

MUNICIPAL GOVERNMENT

CHAPTER 401

HOUSE BILL NO. 1347
(Representative Kretschmar)
(Senator O'Connell)

POLITICAL SUBDIVISION RESTRUCTURING

AN ACT to provide for optional, advisory study by local citizens and leaders of statutory tools to adapt their local government structure and operation to local needs and resources, and to prepare for maximum effectiveness, creativity, and efficiency in future local governance; to create and enact two new chapters to title 11, two new sections to chapter 11-05, a new section to chapter 11-06, a new section to chapter 11-09.1, a new section to title 40, a new section to chapter 40-05.1, two new sections to chapter 40-49, a new chapter to title 40, and three new chapters to title 54 of the North Dakota Century Code, relating to optional tools for restructuring local governance including joint powers agreements, options for combining or separating elective county offices or redesignating county offices as elective or appointive, options for sharing offices among counties and among other local governments, options for broader participation in county and city home rule, procedures for optional transfers of local government powers or functions to counties, changes in county lines, county consolidation, and procedures for increasing or decreasing the number of members of city governing boards and city park commissioners, for combining boards of park commissioners, and for dissolving a city park district; to amend and reenact sections 11-05-02, 11-05-04, 11-05-05, 11-05-07, 11-05-25, 11-05-26, 11-05.1-01, 11-05.1-03, 11-05.1-04, 11-05.1-06, 11-08-02.1, 11-08-05, 11-09-03, 11-09-07, 11-09-48, 11-09.1-02, 11-09.1-03, 11-09.1-04, subsection 3 of section 11-09.1-05, sections 11-10-02, 40-04.1-01, 40-04.1-02, 40-05.1-01, 40-05.1-03, 40-05.1-04, 40-08-03, 40-08-04, 40-09-01, 40-09-04, 40-10-02, 40-12-01, 40-14-04, 40-49-05, and 54-40-08 of the North Dakota Century Code and to amend and reenact section 10 of chapter 326 and sections 4, 8, and 9 of chapter 442 of the 1991 Session Laws of North Dakota, relating to procedures for adopting the consolidated office and county manager forms of county government, the city manager plan, county and city home rule, and county consolidation, joint powers agreements, the removal of the minimum population requirement for adopting city home rule, membership on the governing bodies of cities and city park boards, and appointive offices in council cities; and to repeal sections 11-05-01, 11-05-03, 11-05-08, 11-05-10, 11-05-11, 11-05-11.1, 11-05-12, 11-05-13, 11-05-14, 11-05-16, 11-05-17, 11-05-18, 11-05-19, 11-05-20, 11-05-21, 11-05-22, 11-05-23, 11-05-24, 11-05-27, 11-06-02, 11-06-05, 11-08-02, 11-09-02, 11-09.1-08, 40-05.1-09, 40-08-03.1, 40-08-03.2, 40-08-04.1, 40-08-06.1, and 54-40-07 of the North Dakota Century Code and section 5 of chapter 326 and section 6 of chapter 442 of the 1991 Session Laws of North Dakota, relating to procedures for county consolidation and changes in county lines, membership on the governing bodies of cities, and clarification of the authority of political subdivisions to enter into joint powers agreements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. FLEXIBLE TOOLS FOR EFFECTIVE FUTURE LOCAL GOVERNANCE - LEGISLATIVE INTENT.**

1. The legislative assembly determines that:
 - a. North Dakota communities face an uncertain future, within an environment of diverse economic, social, and demographic circumstances. Each community is subject to a unique interplay of these critical circumstances, including location, the quality and character of the economic base, the mix of human and natural resources, and the leadership qualities of institutions and citizens. Some communities are thriving economically and are able to provide more jobs, increased personal income, a broader tax base, and generally prosperous environment from which to provide local government functions and services for local citizens. Other communities are experiencing declining populations, a declining retail sector, fewer job opportunities, and a shrinking tax base from which to provide these functions and services;
 - b. The resolution of many of the important, increasingly complex issues facing communities will depend on each community's capacity for assessing its current and prospective challenges and opportunities, and on effective local leadership and local governance, open communication, citizen involvement, positive attitudes, and community-wide respect for diverse viewpoints, which must be considered in the larger environment of changing conditions for which local governments must be responsive;
 - c. There is a common need for addressing the future of local governance by permitting and encouraging local citizens and leaders to initiate study, cooperation, and adaptation in local governance in recognition of the diverse circumstances and resources of North Dakota communities;
 - d. No one, common vision of local government will work for all North Dakota communities because there is diversity in local thinking about the future of local government among different communities; and
 - e. Local citizens and leaders need the flexibility of a variety of tools for renovating the structure and processes of their local governments in ways that build local capacity to identify the needs of the community, to use available resources in effective ways, and to participate in the development and implementation of plans for overcoming barriers to healthy community life.
2. It is the purpose of this Act to provide tools that enable local citizens and leaders to:
 - a. Analyze their current and prospective community challenges and opportunities;
 - b. Study and analyze their capacity for effective future local governance and, in their discretion, to collectively reshape their local governance in ways that best serve their needs and provide effective,

creative, and efficient local government functions and services in the future; and

- c. Be creative and flexible in making informed decisions to improve the structure and processes of local government in building the future social and economic environment of the community.

SECTION 2. Advisory study of local governance options. An advisory study committee may be established under this chapter to provide local citizens and leaders with the means for fully and adequately studying options available for positioning their local governments for effective, creative, and efficient service in the future, in a manner suited to the economic, social, geographic, demographic, and other circumstances influencing the needs and resources of local communities. An advisory study committee is encouraged to prepare a comprehensive program for the performance of local government functions and the furnishing of local government services within the jurisdiction of the governing body or cooperating governing bodies that established the committee. In its study, the committee may consider:

1. The need for maintaining citizen access to, control of, and participation in local government;
2. The existing land use within the area, including the location of highways and natural geographic barriers to, and routes for, transportation;
3. The need for organized local government functions, services, and controls; the present cost and adequacy of local government functions, services, and controls; probable future needs for those functions, services, and controls; and the probable effect of alternative courses of action on the cost and adequacy of local government functions, services, and controls;
4. The trends in population density and distribution, and the potential or likelihood for significant growth or decline;
5. The tax base and other factors bearing on the capacity for local government to provide essential functions and services necessary to the general welfare of local citizens;
6. The boundaries of existing units of local government;
7. Data necessary for analyzing the strengths, weaknesses, challenges, and opportunities that are unique to the community; and
8. Other factors that may affect the provision of local government functions, services, and controls.

Local advisory study committee.

1. The governing body or electors of a county, city, city park district, township, school district, or any other political subdivision of this state may establish an advisory committee to study the existing form and powers of that political subdivision for comparison with other forms and powers available under the laws of this state. A local advisory study committee is established:
 - a. By a majority vote of the governing body; or

- b. By a petition signed by ten percent or more of the total number of qualified electors of the political subdivision voting for governor at the most recent gubernatorial election and submitted to the governing body.
2. Notwithstanding subsection 1, an election on the question of establishing a five-member advisory study committee for a county or city must be held at the next regular election in the county or city if five years have elapsed since the latter of:
 - a. The effective date of this Act;
 - b. The date of the most recent election held on the question of establishing an advisory study committee pursuant to this subsection; or
 - c. The date of issue of a written report prepared for a comprehensive study and analysis of the cooperative and restructuring options available to the county or city conducted by the governing body, an advisory study committee established pursuant to this section, a home rule charter commission, or through another study process for which a written report was prepared.
3. The question of establishing an advisory study committee pursuant to subsection 2 requires an affirmative vote of a majority of those voting on the question for passage.
4. The governing body shall appoint the members of the advisory study committee and set the duration of the committee. The members are not entitled to receive compensation, but may receive actual and necessary expenses incurred in the performance of official duties as determined by the governing body.
5. The governing body may provide office and meeting space and legal, clerical, facilitation, training, and other assistance to the study committee, and may appropriate funds in its final budget, or expend any unexpended balances in its general fund otherwise designated for current expenditure, for the necessary expenses of the advisory study committee. The committee, with the approval of the governing body, may:
 - a. Employ and fix the compensation and duties of necessary staff;
 - b. Contract and cooperate with other individuals and public or private agencies considered necessary for assistance, including institutions of higher education;
 - c. Establish advisory subcommittees that may include persons who are not members of the study committee;
 - d. Hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the committee's purpose, progress, conclusions, and recommendations;
 - e. Cooperate with a like committee established pursuant to this section by another political subdivision in the conduct of the study. A

cooperative study does not preclude a study committee from making separate recommendations to the governing body; and

- f. Do any other act consistent with and reasonably required to perform its advisory function.

Cooperative advisory study committee.

1. The governing bodies of any two or more political subdivisions, including any combination of counties, cities, city park districts, townships, school districts, or other political subdivisions, may establish an advisory committee to study the potential for cooperative or combined efforts for providing local government functions and services. A cooperative advisory study committee is established:
 - a. By execution of a joint powers agreement between participating political subdivisions or by joint resolution pursuant to separate majority votes of each participating governing body; or
 - b. By petitions signed by ten percent or more of the total number of qualified electors of each affected political subdivision voting for governor at the most recent gubernatorial election and submitted to the governing bodies.
2. The composition and duration of the advisory study committee is as prescribed in the joint powers agreement, resolutions of the governing bodies, or petitions. However, the governing bodies may agree, by joint resolution, to limit the duration or composition of the advisory study committee created by petition pursuant to subdivision b of subsection 1. Any vacancy may be filled as prescribed in the agreement, resolution, or petitions or, if not prescribed, by the governing body that was represented by the person vacating the position.
3. A governing body may agree to provide office and meeting space and legal, clerical, facilitation, training, and other assistance to the study committee, and may appropriate funds in its final budget, or expend any unexpended balances in its general fund otherwise designated for current expenditure, for the necessary expenses of the advisory study committee. The committee, with the approval of the governing body, may:
 - a. Employ and fix the compensation and duties of necessary staff;
 - b. Contract and cooperate with other individuals and public or private agencies considered necessary for assistance, including institutions of higher education;
 - c. Establish advisory subcommittees that may include persons who are not members of the study committee;
 - d. Hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the committee's purpose, progress, conclusions, and recommendations; and
 - e. Do any other act consistent with and reasonably required to perform its advisory function.

Advisory recommendations. A local or cooperative advisory study committee established for one or more political subdivisions may recommend that a local governing body or the electors pursue any course of action permitted by law or home rule charter for that political subdivision. The committee may recommend:

1. With respect to a county:

- a. Execution of a joint powers agreement between the county and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to section 49 of this Act or as otherwise specifically provided by law, or an agreement between the county and a tribal government pursuant to chapter 54-40.2.
- b. Exercise of the county's general authority to contract pursuant to section 11-10-01 and any other law, including service agreements with public or private parties under the terms and conditions of the agreements.
- c. Combination or separation of any elective or appointive county office and corresponding functions, or redesignation of any county office as elective or appointive, pursuant to section 3 of this Act.
- d. Change in the number of county commissioners pursuant to chapter 11-12.
- e. Establishment of a county home rule charter commission for initiating the adoption of a home rule charter or the amendment or repeal of a home rule charter pursuant to chapter 11-09.1, or the adoption, amendment, or repeal of ordinances for implementing a home rule charter. The recommendation may include a specific nonbinding proposal or draft for a home rule charter or amendment to a home rule charter.
- f. Adoption of the consolidated office form of county government pursuant to chapter 11-08.
- g. Adoption of the county manager form of county government pursuant to chapter 11-09.
- h. Use of other statutory tools relating to social and economic development, land use, transportation and roads, health, law enforcement, administrative and fiscal services, recording and registration services, educational services, environmental quality, water, sewer, solid waste, flood relief, parks and open spaces, hospitals, public buildings, or other county functions or services, including creation of cooperative county job development authorities pursuant to section 11-11.1-03, multicounty health units pursuant to sections 23-14-01.1 through 23-14-01.6, regional planning and zoning commissions pursuant to section 11-35-01, boards of joint county park districts pursuant to chapter 11-28 or a combination of boards of park commissioners with a city pursuant to section 48 of this Act, or multicounty social service districts pursuant to chapter 50-01.1.

- i. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
 - j. Exercise of county options with respect to register of deed services and clerk of district court services pursuant to sections 11-10-02 and 11-17-11.
 - k. Sharing of elective or appointive county officers with other counties, cities, or other political subdivisions pursuant to section 4 of this Act.
 - l. Initiation of the multicounty home rule charter process or the amendment or repeal of a multicounty home rule charter pursuant to section 22 of this Act, or the adoption, amendment, or repeal of ordinances to implement the charter. The recommendation may include a specific nonbinding proposal or draft for a multicounty home rule charter.
 - m. Initiation of the county-city home rule process or the amendment or repeal of a county-city home rule charter pursuant to section 51 of this Act, or the adoption, amendment, or repeal of ordinances to implement the charter. The recommendation may include a specific nonbinding proposal or draft for a county-city home rule charter.
 - n. Transfer of a power or function of another political subdivision to the county pursuant to section 52 of this Act.
 - o. Creation of a county consolidation committee pursuant to chapter 11-05.1.
 - p. That any other action be taken that is permitted by law.
 - q. That no action be taken.
2. With respect to a city:
- a. Execution of a joint powers agreement between the city and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to section 49 of this Act or as otherwise specifically provided by law, or an agreement between the city and a tribal government pursuant to chapter 54-40.2.
 - b. Exercise of the city's general authority to contract pursuant to section 40-05-01 and any other law, including service agreements with public or private parties under the terms and conditions of the agreements.
 - c. Combination of city officers pursuant to section 40-14-04 or 40-15-05 or the sharing of officers with other cities, counties, or other political subdivisions pursuant to section 4 of this Act.
 - d. An increase or decrease in the number of members of the governing body of a city pursuant to section 36 of this Act.

- e. Establishment of a city home rule charter commission for initiating the adoption of a home rule charter or the amendment or repeal of a home rule charter pursuant to chapter 40-05.1, or the adoption, amendment, or repeal of ordinances for implementing a home rule charter. The recommendation may include a specific nonbinding proposal or draft for a city home rule charter or amendment to a home rule charter.
 - f. Adoption of the commission form of city government pursuant to chapter 40-04.
 - g. Adoption of the modern council form of city government pursuant to chapter 40-04.1.
 - h. Adoption of the city manager plan pursuant to chapter 40-10.
 - i. Sharing an appointive city officer and function with another city, the county, or another political subdivision pursuant to section 4 of this Act.
 - j. Initiation of the multicity home rule process or the amendment or repeal of a multicity home rule charter pursuant to section 31 of this Act, or the adoption, amendment, or repeal of ordinances to implement the charter. The recommendation may include a specific nonbinding proposal or draft for a multicity home rule charter.
 - k. Initiation of the county-city home rule process or the amendment or repeal of a county-city home rule charter pursuant to section 51 of this Act, or the adoption, amendment, or repeal of ordinances to implement the charter. The recommendation may include a specific nonbinding proposal or draft for a county-city home rule charter.
 - l. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
 - m. Use of other statutory tools for social and economic development, land use, transportation, health, fire and police protection, street construction and maintenance, assessment, financing, accounting, legal, environmental quality, water, sewer, solid waste, flood relief, parks and open spaces, hospitals, public buildings, or other city functions or services, including the creation of cooperative city job development authorities pursuant to section 40-57.4-03.
 - n. Transfer of a power or function of the city to the county pursuant to section 52 of this Act.
 - o. Consolidation of cities pursuant to chapter 40-53.2.
 - p. Dissolution of a city pursuant to chapter 40-53.1.
 - q. That any other action be taken that is permitted by law.
 - r. That no action be taken.
3. With respect to a township:

- a. Execution of a joint powers agreement between the township and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to section 49 of this Act or as otherwise specifically provided by law, or an agreement between the township and a tribal government pursuant to chapter 54-40.2.
 - b. Exercise of the township's general authority to contract pursuant to section 58-03-01 and any other law, including service agreements with public or private parties under the terms and conditions of the agreements.
 - c. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
 - d. Combination of the offices of township clerk and treasurer pursuant to section 58-05-02 or the sharing of officers with other townships or other political subdivisions pursuant to section 4 of this Act.
 - e. An increase in the number of board of township supervisors from three to five pursuant to section 58-04-02.1.
 - f. Contract with the county, another political subdivision, or any individual for assessor services pursuant to section 58-05-02.
 - g. Consolidation of boards of township officers pursuant to chapter 58-05.1.
 - h. Transfer of a power or function of the township to the county pursuant to section 52 of this Act.
 - i. Creation of an organized civil township pursuant to chapter 58-02.
 - j. Division or annexation of a township pursuant to chapter 58-02.
 - k. Dissolution of the township pursuant to chapter 58-02.
 - l. That any other action be taken that is permitted by law.
 - m. That no action be taken.
4. With respect to a city park district:
- a. Execution of a joint powers agreement between the city park district and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to section 49 of this Act or as otherwise specifically provided by law, or an agreement between the city park district and a tribal government pursuant to chapter 54-40.2.
 - b. Exercise of the city park district's general authority to contract pursuant to section 40-49-04 and any other law, including service agreements with public or private parties under the terms and conditions of the agreements.

- c. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
 - d. An increase or decrease in the number of board members pursuant to section 47 of this Act.
 - e. Transfer of a power or function of the city park district to the county pursuant to section 52 of this Act.
 - f. Combination of the city board of parks commissioners with other city or county boards of park commissioners pursuant to section 48 of this Act.
 - g. Sharing of officers with other city park districts or other political subdivisions pursuant to section 4 of this Act.
 - h. Dissolution of the city park district pursuant to section 47 of this Act.
 - i. That any other action be taken that is permitted by law.
 - j. That no action be taken.
5. With respect to a school district:
- a. Execution of a joint powers agreement between the school district and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to section 49 of this Act or as otherwise specifically provided by law, including the exercise of the general powers to make contract for joint educational endeavors pursuant to section 15-47-32, or an agreement between the school district and a tribal government pursuant to chapter 54-40.2.
 - b. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
 - c. An increase or decrease in the number of school board members pursuant to section 15-28-01.
 - d. A cooperative arrangement pursuant to chapter 15-27.7.
 - e. Sharing of officers with other school districts or other political subdivisions pursuant to section 4 of this Act.
 - f. School district restructuring, annexation, or reorganization pursuant to chapter 15-27.6, 15-27.2, or 15-27.3.
 - g. Transfer of a power or function of the school district to the county pursuant to section 52 of this Act.
 - h. That any other action be taken that is permitted by law.
 - i. That no action be taken.

6. With respect to other political subdivisions, including rural ambulance service districts, rural fire protection districts, irrigation districts, hospital districts, soil conservation districts, and recreation service districts:
 - a. Execution of a joint powers agreement between the political subdivision and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to section 49 of this Act or as otherwise specifically provided by law, or an agreement between the political subdivisions and a tribal government pursuant to chapter 54-40.2.
 - b. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
 - c. Sharing of officers with other political subdivisions pursuant to section 4 of this Act.
 - d. Transfer of a power or function of the political subdivision to the county pursuant to section 52 of this Act.
 - e. That any other action be taken that is permitted by law.
 - f. That no action be taken.

SECTION 3. A new chapter to title 11 of the North Dakota Century Code is created and enacted as follows:

County officer combination, separation, and redesignation options.

1. A county may, without requiring local citizens to permit county home rule powers:
 - a. Combine any elective county office with one or more functionally-related, elective or appointive county offices;
 - b. Separate an elective county office into two or more elective or appointive offices; or
 - c. Redesignate an elective county office as an appointive office or an appointive office as an elective office.
2. A combination or separation of any elected or appointed county office may include the reassignment of any statutory function of that office or service provided by that office, but may not diminish the general responsibility of county government to perform any function or provide any service that is required by law to be performed or provided by county government.
3. This option is available in addition to, or in lieu of, other county structural options authorized under title 11, unless a specific mandate for combining or separating particular county offices is otherwise provided by law. The office of county judge is excluded from the application of this chapter.

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

1. By resolution of the board of county commissioners, subject to the right of referendum in the county electors. The board of county commissioners may by a majority vote adopt a preliminary resolution incorporating a proposed plan for combining or separating county offices, or redesignating a county office as elective or appointive. The board shall cause the complete text of the proposed plan to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately following the adoption of the preliminary resolution. The board of county commissioners shall hold public hearings and community forums or use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose, conclusions, and recommendations of the plan. Within two years after the adoption of the preliminary resolution, the board of county commissioners may by final resolution approve the plan or amend the plan and approve it for implementation according to its terms. The final resolution may be referred to the qualified electors of the county by a petition protesting the plan. The petition must be signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election, and filed with the county auditor, or functional equivalent of that office, before four p.m. on the thirtieth day after the final resolution is adopted. Within ten days after the filing of the petition, the county auditor shall examine the petition and ascertain from the voter list whether the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of an amended petition within ten days after the county auditor declares the insufficiency. The final resolution is suspended upon a determination by the county auditor that the petition was timely filed and contains the signatures of a sufficient number of qualified electors. The board of county commissioners shall reconsider the referred resolution, and if it does not repeal the resolution in its entirety, shall submit the resolution to a vote of the qualified electors of the county at the next regular election. The county auditor shall cause the complete text of the resolution to be published in the official newspaper of the county, not less than two weeks nor more than thirty days, before the date of the election. If a majority of the qualified electors voting approves the resolution, the plan incorporated in the resolution is effective and becomes operative according to its terms as if it had not been suspended.
2. By initiative of county electors. A petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election may be submitted to the board of county commissioners, calling upon the board to submit to the electors the question of adopting a plan described in, or annexed to, the petition. The county auditor, or the functional equivalent of that officer, shall examine the petition and ascertain from the voter list whether or not the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of

an amended petition within thirty days after the county auditor declares the insufficiency. When a plan for the combination or separation of county offices or redesignation of county offices as elective or appointive is proposed pursuant to this subsection, the board of county commissioners shall submit the proposed plan to a vote of the qualified electors of the county at a primary or general election not less than sixty days nor more than two years, as specified in the petition, after determining that the petition is sufficient. The question on the ballot at the election must be framed in a manner that fairly and accurately describes the substance of the proposed plan. The board shall cause the complete text of the proposed plan to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately preceding the date of the election. The board of county commissioners may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose, conclusions, and recommendations of the plan. If a majority of the qualified electors voting on the proposed plan approves the question of its adoption, the plan is effective according to its terms.

Analysis required - Contents of plan - Limitations.

1. A proposed plan for combining or separating county elective offices, or redesignating a county office as elective or appointive, must be based on an analysis of each affected office, which may include an analysis of:
 - a. The existing office organization, functions, and procedures established for providing governmental services;
 - b. The proposed office organization, functions, and procedures; and
 - c. How the proposal may improve the effectiveness and efficiency of county government and its responsiveness and accountability to local citizens.
2. The analysis may be performed as part of a study process initiated pursuant to section 2 of this Act.
3. A proposed plan for combining or separating county elective offices, or redesignating a county office as elective or appointive, may include provision for:
 - a. The selection, powers, duties, functions, qualifications and training, terms, and compensation of the affected county offices, notwithstanding any other law;
 - b. Selection, transfer, reassignment, or termination of personnel associated with each affected office;
 - c. The election or appointment of a county manager, notwithstanding the provisions of chapter 11-09;
 - d. Transition in implementation of the plan, including elements that consider the reasonable expectations of current officeholders such as

delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;

- e. The limited application or temporary implementation of the plan, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the plan on a date certain in the future, required reapproval of the plan by the electors at a future date, or a phased-in implementation of different components of the plan; and
 - f. Any other provision deemed necessary for combining or separating the offices or redesignating an office as elective or appointive.
4. A plan may not propose to diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. The plan may not diminish the general responsibility of county government to perform any function or provide any service that is required by law to be performed or provided by county government.
 5. A proposed plan may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on the effective date of this Act, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office consents in writing to the proposed plan and submits that written document prior to the scheduled implementation of the plan to a district judge serving the judicial district in which the county is located.

Plan implementation - Revision or abandonment of plan. One copy of the plan as approved must be filed with the district court for the county and one with the county auditor or functional equivalent to remain as a part of the county's permanent records. The board of county commissioners may take any action necessary to bring about an orderly transition in implementation of the plan, including any transfer of powers, records, documents, property, or funds which is consistent with the approved plan and necessary to place it into full effect. A plan, or part of a plan, adopted under this chapter may be revised or abandoned through the same procedure set forth in this chapter for adopting a plan.

Combination or separation of appointive offices. A plan for combining or separating appointive county offices may be proposed and adopted by resolution of the board of county commissioners.

SECTION 4. A new chapter to title 11 of the North Dakota Century Code is created and enacted as follows:

Multicounty combination of elective officers.

1. A county may combine any county elective office with one or more elective offices of one or more other counties for the purpose of sharing that combined office for the performance of functions and the provision of services among those counties. The procedures set forth in this chapter

apply to the combination, unless a specific procedure for combining particular elective county offices is otherwise provided by law.

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

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

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

Contents of plan - Limitations.

1. A joint powers agreement or plan for combining the function of county elective offices may specify:
 - a. The offices to be combined;
 - b. The selection, powers, duties, functions, qualifications and training, terms, candidate residency requirements notwithstanding section 11-10-04, and compensation of the combined office, and status of the office as elective or appointive;
 - c. The manner of apportionment of the costs of the office;
 - d. Procedures for the selection, transfer, reassignment, or termination of personnel associated with the affected offices;
 - e. Procedures for the transfer of powers, records, documents, and property;
 - f. Procedures for termination or modification of the arrangement;
 - g. The process for transition in implementing the office combination, including delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;

11-05-04. Notice of election - How given. The county auditor of each of the counties affected shall ~~give notice of the election by publishing~~ publish once each week for at least two consecutive weeks prior to the election in the official newspaper of ~~his~~ the county a notice giving the date of the primary election, the hours during which the polls will be opened, a reference to the notice of the primary election for a statement of the places where the election will be held, ~~and the names of the counties affected by the petitions, and a fair and accurate summary of the consolidation plan.~~ The notice shall must state ~~also~~ that the proposition to be voted upon will be:

Shall the county of _____ (name of the petitioning county) be consolidated and annexed to the county of _____ (name of the adjoining county).

~~or if the plans which have been filed ask that the territory be consolidated with and annexed to more than one county:~~

~~Shall that part of the county of _____ (name of the petitioning county) described as _____ (description of portion of petitioning county to be annexed as described in the plan) be consolidated with and annexed to the county of _____ (name of the adjoining county). corporate existence and governments of the county of _____ and the county (or counties) of _____ be consolidated into one county government pursuant to the consolidation plan?~~

SECTION 7. AMENDMENT. Section 11-05-05 of the North Dakota Century Code is amended and reenacted as follows:

11-05-05. Form of ballot. The ballots used at an election held under the provisions of this chapter shall must be in substantially the following form:

Shall the county of _____ (name of the petitioning county) be consolidated with and annexed to the county of _____ (name of the adjoining county);

~~or if the plans which have been filed ask that the territory within the petitioning county be consolidated with and annexed to more than one county, in substantially the following form:~~

~~Shall that part of the county of _____ (name of the petitioning county) described as _____ (description of portion of petitioning county to be annexed as described in the plan) be consolidated with and annexed to the county of _____ (name of the adjoining county). corporate existence and governments of the county of _____ and the county (or counties) of _____ be consolidated into one county government pursuant to the consolidation plan?~~

Below the question submitted in either case, there shall must be printed:

- Yes
- No

SECTION 8. AMENDMENT. Section 11-05-07 of the North Dakota Century Code is amended and reenacted as follows:

~~11-05-07. Affirmative vote necessary to consolidate counties. If fifty five percent A majority of the legal votes cast on the question of consolidation in each of the counties affected shall be in favor of consolidation, all of the territory included within the established boundaries of the petitioning county shall be consolidated with and annexed to the adjoining county or counties described in the petition or petitions is necessary for approval of a county consolidation plan.~~

SECTION 9. Two new sections to chapter 11-05 of the North Dakota Century Code are created and enacted as follows:

Officer elections. At the next succeeding general election after consolidation is approved by the voters and redistricting of the new county is accomplished pursuant to the consolidation plan, there must be elected for the new county all county officers provided for by general law or as prescribed in the approved consolidation plan, including members of the board of county commissioners. The terms for these offices begin on the first Monday in January next succeeding their election, or on another date as prescribed in the approved consolidation plan, at which time they replace all elected county officers of the previous counties. All appointive county officers are appointed by the officer or board upon which the power to appoint that officer is conferred.

Consolidated county. On the first Monday in January following the election of county officers, or on another date as prescribed in the approved consolidation plan, the affected counties are for all purposes a single county as prescribed in the consolidation plan. All rights, privileges, and franchises of each of the counties, and all assets and liabilities are deemed transferred to the new consolidated county. Any suit which may have been brought against a previous county may be brought, after consolidation, against the consolidated county.

SECTION 10. AMENDMENT. Section 11-05-25 of the North Dakota Century Code is amended and reenacted as follows:

~~11-05-25. Power of adjoining consolidated county to levy taxes in petitioning county to pay debts. The board or boards of county commissioners of the adjoining consolidated county or counties shall have~~ has all the powers which the board of county commissioners of the petitioning a previous county had at the time of the consolidation, to levy taxes upon the property in the territory which, prior to the consolidation, constituted the petitioning previous county, for the purpose of paying the debts and obligations of the petitioning previous county in existence at the time of consolidation.

SECTION 11. AMENDMENT. Section 11-05-26 of the North Dakota Century Code is amended and reenacted as follows:

~~11-05-26. Board of county commissioners of adjoining consolidated county may issue evidences of indebtedness for petitioning county. The board or boards of county commissioners of the adjoining consolidated county or counties may compromise debts and obligations of the petitioning a previous county existing at the time of the consolidation and may issue bonds or certificates of indebtedness in settlement or compromise of, or to fund, such those debts and obligations. Bonds or certificates issued under this section shall must bear upon their face a statement that the principal and interest to become due thereon shall may be paid only from taxes levied upon the property~~

within the territory which constituted the ~~petitioning~~ previous county prior to the consolidation.

SECTION 12. AMENDMENT. Section 11-05.1-01 of the North Dakota Century Code is amended and reenacted as follows:

~~11-05.1-01. County consolidation committee — Creation — Membership — Dissolution. The board of county commissioners of any county may upon its own motion create a county consolidation committee and shall be required to create such committee whenever twenty percent of the qualified electors of a county, as determined by the vote cast for the office of governor at the last general election, shall petition the board of county commissioners to create such committee. The members of the committee shall be appointed by the board of county commissioners and shall consist of~~

1. Any two or more counties may create a county consolidation committee:
 - a. By entering into a joint powers agreement or by joint resolution pursuant to separate majority votes of the participating boards of county commissioners; or
 - b. By direct initiative through petitions signed by ten percent or more of the total number of qualified electors of each county voting for governor at the most recent gubernatorial election.
2. The composition of the committee is as prescribed in the joint powers agreement or joint resolution, or as the composition or manner for determining the composition is prescribed in the petition. However, the committee membership must include at least one resident of each incorporated city in the each county and one additional resident of each county commissioner's district, plus not more than three additional members at large as shall be determined by the board of county commissioners. Vacancies upon the committee shall be filled in the same manner as members are originally appointed.
3. Any vacancy may be filled as prescribed in the agreement or resolution or, if not prescribed, by the board of county commissioners of the county that was represented by the person vacating the position.
4. The committee shall have has at least one hundred twenty days in which to consider the question and file its final report but after. After one hundred twenty days the committee may be discharged by motion of the either board of county commissioners. The word "committee" when used in this chapter shall mean the county consolidation committee.

SECTION 13. AMENDMENT. Section 11-05.1-03 of the North Dakota Century Code is amended and reenacted as follows:

11-05.1-03. Powers and duties - Contents of plan.

1. The committee, in studying and preparing a plan to consolidate the counties or change county lines, shall have the following powers and duties:

1. ~~To study or prepare a plan to consolidate the county with one or more adjoining counties or study and propose an alternative form of county government as authorized by law.~~
2. ~~To hold meetings and hold public hearings to consider proposals which may be submitted by qualified electors of the county or adjoining counties or obtain public views upon plans prepared by the committee.~~
3. ~~To publish once in one or more newspapers having general circulation in the county one week in advance the date and times of public hearings consider and include in the plan as appropriate:~~
 - a. The fiscal impact of the proposed county consolidation or change in county lines and the economic viability of the proposed county or counties, including the costs of the proceedings to form the county or change county lines;
 - b. The comparative costs of providing services in the affected counties and the proposed county or counties;
 - c. The projected revenues available to the affected counties and the proposed county or counties;
 - d. The final boundaries of the proposed county or counties;
 - e. A procedure for the orderly and timely transfer of service functions and responsibilities from the affected counties to the proposed county or counties;
 - f. A method or plan and timetable for redistricting the proposed consolidated county, pursuant to the redistricting principles enumerated in chapter 11-07. The redistricting process in the case of a change in county lines is as provided in section 11-06-08;
 - g. The procedure and plan for equalization of the assets and liabilities of the affected counties, and procedures for negotiation and resolution of any subsequent disagreement regarding the equalization of assets and liabilities;
 - h. An adjustment of existing bonded indebtedness and other obligations in a manner that will provide for a fair and equitable burden of taxation for debt service;
 - i. The estimated taxes, assessments, or other authorized charges necessary in the proposed county to meet the liabilities in the first full fiscal year after the proposed county is formed;
 - j. The structure or form of county government and the selection, powers, duties, functions, qualifications and training, terms, and compensation of officers;
 - k. The application of the plan, if any, to each school district, city park district, and any other special taxing district within the affected counties;

- l. The transition in implementing the plan, including elements that consider the reasonable expectations of current officeholders such as compensation during an unexpired term of office and delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
 - m. The limited application or temporary implementation of the plan, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the plan on a date certain in the future, required reapproval of the plan by the electors at a future date, or a phased-in implementation of various components of the plan; and
 - n. Other considerations and provisions that the committee decides to include and which are consistent with state law.
2. The committee may:
- a. Employ and fix the compensation and duties of necessary staff;
 - b. Contract and cooperate with other individuals and public or private agencies considered necessary for assistance, including institutions of higher education;
 - c. Establish advisory subcommittees that include, if desired, persons who are not members of the study committee;
 - d. Hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of its purpose, progress, conclusions, and recommendations; and
 - e. Draft a multicounty home rule charter as a charter commission pursuant to section 22 of this Act, in lieu of proceeding pursuant to the provisions of chapter 11-05.

SECTION 14. AMENDMENT. Section 11-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11-05.1-04. Approval of consolidation plan. If the committee ~~shall approve~~ approves a consolidation plan, it ~~shall~~ must submit a report and a map showing the boundaries of the proposed county consolidation or change in county lines to the board of county commissioners of the county ~~and of each affected adjoining county.~~ The ~~reports~~ report may also be made available to all interested persons. When the ~~reports~~ report and ~~maps~~ map have been received by the respective boards of county commissioners, the ~~board~~ boards of county commissioners of the ~~each county to be consolidated and the board of county commissioners of all affected adjoining counties~~ shall act pursuant to ~~sections 11-05-04, 11-05-05, 11-05-06, 11-05-07, 11-05-08, 11-05-09, 11-05-10, 11-05-11, 11-05-12, 11-05-13, 11-05-14, 11-05-16, 11-05-17, 11-05-18, 11-05-19, 11-05-20, 11-05-21, 11-05-22, 11-05-23, 11-05-24, 11-05-25, 11-05-26, and 11-05-27~~ chapter 11-05 or 11-06.

SECTION 15. AMENDMENT. Section 11-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

11-05.1-06. Expenses. ~~Each~~ Except as otherwise provided by the implementing joint powers agreement, joint resolutions, or petitions, each member of the committee shall is entitled to receive from the county ~~his~~ the actual and necessary expenses incurred by ~~him~~ that member in attending scheduled meetings and in performance of ~~his~~ official duties in the same manner and amounts as members of the board of county commissioners, but shall receive no salary or compensation for services performed. All expenses of the committee ~~shall~~ must be paid from county funds after approval of ~~such~~ these expenses by the ~~board~~ boards of county commissioners in the same manner as other general county expenses.

SECTION 16. A new section to chapter 11-06 of the North Dakota Century Code is created and enacted as follows:

Boards of county commissioners to submit plan of county consolidation committee to electors. Notwithstanding sections 11-06-01 and 11-06-03, if a plan for changing county lines is submitted by a county consolidation committee to two or more boards of county commissioners pursuant to chapter 11-05.1, each board of county commissioners shall submit the question of the change in county lines to the qualified electors of the county at a general election as specified by the county consolidation committee within two years of submission of the plan. The election must be held in conjunction with the election held in any other county proposed to be affected by the plan. Sections 11-06-06 and 11-06-07 apply to the plan for change in county lines, unless the plan provides an alternative implementation date or arrangement for debts of the transferred area.

SECTION 17. AMENDMENT. Section 11-08-02.1 of the North Dakota Century Code is amended and reenacted as follows:

11-08-02.1. Board of county commissioners may submit plan. The question of the adoption of a consolidated office form of government may be submitted at the next primary election as provided by this chapter by the board of county commissioners ~~notwithstanding the provisions of chapter 11-05.1~~ by a resolution adopted by the affirmative vote of ~~not less than two-thirds~~ a majority of the entire board.

SECTION 18. AMENDMENT. Section 11-08-05 of the North Dakota Century Code is amended and reenacted as follows:

11-08-05. Vote required - ~~Change effective when~~ ~~When elective officers retired~~ Effective date - Procedure for discontinuance. ~~If fifty-five percent a majority of the votes cast on the question of the adoption of the county consolidated form of government are in favor thereof of that form, it shall go into effect becomes effective on the first day of January next succeeding such the election. All elected officers shall continue in office until their successors have been are appointed pursuant to the provisions of this chapter. The question of the discontinuance of the county consolidated office form of government may be submitted to the electors at the next primary election through the same procedures set forth in this chapter for adopting that form of government. On the first day of January following a vote to discontinue, the county reverts to the form of government of the county immediately preceding adoption of the consolidated office form of government, with all offices made appointive under this chapter subject to election at the last preceding general election, or to another optional form of county government adopted by the electors as provided by law.~~

SECTION 19. AMENDMENT. Section 11-09-03 of the North Dakota Century Code is amended and reenacted as follows:

11-09-03. Board of county commissioners may submit plan. The question of the adoption of any county manager form of government may be submitted ~~notwithstanding the provisions of chapter 11-05.1 to the qualified electors of the county at the next primary election~~ by the board of county commissioners by a resolution adopted by the affirmative majority vote ~~of not less than sixty percent~~ of the entire board. ~~Such~~ The resolution shall ~~must~~ clearly designate which form of government ~~shall be is~~ submitted.

SECTION 20. AMENDMENT. Section 11-09-07 of the North Dakota Century Code is amended and reenacted as follows:

11-09-07. Vote required - ~~When form of government goes into effect~~ ~~When official in office retired~~ Effective date. If ~~fifty five percent~~ a majority of the votes cast on the question of adoption of a county manager form of government are in favor ~~thereof~~ of that form, it ~~shall go into effect~~ becomes effective on the first day of January next succeeding ~~such~~ the election or on a later date as may be designated in the plan or resolution. All elected ~~officials then in office whose positions will~~ offices no longer be filled by popular election ~~shall be retired~~ are abolished on the effective date.

SECTION 21. AMENDMENT. Section 11-09-48 of the North Dakota Century Code is amended and reenacted as follows:

11-09-48. Election as to retention of plan. At any time after any form of county managership has been in force in a county for a period of four years, the board of county commissioners may submit, and, when petitioned to do so at least ninety days before a primary election by at least twenty-five percent of the qualified electors of the county as determined by the total number of votes cast for the office of governor at the last general election, shall submit to the electors at a primary election the question of whether or not the county manager plan in force shall be retained. If ~~fifty five percent~~ a majority of the legal votes cast on such question at the primary election shall be against retaining such plan, it shall cease to be operative on the first Monday in January next succeeding the primary election, and the county shall revert to the plan of government in force prior to the adoption of the county managership. Thereafter, the provisions of this chapter shall not be applicable in such county until after another compliance with its terms. When the petition has been filed, candidates for all county offices required under the plan in force prior to the adoption of the county managership may file nominating petitions. If ~~fifty five percent~~ a majority of the legal votes cast on the question are against retaining the county manager plan, the candidates nominated at the primary election shall be voted upon at the general election, and officers shall be elected in accordance with the general election laws. The terms of office of all officers elected as provided in this section shall commence on the first Monday in January next succeeding the primary election.

SECTION 22. A new section to chapter 11-09.1 of the North Dakota Century Code is created and enacted as follows:

Multicounty home rule.

1. Two or more counties may draft and submit for adoption a multicounty home rule charter to the electors of each county pursuant to this section. The

- other provisions of this chapter apply to a multicounty home rule charter, except as otherwise provided by this section.
2. The process for drafting and submitting a multicounty home rule charter may be initiated by:
 - a. Separate motions by the boards of county commissioners of the participating counties;
 - b. The execution of a joint powers agreement between participating counties; or
 - c. A petition filed with each board of county commissioners of two or more counties and signed by ten percent or more of the total number of qualified electors of each county voting for governor at the most recent gubernatorial election.
 3. Within sixty days after proceedings are initiated for a multicounty home rule charter, the boards of county commissioners shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single cooperative charter commission with membership representing each county. As an alternative, the boards of county commissioners in each affected county may establish a separate charter commission pursuant to section 11-09.1-02 to frame the charter in cooperative study with the charter commission of any other affected county. The charter commissions must submit a single joint report and proposed charter.
 4. A charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed multicounty home rule charter, and may report periodically to the affected governing bodies on their progress. In preparing the charter, the charter commission may:
 - a. Include any, or all, of the available powers enumerated in section 11-09.1-05, subject to the limitations of that section;
 - b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner that will provide for a fair and equitable burden of taxation for debt service;
 - c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of the counties;
 - d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the county government;
 - e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;

- f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the charter on a date certain in the future, required reapproval of the charter by the electors at a future date, or a phased-in implementation of various components of the charter; and
 - g. Include other provisions that the charter commission elects to include and which are consistent with state law.
5. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected county, at least once during two different weeks within the thirty-day period immediately preceding the date of election.
 6. If a majority of the qualified electors voting in each county on the charter votes in favor of the multicounty home rule charter, it is ratified and becomes the organic law of the multicounty area on the first day of January following the election or other effective date specified in the charter.
 7. The amendment or repeal of a multicounty home rule charter may proceed pursuant to the amendment and repeal provisions of section 11-09.1-06 on a multicounty basis. A majority vote of the qualified electors voting in each county in the election is required to adopt any amendment of a multicounty charter. A majority vote of the qualified electors of only one or more participating counties is required to repeal a multicounty charter.

SECTION 23. AMENDMENT. Section 11-09.1-02 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-02. Charter commission - Membership - Preparation and submission of charter - Compensation and expenses - Publication. Within sixty days after proceedings have been initiated for a home rule charter, the board of county commissioners shall appoint a ~~five member~~ charter commission, comprised of at least five members, to draft the charter, unless a petition proposing a charter pursuant to section 11-09.1-01 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The board shall designate one of the charter commission members as chairman of the charter commission. The board shall set the compensation and expenses of charter commission members. The board, from its general funds, may furnish the charter commission with office space, clerical help, supplies, and legal and other assistance. The charter commission shall hold at least one public hearing on the proposed charter, and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter to the board of county commissioners within one year after appointment, unless the board allows additional time for submission of the charter. The charter must contain a list of county offices to be elected and any elected offices that will be eliminated or combined if the charter is adopted. The board of county commissioners shall publish the proposed charter once in the official newspaper of the county.

SECTION 24. AMENDMENT. Section 11-09.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-09.1-03. Submission of charter to electors. At least sixty days, but no more than two years, after publication submission of the charter to the board of county commissioners, the proposed charter must be submitted to a vote of the qualified electors of the county at ~~the next~~ a primary or general election. If the proposed charter has been submitted to a vote of the qualified electors of the county, the board of county commissioners may call a special election to resubmit the proposed charter to a vote of the qualified electors of the county, and the special election must take place at least sixty days after the call for the special election. The board may amend the proposed charter prior to its resubmission to the electors.

SECTION 25. AMENDMENT. Section 11-09.1-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-09.1-04. Ratification by majority vote - Supersession of existing charter and conflicting state laws - Filing of copies of new charter. If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January or July next following the election, and extends to all its county matters. The charter and the ordinances made pursuant to the charter in county matters must be liberally construed to supersede within the territorial limits and jurisdiction of the county any conflicting state law except for any state law as it applies to cities or any power of a city to govern its own affairs, without the consent of the governing body of the city. The charter may not authorize the enactment of ordinances to diminish the authority of a board of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. No ordinance of a home rule county shall supersede section 49-22-16. One copy of the charter as ratified and approved must be filed with the secretary of state, one with the clerk of district court for the county, and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

SECTION 26. AMENDMENT. Subsection 3 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of section 3 of this Act. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. Notwithstanding the other provisions of this subsection, a charter or ordinance or act of a governing body of a home rule county may not supersede any state law concerning the office or jurisdiction of the county court or county judge.

SECTION 27. AMENDMENT. Section 10 of chapter 326 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 10. AMENDMENT. Subsection 3 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of section 3 of this Act. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term.

SECTION 28. AMENDMENT. Section 11-10-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-10-02. Number and election of county officers. Each organized county, unless it has adopted one of the optional forms of county government provided by the code or has combined or separated the functions of county offices or redesignated offices as elective or appointive pursuant to section 3 or 4 of this Act, must have the following officers:

1. One county auditor.
2. One register of deeds in counties having a population of more than six thousand.
3. One clerk of the district court.
4. One state's attorney.
5. One sheriff.
6. One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering the agreement.
7. One county treasurer.
8. One coroner.
9. Repealed by S.L. 1989, ch. 137, § 10, effective January 1, 1993.
10. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of six thousand or less, the clerk of the district court must be the register of deeds, unless the board of county commissioners adopts a resolution separating the offices no less than thirty days before petitions for nomination to county offices may first be filed for the primary election. For a

county which has properly initiated the option and it is funded by the legislative assembly pursuant to section 11-17-11, the board of county commissioners may provide for the register of deeds services in any appropriate manner. Counties having a population of six thousand or less and exercising the option provided in section 11-17-11 may contract with the state court administrator for the provision of shared funding for register of deeds services. In counties having a population of twenty-five thousand or more, the county judge may appoint a clerk of county court. In counties with a population of less than twenty-five thousand, the clerk of district court must be clerk of county court unless the county has properly initiated the option and it is funded by the legislative assembly pursuant to section 11-17-11, in which case the county judge may determine that the clerk of district court may provide clerk services to the county court or appoint a clerk of county court. The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge, and clerk of the district court, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03. The clerk of district court elected pursuant to this section is not subject to election in any future general election which that occurs after the start of the state biennium after the county has properly initiated the option and the legislative assembly has provided appropriations pursuant to section 11-17-11.

SECTION 29. AMENDMENT. Section 40-04.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-04.1-01. City council - ~~Who constitutes~~ Membership - Terms. The governing body of a city operating under the modern council form of government ~~must be is~~ the city council, which ~~must be is~~ composed of ~~five not less than four~~ members, one of whom ~~must be is~~ the mayor, all elected at large or a city council composed of seven, nine, or eleven members, at least three of whom must be elected by wards, and at least three of whom, including the one serving as mayor must be elected at large. Candidates for the council shall run for either mayor or councilman council member but not both at the same time. When a city first adopts a modern council form of government in cities electing five council members, the candidates having the three highest number of votes must be elected for a four year term and the other two for a two year term. In cities electing seven, nine, or eleven council members, the candidates, by means of their nominating petitions, must announce their intentions to seek a ward seat or an at large seat, or the mayor's seat. A candidate seeking a ward seat must be a resident of such ward. When a city first adopts a modern council form of government in cities electing seven, nine, or eleven members, the elected mayor candidate and the elected candidates from the wards must be elected for a four year term and the at large elected candidates for a two year term. Thereafter the The terms of members of the council ~~must shall~~ be four years, or until their successors are elected and qualified. ~~The city governing body shall allow council members who were previously elected to continue to hold office until their term expires. In that case, council members from the odd numbered wards and at least two at large council members must be elected to a four year term at the first election, with the remainder of the council members being elected to four year terms at the next regular city election. However, the council shall establish by ordinance a procedure whereby one-half of all council~~

members, as nearly as is practicable, are elected biennially. The number of council members may be increased or decreased pursuant to section 36 of this Act.

SECTION 30. AMENDMENT. Section 40-04.1-02 of the North Dakota Century Code is amended and reenacted as follows:

40-04.1-02. Compensation of ~~councilmen~~ council members. The members of the council shall receive such compensation for their services as ~~shall be~~ is fixed by ordinance, but not more than the maximum provided for the members of the governing board under any other form of city government, ~~except in the cities adopting the eleven member modern council the maximum compensation shall be eighty five dollars per month.~~

SECTION 31. A new section to chapter 40-05.1 of the North Dakota Century Code is created and enacted as follows:

Multicity home rule.

1. Two or more cities may draft and submit for adoption a multicounty home rule charter to the electors of each city pursuant to this section. The other provisions of this chapter apply to a multicounty home rule charter, except as otherwise provided by this section.
2. The process for drafting and submitting a multicounty home rule charter may be initiated by:
 - a. Separate motions by the governing bodies of the participating cities;
 - b. The execution of a joint powers agreement between participating cities; or
 - c. A petition filed with each governing body of two or more cities and signed by ten percent or more of the total number of qualified electors of each city voting for governor at the most recent gubernatorial election.
3. Within sixty days after proceedings are initiated for a multicounty home rule charter, the boards of governing bodies shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single cooperative charter commission with membership representing each city. As an alternative, the governing bodies in each affected city may establish a separate charter commission pursuant to section 40-05.1-03 to frame the charter in cooperative study with the charter commission of any other affected city. The charter commissions must submit a single joint report and proposed charter.
4. The charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed multicounty home rule charter, and may report periodically to the affected governing bodies on their progress. In preparing the charter, the charter commission may:
 - a. Include any of the available powers enumerated in section 40-05.1-06;

- b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner which will provide for a fair and equitable burden of taxation for debt service;
 - c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of the cities;
 - d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the city governments, including city park districts;
 - e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders or personnel such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
 - f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the charter on a date certain in the future, required reapproval of the charter by the electors at a future date, or a phased-in implementation of various aspects of the charter; and
 - g. Include other provisions that the charter commission elects to include and which are consistent with state law.
5. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected city, at the expense of each city, at least once during two different weeks within the thirty-day period immediately preceding the date of election. However, a city with a population of one thousand or less may, instead of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city.
 6. If a majority of the qualified electors voting in each city on the charter vote in favor of the multicounty home rule charter, it is ratified and becomes the organic law of the cities on the first day of January following the election or other effective date specified in the charter.
 7. The amendment or repeal of a multicounty home rule charter may proceed pursuant to the amendment and repeal provisions of section 40-05.1-07 on a multicounty basis. A majority vote of the qualified electors voting in each city in the election is required to adopt any amendment of a multicounty charter. A majority vote of the qualified electors of only one or more participating cities is required to repeal a multicounty charter.

SECTION 32. AMENDMENT. Section 40-05.1-01 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-01. Enabling clause. ~~Any city with a population of one hundred or more persons as determined by the last federal census and desiring to avail itself of the provisions of this chapter may proceed to frame, adopt, amend, or repeal home rule charters as herein provided in this chapter.~~

SECTION 33. AMENDMENT. Section 40-05.1-03 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-03. Charter commission - Membership - Preparation and submission of charter - Compensation and expenses - Publication or distribution. Where Within sixty days after proceedings have been initiated for a home rule charter, the governing body of the city shall appoint a charter commission, composed of at least five members, to frame such the charter, unless a petition proposing a charter pursuant to section 40-05.1-02 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The chairman of the charter commission shall be designated by the governing body and shall be a charter commission member. Compensation and expenses of commission members shall be as determined by the governing body. The governing body may furnish the charter commission with office space, clerical help, legal and other assistance, and supplies, and may appropriate and pay for same out of its general funds. The charter commission shall hold at least one public hearing on the proposed charter, and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter within one year after appointment, unless the governing body allows additional time for submission of the charter. The proposed charter shall then be published once in the city's official newspaper as provided in section 40-01-09. However, cities with a population of one thousand or less may, in lieu of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city. In the event a city does not publish the charter in a newspaper, it must still publish a notice of the election.

SECTION 34. AMENDMENT. Section 40-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-04. Submission of charter to electors. Not earlier than At least sixty days nor later than six months after such publication or distribution, but no more than two years, after submission of the charter to the governing body of the city, the proposed charter shall must be submitted to a vote of the qualified electors of the city at a regular or special city election, or at any primary or general election that is to be held within such that period of time, or at a special city election held concurrently with any primary or general election. If the proposed charter has been submitted to a vote of the qualified electors of the city, the governing body of the city may call a special election to resubmit the proposed charter to a vote of the qualified electors of the city, and the special election must take place at least sixty days after the call for the special election. The governing body may amend the proposed charter prior to its resubmission to the electors.

SECTION 35. AMENDMENT. Section 4 of chapter 442 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 4. AMENDMENT. Section 40-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-04. Submission of charter to electors. Not earlier than At least sixty days nor later than six months after such publication or distribution, but no more than two years, after submission of the charter to the governing body of the city, the proposed charter must be submitted to a vote of the qualified electors of

the city at a regular or special city election, or at any statewide election that is held within that time, or at a special city election held concurrently with any statewide election. If the proposed charter has been submitted to a vote of the qualified electors of the city, the governing body of the city may call a special election to resubmit the proposed charter to a vote of the qualified electors of the city, and the special election must take place at least sixty days after the call for the special election. The governing body may amend the proposed charter prior to its resubmission to the electors.

SECTION 36. A new section to title 40 of the North Dakota Century Code is created and enacted as follows:

Change in number of members of city governing body - Election.

1. The process for increasing or decreasing the number of members of a city governing body pursuant to sections 40-04.1-01, 40-08-03, and 40-09-01, may be initiated:
 - a. By resolution approved by a majority vote of the governing body of the city; or
 - b. By a petition signed by ten percent or more of the total number of qualified electors of the city voting for governor at the most recent gubernatorial election and submitted to the governing body of the city.
2. The governing body of the city shall submit the question of increasing or decreasing the number of members of the city governing body to the electors of the city at any regular city election or primary or general election as specified in the resolution or petition submitted pursuant to subsection 1. The question requires an affirmative vote of those voting on the question for passage.
3. If an increase in the number of members of the city governing body is approved by the electors, the additional members must be elected at the next regular city election or as specified in the resolution or petition pursuant to subsection 1. The additional members shall hold office for terms of four years and until a successor is elected and qualified, unless different terms are specified in the resolution or petition pursuant to subsection 1. The terms of office must be arranged on a staggered basis as otherwise provided by law.
4. If a decrease in the number of members of the city governing body is approved by the electors, the offices identified for abolition shall continue until the time when the terms of those offices expire. A different procedure for abolition of the offices may be specified in the resolution or petition pursuant to subsection 1.
5. All statutory provisions relating specifically to a ten-member council or eleven-member council, whether repealed or amended by this Act, including sections 40-08-03.1, 40-08-03.2, 40-08-04, 40-08-04.1, 40-08-06.1, and 40-12-01, continue to apply to those councils existing on the effective date of this Act until such time as an increase or decrease occurs in the number of members of those councils pursuant to this section.

SECTION 37. AMENDMENT. Section 40-08-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-03. Number of council members determined by population ~~Census to govern.~~ The number of council members is:

- ~~1. In cities of two hundred inhabitants or less, four, except that the city council may by resolution duly adopted reduce the number to two.~~
- ~~2. In cities of more than two hundred but not more than six hundred inhabitants, four.~~
- ~~3. In cities of more than six hundred but not more than ten thousand inhabitants, four, six, eight, ten, or twelve, as provided by city ordinance.~~
- ~~4. In cities of more than ten thousand inhabitants, fourteen.~~
- ~~5. Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten council members and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure provided in this chapter.~~

~~Whenever a census of the city shows a population requiring more council members than are in the council at the time of taking the census, the city council is not required to make a change in the number of council members and the corresponding change in the number of wards of the city unless a majority of the qualified electors of the city, to be determined by the number of names on the poll list of the last city election, petition for a change not less than three. The number of council members may be increased or decreased pursuant to section 36 of this Act.~~

SECTION 38. AMENDMENT. Section 40-08-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-04. Election of council members. In cities containing six hundred inhabitants or less, the council member members must be elected at large. In all other cities operating under the council form of government, ~~except in a city operating with ten council members and mayor,~~ the council members must be elected by wards, ~~and two council members must be elected from each ward. In cities operating under ten council members and mayor, one council member must be elected from each of the seven wards and three council members and mayor must be elected at large.~~

SECTION 39. AMENDMENT. Section 40-09-01 of the North Dakota Century Code is amended and reenacted as follows:

40-09-01. Board of city commissioners - ~~Who constitutes~~ Composition. The governing body of a city operating under the commission system of government ~~shall be~~ is the board of city commissioners which ~~shall be~~ is composed of the president of the board of city commissioners and ~~four~~ not less than three city commissioners. The number of city commissioners may be increased or decreased pursuant to section 36 of this Act.

SECTION 40. AMENDMENT. Section 40-09-04 of the North Dakota Century Code is amended and reenacted as follows:

~~40-09-04. Commissioners - Terms of office - Terms of members of first board - Resignations.~~ Each commissioner and the president of the board of city commissioners shall hold office for four years from and after the date of his election and until his a successor shall have been is duly elected and qualified; ~~except that when the first board of city commissioners is elected, the president of the board and the two commissioners receiving the highest number of votes shall hold office until the third Tuesday in April following the second biennial city election thereafter and the others until the third Tuesday in April following the first biennial city election thereafter.~~ The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign his from office by filing his a written resignation with the city auditor, who shall lay submit the resignation before to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of such the resignation. The resignation shall become becomes effective upon its acceptance by the board.

SECTION 41. AMENDMENT. Section 8 of chapter 442 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 8. AMENDMENT. Section 40-09-04 of the North Dakota Century Code is amended and reenacted as follows:

~~40-09-04. Commissioners - Terms of office - Terms of members of first board - Resignations.~~ Each commissioner and the president of the board of city commissioners shall hold office for four years after the date of election and until a successor has been duly elected and qualified; ~~except that when the first board of city commissioners is elected, the president of the board and the two commissioners receiving the highest number of votes shall hold office until the fourth Tuesday in June following the second biennial city election thereafter and the others until the fourth Tuesday in June following the first biennial city election thereafter.~~ The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign the from office by filing a written resignation with the city auditor, who shall lay submit the resignation before to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of the resignation. The resignation is effective upon its acceptance by the board.

SECTION 42. AMENDMENT. Section 40-10-02 of the North Dakota Century Code is amended and reenacted as follows:

~~40-10-02. Vote required to adopt plan - When plan effective after adoption Effective date.~~ If ~~four-sevenths~~ a majority of the vote votes cast at the election ~~favor favors~~ the adoption of the city manager plan, the governing body shall declare the plan adopted, and shall fix the date when the ~~same shall go into effect plan becomes effective.~~ Such The date ~~shall must~~ be after the first regular meeting of the governing body in the month of May following the election.

SECTION 43. AMENDMENT. Section 9 of chapter 442 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 9. AMENDMENT. Section 40-10-02 of the North Dakota Century Code is amended and reenacted as follows:

40-10-02. Vote required to adopt plan - ~~When plan effective after adoption~~
Effective date. If ~~four-sevenths~~ a majority of the ~~vote~~ votes cast at the election ~~favor~~ favors the adoption of the city manager plan, the governing body shall declare the plan adopted, and shall fix the date when the plan becomes effective. ~~That~~ The date must be after the first regular meeting of the governing body in the month of July following the election.

SECTION 44. AMENDMENT. Section 40-12-01 of the North Dakota Century Code is amended and reenacted as follows:

40-12-01. Initiative and referendum apply only in commission and modern council cities. The provisions of this chapter relative to the initiating and referring of municipal ordinances shall apply only in cities operating under the commission and modern council system of government ~~except those cities adopting the eleven member council.~~

SECTION 45. AMENDMENT. Section 40-14-04 of the North Dakota Century Code is amended and reenacted as follows:

40-14-04. Appointive officers in council cities - Appointment of more than one assessor.

1. The mayor, with the approval of the city council, shall appoint the following officers:
 - ~~1-~~ a. A city auditor;
 - ~~2-~~ b. A city assessor;
 - ~~3-~~ c. A city attorney;
 - ~~4-~~ d. A city engineer; and
 - ~~5-~~ e. Such other officers as the city council deems necessary and expedient.
2. The city assessor shall be appointed at the first meeting of the city council in September of each odd-numbered year. If the city council of a city containing five thousand or more inhabitants shall declare, by resolution, that it is necessary to appoint more than one assessor, the mayor, with the approval of the council, may appoint one or two additional city assessors.
3. The city council, including a city council under the modern council form of government, by a majority vote may dispense with any appointive office and provide that the duties of that office be performed by other officers.

SECTION 46. AMENDMENT. Section 40-49-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-49-05. Board of park commissioners in city - Terms.

1. The powers of a park district in a city must be exercised by a board of park commissioners consisting of five ~~or three~~ members, as determined by the governing body of the city in creating the park district or pursuant to section 47 of this Act. Except as provided in subsection 2, each commissioner shall hold office for a term of four years and until a

successor is elected and qualified. The term of office of a commissioner begins two weeks after the regular biennial city election at which the commissioner is elected.

2. Members of a newly created five-member board shall hold office as follows:
 - a. Three members until two weeks after the next regular biennial city election.
 - b. Two members until two years from the time mentioned in subdivision a.
3. Members of boards of park commissioners which existed before July 1, 1987, shall hold office on the staggered basis in effect on June 30, 1986.
4. Members of a newly created three-member board shall hold office as follows:
 - a. Two members until two weeks after the next regular biennial city election.
 - b. One member until two years after the next regular biennial city election.

SECTION 47. Two new sections to chapter 40-49 of the North Dakota Century Code are created and enacted as follows:

Change in number of park commissioners - Election.

1. The number of park commissioners may be increased from three to five, or decreased from five to three, pursuant to this section.
2. The process for increasing or decreasing the number of park commissioners may be initiated:
 - a. By resolution approved by a majority vote of the board of park commissioners and submitted to the governing body of the city; or
 - b. By a petition signed by ten percent or more of the total number of qualified electors of the city park district voting for governor at the most recent gubernatorial election and submitted to the governing body of the city.
3. The governing body of the city shall submit the question of increasing or decreasing the number of park commissioners to the electors of the park district at any regular city election or primary or general election as specified in the resolution or petition submitted pursuant to subsection 2. The question requires an affirmative vote of a majority of those voting on the question for passage.
4. If an increase in the number of park commissioners is approved by the electors, the two additional park commissioners must be elected at the next regular city election or as specified in the resolution or petition pursuant to subsection 2. One of the additional commissioners shall hold office for a term of four years, and the other commissioner for a term of two years and until a successor is elected and qualified, unless other

terms are specified in the resolution or petition pursuant to subsection 2.

5. If a decrease in the number of park commissioners is approved by the electors, the existing board members shall continue in office until the time when the terms of office of two members of the board expire simultaneously. At that time, those two offices are abolished. A different procedure for abolition of the two offices may be specified in the resolution or petition pursuant to subsection 2.

Dissolution of city park district - Election.

1. A city park district may be dissolved pursuant to a plan adopted pursuant to this section. A proposal for dissolving a city park district may be initiated:
 - a. By resolution incorporating a dissolution plan, approved by a majority vote of the board of park commissioners and submitted to the governing body of the city; or
 - b. By a petition incorporating a dissolution plan, signed by twenty-five percent or more of the total number of qualified electors of the city park district voting at the last regular city election and submitted to the governing body of the city.
2. The governing body of the city shall submit the question of dissolution to the electors of the park district at any regular city election or primary or general election as specified in the resolution or petition submitted pursuant to subsection 1. The plan incorporated in the resolution or petition is effective and becomes operative according to its terms if a majority of the qualified electors voting approves the plan.
3. A plan for dissolving a city park district may specify:
 - a. The disposition and maintenance of land and other property acquired by the board of park commissioners of the dissolved park district;
 - b. The manner for payment of any current indebtedness, evidences of indebtedness in anticipation of user fee revenues, bonded indebtedness, and other obligations of the dissolved park district;
 - c. The disposition of any outstanding special assessments or other anticipated revenues;
 - d. The transition in implementing the plan, including elements that consider the reasonable expectations of current officeholders and personnel such as delayed effective dates for implementation; and
 - e. Other considerations and provisions that are consistent with state law.
4. The governing body of the city shall cause the complete text, or a fair and accurate summary, of the plan to be published in the official newspaper of the city, not less than two weeks nor more than thirty days, before the date of the election. The governing body may, prior to the election, hold public hearings and community forums and use other suitable

means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose and provisions of the plan.

SECTION 48. A new chapter to title 40 of the North Dakota Century Code is created and enacted as follows:

Combination of boards of park commissioners - Plan. The membership and functions of a board of city park commissioners may be combined with one or more boards of city park commissioners or with one or more boards of county park commissioners pursuant to a plan adopted pursuant to this chapter. This chapter does not supersede the procedure and requirements of chapter 11-28 with respect to the creation of a joint county park district. A proposal for combining boards of park commissioners may be initiated:

1. By execution of a joint powers agreement between participating city or county boards of park commissioners incorporating a plan for combining boards of park commissioners; or
2. By a petition, signed by ten percent or more of the total number of qualified electors of each affected city park district or county voting for governor at the most recent gubernatorial election and submitted to the city park district or county, incorporating a plan for combining boards of park commissioners.

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

Contents of plan - Effect of plan - Limitations - Revision or termination.

1. Notwithstanding any other law regarding the structure of a board of park commissioners, a plan for combining a board of city park commissioners with another board of city park commissioners or a board of county park commissioners may specify:
 - a. The number, selection, functions, qualifications and training, and terms of the members of the proposed combined board;
 - b. The manner of apportionment of the costs of operating the combined board;

- c. Procedures for the selection, transfer, reassignment, or termination of personnel associated with the combined board and previous boards;
 - d. Procedures for the transfer of powers, records, documents, and property, for the equalization of the property, funds on hand, and debts, and for the adjustment of existing bonded indebtedness and other obligations in a manner which will provide for a fair and equitable burden of taxation for debt service;
 - e. The transition in implementing the plan, including elements that consider the reasonable expectations of current officeholders or personnel such as delayed effective dates for implementation;
 - f. A limited application or temporary implementation of the plan, including provisions that permit implementation on a trial or experimental basis such as the expiration of the plan on a date certain in the future, required reapproval of the plan by the electors at a future date, or a phased-in implementation of various components of the plan; and
 - g. Other provisions which are consistent with the powers and functions of a board of park commissioners and with state law.
2. As a political subdivision of the state, the combined board of park commissioners has the status of a board of city park commissioners, or the status of both a board of city park commissioners and a board of county park commissioners if both are combined. If applicable, all laws relating to the functions and powers of a board of city park commissioners and, if city and county boards are combined, laws relating to the functions and powers of a board of county park commissioners apply to a combined board of park commissioners.
 3. A plan for combining boards of park commissioners may not repeal or diminish any general law of the state directing or requiring a board of park commissioners to carry out any function or provide any service. A combined board of park commissioners, resulting from a combination of boards of city and county park commissioners, may not levy any tax or exercise any power that was not otherwise conferred within the territorial jurisdiction of the county upon the previous board of county park commissioners, and taxes that may be authorized by law for a city park district may be levied only in areas within the jurisdiction of the combined board which are designated as cities.
 4. A plan adopted pursuant to this chapter may be revised or terminated through the procedures set forth in this chapter for adopting a plan.

SECTION 49. A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Joint powers agreements - General authority.

1. Any county, city, township, city park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into an agreement with any other political subdivision of this state for the cooperative or joint administration of

any power or function that is authorized by law or assigned to one or more of them. Any political subdivision of this state may enter into a joint powers agreement with a political subdivision of another state or political subdivision of a Canadian province if the power or function to be jointly administered is a power or function authorized by the laws of this state for a political subdivision of this state and is authorized by the laws of the other state or province. A joint powers agreement may provide for:

- a. The purpose of the agreement or the power or function to be exercised or carried out.
- b. The duration of the agreement and the permissible method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of any property upon the partial or complete termination.
- c. The precise organization, composition, and nature of any separate administrative or legal entity, including an administrator or a joint board, committee, or joint service council or network, responsible for administering the cooperative or joint undertaking. Two or more political subdivisions which enter into a number of joint powers agreements may provide a master administrative structure for the joint administration of any number of those agreements, rather than creating separate administrative structures for each agreement. However, no essential legislative powers, taxing authority, or eminent domain power may be delegated by an agreement to a separate administrative or legal entity.
- d. The manner in which the parties to the agreement will finance the cooperative or joint undertaking and establish and maintain a budget for that undertaking. The parties to the agreement may expend funds pursuant to the agreement, use unexpended balances of their respective current funds, enter into a lease-option to buy and contract for deed agreements between themselves and with private parties, accumulate funds from year to year for the provision of services and facilities, and otherwise share or contribute property in accordance with the agreement in cooperatively or jointly exercising or carrying out the power or function. The agreement may include the provision of personnel, equipment, or property of one or more of the parties to the agreement that may be used instead of other financial support.
- e. The manner of acquiring, holding, or disposing of real and personal property used in the cooperative or joint undertaking.
- f. The acceptance of gifts, grants, or other assistance and the manner in which those gifts, grants, or assistance may be used for the purposes set forth in the agreement.
- g. The process to apply for federal or state aid, or funds from other public and private sources, to the parties for furthering the purposes of the agreement.

- h. The manner of responding for any liability that might be incurred through performance of the agreement and insuring against that liability.
- i. Any other necessary and proper matters agreed upon by the parties to the agreement.
2. Any county, city, township, city park district, school district, or other political subdivision of this state may enter into an agreement in the manner provided in subsection 1 with any agency, board, or institution of the state for the undertaking of any power or function which any of the parties is permitted by law to undertake. Before an agreement entered into pursuant to this subsection is effective, the respective governing body or officer of the state agency, board, or institution must approve the agreement and the attorney general must determine that the agreement is legally sufficient.
3. An agreement made pursuant to this chapter does not relieve any political subdivision or the state of any obligation or responsibility imposed by law except to the extent of actual and timely performance by a separate administrative or legal entity created by the agreement. This actual and timely performance satisfies the obligation or responsibility of the political subdivision.

Clarification of constitutional authority and effect of other statutes - Construction.

1. The specificity of this chapter, chapter 54-40, or any other law may not be construed to limit the general authority of a political subdivision to enter into agreements pursuant to section 10 of article VII of the Constitution of North Dakota, except for specific limitations on that authority, and subject to specific procedural requirements, imposed by this chapter, any other law, or a home rule charter.
2. This chapter does not dispense with the procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.

Political subdivisions encouraged to file agreements with advisory commission on intergovernmental relations. A political subdivision entering into a joint powers agreement pursuant to this chapter or any other law is encouraged to file one copy of the agreement and explanatory material with the advisory commission on intergovernmental relations, to assist the commission in providing information for other political subdivisions exploring cooperative arrangements.

SECTION 50. AMENDMENT. Section 54-40-08 of the North Dakota Century Code is amended and reenacted as follows:

54-40-08. Joint functions — Who may participate ~~Agreements for the use by political subdivisions of buildings and facilities of the state.~~

- ~~1. Any municipality, county, park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into agreements with one another for joint or cooperative action, on a cost sharing basis, or otherwise, to carry out~~

~~any function or duty which may be authorized by law or assigned to one or more of them, and to expend funds of such municipality, county, park district, school district, or other political subdivision pursuant to such agreement, to use unexpended balances of their respective current funds, to enter into lease option to buy and contract for deed agreements between themselves and with private parties, and to accumulate funds from year to year for the provision of services and facilities, and to otherwise share or contribute property in accordance with such agreement in jointly and cooperatively carrying out such function or duty.~~

- 2- ~~Any municipality, county, city, township, city park district, school district, or other political subdivision of this state may enter into agreements in the manner provided in subsection 1 an agreement with any agency, board, or institution of the state for the use of buildings and facilities under the control of such that state agency, board, or institution for such periods a period of time as the parties may determine to be necessary. No such agreement may be entered into by any state agency, board, or institution unless Before an agreement pursuant to this section is effective, the respective governing body or officer of such the state agency, board, or institution has approved must approve the agreement and the attorney general has determined must determine that the agreement is legally sufficient.~~
2. ~~The municipality, county, park district, school district, or other political subdivision of this state, pursuant to an agreement for the use of buildings and facilities, may make improvements to such the buildings or facilities in lieu instead of any rental or other payments, but all such improvements must first be approved by the governing body or officer of such the state agency, board, or department institution. Such The buildings and facilities may be moved or replaced at any time during the term of an agreement, and the municipality, county, park district, school district, or other political subdivision is entitled to may use such the buildings and facilities constructed in place thereof of the original buildings and facilities for the remainder of the term of the agreement.~~

SECTION 51. A new chapter to title 54 is created and enacted as follows:

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

Method of proposing home rule charter. The process for drafting and submitting a county-city home rule charter may be initiated by:

1. Separate motions by one or more boards of county commissioners and one or more city governing bodies within each of those counties;
2. The execution of a joint powers agreement; or
3. A petition filed with the governing body of each county and city and signed by ten percent or more of the total number of qualified electors of each county and city voting for governor at the most recent gubernatorial election. The petition must be signed by at least ten percent of the

electors residing within each participating city and ten percent of the electors residing in the remainder of the county.

Charter commission alternatives - Powers and limitations - Charter contents.

1. Within sixty days after proceedings are initiated for a county-city home rule charter, the governing bodies of the affected counties and cities shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single, cooperative charter commission with membership representing each county and city. As an alternative, the governing body of each county and city may establish a charter commission to frame the charter in cooperative study with the charter commissions of the other counties or cities. The governing bodies shall designate one of the members as chair of the charter commission.
2. Each governing body may, whether separate charter commissions are established or another procedural arrangement is established through execution of a joint powers agreement, set the compensation and expenses of charter commission members and, from its general funds, furnish the charter commission with office space, supplies, and legal, clerical, and other assistance.
3. A charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed county-city home rule charter, and may report periodically to the affected governing bodies on its progress. In preparing the charter, the charter commission may:
 - a. Include all, or any part, of the available powers enumerated by sections 11-09.1-05 and 40-05.1-06 for county and city home rule in the county-city charter, subject to the limitations of those provisions. A unified county-city government may not levy any tax that would not otherwise be authorized within the jurisdiction of a city or county pursuant to section 11-09.1-05 or 40-05.1-06, and city taxes may be levied only within areas of the unified government which are designated as participating cities;
 - b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner that will provide for a fair and equitable burden of taxation for debt service;
 - c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of local governments unified under the charter;
 - d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the unified governments;
 - e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders such as delayed effective dates for

- implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
- f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on a trial or experimental basis such as the expiration of the charter on a date certain in the future, required reapproval of the charter by the electors at a future date, or a phased-in implementation of various aspects of the charter; and
 - g. Include other provisions that the charter commission decides to include and which are consistent with state law.
4. A county-city home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term.
5. A county-city home rule charter may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on the effective date of this Act, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office consents in writing to the proposed charter and submits that written document prior to the scheduled implementation of the charter to a district judge serving the judicial district in which the county is located.
6. The charter commission shall submit a single, joint report and proposed charter within one year after appointment, unless a later submission date is agreed to by the affected governing bodies. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected county and city, at the expense of each county and city, at least once during two different weeks within the thirty-day period immediately preceding the date of election. However, a city with a population of one thousand or less may, instead of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city.

Submission of charter to electors. At least sixty days, but not more than two years, after submission of the proposed charter to the affected governing bodies, the proposed charter must be submitted to a vote of the qualified electors of each affected county and city at a primary or general election held concurrently. The question on the ballot at the election must be framed in a manner that fairly and accurately describes the substance of the proposed charter. If the proposed charter has been submitted to a vote of the qualified electors of a county or city, the governing body may call a special election to resubmit the proposed charter to a vote of the qualified electors, and the special election must take place at least sixty days after the call for the special election.

Ratification by majority vote - Effect of unification - Former powers preserved - Supersession of existing charters and conflicting state laws - Filing of copies of new charter.

1. If a majority of the qualified electors of the county and a majority of the qualified electors of at least one city in the county voting approves the charter, it is ratified and becomes the organic law of the area on the first day of January or July next following the election. However, the proposed charter may condition the approval of the charter on separate approval by any number of specified counties or cities participating in the charter process.
2. On the effective date, the separate corporate existence of the county and of each participating city are unified into one unit of local government. The unified government shall succeed to, possess, and own all of the assets and, except as otherwise provided in the charter, becomes responsible for all the obligations and liabilities of each affected county and city. Any provision of law authorizing contributions or aid of any kind from the state or federal government to an affected county and city remains in full force and effect with respect to the unified county-city government. All powers granted any county or city by general law are granted to a home rule county-city.
3. The county-city home rule charter and the ordinances made pursuant to the charter must be liberally construed to supersede, within the territorial limits and jurisdiction of the affected area, any conflicting state law. The charter may not authorize the enactment of ordinances to diminish the authority of boards of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. Any ordinance of a unified county-city government does not supersede any specific statutory limitation imposed on a home rule county or city.
4. One copy of the charter as ratified must be filed with the secretary of state, one with the clerk of district court for any affected county or city, and one with the officer of unified county-city government responsible for maintaining permanent records. Courts shall take judicial notice of the charter.

Amendment or repeal - Discontinuance of participation.

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

primary or general election. The voters may accept or reject the proposal by a majority vote of the electors of the county or city voting at the election.

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

Vested property - Rights of action - Actions saved. The adoption of any charter or amendment does not destroy any property, action, right of action, claim, or demand of any nature vested in the county-city. All rights of action, claims, or demands are preserved to the county-city, and to any persons asserting any claims against the county-city as though the charter or amendment had not been adopted. The adoption of any charter or amendment affects neither the right of the county-city to collect special assessments previously levied under any law or charter for the purpose of public improvements, nor impairs the obligation of any existing contract to which the county-city is a party.

Effect of amendment or repeal on salary or term of office. On the first day of January following repeal of a county-city home rule charter any affected county and city reverts to the form of government in place immediately preceding adoption of the home rule charter. If positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the county and city revert upon repeal, the elected officials shall continue to exercise the authority of their positions for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. An amendment of a home rule charter may not diminish the term for which any official was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term.

SECTION 52. A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Purpose. The purpose of this chapter is to provide procedures for political subdivisions by mutual agreement to transfer the administrative, legal, and financial responsibility for any powers or functions to the county, as authorized by section 10 of article VII of the Constitution of North Dakota. Nothing in this chapter may be construed to affect the authority of political subdivisions to enter into joint powers agreements for the cooperative or joint administration of powers or functions or other contracts as permitted by law.

Definitions. As used in this chapter:

1. "County" means the county in which a political subdivision is located.
2. "Political subdivision" means a city, township, city park district, school district, or other unit of local government or special district or authority in this state.

Transfer of powers or functions to the county. A political subdivision may enter into an agreement for the transfer of the legal, administrative, and financial responsibilities for carrying out a power or function of the political division as required or permitted by law or home rule charter. The agreement must include:

1. The nature of the power or function to be transferred;
2. The effective date of the proposed transfer;
3. The responsibility for administration of the power or function to be transferred;
4. The manner in which affected employees currently engaged in the performance of the power or function will be transferred, reassigned, or otherwise treated;
5. The manner in which real property, facilities, equipment, or other personal property required in the exercise of the power or function are to be transferred, sold, or otherwise disposed of;
6. The method of financing, establishing, and maintaining a budget for the power or function; and
7. Other legal, financial, and administrative arrangements necessary to affect the transfer in an orderly and equitable manner.

Revocation of transfer. An agreement may be amended by further agreement of the parties in the same manner as the original agreement was made. An agreement may be terminated as provided in the agreement or, if no provision is made for the termination, by joint action of all parties, or by an individual party not less than one year after its notice in writing to all other parties. If a political subdivision that is a party to the agreement is dissolved, the agreement may be terminated as provided in this section by the governing body of the political subdivision upon its reincorporation or reestablishment, by a petition submitted to the county and signed by a majority of the electors residing within the previous territorial jurisdiction of the dissolved political subdivision, or in some other manner specified in the agreement.

SECTION 53. REPEAL. Sections 11-05-01, 11-05-03, 11-05-08, 11-05-10, 11-05-11, 11-05-11.1, 11-05-12, 11-05-13, 11-05-14, 11-05-16, 11-05-17, 11-05-18, 11-05-19, 11-05-20, 11-05-21, 11-05-22, 11-05-23, 11-05-24, 11-05-27, 11-06-02, 11-06-05, 11-08-02, 11-09.1-08, and 40-05.1-09 of the North Dakota Century Code; sections 11-09-02, 40-08-03.1, 40-08-03.2, 40-08-04.1, 40-08-06.1, and 54-40-07 of the 1991 Supplement to the North Dakota Century Code; and section 5 of chapter 326 and section 6 of chapter 442 of the 1991 Session Laws of North Dakota are repealed.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 402

HOUSE BILL NO. 1080
(Political Subdivisions Committee)
(At the request of the State Historical Society)

CITY PARTICIPATION IN HISTORIC PRESERVATION

AN ACT to create and enact a new subsection to section 40-05-01 of the North Dakota Century Code, relating to powers of cities to participate in the national historic preservation program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 40-05-01 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

To participate and enact or adopt ordinances necessary for participation in the nation's historic preservation program as a certified local government, as provided for under 36 CFR 61.5.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 403

SENATE BILL NO. 2276
(Senator Lips)

BIDDER'S OR CONTRACTOR'S BONDS

AN ACT to amend and reenact sections 40-22-22 and 40-22-30 of the North Dakota Century Code, relating to sureties of bidder's and contractor's bonds for improvements by special assessment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

40-22-22. Execution of bidder's bond ~~—Affidavit required.~~ The bidder's bond shall must be executed by the bidder as principal and may be provided by a surety company authorized to do business in this state, ~~or by two or more freeholders resident of this state, as sureties surety, or by a bank letter of credit, a cash bond, or a certified check.~~ If the bidder's bond is executed by individuals as sureties, such sureties must attach to the bond an affidavit of justification showing that they are worth in the aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions.

SECTION 2. AMENDMENT. Section 40-22-30 of the North Dakota Century Code is amended and reenacted as follows:

40-22-30. Contractor's bond - Execution ~~—Affidavit required.~~ Within the time fixed by the governing body for executing the contract, the successful bidder shall file with the city auditor a contract bond in a sum equal to the full amount of the contract. Such The bond shall must be executed by the bidder or contractor as principal and by a surety company authorized to do business in this state, ~~or by two or more freeholders who are residents of this state, as sureties surety.~~ If the contract bond is executed by individuals as sureties, such sureties must attach to the bond an affidavit of justification showing that they are worth in the aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 404

SENATE BILL NO. 2338
(Senators Graba, B. Stenehjem)
(Representative Glassheim)

ANNEXED PROPERTY SPECIAL ASSESSMENTS

AN ACT to amend and reenact sections 40-23-17, 40-23-18, and 40-23-19 of the North Dakota Century Code, relating to levy of special assessments against property benefited by improvements before the property was annexed to the city.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-23-17 of the North Dakota Century Code is amended and reenacted as follows:

40-23-17. Authority to levy water and sewer assessments on property not originally assessed. Any municipality which has heretofore paid or provided or may hereafter pay or provide that pays or provides for the payment of part or all of the cost of an improvement to its water or sewer system, from sources other than special assessments upon benefited property, may subsequently levy special assessments therefor for the cost of the improvement upon properties benefited thereby by the improvement in the cases and in accordance with the procedure and subject to the conditions set forth in sections 40-23-17 through 40-23-21.

SECTION 2. AMENDMENT. Section 40-23-18 of the North Dakota Century Code is amended and reenacted as follows:

40-23-18. Assessments on property within the corporate limits. ~~No~~ A subsequent assessment shall may not be levied for any improvement on any property which that was within the corporate limits of the municipality on the date of the execution of the first contract for any part of ~~such~~ the improvement, unless a special improvement district was originally created for ~~such~~ the improvement, and the property on which the subsequent assessment is to be levied was not originally assessed ~~therefor~~ for the improvement but is subsequently included within another improvement district created to finance ~~a water or sewer main which~~ an improvement that will be connected directly or indirectly with the original improvement. ~~In such event, said assessments~~ Assessments under this section may be included in a separate column in the special assessment list prepared for ~~such water or sewer main~~ the improvement district, and levied upon the properties included ~~therein~~ in the district at the same time and upon the same notices and hearings as provided by law for the ~~water or sewer main~~ other assessments; ~~provided, that a.~~ A resolution determining the necessity of the ~~water or sewer main~~ shall improvement must have been adopted in the manner prescribed by law, referring to the designation of the district created for the original improvement and stating that a portion of the cost thereof ~~of the improvement~~ is proposed to be assessed upon property within the ~~water or sewer~~ improvement district.

SECTION 3. AMENDMENT. Section 40-23-19 of the North Dakota Century Code is amended and reenacted as follows:

40-23-19. Assessments on annexed property for previous benefits. Any property which ~~that~~ was outside the corporate limits of the municipality at the time of contracting for a ~~water or sewer~~ an improvement, which is benefited by ~~such~~ the improvement and is subsequently annexed to the municipality, may ~~thereafter~~ be assessed ~~therefor~~ for the improvement subject to the same conditions and by the same procedure as provided in section 40-23-18. ~~Any such~~ The property which ~~that~~ is benefited may also be assessed for a ~~water or sewer main~~ which, at the time of contracting ~~therefor~~, was outside the corporate limits, or for any water or sewer improvement, within or outside the corporate limits, which is determined by the governing body and the special assessment commission to benefit ~~only~~ property which ~~that~~ was outside the corporate limits at the time of contracting ~~therefor~~ for the improvement, whether or not an improvement district was previously created ~~therefor~~, and whether or not the property assessed ~~abuts on such main or other improvement or on a main to be connected thereto~~ for the improvement. For this purpose the governing body may create one or more improvement districts comprising ~~such all or part of the annexed territory or any part thereof, and.~~ The governing body may ~~thereafter~~ provide for the levy of special assessments upon such property in the manner provided in this title, but may dispense with the requirements of this title as to the adoption of a resolution of necessity and the advertisement and award of a contract for the improvement, ~~and the assessment.~~ Assessment proceedings shall be under this section are valid notwithstanding any failure of the previous proceedings to comply with the provisions of law regarding improvements to be financed by special assessments. The cost of any street improvement project that is subsequently special assessed may be the sinking fund depreciated cost based on the applicable life cycle for the type of street improvement as determined by the city engineer.

Approved March 15, 1993

Filed March 16, 1993

CHAPTER 405

SENATE BILL NO. 2472
(Senators Graba, B. Stenehjem)

CITY YEAR-END CASH BALANCES

AN ACT to amend and reenact section 40-40-21 of the North Dakota Century Code, relating to unencumbered cash balances in city funds at the end of a fiscal year.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-40-21 of the North Dakota Century Code is amended and reenacted as follows:

40-40-21. Balance at end of fiscal year to become part of unappropriated balance - When special appropriation to lapse. At the end of the fiscal year, the balance to the credit of each annual appropriation shall become a part of the general unappropriated balance in the municipal treasury, except that the unused balance to the credit of the equipment replacement fund provided for in section 40-40-05 shall not become a part of the general unappropriated balance in the municipal treasury, but no special appropriation shall lapse until the work for which it was made has been completed, the bills paid, and the accounts closed. The governing body of a city may elect, at the end of the fiscal year, to carry over the unencumbered cash balance in the general fund or other budgeted funds and designate the balances for subsequent years.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 406

HOUSE BILL NO. 1376
(Representatives Drovdal, Kempenich, Sitz, Sveen)
(Senators Dotzenrod, Andrist)

UNORGANIZED TOWNSHIP RECREATION SYSTEM

AN ACT to amend and reenact section 40-55-01 of the North Dakota Century Code, relating to the power of a county commission to act on behalf of an unorganized township for a public recreation system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-55-01 of the North Dakota Century Code is amended and reenacted as follows:

40-55-01. Definitions.

1. "Governing body" as ~~herein~~ used in this chapter means city council, board of trustees or commissioners of any city or township, the board of county commissioners on behalf of any unorganized township, the trustees of any school district, and the commissioners of any park district in North Dakota.
2. "Municipality" as used in this chapter refers to and means any city or organized or unorganized township in North Dakota.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 407

HOUSE BILL NO. 1510
 (Representative Freier)
 (Approved by the Delayed Bills Committee)

NEW INDUSTRY TAX EXEMPTION ELIGIBILITY

AN ACT to create and enact a new section to chapter 40-57.1 of the North Dakota Century Code, relating to the tax commissioner providing a tax lien of record clearance before the state board of equalization grants a state income tax exemption for a new or expanding business; and to amend and reenact subsection 4 of section 40-57.1-02 of the North Dakota Century Code, relating to the definition of a project qualifying for an income tax exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ SECTION 1. AMENDMENT. Subsection 4 of section 40-57.1-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Project" means any revenue-producing enterprise, or any combination of two or more of these enterprises. For the purpose of the income tax exemption, "project" means both "primary sector business" and "tourism" as defined by this section and includes the establishment of a new qualifying business or the expansion of a qualifying existing business.

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

Tax lien of record clearance.

1. A project operator is not eligible for the income tax exemption under section 40-57.1-04 until a showing is made that the project operator has satisfied all state and local tax liens of record for delinquent property, income, sales, or use taxes owed to the state or a political subdivision.
2. A certificate from the tax commissioner to the state board of equalization satisfies the requirement of subsection 1.
3. If the project operator is a corporation, any of its officers charged with the responsibility for making either property, income, sales, or use tax returns and payments are subject to the provisions of subsections 1 and 2 with respect to all state or local tax liens of record for property, income, sales, or use taxes for which the individual is personally liable. If the project operator is a partnership, each general partner is subject to the provisions of subsections 1 and 2 with respect to all state or

¹ NOTE: Section 40-57.1-02 was also amended by section 9 of Senate Bill No. 2222, chapter 92.

local tax liens of record for property, income, sales, or use taxes for which the individual is personally liable.

Approved April 8, 1993
Filed April 9, 1993

CHAPTER 408

SENATE BILL NO. 2191
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

PROPERTY TAX REVISIONS

AN ACT to amend and reenact section 40-57.1-04.3, subsections 20 and 26 of section 57-02-08, sections 57-09-05, 57-23-07, 57-28-09, 57-28-10, and 61-24-10 of the North Dakota Century Code, relating to the property tax exemption on speculative industrial buildings and properties owned by a local development corporation, the property tax exemptions for a disabled person, the membership of a township board of equalization, the compromise of property tax, the issuance of a tax deed, the appraisal of property acquired by a county by tax deed, and the certified copies of the budget and tax levy of the Garrison Diversion Conservancy District.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-57.1-04.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ 40-57.1-04.3. 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 tax exemption of a business available under other provisions of this chapter, provided application for the tax exemption is ~~made~~ granted 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.

SECTION 2. AMENDMENT. Subsections 20 and 26 of section 57-02-08 of the 1992 Special Supplement to the North Dakota Century Code are amended and reenacted as follows:

¹ NOTE: Section 40-57.1-04.3 was also amended by section 10 of Senate Bill No. 2222, chapter 92.

20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
- a. A paraplegic disabled veteran of the United States armed forces or any veteran who has been awarded specially adapted housing by the veterans' administration, or the unremarried surviving spouse if such veteran is deceased; ~~provided, that this exemption shall not exceed ten thousand dollars of taxable valuation.~~
 - b. A disabled veteran of the United States armed forces who was discharged under honorable conditions or who has been retired from the armed forces of the United States with an armed forces service-connected disability of fifty percent or greater, or the unremarried surviving spouse if ~~such the~~ veteran is deceased, if the income of ~~such the~~ veteran and the spouse, or if ~~such the~~ veteran is deceased the income of the unremarried surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section exclusive of any compensation or pension for service-connected disability from the United States government; ~~provided, that this exemption shall not exceed five thousand dollars of taxable valuation.~~
 - c. Any permanently and totally disabled person who is permanently confined to use of a wheelchair, or, if deceased, the unremarried surviving spouse of ~~such a~~ permanently and totally disabled person; ~~shall be entitled to a reduction of five thousand dollars of taxable valuation.~~ If the spouse of ~~such a~~ permanently and totally disabled person owns the homestead or if it is jointly owned by them, the same reduction in assessed valuation shall apply as long as both reside thereon. The provisions of this subdivision shall not reduce the liability for special assessments levied upon the homestead. The phrase "permanently confined to use of a wheelchair" means that the person cannot walk with the assistance of crutches or any other device and will never be able to do so and that a physician selected by the local governing board has so certified.

Any person claiming an exemption under this subsection for the first time shall file with the county auditor an affidavit showing the facts herein required and a description of the property and, in addition, a disabled veteran claiming exemption under subdivision b shall also file with the affidavit a certificate from the United States veterans' administration, or its successors, certifying to the amount of the disability; ~~such the~~ affidavit and certificate shall be open for public inspection. Any ~~such~~ person shall thereafter furnish to the assessor or other assessment officials when requested to do so any information which is believed will support the claim for exemption for any subsequent year.

For purposes of this subsection, "homestead" shall have the meaning provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not ~~such the~~ person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year

in which ~~such~~ the veteran shall have held title to ~~such~~ the exempt property.

26. Fixtures, buildings, and improvements ~~up to a taxable valuation of ten thousand dollars~~ when owned and occupied as a homestead, as hereinafter defined, by a paraplegic disabled person, or if ~~such~~ the person is deceased the unremarried spouse, if the income from all sources of ~~such~~ the person and spouse, or if ~~such~~ the person is deceased the income from all sources of the unremarried surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section. To obtain ~~such~~ the exemption for the first time, a certificate from a medical doctor who is approved by the board of county commissioners, accompanied by an affidavit, showing the facts herein required and a description of the property, shall be filed with the county auditor. ~~Such~~ The affidavit and accompanying certificate shall be opened to public inspection. Any person claiming the exemption for any year after the first year shall furnish to the assessor or other assessment officials when requested to do so any information which ~~he~~ the person believes will support ~~his~~ the claim for the exemption for any subsequent year. For purposes of this subsection, "homestead" shall have the meaning provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not ~~such~~ the person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which ~~such~~ the person shall have held title to ~~such~~ the exempt property.

SECTION 3. AMENDMENT. Section 57-09-05 of the North Dakota Century Code is amended and reenacted as follows:

57-09-05. Quorum - Time for completing equalization. Any two members of the a three-member board of equalization and any three members of a five-member board of equalization are authorized to act at the meeting of the board and they may adjourn from day to day, but the equalization must be completed within ten days.

SECTION 4. AMENDMENT. Section 57-23-07 of the North Dakota Century Code is amended and reenacted as follows:

57-23-07. County commissioners may compromise tax. Whenever taxes on any real estate remain unpaid and ~~such~~ the property has not been sold to any purchaser other than the county, the board of county commissioners, subject to the approval of the state tax commissioner, by reason of depreciation in the value of ~~such~~ the property or for other valid cause, may compromise with the owner of ~~such~~ the property by abating a portion of ~~such~~ the delinquent taxes, together with any penalty and interest on ~~such~~ that portion, on payment of the remainder. The county commissioners may not compromise the tax after the county auditor has issued a tax deed to the county.

SECTION 5. AMENDMENT. Section 57-28-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-28-09. Tax deed to be issued. After the expiration of the period of redemption for property that was sold to the county for taxes, and which has not

been assigned or redeemed, the county auditor shall issue a tax deed to the county. The tax deed passes the property in fee to the county, free from all encumbrances except installments of special assessments certified to the county auditor or which may become due after the service of the notice of expiration of the period of redemption and except for a homestead credit for special assessments lien provided for in section 57-02-08.3. While the county holds title under a tax deed, it is not liable for the payment of any installments of special assessments which become due unless the board of county commissioners has leased or contracted to sell the property. A deed issued under this section is prima facie evidence of the truth and regularity of all facts and proceedings before the execution of the deed.

SECTION 6. AMENDMENT. Section 57-28-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-28-10. Appraisal for annual sale - Minimum sale price. All property acquired by the county by tax deed must be appraised by the board of county commissioners at least thirty days before the annual sale under this chapter. The appraised price must be sufficient to cover all taxes, special assessments, homestead credit for special assessments, penalties, interest, and costs which were due against the property at the time of the service of the notice of expiration of the period of redemption, plus an amount equal to the estimated taxes and special assessments for the current assessment year. If the fair market value of the property is more than the total amount due against the property, the minimum sale price of the property must be at least equal to the total amount due against the property. If the fair market value of the property is less than the total amount due against the property, the board shall fix a fair minimum sale price for the property.

SECTION 7. AMENDMENT. Section 61-24-10 of the North Dakota Century Code is amended and reenacted as follows:

61-24-10. Certified copies of levy and budget sent to county auditors. Immediately after completion of the budget and the adoption of the annual tax levy by the board of directors of the district, but not later than October first, the secretary of the district shall send one certified copy of the levy as adopted and one certified copy of the budget to the county auditor of each county in the district, and one certified copy of ~~such~~ the levy and one certified copy of ~~such~~ the budget to the state ~~tax-commissioner~~ auditor.

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