of the North Dakota Century Code is hereby amended and reenacted to read 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 ~~to~~ at their voting place. ~~Such~~ 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 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 ~~such~~ that name, and shall cause ~~such~~ 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 8. AMENDMENT. Section 40-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-11. DIVISION INTO DISTRICTS-OR WARDS. ~~After-the-return of-the-election-provided-for-in-this-chapter,-if~~ If a majority of the votes cast at ~~such~~ the election ~~provided for in this chapter~~ favored incorporation as a municipality, the board of county commissioners which ordered the election shall, ~~if the territory has been incorporated as a city under the council form of government,~~ proceed to divide the municipality into districts--or wards as follows:

~~1.--If the territory has been incorporated as a city under the council form of government, it. The city shall not be divided into wards unless it has more than six hundred inhabitants, and if it has more than six hundred inhabitants, one ward shall be formed for each two aldermen to which the city is entitled. In cities of more than fifteen thousand inhabitants, however, the number of wards shall be limited to seven originally, and such number may be increased thereafter as provided in this title.~~

~~2.--If the territory has been incorporated as a city under the commission system of government, it shall be divided into not less than three nor more than seven wards.~~

Each ~~district or~~ ward shall be formed from contiguous territory, and all ~~districts or~~ wards shall be numbered consecutively and shall have, as nearly as practicable, the same number of inhabitants. After the election of aldermen ~~or commissioners, as the case may be,~~ it shall thereafter be the duty of the governing body of the city to form or establish wards ~~and election districts~~ pursuant to law.

SECTION 9. AMENDMENT. Section 40-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-12. ORDER OF INCORPORATION - RECORDING - FILING - AS EVIDENCE. An order ~~or of~~ incorporation of a city under the council form of government, under the provisions of this chapter, as made by the board of county commissioners to which the petition for incorporation is addressed, shall be conclusive evidence of the incorporation of the territory described in the order in all suits by or against the municipality described therein. The board shall cause a certified copy of ~~such~~ the order to be filed for record in the office of the register of deeds of each county affected and a certified copy ~~thereof~~ shall also be filed in the office of the secretary of state.

SECTION 10. A new section to chapter 40-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPEAL OF BOARD OF COUNTY COMMISSIONERS' ACTION - SCOPE OF REVIEW. Any final action taken by a board of county commissioners on a petition for incorporation may be appealed to the district court. The review on appeal shall extend only to the determination of whether the board of county commissioners has pursued its authority regularly and has not exceeded its jurisdiction or abused its discretion under the provisions of this chapter.

Approved March 3, 1981

## CHAPTER 406

SENATE BILL NO. 2286  
(Senator Lashkowitz)  
(Representative Swiontek)

## COMMISSION FORM OF GOVERNMENT

AN ACT to amend and reenact sections 40-04-08 and 40-04-10 of the North Dakota Century Code, relating to procedures for changing from a commission system of city government.

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

SECTION 1. AMENDMENT. Section 40-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-08. CHANGE FROM OR REVERSION TO COMMISSION SYSTEM OF GOVERNMENT - PETITION REQUIRED. Any city which shall have operated for more than six years under or since changing from the city commission system of government may change its governmental organization thereunder and adopt the city council form of government or the modern council form of government or revert to the city commission form of government. The proceeding to change or revert shall be initiated either by a resolution by the governing body or by a petition asking for such change signed by not less than ~~forty~~ twenty-five percent of the qualified electors of the city. In no event, however, shall the petition contain less than thirty signatures. In any city having six or more municipal election precincts, not more than twenty percent of the petitioners may reside in any single precinct. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting for the office of the chief executive officer of the city at the preceding general city election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be and that such person purports to be not less than eighteen years of age and a resident of the city. Each petition, in addition to the names of the signers, shall contain the name of the street upon and the number of the house in which each petitioner resides, ~~and the length of his residence in the city.~~ Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed. If the proceeding to change from or revert to a

commission system of government is initiated by petition, the question may not be placed on the ballot more often than every four years.

SECTION 2. AMENDMENT. Section 40-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-10. PROCEDURE WHEN PETITION TO CHANGE FROM OR REVERT TO COMMISSION SYSTEM OF GOVERNMENT IS FILED - ~~SPECIAL-ELECTION ELECTION~~ - BALLOT. When a petition to change from or revert to the commission system of government, together with the city auditor's certificate of sufficiency, is filed with the governing body of a municipality, city, or when a resolution to change or revert has been adopted, the governing body shall call a special election at which only the question of changing from or reverting to the commission system of government will be submitted. The date of such election shall not be less than ~~thirty~~ sixty days nor more than ninety days after the date of the auditor's certificate that a sufficient petition has been filed. ~~The--election--shall--be conducted--returns--thereof--made--and--the--result--thereof--declared--in all--respects--as--are--other--city--elections--~~ Notice of such election shall be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of such election. The ballot to be used at the election ~~provided for in this section~~ shall be include the issue presented in the petition or resolution in substantially one of the following ~~form~~ forms:

CHANGE FROM COMMISSION SYSTEM OF GOVERNMENT

Shall the city of ----- change from its organization under the commission system of government and become a city under the council form of government?

Yes / /

No / /

Shall the city of ----- change from its organization under the commission system of government and become a city under the modern council form of government with a five-man council?

Yes / /

No / /

Shall the city of ----- change from its organization under the commission system of government and become a city under the modern council form of government with a seven-man council?

Yes / /

No //

Shall the city of ----- change from its organization under the commission system of government and become a city under the modern council form of government with an eleven-man council?

Yes //

No //

REVERSION TO COMMISSION SYSTEM OF GOVERNMENT

Shall the city of ----- revert from the council form of government to the commission system of government?

Yes //

No //

Shall the city of ----- revert from the modern council form of government with a five-man council to the commission system of government?

Yes //

No //

Shall the city of ----- revert from the modern council form of government with a seven-man council to the commission system of government?

Yes //

No //

Shall the city of ----- revert from the modern council form of government with an eleven-man council to the commission system of government?

Yes //

No //

Approved March 31, 1981

## CHAPTER 407

HOUSE BILL NO. 1480  
(Metz)

## CONTROL OF FINANCES

AN ACT to amend and reenact subsection 2 of section 40-05-01 of the North Dakota Century Code, relating to the powers of municipalities to control finances.

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

SECTION 1. AMENDMENT. Subsection 2 of section 40-05-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Finances and property. To control the finances, to make payment of its debts and expenses, to contract debts and borrow money, to establish charges for any city or other services, and to control the property of the corporation.

Approved March 3, 1981

## CHAPTER 408

HOUSE BILL NO. 1241  
(E. Pomeroy)

MARIJUANA POSSESSION PROHIBITION  
BY ORDINANCE

AN ACT to create and enact a new subsection to section 40-05-02 of the North Dakota Century Code to allow cities to prohibit by ordinance the possession of not more than one-half ounce of marijuana.

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

SECTION 1. A new subsection to section 40-05-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Marijuana possession. To prohibit by ordinance any person, except a person operating a motor vehicle, from possessing not more than one-half ounce [14.175 grams] of marijuana, as defined by section 19-03.1-01, within the jurisdiction of a city, and to prescribe the punishment, provided the penalty assessed shall be subject to subsection 4 of section 19-03.1-23.

Approved March 11, 1981

# CHAPTER 409

SENATE BILL NO. 2064  
(Legislative Council)  
(Interim Judiciary "A" Committee)

## ORDINANCE VIOLATION SENTENCING ALTERNATIVES

AN ACT to amend and reenact sections 40-05-06 and 40-18-13 of the North Dakota Century Code, relating to the maximum fines and penalties which may be imposed for the violation of a municipal ordinance and the imposition of alternative sentences or suspended sentences.

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

SECTION 1. AMENDMENT. Section 40-05-06 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

### 40-05-06. CITY FINES AND PENALTIES LIMITED.

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city shall not exceed five hundred dollars, and the imprisonment shall not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which shall not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.
3. For every violation of a city ordinance prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by section 12.1-32-02 for the violation of a city

ordinance, nor shall this section limit the use of deferred or suspended sentences pursuant to chapter 12-53.

SECTION 2. AMENDMENT. Section 40-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-13. SENTENCING ALTERNATIVES - SUSPENSION OF SENTENCE OR IMPOSITION OF SENTENCE. A Subject to section 40-05-06, a municipal judge may utilize the sentencing alternatives provided by section 12.1-32-02 and may suspend any sentence imposed by him or suspend the imposition of any sentence during the good behavior of the any person ~~se-sentenced~~ adjudged to have committed an offense, or for other reasonable cause, pursuant to chapter 12-53.

Approved March 5, 1981

## CHAPTER 410

HOUSE BILL NO. 1589  
(Boyum)

### PRIVATE GARBAGE COLLECTION CONTRACTS

AN ACT to permit garbage collection by more than one contractor in cities with a population of five thousand or more persons.

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

SECTION 1. GARBAGE REMOVAL - NUMBER OF CONTRACTORS ALLOWED.  
In any city with a population of not less than five thousand persons, the governing body shall, if permitted by ordinance or by law to allow more than one person or firm to contract with commercial enterprises for the private collection or removal of garbage, allow all persons or firms wishing to do so to enter into private garbage removal contracts with commercial enterprises.

Approved April 6, 198:

## CHAPTER 411

HOUSE BILL NO. 1274  
 (Representatives Wentz, Lang, Mattson)  
 (Senators Leibhan, Wright)

## ALDERMEN'S COMPENSATION INCREASED

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

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

SECTION 1. AMENDMENT. Section 40-08-07 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-07. COMPENSATION OF ALDERMEN. The aldermen shall receive such compensation for their services as shall be fixed by ordinance, but ~~such~~ 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~~ two thousand in population, to each alderman not to exceed ~~thirty~~ fifty dollars per month.
2. In cities over ~~one~~ two thousand and not exceeding ~~two~~ six thousand in population, to each alderman not to exceed ~~forty~~ ninety dollars per month.
3. In cities over ~~two~~ six thousand and not exceeding ~~four~~ thirty thousand in population, to each alderman not to exceed ~~fifty~~ one hundred seventy-five dollars per month.
4. ~~In cities over four thousand and not exceeding six thousand in population, to each alderman not to exceed seventy dollars per month.~~
5. ~~In cities over six thousand and not exceeding eight thousand in population, to each alderman not to exceed ninety dollars per month.~~

- ~~6. In cities over eight thousand and not exceeding twelve thousand in population, to each alderman not to exceed one hundred twenty-five dollars per month.~~
- ~~7. In cities over twelve thousand and not exceeding thirty thousand in population, to each alderman not to exceed one hundred fifty dollars per month.~~
8. In cities having a population of over thirty thousand, to each alderman not to exceed one hundred seventy-five four hundred dollars per month.

Approved March 11, 1981

# CHAPTER 412

SENATE BILL NO. 2065  
(Legislative Council)  
(Interim Judiciary "A" Committee)

## ORDINANCE VIOLATION PENALTY DEPOSIT

AN ACT to amend and reenact section 40-11-13 of the North Dakota Century Code, relating to the disposition of fines and forfeitures imposed for the violation of municipal ordinances.

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

SECTION 1. AMENDMENT. Section 40-11-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-11-13. FINES AND FORFEITURES FOR VIOLATION OF ORDINANCES PAID INTO MUNICIPAL TREASURY. All fines, penalties, and forfeitures collected for offenses against the ordinances of a municipality, including those fines, penalties and forfeitures collected as a result of a judgment of a district court or county court of increased jurisdiction rendered pursuant to section 40-18-19, shall be paid into ~~its~~ the municipality's treasury at such time and in such manner as may be prescribed by ordinance.

Approved March 6, 1981

## CHAPTER 413

HOUSE BILL NO. 1458  
(Meiers, Boyum)

## MUNICIPAL JUDGE'S ELECTION OPTIONAL

AN ACT to amend and reenact sections 40-14-01 and 40-15-01 of the North Dakota Century Code, relating to the election of municipal judges.

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

SECTION 1. AMENDMENT. Section 40-14-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

~~3. A municipal judge.~~

Each city operating under the council form of government may choose to have a municipal judge who shall be elected.

SECTION 2. AMENDMENT. Section 40-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-15-01. OFFICERS TO BE ELECTED IN COMMISSION CITIES. The following officers shall be elected in each city operating under the commission system of government:

1. A president of the board of city commissioners; and
2. Four city commissioners; ~~and~~

~~3. A municipal judge.~~

Each city operating under the commission system of government may choose to have a municipal judge who shall be elected.

Approved March 20, 1981

## CHAPTER 414

SENATE BILL NO. 2423  
(Lashkowitz, Stenehjem)

## MUNICIPAL COURT APPEAL BOND REQUIREMENT

AN ACT to amend and reenact section 40-18-19 of the North Dakota Century Code, relating to bail bonds on appeals from municipal court determinations.

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

\* SECTION 1. AMENDMENT. Section 40-18-19 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-19. APPEALS FROM DETERMINATIONS OF MUNICIPAL JUDGE. An appeal may be taken to the district court or to the county court of increased jurisdiction as provided for in section 27-08-21 from a judgment of conviction in a municipal judge's court in the same form and manner as appeals are taken ~~and perfected~~ from a judgment of conviction of a defendant in county justice court, and in accordance with sections 33-12-34, ~~33-12-35~~, and 33-12-39, and shall be tried in the district court or county court of increased jurisdiction in accordance with ~~sections 33-12-40 and section 33-12-41 and bail shall be taken in accordance with sections 33-12-36 and 33-12-37, and witnesses may be placed under bond as provided for in section 33-12-38.~~ An appeal shall be perfected by notice of appeal. No appeal, bail, or supersedeas bond may be required on an appeal from a determination in a municipal judge's court. On all appeals from a determination in a municipal judge's court the court shall take judicial notice of all of the ordinances of the city. No filing fee shall be required for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance.

Approved March 25, 1981

- \* NOTE: Section 40-18-19 was also amended by section 99 of House Bill No. 1061, chapter 320, and by section 30 of House Bill No. 1069, chapter 91.

## CHAPTER 415

HOUSE BILL NO. 1293  
(Unhjem)

## SPECIAL ASSESSMENT REQUIREMENTS

AN ACT to amend and reenact sections 40-22-15 and 40-24-07 of the North Dakota Century Code, relating to exemption of sewer and water improvements from the requirement of issuing a resolution of necessity, and the time period for payment of special assessments for street improvements.

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

SECTION 1. AMENDMENT. Section 40-22-15 of the 1979 Supplement to 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 MAINS 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. ~~Such a~~ resolution shall not be required, however, if the improvement ~~consists of the construction or alteration of sewer or water mains~~ 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 40-24-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-07. STREET IMPROVEMENT ASSESSMENTS EXTENDED OVER A PERIOD OF NOT MORE THAN ~~TEN~~ THIRTY YEARS. Special assessments for the expense of opening, widening, grading, graveling, or extending streets shall be payable in equal annual amounts extending over a period of not more than ~~ten~~ thirty years.

Approved April 1, 1981

# CHAPTER 416

HOUSE BILL NO. 1254  
(Black, Gates)

## INTEREST ALLOWABLE ON SPECIAL ASSESSMENTS

AN ACT to amend and reenact sections 40-24-02, 40-29-11, 40-33-05, and 40-54-08 of the North Dakota Century Code, relating to interest allowable on special assessments levied by cities and also special assessments for sidewalks, municipal utilities, and gravel surfacing of city streets.

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

\* SECTION 1. AMENDMENT. Section 40-24-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-02. PAYMENT OF SPECIAL ASSESSMENTS WHEN DUE AND PAYABLE - INTEREST. All special assessments levied under ~~the provisions of~~ this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at a an annual rate of not exceeding eight percent per annum or not exceeding two percentage points above the average net annual interest rate on any warrants or bonds for the payment of which they are pledged, ~~whichever is higher,~~ on the total amount thereof remaining ~~from time to time~~ unpaid.

SECTION 2. AMENDMENT. Section 40-29-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-11. EXTENSION OF PAYMENT OF ASSESSMENTS - MAY BE PAID IN SINGLE INSTALLMENT INTEREST. All assessments for sidewalks shall be payable in equal annual amounts extending over a period of not exceeding ten years and shall bear interest at a an annual rate of not more than seven percent per annum on two percentage points above the average net annual interest rate on any warrants for the total amount of such the assessments remaining from time to time unpaid. Anyone ~~who chooses to~~ may pay the sidewalk assessment in one single payment ~~may do so,~~ and anyone who has paid any one or more installments may pay the balance in one payment.

\* NOTE: Section 40-24-02 was also amended by section 11 of Senate Bill No. 2122, chapter 269.

\* SECTION 3. AMENDMENT. Section 40-33-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-05. PAYMENT OF COST OF PLANT, SYSTEM, OR LINE BY SPECIAL ASSESSMENT WARRANTS - ~~REGULATIONS--GOVERNING PAYMENT OF ASSESSMENTS - INTEREST.~~ If the governing body of the municipality deems it advisable to pay the whole or any part of the cost of a municipal utility by special assessment warrants, it shall create a special assessment district by ordinance, ~~and--such.~~ The district shall include, as nearly as may be determined, all of the property in the municipality which will be benefited by the improvement, and ~~such--district~~ may include the entire municipality or a portion thereof. The governing body thereafter shall adopt a resolution of necessity and hold a hearing thereon, estimate the amount of the cost of the improvement, let a contract or contracts therefor, create a fund for the district, issue and sell the warrants of the municipality drawn on the fund, complete the work of the improvement, and assess the property benefited thereby ~~in the form and upon the notice and in the form and~~ manner specified by the provisions of chapters 40-22 through 40-26 insofar as such provisions are applicable to an improvement being made under this chapter. The special assessments levied shall be payable in equal annual installments extending over a period of not more than twenty years and shall bear interest at a an annual rate of not more than seven-percent-annually-on two percentage points above the average net annual interest rate on any warrants for the total amount of the assessments remaining unpaid from-time-to-time.

SECTION 4. AMENDMENT. Section 40-54-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-54-08. PAYMENT OF ASSESSMENTS - ~~EFFECT INTEREST.~~ All assessments for gravel projects shall be payable in equal annual amounts extending over such period as may be determined by the governing body, not exceeding three years, and shall bear interest at a an annual rate of not more than six-percent-per-annum-on two percentage points above the average net annual interest rate on any warrants for the total amount of such the assessments remaining from time-to-time unpaid. Anyone ~~who chooses to~~ may pay such assessments in one single payment ~~may-do-so,~~ and anyone who has paid any one or more installments may pay the balance in one payment. When the assessment against any lot or tract ~~shall-have~~ has been paid, the lien against ~~said the~~ lot or tract shall be canceled and annulled.

Approved March 11, 1981

\* NOTE: Section 40-33-05 was also amended by section 15 of Senate Bill No. 2122, chapter 269.

## CHAPTER 417

HOUSE BILL NO. 1655  
(Representatives Strinden, Kloubec)  
(Senator Hanson)  
(Approved by the Committee on Delayed Bills)

## MUNICIPAL PIPELINE AUTHORITY

AN ACT to create and enact chapter 40-33.3 of the North Dakota Century Code, relating to the creation and powers of a municipal pipeline authority; and to amend and reenact section 6-09.4-02, subsections 5 and 6 of section 6-09.4-03, and sections 6-09.4-06 and 6-09.4-08 of the North Dakota Century Code, relating to the lending and bonding authority of the municipal bond bank within the Bank of North Dakota.

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

SECTION 1. AMENDMENT. Section 6-09.4-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-02. LEGISLATIVE POLICY. It is declared to be the policy of the state of North Dakota to foster and promote the provision of adequate capital markets and facilities for borrowing money by political subdivisions and for the financing of their respective public improvements. It is in the public interest to encourage political subdivisions to continue their independent undertakings of public improvements and the financing thereof by making funds available at reduced interest costs, especially during periods of restricted credit or money supply. Current credit and municipal bond market conditions require the exercise of the powers of the state to further and implement such policies by authorizing a state instrumentality to be created to borrow money and to issue its bonds to make funds available at reduced rates and on favorable terms for borrowing by political subdivisions through the purchase or holding of the--bonds marketable securities of political subdivisions in fully marketable form or in another form adequate to secure bonds issued by the state instrumentality and by granting broad powers to accomplish and to carry out the policies of the state.

SECTION 2. AMENDMENT. Subsections 5 and 6 of section 6-09.4-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

5. "Municipal security" means a bond or evidence of debt issued by a political subdivision and payable from taxes or from rates, charges, or assessments, but shall does not include bonds issued pursuant to chapter 40-57, and also means a pledge of property or revenues by a municipal pipeline authority.
6. "Political subdivision" means a county, city, school district, township, park district, airport authority, city or county housing authority, municipal parking authority, municipal pipeline authority, irrigation district, board of drainage commissioners, fire protection district, or water management resource district.

SECTION 3. AMENDMENT. Section 6-09.4-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-06. LENDING AND BORROWING POWERS GENERALLY. The bond bank is authorized to lend money to political subdivisions through the purchase of municipal securities of political subdivisions which, in the opinion of the attorney general, are legally sufficient. The bond bank is authorized to lend money to political subdivisions through the holding of municipal securities of political subdivisions which are in the form of a pledge of property or revenues of a project where the political subdivisions are expressly authorized to pledge the property or revenues with the bond bank. The bond bank may hold such bonds for any length of time it finds to be necessary. The bond bank, for the purposes authorized by this chapter, is authorized to issue its bonds payable solely from the funds available to the bond bank which are authorized or pledged for payment of bond bank obligations, and to otherwise assist political subdivisions as provided in this chapter.

Bonds of the bond bank issued under this chapter shall not be in any way a debt or liability of the state and shall not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or be or constitute a pledge of the faith and credit of the state, but all such bonds shall be payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond shall contain on its face a statement to the effect that the bond bank is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the bond bank's obligations are obligations of the bond bank.

All expenses incurred in carrying out the purposes of this chapter shall be payable solely from revenues or funds provided or to be provided under this chapter and nothing in this chapter shall be construed to authorize the bond bank to incur any indebtedness or liability on behalf of or payable by the state.

SECTION 4. AMENDMENT. Section 6-09.4-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-08. BONDS OF THE BOND BANK. Bonds of the bond bank shall be authorized by resolution of the industrial commission and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Bonds of the bond bank, issued to provide funds to a municipal pipeline authority, are to mature not more than thirty years from the date of issue. Bonds of the bond bank may be sold at public or private sale at such time or times and at such price or prices as the bond bank shall determine.

SECTION 5. Chapter 40-33.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-33.3-01. MUNICIPAL PIPELINE AUTHORITIES - CREATION. Any two or more cities each of which is over forty thousand population may form a municipal pipeline authority by executing an agreement authorized by a resolution of the governing body of each city and approved by not less than a majority of the qualified electors voting on the question at any regular or special election in each of those cities. Any city may become a member of an existing municipal pipeline authority, without regard to population, upon executing an agreement with the authority.

40-33.3-02. MUNICIPAL PIPELINE AUTHORITY - AGREEMENT REQUIREMENTS. The agreement to form a municipal pipeline authority shall state:

1. That the authority is created and incorporated under this chapter as a municipal corporation and a political subdivision of the state.
2. The name of the authority, which is to include the words "municipal pipeline authority".
3. The names of the cities which have approved the agreement.
4. The qualifications of member cities, any limitations upon their number, and any conditions of membership.
5. The location of the registered office of the authority.
6. Any other provision for regulating the business of the municipal pipeline authority or the conduct of its affairs

which may be agreed upon by the member cities, consistent with this chapter.

40-33.3-03. AGREEMENT FILED WITH SECRETARY OF STATE - CERTIFICATE OF INCORPORATION. The agreement and a certified copy of the resolution of the governing body of each city shall be filed for record with the secretary of state. If the agreement conforms to the requirements of section 40-33.3-02, the secretary of state shall record it and issue and record a certificate of incorporation. The certificate shall state the name of the municipal pipeline authority and the fact and date of incorporation. Upon the issuance of the certificate of incorporation, the authority shall exist as a municipal corporation and a political subdivision of the state. The certificate of incorporation is conclusive evidence of incorporation.

40-33.3-04. AMENDMENT OF AGREEMENT. The agreement may be amended at any meeting of the representatives of the member cities for which notice, stating the purpose, is given to each representative of each member city and unless the agreement provides otherwise, is effective when ratified by resolutions of the governing bodies of a majority of the member cities and approved by a majority of the qualified electors voting on the question at any regular or special election in each of those member cities constituting the majority. Each amendment and the resolutions of the governing bodies approving it shall be filed for record with the secretary of state.

40-33.3-05. PAYMENT OF EXPENSES OF CITY REPRESENTATIVES. Each member city may appropriate money for the payment of expenses of the formation of the municipal pipeline authority and of its representatives in exercising functions as members of the authority.

40-33.3-06. MUNICIPAL PIPELINE AUTHORITY - POWERS. A municipal pipeline authority is a municipal corporation and a political subdivision of the state and has all of the powers provided by this section. The representatives of the member cities, as the board of directors of the authority, shall exercise the powers of the authority unless otherwise provided by the agreement. An authority:

1. May plan, acquire, construct, reconstruct, operate, maintain, repair, extend, or improve one or more facilities for the transmission or distribution of liquids or of natural or synthetic gas; or may acquire any interest in or any right to capacity of a project and may act as agent or designate one or more of the other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, or improvement of the project.

2. May cooperate with other persons in the development of sources and supplies of liquids or of natural or synthetic gas.
3. May apply to any public agency for consents, authorizations, or approvals required for any project within its powers and take all actions necessary to comply with the conditions thereof.
4. May acquire, own, hire, use, operate, lease as lessor or lessee, and dispose of property and interests in property, and make improvements to property.
5. May acquire all property that it deems necessary for carrying out the purposes of this chapter, whether in fee simple absolute or a lesser interest, by condemnation and the exercise of the power of eminent domain in accordance with chapter 32-15. A municipal pipeline authority may not exercise the power of eminent domain with respect to any property owned by any person as part of a system, whether existing, under construction, or being planned, of facilities for the transmission or distribution of liquids or of natural or synthetic gas.
6. May establish, levy, and collect or may authorize, by contract, franchise, lease, or otherwise, the establishment, levying, or collection of, rents, rates, and other charges for the services afforded by the authority and the use of any property or facility owned or controlled by the authority.
7. May contract with any person for the construction of any project or for the sale, transmission, or distribution of liquids or of natural or synthetic gas by any project, or for any interest therein or any right to capacity thereof, upon such terms as the authority determines. If a payment bond is secured as provided in chapter 48-01, no lien may be filed under chapter 35-27.
8. May purchase, sell, exchange, or transmit liquids or natural or synthetic gas within and outside the state and within or outside the United States, in such amounts as it determines to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and may enter into agreements with any person with respect to that purchase, sale, exchange, or transmission, on such terms and for such period of time as the board of directors determines.
9. May mortgage, pledge, and grant a security interest in any or all or its property or revenues to secure the repayment of moneys loaned to it or advanced to it by the municipal bond bank as the result of a bond issue under chapter 6-09.4.

10. May procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable.
11. May acquire, hold, use, and dispose of income, revenues, funds, and money.
12. Subject to any agreement, may invest money not required for immediate use, including proceeds from the sale of any bonds, in such obligations, securities, and other investments as the authority deems prudent, notwithstanding the provisions of any other law relating to the investment of public funds.
13. May contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from any person, and may comply, subject to this chapter, with the terms and conditions thereof.
14. Shall pay to each taxing authority within whose taxing jurisdiction its property is situated, in lieu of taxes on its property, the amount of the taxes which would be payable if its property were owned by a private person. For this purpose the property of a municipal pipeline authority is to be valued in the same manner and by the same procedure as the property of private utility companies.
15. May sue and be sued, complain, and defend in its name.
16. May perform any act authorized by this chapter through or by means of its officers, agents, or employees or by contract with any person.
17. May issue revenue bonds, in anticipation of the collection of revenues from a facility authorized by this chapter, to finance the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, or improvement of a facility. Such bonds shall be payable in not more than thirty years from the date of issuance. The authority shall determine the denomination, date, time and manner of payment of the bonds.

Approved March 19, 1981

## CHAPTER 418

HOUSE BILL NO. 1551  
(Unhjem)

## PUBLIC LIBRARIES

AN ACT to create and enact a new section to chapter 54-24.2 of the North Dakota Century Code, relating to the definition of "other public funds" for purposes of state aid to public libraries; to amend and reenact sections 40-38-02, 40-38-06, 40-38-08, 40-38-11, 54-24.2-04, and 54-24.2-05 of the North Dakota Century Code, relating to a library fund, vouchers, and donations for public library services; joint public library services by cities and counties; and maintenance of local effort and limitations for state aid to public libraries; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 40-38-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-02. LIBRARY FUND - LEVY - ~~COLLECTION~~-- KEPT SEPARATE - EXEMPTION FOR MUNICIPALITY LEVYING TAX - INCREASING LEVY.

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. ~~Sueh~~ The library fund shall consist of annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in ~~sueh~~ the municipality and not to exceed two mills on the net taxable assessed valuation of property in ~~sueh~~ the county, and any other moneys received for library purposes from federal, state, county, municipal, or private sources.
2. The city auditor or county treasurer shall keep ~~sueh~~ the fund separate and apart from the other money of the county or municipality, ~~and it shall~~ and promptly transmit all funds received pursuant to this section within thirty days

of receipt to the board of directors. The funds may not revert to or be considered funds on hand by the governing body at the end of any fiscal year. ~~Such~~ The fund shall be used exclusively for the establishment and maintenance of public library service.

3. Whenever a tax for county library service is levied, any municipality already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of ~~such~~ the county, be exempted from ~~such~~ the county tax levy to the extent that the municipality making ~~such~~ the application levies taxes for a library fund during the year for which ~~such~~ the tax levy is made. If ~~such~~ the municipality has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in ~~such~~ the county less the total number of votes cast at the last general election in ~~such~~ the municipality--~~and-if~~. If an election on the question is held, the voters of any municipality so exempted from the county library tax shall not be entitled to vote on the establishment or discontinuance of the county library service.
4. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters in the last general election of any city, school district, township, or county, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether ~~such~~ the governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. Upon approval by sixty percent of the voters voting in ~~such~~ the election, the governing body shall increase the levy for public library service in the amount approved by the voters.

SECTION 2. AMENDMENT. Section 40-38-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-06. VOUCHERS - HOW DRAWN. The duly bonded secretary or treasurer of the board of directors may draw money from the library fund upon vouchers of the board of directors without any other audit.

SECTION 3. AMENDMENT. Section 40-38-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-08. DONATIONS - HOW ACCEPTED - BOARD OF DIRECTORS AS TRUSTEE. All persons desirous of making donations of money, books, personal property, or real estate for the benefit of the library may vest the same in the board of directors. The board shall hold and control all property accepted for the use of the library and reading room as a special trustee. ~~The treasurer of the city or other political subdivision establishing such library shall be ex officio treasurer of the board as such special trustee, and shall, under the direction of the board, keep, invest, and disburse all funds and securities so vested in said board. Such treasurer shall be deemed a public employee and as such insured in the state bonding fund in the amount fixed by the board and at the expense of the board, as are other public employees under the provisions of chapter 26-23.~~

SECTION 4. AMENDMENT. Section 40-38-11 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-11. ~~CONSOLIDATION OR MERGER OF~~ JOINT PUBLIC LIBRARY SERVICES BY CITIES AND COUNTIES. ~~Upon the approval of the electors of the city or county thereof, and with the approval of the state library, public library service maintained by any city or county may be merged or consolidated with any other existing library service maintained by any other cities or counties. The merger or consolidation shall become effective only if approved by each individual city or county considering the question. Such mergers and consolidations shall include provision for a single library board representing the various cities or counties levying funds for support of library services.~~

1. Upon compliance with section 40-38-01 for the establishment of public library services, public library services may be jointly provided through a written agreement between the governing bodies of any city or county or both to establish and maintain joint library services with one or more cities or counties or both.
2. A party shall be bound to an agreement entered into under subsection 1 for an initial five-year term and subsequent five-year terms unless it provides other parties to the agreement with notice of intent to withdraw from the agreement at least two years before the proposed date of withdrawal.
3. The parties to the agreement shall appoint a single joint library board to govern public library services covered by the agreement. The method of representation on the consolidated or merged joint library board and the establishment of the initial board with staggered terms shall be determined in the merger or consolidation agreements. Such consolidated or merged agreement. Provided, the joint library board shall consist of an equal number of appointees from each party to the agreement and, in any case, shall consist of not less than

five members nor more than eleven members. No member of the board shall serve for more than two consecutive three-year terms, after which an interval of one year must elapse before the same member may be reappointed.

4. The joint library board shall have all power and responsibilities duties provided in sections 40-38-04 through 40-38-09. ~~The treasurer of the consolidated or merged library board shall receive and retain all tax funds levied for public library service by the governing boards of all cities and counties and represented on the consolidated or merged library board.~~
5. A joint library fund shall be established for the public library services covered by the agreement. Each city or county represented in the agreement shall provide its pro rata share of funds for the services, as specified in the agreement, from the funds received under section 40-38-02.
6. The joint library board shall appoint, and may remove, a treasurer to administer the joint library fund. The treasurer may be a treasurer of one of the parties to the agreement or a member of the board or both. The city auditor and county treasurer of each city or county represented in the agreement and the state librarian shall promptly transmit all funds authorized under subsection 5 of this section and chapter 54-24.2, respectively, directly to the treasurer of the joint library board. The treasurer shall pay out moneys belonging to the ~~consolidated or merged~~ joint library board only upon properly drawn vouchers, pursuant to order of the joint library board, ~~by library board treasurer's checks.~~ The funds received by the ~~consolidated or merged library board~~ treasurer shall not revert to or be considered funds on hand by any governmental unit furnishing the same, at the end of any biennium or fiscal year. The ~~consolidated or merged library board~~ treasurer shall be bonded in such amount as may be specified by resolution adopted by the ~~consolidated or merged~~ joint library board. ~~This section shall not be construed as prohibiting an agreement between political subdivisions for the joint provision of libraries and library services pursuant to chapter 54-40, which agreement does not encompass the merger or consolidation of existing library services.~~
7. The agreement shall include provisions for the dissolution of the joint library board and distribution of assets in the event the agreement is terminated.
8. Joint libraries established and operated under this section are eligible to receive financial aid under chapter 54-24.2 to the extent that each city and county represented in the agreement would be eligible for the aid.

9. Agreements for public library services between cities or counties or both may be provided under this section or other provisions of this chapter and may not be provided under chapter 54-40 or other provisions of law.
10. After July 1, 1981, the establishment of joint library services pursuant to this section shall not be permitted unless approved by the electors of each individual city or county considering the question.

SECTION 5. A new section to chapter 54-24.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEFINITION - OTHER PUBLIC FUNDS. "Other public funds", as used in sections 54-24.2-03 and 54-24.2-05, means moneys appropriated for public library services by the governing body of the political subdivision providing public library services under chapter 40-38 in addition to the mill levy made for public library services.

SECTION 6. AMENDMENT. Section 54-24.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24.2-04. MAINTENANCE OF LOCAL EFFORT. No public library shall be is eligible to receive any funds appropriated under this chapter during a fiscal year if the ~~total of the mill~~ governing body has diminished the:

1. Mill levy on the taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library has been diminished from below the average of the three preceding fiscal years. --- Excluded are --- Comprehensive Employment Training Act funds, Library Services and Construction Act funds, and other grants of a nonrecurring nature; or
2. Appropriation for public library services below an amount equal to the revenue derived from the maximum mill levy for public library services authorized under section 40-38-02.

SECTION 7. AMENDMENT. Section 54-24.2-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24.2-05. LIMITATIONS. For public libraries operated by cities, funds granted under this chapter shall not exceed thirty-three percent of the total ~~budget from local funds as determined by the operating expenditures of~~ expenditure of mill levy moneys and other public funds during the preceding year. For public libraries operated by counties, funds granted under this chapter shall not exceed the following percent of the total ~~budget from local funds as~~

determined-by-the-operating-expenditures-of expenditure of mill levy  
moneys and other public funds during the preceding year:

less than \$10,000		100 percent
\$10,000 - <del>\$19,000</del>	<u>19,999</u>	75 percent
\$20,000 - <del>\$29,000</del>	<u>29,999</u>	67 percent
\$30,000 - <del>\$49,000</del>	<u>50,000</u>	50 percent
over \$50,000		33 percent

SECTION 8. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 11, 1981

## CHAPTER 419

HOUSE BILL NO. 1263  
(Martinson)

## MUNICIPAL ARTS COUNCIL

AN ACT to provide for the discretionary establishment of a municipal arts council and for the levying of up to five mills to fund such council to promote the arts in local communities; and to create and enact a new subsection to section 57-15-10 of the North Dakota Century Code to exempt the mill levy for municipal arts councils from city mill levy limitations.

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

SECTION 1. MUNICIPAL ARTS COUNCIL - ESTABLISHMENT - ELECTION. The question of establishing a municipal arts council shall be submitted to the electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of electors of the city who voted at the last general election, filed with the governing body not less than sixty days before the next regular election. The municipal arts council may be discontinued within any city by any of the methods by which it may be established, except that once established, such council shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

SECTION 2. MUNICIPAL ARTS FUND - LEVY - COLLECTION - KEPT SEPARATE. For the purpose of establishing and maintaining the municipal arts council, the governing body of a city authorizing the same shall establish a municipal arts fund. The fund shall consist of revenues from any city property tax authorized by this section, which levy may be made by the city at the direction of the municipal arts council in any amount, but not to exceed five mills on the net taxable assessed valuation of property in the city; and any other moneys received from federal, state, county, city, or private sources. The city auditor shall keep the municipal arts fund separate and apart from the other money of the city, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. The municipal arts fund shall be used exclusively for the establishment and maintenance of the municipal arts council and for grants by the council to appropriate arts organizations in the city. Upon motion of the governing body

or upon petition of not less than twenty-five percent of the voters in the last general election of the city, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether such governing body shall annually levy a specified amount not to exceed five mills for the municipal arts council.

SECTION 3. BOARD OF DIRECTORS - APPOINTMENT - TERM OF OFFICE - NO COMPENSATION - FILLING VACANCIES - ORGANIZATION. The governing body of a city which has established a municipal arts council shall appoint a board of not less than five nor more than nine directors who must be residents of the city as members of the council. The terms of office of the members of the first council appointed under this section shall be staggered so that, as near as possible, an equal number of terms will expire in each of the first three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of members required to fill expired terms shall be appointed each year, and thereafter each member shall hold office for a term of three years from the first day of July in the year of the appointment and until a successor has been appointed. No member of the council shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the municipal arts council shall be reported by the council to the governing body of the city and shall be filled by the governing body. Appointments made to fill unexpired terms shall be for the remainder of the term only. No compensation shall be paid or allowed to a council member. Immediately after the appointment of its members, a municipal arts council shall meet and organize by electing a president and a secretary.

SECTION 4. GENERAL POWERS AND DUTIES OF A MUNICIPAL ARTS COUNCIL. A municipal arts council shall have the following powers and duties:

1. To make and adopt such bylaws and rules relating to the duties of the officers and members of the council as may be expedient and not inconsistent with the provisions of this chapter.
2. To control, exclusively, the expenditures of all moneys collected for or contributed to the municipal arts fund.
3. To employ qualified personnel to administer the provisions of this chapter.

SECTION 5. BOARD OF DIRECTORS MAY PURCHASE, BUILD, OR LEASE BUILDING FOR OFFICES - MUNICIPAL ARTS COUNCIL OFFICE FUND - PUBLIC HEARING REQUIRED. The municipal arts council, with the approval of the city governing body, may build, lease, lease-purchase, or purchase office space for the municipal arts council and purchase a site therefor. Such lease, purchase, or contract shall not be valid without the approval of the governing body of the city. Prior to any actions on such proposals, the governing body shall hold a

public hearing on the proposals. Notice of the hearing shall be published at least once, not less than six days prior to the hearing, in a newspaper of general circulation within the city. The governing body shall seek the advice and comment of the general public at the hearing. After such hearing, the governing body of a city may establish by resolution a municipal arts council building fund for the purpose of construction, enlargement, or alteration of a building or for the purchase of an existing building to be used for offices for the municipal arts council. The city auditor shall place in the building fund all moneys for such purposes as may be appropriated by the governing body or received for such purposes from federal, state, county, city, or private sources. The building fund shall not revert to the general fund of the city without authorization by formal resolution from both the municipal arts council and the governing body of the city.

SECTION 6. VOUCHERS - HOW DRAWN. The secretary of the council may draw money from the municipal arts fund upon vouchers of the board of directors without any other audit. However, no vouchers may be drawn payable to the fund created under section 5 of this Act.

SECTION 7. DONATIONS - HOW ACCEPTED - COUNCIL AS TRUSTEE. All persons desirous of making donations of money, personal property, or real estate for the municipal arts fund may vest the same in the municipal arts council. The council shall hold and control all property accepted as a special trustee. The city auditor shall be ex officio treasurer of the council as such special trustee, and shall, under the direction of the council, keep, invest, and disburse all funds and securities so vested in said board. The treasurer shall be deemed a public employee and as such bonded through the state bonding fund in the amount fixed by the council and at the expense of the council, as are other public employees under the provisions of chapter 26-23.

SECTION 8. ANNUAL REPORT OF MUNICIPAL ARTS COUNCIL - CONTENTS - TO WHOM MADE. A municipal arts council shall make a report on July first of each year to the governing body of the city, stating:

1. The condition of the property donated to the fund.
2. The various sums of money received from all sources.
3. How much money has been expended and for what purpose.
4. Such other statistics, information, and suggestions as the council may deem of general interest.

Copies of the report shall be filed with the governing body of the city.

SECTION 9. CONTRIBUTIONS BY POLITICAL SUBDIVISION TO ESTABLISHMENT OF MUNICIPAL ARTS COUNCIL WITHOUT ELECTION AUTHORIZED. To aid and facilitate the organization of the municipal arts

council, the governing body of any city where the population is less than two thousand five hundred may appropriate annually from its general fund, or from any other moneys received for similar purposes from federal, state, and private sources, a sum not to exceed five dollars per capita. Such appropriation shall be made without submitting the same to vote as provided in section 40-38-02.

SECTION 10. A new subsection to section 57-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

Taxes levied for the purpose of establishing and maintaining a municipal arts council.

Approved March 11, 1981

## CHAPTER 420

HOUSE BILL NO. 1129  
(Unhjem)

## FISCAL YEAR OF MUNICIPALITIES

AN ACT to amend and reenact sections 40-40-03, 40-40-04, 40-40-06, 40-40-10, and 40-40-12 of the North Dakota Century Code, relating to the fiscal year of municipalities and to dates for preparing the municipal budgets; and to provide an effective date.

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

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

40-40-03. FISCAL YEAR OF MUNICIPALITY. The fiscal year of each municipality shall commence on the first day of ~~July~~ January of each year and shall terminate on the ~~thirtieth~~ thirty-first day of ~~June~~ December of ~~the following~~ that same year.

SECTION 2. AMENDMENT. Section 40-40-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-04. MUNICIPALITY TO PREPARE PRELIMINARY BUDGET STATEMENT. The governing body of each municipality, annually ~~between--July--first--and--July--twenty-fifth on or before September tenth~~, shall make, on suitable blanks prescribed by the state tax commissioner and state auditor, an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the fiscal year, and giving such other information relating to the finances of the municipality as the tax commissioner and state auditor may require.

SECTION 3. AMENDMENT. Section 40-40-06 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-06. NOTICE OF PRELIMINARY BUDGET STATEMENT - CONTENTS - HOW GIVEN. After the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:

1. The preliminary budget is on file in the office of the auditor and that such budget may be examined by anyone requesting to do so;
2. The governing body shall meet at the time and place specified in the notice as prescribed by subsection 3 for the purpose of adopting the final budget and making the annual tax levy, but no later than ~~the first Wednesday in August~~ October first; and
3. The governing body shall hold a public session at such time and place designated in the notice of hearing at which any taxpayer may appear and discuss with such body any item of proposed expenditures or may object to any item thereof or to the amount of any such item.

The notice shall contain a statement of the total proposed expenditures under each group provided for in the preliminary budget and of the total proposed expenditures under all such groups, but need not contain any detailed statement of the proposed expenditures. Such notice shall be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice shall be published not less than six days prior to such meeting in the official city newspaper as provided by section 40-01-09.

SECTION 4. AMENDMENT. Section 40-40-10 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-10. CERTIFIED COPIES OF LEVY AND FINAL BUDGET SENT TO COUNTY AUDITOR. Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than ~~September first~~ October tenth, the auditor of the municipality shall send to the county auditor two certified copies of the levy as adopted and two certified copies of the final budget.

SECTION 5. AMENDMENT. Section 40-40-12 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-12. COUNTY AUDITOR TO TRANSMIT ANNUAL TAX LEVY AND FINAL BUDGET TO STATE AUDITOR. On or before ~~September tenth~~ January first of each year, the county auditor shall transmit to the state auditor one copy of the final budget.

SECTION 6. EFFECTIVE DATE. The definition contained in section 1 of this Act shall become effective on January 1, 1983. For the purposes of this Act, the period between July 1, 1981, and December 31, 1982, shall be utilized by cities to change from the fiscal year procedures in effect on the effective date of this Act to the new fiscal year period required by this Act.

Approved March 11, 1981

## CHAPTER 421

SENATE BILL NO. 2084  
(Legislative Council)  
(Interim Political Subdivisions Committee)

## EXTRATERRITORIAL ZONING AUTHORITY

AN ACT to amend and reenact section 40-47-01.1 of the North Dakota Century Code, relating to territorial authority of municipal zoning regulations.

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

SECTION 1. AMENDMENT. Section 40-47-01.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-01.1. TERRITORIAL AUTHORITY OF ZONING REGULATIONS. Based upon the population of the city as determined by the last official regular or special federal census or, in case of a city incorporated subsequent to such census, a census taken in accordance with chapter 40-02, the governing body of a city may, by ordinance, extend the application of a city's zoning regulations:

1. To each quarter quarter section of unincorporated territory the majority of which is located within one-half mile [.80 kilometer] of its limits in any direction if it is a city having a population of less than five thousand.
2. To each quarter quarter section of unincorporated territory the majority of which is located within one mile [1.61 kilometers] of its limits in any direction if it is a city having a population of five thousand or more, but less than twenty-five thousand.
3. To each quarter quarter section of unincorporated territory the majority of which is located within two miles [3.22 kilometers] of its limits in any direction if it is a city having a population of twenty-five thousand or more.

Provided, that where two or more noncontiguous cities have boundaries at a distance where there would be an overlap of zoning authority under this section, each city is authorized to control the

zoning of land on its side of a line established in proportion to the authority each city has to zone land outside its limits in accordance with this section or pursuant to mutual agreement. The governing body may thereafter enforce such regulation in the area to the same extent as if such property were situated within the city's corporate limits. This territorial authority shall not authorize the application of zoning regulations to territory outside the corporate limits of land attached to a city by a strip of land not more than one hundred feet [30.48 meters] wide, nor shall this territorial authority authorize application of zoning regulations to territory outside the corporate limits of land included within such a strip of land. For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313; 43 U.S.C. 752.

Approved March 5, 1981

## CHAPTER 422

HOUSE BILL NO. 1479  
(Metz)

## APPOINTMENT OF PARK BOARD CLERK

AN ACT to amend and reenact section 40-49-08 of the North Dakota Century Code, relating to the alternate appointment of a park district clerk.

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

SECTION 1. AMENDMENT. Section 40-49-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-08. ORGANIZATION OF BOARD OF PARK COMMISSIONERS - MUNICIPAL AUDITOR TO ACT AS TREASURER OF BOARD OR BOARD TO APPOINT CLERK. On the third Tuesday in April after their election, the members of the board of park commissioners shall organize the board by selecting a president and a vice president. The auditor of the municipality shall be ex officio treasurer of the park district and or the board may appoint a clerk and such other employees as shall be deemed needed for the efficient conduct of the district's business and shall fix their compensation. The clerk shall take the oath prescribed for civil officers and shall ~~furnish~~ obtain such bond as may be required by the board.

Approved March 11, 1981

## CHAPTER 423

HOUSE BILL NO. 1354  
(Unhjem)

## LOT OWNERS LISTED IN CERTIFIED PLAT

AN ACT to amend and reenact section 40-50-04 of the North Dakota Century Code, relating to the listing of owners of individual lots in a certified plat.

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

SECTION 1. AMENDMENT. Section 40-50-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-04. INSTRUMENTS OF DEDICATION - CERTIFYING AND RECORDING OF PLAT. The plat shall contain a written instrument of dedication, which shall be signed and acknowledged by the owner of the land. When there is divided ownership, it shall be indicated under each signature the lot or parts of lots in which each party claims an interest. All signatures on the plat shall be written with black ink, not ball point. The instrument of dedication shall contain a full and accurate description of the land platted. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall be presented for approval to the governing body affected by such plat together with a title opinion stating the name of the owner of record.

Every plat, when duly certified, signed, and acknowledged, shall be filed and recorded in the office of the county register of deeds. No plat shall be recorded until it is approved by the governing body affected by the plat and a certificate evidencing such approval is presented to the register of deeds. In the case of divided ownership, fee simple title to such lot or lots shall be conveyed to the owners listed on said plat in accordance with section 40-50-05.

Approved March 16, 1981

## CHAPTER 424

SENATE BILL NO. 2083  
 (Legislative Council)  
 (Interim Political Subdivisions Committee)

## CONSOLIDATION OF CITIES

AN ACT to provide for the consolidation of cities after approval by a majority of those voting on the question in the involved cities; and to provide for prior review of the desirability of consolidation.

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

SECTION 1. LEGISLATIVE INTENT. The legislative assembly recognizes that a viable government capable of providing essential services is necessary to the general welfare of the citizens of every city in this state. The legislative assembly further recognizes that some cities have become and will continue to become incapable of providing adequate services to their citizens and that a process is necessary to allow these dysfunctional cities to consolidate with other nearby cities in order to better serve the people of this state.

SECTION 2. CONSOLIDATION - RESOLUTION OR PETITION - ELECTION. The governing body of any city may, by resolution, or shall, upon petition by ten percent of the number of qualified voters of the city who voted for governor at the last general election at which a governor was elected, place on the ballot at the next general election to be held in that city the following question:

Shall the city governing body appoint a committee from its membership to meet with members of the governing board of the city of -----, as a municipal consolidation review commission, to draft a proposal for consolidating the city of ----- with the city of -----.

SECTION 3. STUDY COMMITTEE. Upon passage by a simple majority of the votes cast in each of the cities seeking consolidation in the manner provided by section 2 of this Act, 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 at a special election or any regular election, the review commission's recommended plan shall become effective on July first of the next year.

Approved March 6, 1981

## CHAPTER 425

SENATE BILL NO. 2326  
(Nething, Lodoen)

## RECREATION SYSTEM OR PARK DISTRICT LEVY MAXIMUM

AN ACT to amend and reenact section 40-55-09 and subsection 3 of section 57-15-12 of the North Dakota Century Code, relating to the number of mills which may be approved by the voters of a municipality, school district, or park district for a public recreation system or a park district.

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

SECTION 1. AMENDMENT. Section 40-55-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-09. FAVORABLE VOTE AT ELECTION - PROCEDURE. Upon the adoption of ~~such~~ the public recreation system proposition at an election by a majority of the votes cast upon ~~such~~ the proposition, the governing body of ~~such~~ the municipality, school district, or park district, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than ~~three~~ eight and five-tenths mills if the same is authorized as herein provided, on each dollar of the net taxable assessed valuation of all taxable property within the corporate limits or boundaries of ~~such~~ the municipality, school district, or park district, ~~such~~. This tax is to be in addition to the maximum of taxes permitted to be levied in such municipality, school district, or park district. The mill levy herein authorized may be raised to not more than ~~three~~ eight and five-tenths mills when ~~such~~ the increase is approved by the citizens of the municipality, school district, or park district after the submission of ~~such~~ the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of ~~such~~ the municipality, school district, or park district, shall continue to levy ~~such~~ the tax annually for public recreation purposes until ~~such--time--as~~ the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of ~~such~~ the municipality, school district, or park district, in its discretion, may appropriate additional funds for

the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. Nothing in this ~~section of this~~ chapter shall be construed to limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center or character building facility.

SECTION 2. AMENDMENT. Subsection 3 of section 57-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Whenever the board of park commissioners ~~deem~~ 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, ~~such~~ 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 ~~ten~~ fifteen mills, on the dollar of the net taxable assessed valuation of the district ~~and when~~. 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. ~~Such~~ 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 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, ~~such~~ that question shall be submitted to the electors of the park district at the next regular park district election. If the majority of the voters at ~~such~~ that election determine not to continue the excess levy, no further excess levy shall be made except that ~~such~~ the election shall not affect the tax levy in the calendar year in which the election is held.

Approved March 18, 1981

## CHAPTER 426

SENATE BILL NO. 2317  
(Dykshoorn)

## MUNICIPAL LAND USE FOR MIDA PROJECT

AN ACT to amend and reenact the paragraph following subsection 12 of section 40-57-03 of the North Dakota Century Code, relating to the powers of a municipality under the Municipal Industrial Development Act of 1955.

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

SECTION 1. AMENDMENT. The paragraph following subsection 12 of section 40-57-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

No municipality ~~shall have the power to~~ may operate any project referred to in this chapter as a business or in any manner whatsoever, except as the lessor thereof. No debt on the general credit of the municipality ~~shall~~ may be incurred in any manner for any purpose under ~~the provisions of~~ this chapter, except as otherwise provided by section 40-57-19. No municipality may pay out of its general fund for, or otherwise contribute to the cost of, construction of a project, nor can it use any land already owned by or in which the municipality has an interest, for the construction thereof of a project, except as otherwise provided by section 40-57-19.

Approved March 6, 1981

# CHAPTER 427

SENATE BILL NO. 2398  
(Cussons)

## NEW INDUSTRY TAX EXEMPTION

AN ACT to create and enact a new section to chapter 40-57.1 of the North Dakota Century Code, relating to a tax exemption for new industries occupying existing buildings; 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 40-57.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

AD VALOREM AND INCOME TAX EXEMPTION FOR EXISTING STRUCTURES - REQUIREMENTS. Notwithstanding any other provision of this chapter, a project operator who otherwise qualifies under this chapter may, upon application consistent with the provisions of this chapter, receive a partial or complete exemption from income taxation and ad valorem taxation on any existing structure used in or necessary to the operation of the project for a period not exceeding five years from the date of commencement of project operations in the structure, which date shall be determined by the tax commissioner. No structure shall qualify for this exemption unless it has been vacant for at least the three consecutive years prior to the commencement of project operations.

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

Approved March 11, 1981

## CHAPTER 428

SENATE BILL NO. 2303  
(Hanson, Holmberg, Melland, Reiten)

## LOCAL DEVELOPMENT CORPORATION TAX EXEMPTION

AN ACT to create and enact two new sections to chapter 40-57.1 of the North Dakota Century Code, relating to local development corporations and property tax exemptions on speculative industrial buildings and properties owned by these corporations under the new industry tax exemption provisions.

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

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

LOCAL DEVELOPMENT CORPORATION - DEFINITION - REQUIREMENTS - PURPOSE. As used in section 2 of this Act, a "local development corporation" means a profit or nonprofit corporation incorporated under the laws of this state, formed for the purpose of furthering the economic development of its community and environs, with authority to promote and assist the growth and development of business concerns in the areas covered by its operations. The operations of the corporation must be limited to a specified area in this state. The controlling interest in the corporation must be held by at least twenty-five persons residing or doing business in the community or its environs. These persons must control not less than seventy-five percent of the voting control of the corporation. No shareholder or member of the corporation may own in excess of twenty-five percent of the voting control in the corporation if that shareholder or member has a direct pecuniary interest in any project or business concern which will occupy the property of the corporation. The primary objective of the corporation must be to benefit the community through increased employment, payroll, business volume, and corresponding factors rather than monetary profits to its shareholders or members. Any monetary profits or other benefits going to the shareholders or members must be merely incidental to the primary objective of the corporation.

SECTION 2. A new section to chapter 40-57.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

PROPERTY TAX EXEMPTION ON SPECULATIVE INDUSTRIAL BUILDINGS AND PROPERTIES OWNED BY A LOCAL DEVELOPMENT CORPORATION. A municipality may, in its discretion, grant partial or complete exemption from ad valorem taxation on buildings, structures, and improvements constructed and owned by a local development corporation for the express purpose of attracting new industry to this state. This exemption from ad valorem taxation is only available on new buildings, structures, and improvements while they remain unoccupied. Once the building, structure, or improvement is occupied, the exemption continues until the next annual assessment date following the first occupancy. This section does not affect the eligibility for property and income tax exemption of a new business or industry available under other provisions of this chapter, provided application for those tax exemptions is made prior to occupancy. A written request for the exemption is to be filed by the local development corporation with the municipality. The request will be reviewed at an official meeting of the governing body and will be placed on the agenda for final action at the next official meeting. The governing body of the municipality shall notify the county director of tax equalization with respect to any exemption granted under this section.

Approved March 19, 1981

## CHAPTER 429

SENATE BILL NO. 2314  
(Lips, Tierney)

### CITY LODGING TAX

AN ACT to allow a city tax on rental accommodations of up to two percent to promote tourism, providing for administration and collection of the tax by the state tax commissioner, and providing penalties.

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

SECTION 1. CITY LODGING TAX - IMPOSITION - AMOUNT - DISPOSITION. The governing body of any city may, by resolution, impose a city tax, not to exceed two percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month. The tax imposed by this chapter shall be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2 and any city which imposes the tax upon gross receipts described in this section shall deposit all proceeds in the city visitors' promotion fund. Moneys deposited in the city visitors' promotion fund shall be spent only as provided in this Act. This Act shall not apply to home rule cities nor limit the authority of a home rule city to levy any taxes authorized by other provisions of law.

SECTION 2. CITY VISITORS' PROMOTION FUND - VISITORS' COMMITTEE - ESTABLISHMENT - PURPOSE. The governing body of any city which imposes a city tax pursuant to section 1 of this Act shall establish a city visitors' promotion fund and a visitors' committee which shall serve as an advisory committee to the city governing body in administering the proceeds from the tax available to the city under this chapter. The moneys in the visitors' promotion fund shall be used generally to promote, encourage, and attract visitors to come to the city and use the travel and tourism facilities within the city. The committee shall consist of five members appointed by the governing body of the city. These appointees shall serve without compensation, except for reimbursement for necessary expenses. Committee members shall serve for a term of four years, except that two of those initially appointed shall be appointed for an initial term of two years. Vacancies shall be filled in the same manner as the initial appointment. The committee shall elect a

chairperson and vice chairperson from among its members to serve for a term of two years.

SECTION 3. BUDGET - CONTRACTS - CAPITAL CONSTRUCTION PROHIBITED. The governing body of the city shall annually set the budget, if any, under which the committee shall operate. The governing body of the city may contract with any person, firm, association, or corporation to carry out the purposes of the city visitors' promotion fund created by section 2. The proceeds from this tax shall not be used for any type of capital construction or purchase of real property.

SECTION 4. COLLECTION BY TAX DEPARTMENT - ADMINISTRATIVE EXPENSES ALLOWED - RULES AND REGULATIONS. The tax imposed by this Act shall be collected 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 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 Act. 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 Act.

Approved March 31, 1981

## CHAPTER 430

HOUSE BILL NO. 1463  
(Moore)TAX INCREMENT FINANCING PROPERTY  
ASSESSMENT

AN ACT to amend and reenact subsection 2 of section 40-58-20 of the North Dakota Century Code, relating to the assessment of property in an urban renewal area for the purpose of tax increment financing; and to provide retroactive application.

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

SECTION 1. AMENDMENT. Subsection 2 of section 40-58-20 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The auditor shall compute and certify the original taxable value of each lot and parcel of real estate in the area, as last assessed and equalized before the date of the request, including the taxable value of any lot or parcel theretofore acquired by the municipality or its urban renewal agency, as last assessed and equalized before it was acquired. However, any real property acquired by the city or the city's urban renewal agency prior to July 1, 1973, or more than five years prior to the approval of an urban renewal plan for any urban renewal area, whichever is later, is deemed to have an original taxable value of zero and the county auditor shall so certify.

SECTION 2. RETROACTIVE APPLICATION. The 1981 amendment to subsection 2 of section 40-58-20 is expressly declared to be retroactive to July 1, 1973, and applies to all urban renewal plans for any urban renewal areas established after June 30, 1973.

Approved March 26, 1981