

EDUCATION

CHAPTER 154

HOUSE BILL NO. 1080
(Representatives Kretschmar, Freier)
(Senator Naaden)

UNIVERSITY AND SCHOOL LANDS PROPERTY EXCHANGE

AN ACT to authorize the board of university and school lands to exchange certain property in Emmons County.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Property exchange. The board of university and school lands may exchange the following property in Emmons County for real property substantially similar in value:

The southeast one quarter of the southwest one quarter of section sixteen, township one hundred thirty north, range seventy-eight west.

The conveyance authorized by this Act is not subject to section 54-01-05.5.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 155

SENATE BILL NO. 2080
(Lips)

BISMARCK STATE COLLEGE PROPERTY EXCHANGE

AN ACT to authorize the state board of higher education to exchange certain state-owned land at Bismarck state college for certain property owned by the Theodore Roosevelt Medora foundation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Exchange of land by the state board of higher education and the Medora foundation authorized.

1. The state board of higher education may exchange title to the property described in this subsection for title to the property described in subsection 2 which is owned by the Theodore Roosevelt Medora foundation:
 - a. Lot two, block two, Schafer heights addition, Bismarck, North Dakota, containing one hundred fifty-eight thousand eight hundred seventy square feet, more or less.
 - b. All that part of lot A of auditor's lot thirty, section thirty-two, township one hundred thirty-nine north, range eighty west of the fifth principal meridian, Bismarck, North Dakota, that lies west of lot two, block two, Schafer heights addition, Bismarck, North Dakota, and east of the east line of the west fifty-one and eighty hundredths feet of lot F of auditor's lot thirty extended south to the north line of Edwards avenue. This tract contains twenty-six thousand nine hundred forty-one square feet, more or less.
2. The property described in this subsection and owned by the Theodore Roosevelt Medora foundation may be accepted by the state board of higher education in exchange for the property described in subsection 1:
 - a. Lot D, lot E, and the west fifty-one and eighty hundredths feet of lot F of auditor's lot thirty, section thirty-two, township one hundred thirty-nine north, range eighty west of the fifth principal meridian, Bismarck, North Dakota, containing one hundred ten thousand seven hundred forty square feet, more or less.
 - b. Lot S and the west one hundred eight and twenty-eight hundredths of feet of lot T of auditor's lot thirty, section thirty-two, township one hundred thirty-nine north, range eighty west of the fifth principal meridian, Bismarck, North

Dakota, containing seventy-five thousand sixty-nine square feet, more or less.

3. The exchange authorized by this Act is exempt from the provisions of sections 54-01-05.2 and 54-01-05.5.
4. All legal documents required for the exchange authorized by this Act, including title opinions, must be reviewed as to form and legality by the attorney general.

Approved March 18, 1991

Filed March 19, 1991

CHAPTER 156

SENATE BILL NO. 2535
(Holmberg, Stenehjem)

HIGHER EDUCATION FRATERNITY PROPERTY SALE

AN ACT authorizing the state board of higher education to convey certain real property in Grand Forks, North Dakota; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. The state board of higher education is authorized to convey the real property described in this section for the price and on the terms as determined by the state board of higher education. The property to be conveyed is known as the Lambda Chi Alpha Fraternity House and the land upon which it is situated is described as lots C and D of the Replat of Lots 1,2,3 and the South half of Lots 5,6,7,8, and 9 in Block eight, University Place addition to the city of Grand Forks, North Dakota. The provisions of sections 54-01-05.1 and 54-01-05.5 do not apply to the transfer authorized by this Act.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 157

HOUSE BILL NO. 1154

(Committee on Agriculture)

(At the request of the Board of University and School Lands)

UNIVERSITY AND SCHOOL LAND TIMBER CUTTING

AN ACT to amend and reenact section 15-04-20 of the North Dakota Century Code, relating to permits to cut timber on land under control of the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-04-20 of the North Dakota Century Code is amended and reenacted as follows:

15-04-20. Permits to cut hay and to remove timber. When in its judgment it is for the best interests of the state will be served, the board of university and school lands may sell the right to cut grass or standing timber or both on any of the lands mentioned in this chapter and may sell any down and dead timber on the lands for such price and upon such terms and conditions as it may think deems proper. ~~No dead timber, if standing, shall be included in the sale unless expressly specified in the permit.~~ Standing timber may only be sold under a management plan developed by the board of university and school lands after consultation with a committee composed of the state forester, the game and fish commissioner, and the commissioner of university and school lands. All permits shall be for the current season only, which shall be between the fifteenth day of June fifteenth and the first day of April first of the following year. No control or right of occupancy of the land shall be other than that specified in the permit. All permits shall be paid for in advance.

Approved March 13, 1991

Filed March 13, 1991

CHAPTER 158

SENATE BILL NO. 2496
(Senators Meyer, Langley)
(Representative Flaagan)

PERMANENT IMPROVEMENTS ON SCHOOL LANDS

AN ACT to amend and reenact section 15-08-26 of the North Dakota Century Code, relating to the removal of or payment for improvements on school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-08-26 of the North Dakota Century Code is amended and reenacted as follows:

15-08-26. Removal of or payment for improvements upon termination of lease. The lessee or purchaser of any lands under the control of the board of university and school lands, within one hundred twenty days after the expiration date or cancellation date of a lease or contract may remove any nonpermanent improvements ~~which he has placed upon such lands by the lessee~~ if such removal can be accomplished without material damage to the land. ~~If the land is leased or sold to any person other than the holder of the lease, the person purchasing or leasing the land.~~ Permanent improvements may not be placed on the land without written consent of the commissioner of university and school lands. A lessee requesting a permit to place permanent improvements on the land must complete an application form prepared by the commissioner. If a lessee desires payment for any approved permanent improvements, the commissioner shall determine the cost and may require the lessee to submit all documentation deemed necessary by the commissioner. The cost may not include any reimbursements to the lessee and may be depreciated over a period not to exceed ten years. The next lessee or purchaser, in addition to paying the purchase price or rental of the land, shall pay to the prior preceding lessee the reasonable value of all permanent improvements placed upon the land by the prior lessee with the written consent of the commissioner of university and school lands. If the new lessee or purchaser and the prior lessee cannot agree as to the reasonable value of the improvements the commissioner shall determine the reasonable value by appraisal and require the new lessee or purchaser to pay such value to the prior lessee. The new lessee or purchaser and the prior lessee shall be jointly and severally liable for the costs of such appraisal undepreciated cost.

In computing the reasonable value of such improvements, due regard shall be given to the cost of acquisition or construction and depreciation over a period of not to exceed ten years. Permanent improvements placed on the property without permission of the commissioner shall be deemed the property of the state. For purposes of this section, permanent improvements include such things as buildings, wells, dams, waterholes, waterlines, and trees and nonpermanent improvements include such things as fences, corrals, water tanks, and feed bunks.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 159

HOUSE BILL NO. 1431

(Representatives Gilmore, DeMers, Schneider)
(Senators Redlin, O'Connell, Krebsbach)

BOARD OF HIGHER EDUCATION FACULTY REPRESENTATIVE

AN ACT to amend and reenact section 15-10-02 of the North Dakota Century Code, relating to the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-10-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-10-02. Membership of state board of higher education - Qualifications of members - ~~Advisory student representative - How appointed representatives.~~ The state board of higher education shall consist of seven members, all of whom shall be qualified electors and taxpayers of the state who shall have resided in this state for five years immediately preceding their respective appointments. The members of the board shall be appointed by the governor and confirmed by the senate. Nominations shall be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by the unanimous action of the president of the North Dakota education association, the chief justice of the supreme court, and the superintendent of public instruction. There shall not be on said board at any one time more than one graduate of any one of the institutions under the jurisdiction of the board. No person employed by any institution under the control of the board shall serve as a member of the board, nor shall any employee of any such institution be eligible for membership on the board for a period of two years following the termination of his employment. In addition to the regular board members, a nonvoting advisory representative from the North Dakota student association and one from the council of college faculties may attend and provide input at all board meetings. ~~The~~ Each year the North Dakota student association executive board shall submit to the state board of higher education a list of no fewer than three nor more than four student names, each from a different institution of higher learning, to fill this advisory position. The state board of higher education shall make the appointment from this list select one member to serve as its representative for a term of one year. The student advisory representative must be a resident of North Dakota and be a full-time student in good academic standing. The term of the student advisory representative shall be one year, and the position shall not be filled by students attending the same institution for longer than two consecutive years. Transfer students and graduate students who either transfer or graduate from one institution and attend another may be nominated so as to represent either the institution they are presently attending or the one to which they plan to transfer or enroll. The student advisory representative shall be selected by the board at either its April, May, or June meetings. The council of college faculties shall each year select one member to serve as its representative. The student advisory representative shall and the council of college faculties representative are entitled to receive necessary expenses for travel.

Approved April 8, 1991

Filed April 8, 1991

* NOTE: Section 15-10-02 was also amended by section 1 of Senate Bill No. 2559, chapter 160.

CHAPTER 160

SENATE BILL NO. 2559
(Senators Nalewaja, Heinrich)
(Representatives Carlson, Bernstein)

BOARD OF HIGHER EDUCATION STUDENT MEMBER

AN ACT to amend and reenact section 15-10-02 of the North Dakota Century Code, relating to the membership of the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-10-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-10-02. Membership of state board of higher education - Qualifications of members - Advisory student representative - How appointed. The state board of higher education shall consist of seven members, all of whom shall be qualified electors and taxpayers of the state who shall have resided in this state for five years immediately preceding their respective appointments. The members of the board shall be appointed by the governor and confirmed by the senate. Nominations shall be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by the unanimous action of the president of the North Dakota education association, the chief justice of the supreme court, and the superintendent of public instruction. There shall not be on said board at any one time more than one graduate of any one of the institutions under the jurisdiction of the board. No person employed by any institution under the control of the board shall serve as a member of the board, nor shall any employee of any such institution be eligible for membership on the board for a period of two years following the termination of his employment. In addition to the regular board members, a nonvoting advisory representative from the North Dakota student association may attend and provide input at all board meetings. The Each year, the North Dakota student association executive board shall submit to the state board of higher education a list of no fewer than three nor more than four student names, each from a different institution of higher learning, to fill this advisory position. The state board of higher education shall make the appointment from this list select one member to serve as its representative for a term of one year. The student advisory representative must be a resident of North Dakota and be a full-time student in good academic standing. The term of the student advisory representative shall be one year, and the position shall not be filled by students attending the same institution for longer than two consecutive years. Transfer students and graduate students who either transfer or graduate from one institution and attend another may be nominated so as to represent either the institution they are presently attending or the one to which they plan to transfer or enroll. The student advisory representative shall be selected by the board at either its April, May, or June meetings. The student advisory representative shall is entitled to receive necessary expenses for travel.

Approved April 5, 1991

Filed April 8, 1991

* NOTE: Section 15-10-02 was also amended by section 1 of House Bill No. 1431, chapter 159.

CHAPTER 161

HOUSE BILL NO. 1293
(Representatives Aarsvold, Schindler, Oban)
(Senators Lindaas, Vosper)

VETERAN'S DEPENDENT FOR TUITION PURPOSES

AN ACT to amend and reenact subsection 1 of section 15-10-18.2 of the North Dakota Century Code, relating to the definition of dependents of certain veterans for purposes of receiving free tuition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-10-18.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Dependent" for purposes of section 15-10-18.3 means any child, spouse, widow, or widower of a resident veteran, as "veteran" is defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 162

SENATE BILL NO. 2581

(Moore)

(Approved by the Committee on Delayed Bills)

HIGHER EDUCATION COURSES AND OBJECTS

AN ACT to repeal sections 15-10-21, 15-10-22, 15-11-04, 15-11-06, 15-12-02, 15-13-02, 15-13-03, 15-15-02, and 15-16-02 of the North Dakota Century Code, relating to objects and courses of instruction at the institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 15-10-21, 15-10-22, 15-11-04, 15-11-06, 15-12-02, 15-13-02, 15-13-03, 15-15-02, and 15-16-02 of the North Dakota Century Code are repealed.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 163

SENATE BILL NO. 2524
(Senators Stenehjem, Nalewaja, Maxson)
(Representatives Kretschmar, Wentz)

POLITICAL ADVERTISING AT STUDENT HOUSING

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to political advertising at institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Political advertising - Student housing. A state institution of higher education may not include in student housing leases provisions that prohibit lessees from placing political advertisements on the leased property. A political advertising sign placed on student housing property must be placed in compliance with any applicable city ordinance relating to signs.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 164

SENATE BILL NO. 2584

(Peterson)

(Approved by the Committee on Delayed Bills)

CORRESPONDENCE COURSES

AN ACT to amend and reenact section 15-19-01 of the North Dakota Century Code, section 15-19-01 of the North Dakota Century Code as amended by section 1 of chapter 198 of the 1989 Session Laws of North Dakota, and sections 15-19-04 and 15-19-08 of the North Dakota Century Code, relating to correspondence courses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-19-01 of the North Dakota Century Code is amended and reenacted as follows:

15-19-01. ~~High school correspondence~~ Correspondence courses - Establishment - Enrollment of pupils - Courses of instruction. The state shall provide correspondence courses through the division of independent study under the following provisions:

1. A complete ~~high school~~ curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, shall be maintained upon the campus of one of the state institutions of higher education by the state board of public school education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, all pupils under the age of sixteen taking advantage of the provisions of this chapter shall be required to attend their local district schools and to study their correspondence lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at such place as may be designated by the state director in accordance with the rules of the state board of public school education. If in attendance at a local school pupils shall be supplied with desk space in their respective school without charge, and they shall attend school regularly, and shall be under the same disciplinary supervision of the teachers as the other school pupils.
3. The ~~high school~~ correspondence work shall be completed in accordance with the rules and regulations established by the state board of public school education.

4. Correspondence pupils shall pay for books and materials used by them, postage required to mail reports to the division, and such other fees as may be prescribed by the board of public school education.

SECTION 2. AMENDMENT. Section 15-19-01 of the North Dakota Century Code, as amended by section 1 of chapter 198 of the 1989 Session Laws of North Dakota, is amended and reenacted as follows:

15-19-01. ~~High school correspondence~~ Correspondence courses - Establishment - Enrollment of pupils - Courses of instruction. The state shall provide correspondence courses through the division of independent study under the following provisions:

1. A complete ~~high school~~ curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, must be maintained upon the campus of one of the state institutions of higher education by the state board of public school education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, or as provided in subsection 5 of this section all pupils under the age of sixteen taking advantage of the provisions of this chapter must be required to attend their local district schools and to study their correspondence lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at a place designated by the state director in accordance with the rules of the state board of public school education. If in attendance at a local school pupils must be supplied with desk space in their respective school without charge, and they shall attend school regularly, and be under the same disciplinary supervision of the teachers as the other school pupils.
3. The ~~high school~~ correspondence work must be completed in accordance with the rules established by the state board of public school education.
4. Correspondence pupils shall pay for books and materials used by them, postage required to mail reports to the division, and other fees as may be prescribed by the board of public school education.
5. Pupils exempt from the compulsory school attendance laws pursuant to subsection 5 of section 15-34.1-03 may enroll in correspondence courses offered through the division of independent study. These students may study their correspondence lessons in their learning environment under the supervision of a parent. The tests for the correspondence study must be administered by a certified teacher employed either by the public school district in which the parent resides or a state-approved private or parochial school.

SECTION 3. AMENDMENT. Section 15-19-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-19-04. Duty of teachers, county and state officers, and institutions. The state board of public school education and the superintendent or a member of the department of public instruction designated by the superintendent shall approve the content of courses offered, requirements for certification of teachers, credits granted for each course, and all other things necessary to integrate the correspondence program into other ~~high school~~ programs administered or supervised by the department of public instruction. The division of independent study may advertise its correspondence program, however, the state board of public school education and the superintendent of public instruction shall ensure that the program shall in no way compete with the public schools of this state for the enrollment of students, encourage students to leave the public schools, or duplicate the facilities of the public schools through offering ~~high school~~ correspondence courses to students having access to such courses in the public schools.

SECTION 4. AMENDMENT. Section 15-19-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-19-08. ~~High school correspondence~~ Correspondence work. The amount of money appropriated by the legislative assembly for correspondence work for a biennium, or so much thereof as may be necessary, must be expended first for ~~high school~~ work by correspondence.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 165

HOUSE BILL NO. 1209
(Committee on Education)
(At the request of the Board for Vocational Education)

AREA VOCATIONAL AND TECHNOLOGY CENTERS

AN ACT to amend and reenact sections 15-20.2-01, 15-20.2-02, 15-20.2-03, 15-20.2-04, 15-20.2-05, 15-20.2-07, 15-20.2-08, 15-20.2-09, 15-20.2-10, 15-20.2-11, 15-20.2-12, 15-20.2-13, 15-20.2-14, 15-20.2-15; 15-20.2-16, subsection 1 of section 15-47-38.1, and subsection 3 of section 52-09-08 of the North Dakota Century Code, relating to multidistrict vocational education centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-20.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-01. ~~Multidistrict~~ Area centers - Definition of terms. In this chapter, unless the context otherwise requires:

1. "Center board" means the governing board of ~~a multidistrict~~ an area vocational education and technology center.
2. "~~Multidistrict~~ Area vocational ~~education and technology~~ center" means a program of vocational education conducted at one or more attendance centers by three or more participating public school districts.
3. "Participating district" means a public school district whose students are attending an area vocational and technology center.
4. "School board" means a participating public school district board.
- ~~4~~ 5. "State board" means the state board of vocational education.

SECTION 2. AMENDMENT. Section 15-20.2-02 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-02. Submission of plan for ~~multidistrict area center~~ - Approval by state board. The school boards of three or more school districts may submit to the state board a proposed plan to establish ~~a multidistrict~~ an area vocational education and technology center. Such proposal shall be consistent with the state plan for vocational education and meet the requirements, rules, standards, and procedures as adopted by the state board. The state board upon receipt of a proposed plan to establish ~~a multidistrict~~ an area vocational education and technology center shall examine such plan and receive testimony for the purpose of examining supporting and nonsupporting evidence submitted therewith. The state board shall process the proposed plan according to procedures consistent with the state plan.

Nothing in this chapter shall be interpreted to prohibit school districts from entering into other kinds of administrative structures for vocational centers approved by the state board pursuant to other provisions of law.

SECTION 3. AMENDMENT. Section 15-20.2-03 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-03. Agreement of participation in ~~multidistrict~~ area center - Resolution of agreement. After approval of a plan pursuant to this chapter, all participating school districts of ~~a multidistrict~~ an area vocational ~~education and technology~~ center shall enter into an agreement of participation which must receive a vote of approval of the school board of each participating school district. Prior to the effective date of an approved plan, a resolution of agreement shall be adopted by a majority vote of each participating school board and such resolution shall be published once in the official newspaper of each county or counties of the participating school districts.

SECTION 4. AMENDMENT. Section 15-20.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-04. Center boards - Appointment of members - Terms - Compensation - Vacancies. ~~A multidistrict~~ An area vocational ~~education and technology~~ center shall be operated by a center board of not less than five members nor more than a total of one member for each participating district; provided, however, that each participating school district with three hundred or more high school students shall be allowed one member for each three hundred high school students or fraction thereof with a limitation of not more than three members from any one school district. Center board members shall be members of the school boards. The terms of office of the members of center boards shall be for at least one year and shall terminate upon the expiration of their terms on their respective school boards. Members shall be eligible for reappointment to center boards. Center board members shall receive the same compensation and expenses for attending center board meetings or for otherwise engaging in official business for the center as provided in section 15-29-05 for members of school boards. Compensation and expenses of center board members shall be paid out of center funds.

Vacancies on a center board shall be filled by the school board whose representation was lost when the vacancy occurred.

SECTION 5. AMENDMENT. Section 15-20.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-05. Special board plan for small center. If four or fewer school districts comprise ~~a multidistrict~~ an area vocational ~~education and technology~~ center and if enrollment within such school district is insufficient to provide five members in accordance with section 15-20.2-04, the boards of such school district shall agree upon the number and manner of selection of members of the center board and shall submit their plan of selection for approval by the state board pursuant to section 15-20.2-02.

SECTION 6. AMENDMENT. Section 15-20.2-07 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-07. Powers and duties of center boards. The powers and duties of a center board shall be as follows:

1. To supervise, manage, and control ~~a multidistrict~~ an area vocational education and technology center established by the cooperating school districts pursuant to this chapter.
2. To provide vocational education programs approved by the state board.
3. To contract with, employ, and pay personnel to administer the affairs and to teach in the ~~multidistrict area~~ area vocational education and technology center, and to remove for cause any personnel when the interests of the ~~multidistrict area~~ area vocational education and technology center may require it; provided, that personnel employed by a center board shall have the same statutory rights as provided by law for personnel employed by public school districts.
4. To lease, acquire, or purchase vocational education equipment for ~~a multidistrict~~ an area vocational education and technology center.
5. To lease, acquire, purchase, or sell vocational education facilities, including real property, for ~~a multidistrict~~ an area vocational education and technology center; provided, that any purchase or sale of real property must first be approved by two-thirds of the school boards of the participating school districts.
6. To receive and administer any private, local, state, or federal funds provided for the operation and maintenance of ~~a multidistrict~~ an area vocational education and technology center.
7. To enter into contracts consistent with the other powers and duties provided for by this chapter.

SECTION 7. AMENDMENT. Section 15-20.2-08 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-08. Assessment of participating districts for proportionate share of center expenses - Allocation of students - Civil penalty for failure to remit payment. A center board shall, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess each participating school district its proportionate share based upon its high school enrollment as compared to the total high school enrollment of all participating school districts in the ~~multidistrict area vocational education and technology~~ center and shall assess each nonparticipating school district receiving services its proportionate share based upon its utilization of programs. A center board shall, as nearly as possible, allocate the number of students from each participating district to be served in ~~a multidistrict~~ an area vocational education and technology center on the same proportionate basis as is used for the assessment of expenses.

A center board utilizing mobile units solely shall, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess each participating school district its proportionate share based upon its utilization of programs as compared to total program utilization of all participating school districts in such center. A center board utilizing mobile units solely shall, as nearly as possible, determine the program utilization of each participating school district to be served based upon its high school enrollment as compared to

the total high school enrollment of all participating school districts in such center and the school's accessibility to those programs.

Each participating school district shall remit payment of the assessment of its share of expenses to the center board promptly after receipt of the assessment notice, or within a period of time determined by the center board, but no later than sixty days after the official date of receipt as noted on the assessment notice. A civil penalty of one percent per month shall accrue on all assessments not paid when due.

SECTION 8. AMENDMENT. Section 15-20.2-09 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-09. Distribution of state funds to multidistrict area centers - Rules and regulations. Funds which may be made available to the state board for distribution to multidistrict area vocational education and technology centers shall be apportioned and distributed by the state board to the multidistrict area vocational education and technology centers to assist such centers in defraying the cost involved in maintaining and operating such centers. The use of such funds shall be subject to such rules and regulations as may be prescribed by the state board, and shall be in accordance with the approved state plan for vocational education.

SECTION 9. AMENDMENT. Section 15-20.2-10 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-10. Appropriated and federal funds used for distribution. The funds distributed to the multidistrict area vocational education and technology centers under the provisions of section 15-20.2-09 shall be paid out of moneys appropriated to the state board of vocational education, including federal funds allotted to the state to promote and attain the purposes of state and federal legislation on vocational education.

SECTION 10. AMENDMENT. Section 15-20.2-11 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-11. District becoming participant in established center - Procedure. After a multidistrict area vocational education and technology center has been established, any other school district may become a participant in the center and may be governed by the provisions of this chapter upon following a process similar to that pursued by the school districts originally forming the center, including approval of the vote of the district board, the center board, and the state board according to the procedure set forth in sections 15-20.2-12 and 15-20.2-13.

SECTION 11. AMENDMENT. Section 15-20.2-12 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-12. District board resolution to participate in established center - Publication. A school district board may request that the state board and the center board approve such school district as a participating district in an established multidistrict area vocational education and technology center upon approval of a resolution by the school district board. When such resolution has been adopted by the school district board, it shall be published once in the official newspaper of the county or counties in which the district is located.

SECTION 12. AMENDMENT. Section 15-20.2-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-20.2-13. Referendum on district participation in multidistrict area center - Majority required for approval. A school district board shall not proceed to obtain approval as a participating district in a multidistrict an area vocational education and technology center if a petition for referendum of the question of said school district participating in a multidistrict an area vocational education and technology center signed by twenty percent of the qualified electors of said school district voting at the last annual school election is filed with the school board within sixty days of the publication of the resolution provided for in section 15-20.2-12. When such petition is filed, the school board shall not obtain approval as a participating district in a multidistrict an area vocational education and technology center until the question of whether the district shall enter into a multidistrict an area vocational education and technology center has been submitted to the qualified electors of the district. If a majority of the total number of votes cast on the question within the school district is in favor of the question, the school board may proceed to obtain approval as a participating district in a multidistrict an area vocational education and technology center.

SECTION 13. AMENDMENT. Section 15-20.2-14 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-14. Withdrawal of district from participation in center - Submission to voters - Effect of withdrawals. The procedure for withdrawal shall be the same as for joining as provided for in sections 15-20.2-11 through 15-20.2-13, except that when a participating district is unable to obtain an approval of withdrawal from the center board, or the state board, or both, the participating district may submit the question to withdraw from the multidistrict area vocational education and technology center to the voters of the school district. If a majority of the total number of votes cast on the question is in favor of withdrawal, the participating school district shall be released from the multidistrict area vocational education and technology center. Such withdrawal may become effective at the end of the next school year or on such a date as determined by the state board, but such withdrawal shall not affect the liability of the withdrawing school district for obligations incurred during its participation.

SECTION 14. AMENDMENT. Section 15-20.2-15 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-15. Dissolution of established center. An established multidistrict area vocational education and technology center may be dissolved in accordance with rules and procedures adopted by the state board.

SECTION 15. AMENDMENT. Section 15-20.2-16 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-16. Rules, regulations, and standards for multidistrict area centers. The state board is hereby authorized and empowered to establish and adopt rules, regulations, standards, and procedures set forth in the state plan pertaining to the creation, operation, control, supervision, and approval of multidistrict area vocational education and technology centers.

* SECTION 16. AMENDMENT. Subsection 1 of section 15-47-38.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The term "superintendent" as used in this section includes district superintendents of schools and chief administrators of multidistrict special education units and ~~multidistrict area~~ vocational ~~education~~ and technology centers.

SECTION 17. AMENDMENT. Subsection 3 of section 52-09-08 of the North Dakota Century Code is amended and reenacted as follows:

3. The political subdivision, except a school district, a multidistrict special education board, or a center board of a ~~multidistrict~~ an area vocational ~~education~~ and technology center, shall levy a tax sufficient to meet its obligations under this chapter, up to a maximum levy not exceeding the limitation in section 57-15-28.1. Within the levy limitations set out in subsection 6 of section 57-15-28.1, the governing body of a county may levy a tax for comprehensive health care insurance employee benefit programs duly established by the governing body. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section must be paid out of the general fund of the political subdivision. All payments by a school district for obligations incurred under this chapter must be made out of the school district's general fund established pursuant to section 57-15-14.2.

Approved March 13, 1991

Filed March 13, 1991

* NOTE: Section 15-47-38.1 was repealed by section 3 of House Bill No. 1249, chapter 198.

CHAPTER 166

HOUSE BILL NO. 1282
(Rydell)

ACCREDITATION WAIVER

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, relating to the waiver of conditions for accreditation and approval; and to repeal section 15-41-26 of the North Dakota Century Code, relating to the waiver of conditions for accreditation and approval.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-21 of the North Dakota Century Code is created and enacted as follows:

Waiver of conditions for accreditation and approval. The superintendent of public instruction may waive any conditions for accreditation and approval imposed by statute for a reasonable length of time, provided the waiver encourages innovation or permits experimentation and provided the plans and purposes document the potential for an improved program. The superintendent may waive the conditions only upon the concurrence of a majority of a waiver committee composed of one person appointed by the North Dakota education association, one person appointed by the North Dakota council of school administrators, and one person appointed by the North Dakota school boards association.

SECTION 2. REPEAL. Section 15-41-26 of the North Dakota Century Code is repealed.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 167

SENATE BILL NO. 2590
(Senator Heinrich)
(Representative Gates)
(Approved by the Committee on Delayed Bills)

STUDENT PERFORMANCE STANDARDS

AN ACT to create and enact two new sections to title 15 of the North Dakota Century Code, relating to the establishment and implementation of student performance standards and performance assessment methods, and participatory school decisionmaking; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to title 15 of the North Dakota Century Code is created and enacted as follows:

Student performance standards and assessment - Preliminary activities - Continuing appropriation.

1. The superintendent of public instruction, subject to the financial limitations imposed by subsection 2, shall conduct preliminary research and engage in other appropriate activities to prepare for the development of student performance standards and the assessment program to be implemented during the 1993-95 biennium.
2. The funding for the activities of the superintendent described in subsection 1 must be provided from contributions, gifts, or grants received from the federal government, private organizations, or other nonstate sources and may be used only for the specific purpose for which the funds were contributed. These funds are hereby appropriated to the superintendent for the purpose of implementing subsection 1. The superintendent is not required to implement subsection 1 if adequate funding does not become available pursuant to this subsection.

SECTION 2. A new section to title 15 of the North Dakota Century Code is created and enacted as follows:

School district policy and plan for participatory school decisionmaking.

1. By July 1, 1994, each school board of a public school district, including the Fargo school district, shall adopt a policy and plan for implementing participatory school decisionmaking in that school district, including a description of how teachers, parents, school administrators, and other school employees of a school are to be involved in the decisionmaking process. Each school board, prior to adopting the policy and plan, shall adopt a procedure whereby

all interested persons are afforded a reasonable opportunity to submit their views concerning the content of the policy and plan, which views are not binding on the school board.

2. The superintendent of public instruction shall develop nonbinding guidelines to assist school boards in the development of policies and plans relating to participatory school decisionmaking, and make the guidelines available to nonpublic schools.
3. By July 1, 1994, each school board shall submit to the superintendent of public instruction a copy of the policy and plan for the school district. On July first of each even-numbered year thereafter, each school board shall submit to the superintendent a copy of a written evaluation of the policy and implementation plan and copies of any amendments to the policy and plan.
4. This section may not be construed to impair the rights, powers, or duties of local school districts and school boards in the management and control of local schools.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act becomes effective on July 1, 1993.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 168

HOUSE BILL NO. 1089
(Committee on Education)
(At the request of the Governor)

BOARD OF PUBLIC SCHOOL EDUCATION NOMINATING COMMITTEE

AN ACT to amend and reenact section 15-21-17 of the North Dakota Century Code, relating to the composition of the nominating committee for the state board of public school education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-21-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-21-17. Composition of state board of public school education. The state board of public school education shall consist of the superintendent of public instruction, and one qualified elector from each of the following districts within the state, to be appointed by the governor:

1. District one shall consist of the counties of Barnes, Cass, Grand Forks, Griggs, Nelson, Steele, and Traill.
2. District two shall consist of the counties of Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh.
3. District three shall consist of the counties of Dickey, Emmons, LaMoure, Logan, McIntosh, Ransom, Richland, and Sargent.
4. District four shall consist of the counties of Burleigh, Eddy, Foster, Kidder, McLean, Sheridan, Stutsman, and Wells.
5. District five shall consist of the counties of Burke, Divide, McKenzie, Mountrail, Ward, and Williams.
6. District six shall consist of the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, and Stark.

Nominations shall be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by a committee consisting of ~~the president of the North Dakota state's attorneys association, the president of the North Dakota education association, the president of the North Dakota school administrators association, and the president of the North Dakota school boards association.~~ Appointive members shall serve for terms of six years, arranged so that the term of two members shall expire on June thirtieth of each even-numbered year. The governor shall fill vacancies upon the committee. At all times, two members of the board shall be members of the North Dakota school boards association. The

superintendent of public instruction shall also serve as executive director and secretary of such board, shall call such meetings as may be required, shall supervise and carry out the policies of the board in relation to all functions of the board, and shall employ such personnel as shall be necessary to carry on such responsibilities as may be placed upon the board by law. The board shall annually elect a member of the board to serve as chairman. Appointive members shall be compensated at the rate of fifty dollars per day for each day actually and necessarily spent in the performance of their duties as board members and all members shall receive reimbursement for actual necessary expenses incurred in the performance of their duties from the biennial appropriation of the department of public instruction at the same rates as provided by law for other state officers. The board shall have authority to call upon any state office, officer, department, or agency for such advice and assistance as it may from time to time require.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 169

HOUSE BILL NO. 1409
(Representatives Scherber, Gates, Kelsch)
(Senators Yockim, Peterson, Marks)

CHEMICAL ABUSE PREVENTION

AN ACT to create and enact five new sections to chapter 15-21.1 of the North Dakota Century Code, relating to chemical abuse prevention programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Five new sections to chapter 15-21.1 of the 1989 Supplement to the North Dakota Century Code are created and enacted as follows:

Chemical abuse preassessment team - Building level support team. Any school may establish a chemical abuse preassessment team composed of a school counselor, a social worker, and other appropriately trained persons, or utilize a building level support team for purposes of this Act. The team shall address law enforcement reports of chemical abuse violations. Within fourteen days of receiving a reported case, the team shall determine whether to provide the student, and in the case of a minor the student's parents, with information about school and community services in connection with chemical abuse.

Handling of records. Any record of a student's medical treatment or use of a student assistance program, or other individual student record generated under this chapter, is not to become part of the student's educational record. Such information is confidential and may not be released without the written consent of the student, or if the student is less than fourteen years of age, without the written consent of the student's parent or guardian.

Law enforcement agencies - Duty to inform team. Notwithstanding any other provision of law, a law enforcement agency shall provide notice of any incident occurring within the agency's jurisdiction in which the agency has probable cause to believe a student violated section 5-01-08, 19-03.1-23, 39-08-01, or 39-08-18, except when there is a prolonged criminal investigation and revealing information would jeopardize a successful conclusion to the case. The notice shall be in writing and shall be provided within two weeks after an incident occurs, to the principal of the school where the student is enrolled. The principal shall forward the reports to the school's chemical abuse preassessment team or building level support team.

Teacher - Duty to notify principal. Any teacher who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities shall immediately notify the school's principal. Nothing in this section prevents a teacher or any other school employee from

reporting to a law enforcement agency any violation of law occurring on school premises or at school-sponsored events.

Immunity from liability. Any person, other than the alleged violator, participating in good faith in the making of a report or the furnishing of information to the chemical abuse preassessment team, is immune from any liability, civil or criminal, that might otherwise result from reporting the alleged chemical abuse. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting or furnishing information to the chemical abuse preassessment team is presumed.

Approved March 27, 1991

Filed March 28, 1991

CHAPTER 170

SENATE BILL NO. 2034
(Legislative Council)
(Interim Education Finance Committee)

SCHOOL DISTRICT REORGANIZATION

AN ACT to create and enact a new subdivision to subsection 1 of section 15-27.6-04, a new chapter to title 15 of the North Dakota Century Code, and five new sections to chapter 15-27.6 of the North Dakota Century Code, relating to duties of interim district boards, cooperative arrangements for purchasing educational services, and the reorganization of restructured school districts; and to amend and reenact sections 15-27.1-01, 15-27.1-02, subdivision d of subsection 1 of section 15-27.6-04, and section 15-27.6-05 of the North Dakota Century Code, relating to the reorganization of restructured school districts and eligibility for supplemental pupil payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.1-01. Definitions applicable to chapters 15-27.1 through 15-27.4, 15-27.6, and section 11 of this Act. In this chapter and chapters 15-27.2, 15-27.3, ~~and~~ 15-27.4, 15-27.6, and section 11 of this Act unless the context or subject matter otherwise requires:

1. "Annexation" means an alteration of the boundaries of school districts through the attachment of territory from one existing school district to another existing operating school district.
2. "Contiguous" means two or more tracts of land which are in actual contact with each other at a common point.
3. "County committee" means the county committee for the reorganization of school districts.
4. "County superintendent" means the county superintendent of schools.
5. "Dissolution of school districts" means the process through which an existing school district ceases its active functions in its present organizational form and the district's territory is attached to one or more adjoining existing operating school districts.
6. "Elector" means a person who possesses the qualifications of an elector as provided in section 16.1-01-04.
7. "Reorganization of school districts" means the formation of a new school district by either the unification of two or more existing

operating districts into one larger district or separation of territory from one or more operating districts to create one or more new operating districts.

8. "State board" means the state board of public school education.
9. "Territory" means all or any portion of an organized school district.

SECTION 2. AMENDMENT. Section 15-27.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.1-02. Reorganization not to include annexation or dissolution - Boundary changes application of chapters 15-27.1 through 15-27.4. Chapter 15-27.3 does not apply to chapter 15-27.2 or to chapter 15-27.4 except where specifically referenced in chapters 15-27.2 and 15-27.4. Chapters 15-27.2 and 15-27.4 are separate and additional methods for changing school district boundaries. Except as provided in ~~chapter~~ chapters 15-27.5 and 15-27.6, the boundaries of school districts may be changed or altered only by annexation, reorganization, or dissolution as provided for in chapters 15-27.2, 15-27.3, and 15-27.4. ~~This~~ Except as provided in chapters 15-27.5 and 15-27.6, this chapter and chapters 15-27.2, 15-27.3, and 15-27.4 apply to all school districts in the state, ~~except school districts established pursuant to chapter 15-27.5,~~ including the board of education of the city of Fargo and the district under its jurisdiction for school purposes.

SECTION 3. AMENDMENT. Subdivision d of subsection 1 of section 15-27.6-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- d. Develop a process for school districts or parts of school districts to join ~~or withdraw from~~ the projected restructured school district or withdraw from the projected restructured school district by annexing to another school district.

SECTION 4. A new subdivision to subsection 1 of section 15-27.6-04 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Provide for the training of professional staff employed within the consortium in preparation for assuming positions in the reorganized district.

SECTION 5. AMENDMENT. Section 15-27.6-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.6-05. State aid - Planning grants - Supplemental pupil payments.

1. Payments for approved planning grants must be made quarterly for a period not to exceed one year.
2. Each ~~participating school~~ interim district board is entitled to receive state aid for a period not to exceed three years in the amount of from one hundred twenty-five to one hundred sixty-five dollars ~~per~~ for each full-time equivalent pupil in average daily membership the previous year in the participating school districts. The interim district board shall have the option to receive the

amount equivalent to its third-year payment over a two-year period. This extended payment request must be contained in the consortium's third-year cooperative plan. The superintendent of public instruction shall distribute the payments pursuant to the interim district boards in the same manner provided in section 15-40.1-05 for the distribution of payments to school districts. Prior to being entitled to the maximum payment under this subsection, a participating school district must have one or more administrators jointly assigned and the participating districts' plan must be attempting to improve the quality of instruction as determined by the superintendent of public instruction.

- 3- Upon adoption of the restructuring plan by the voters of the participating school districts pursuant to chapter 15-27.3, the newly formed school district is eligible to receive the supplemental pupil payment for an additional period of two years following the effective date of the reorganization based on the number of full-time equivalent students in average daily membership during the year prior to the effective date of the reorganization.

SECTION 6. A new section to chapter 15-27.6 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

School district reorganization - Option to withdraw by annexing to another district - Hearing. The interim district board shall develop a proposal for the reorganization of the participating districts. The interim district board shall include all land located within the boundaries of the participating school districts in the reorganization proposal; provided, however, that a participating school district or part of a school district may be excluded from the reorganization proposal if the school district or part of the school district annexes to another school district. Any school district or part of a school district within the consortium may annex to another school district at any time. The interim district board shall hold a public hearing on the advisability of any proposal by the board for the reorganization of school districts. Notice of the hearing must be given by publishing a notice in the official county newspaper in each county affected by the proposed reorganization at least fourteen days prior to the date of any hearing. At the hearing, the interim district board shall make available to the public information about the value and amount of all school property and all bonded and other indebtedness of each school district involved in the proposed reorganization. At the hearing, the interim district board must make available to the public information regarding the curriculum offerings and staffing requirements to be implemented in the proposed reorganized school district. At the hearing, the board shall receive testimony offered by any person or school district interested in any reorganization proposal of the board. The testimony and documentary evidence considered by the board must include any information regarding the factors listed in subsections 1 through 15 of section 15-27.3-05. The board shall make specific findings with reference to each of the factors to which testimony or documentary evidence is directed in proceedings before the board. The board shall keep a record of all hearings on the reorganization of school districts and of all findings and terms of adjustment of property, debts, and liabilities among the districts involved and shall submit this information to the county committee at the time of submitting a proposal.

SECTION 7. A new section to chapter 15-27.6 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Determination and adjustment of property, assets, debts, and liabilities among districts - Determination of tax levy - Appeals. After the hearing, the interim district board shall determine the value and amount of all school property and all bonded and other indebtedness of each school district affected by the reorganization proposal and shall consider the amount of outstanding indebtedness and make an equitable adjustment of all property, assets, debts, and liabilities among the districts involved. The interim district board shall also determine the amount necessary to meet the expenses of the proposed reorganized district and shall propose a tax levy sufficient to meet those expenses. The interim district board shall submit the proposed tax levy to the county committee and the state board as part of the reorganization proposal, and if approved by the county committee and the state committee, the proposed tax levy must be included as part of the proposal and submitted to the electors of the proposed new district. Tax levies submitted as part of a reorganization proposal that is approved are not subject to mill levy limitations provided by law. Appeals on the question of adjustment of property, debts, and liabilities among the districts may be made as provided in section 15-27.3-07.

SECTION 8. A new section to chapter 15-27.6 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

County committee review of proposal - Public meeting required - Submission of approved proposal to state board. After the hearing required by section 6 of this Act, the interim district board shall make necessary changes to the proposal and submit the proposal to the county committee for its approval. The county committee shall review the proposal at a public meeting. The county committee shall publish in the county newspaper of any county affected by the reorganization proposal notice of the meeting at least fourteen days before the meeting. If a majority of the members of the county committee approve the proposal, the county committee shall submit the proposal to the state board for approval or disapproval. If the school districts involved in the reorganization proposal are situated in more than one county, a special committee composed of not fewer than three members of the county committee, selected by the committee, of the county encompassing the major portion of each school district shall review the proposal. The proposal must be submitted to each county committee for its approval. If the reorganization proposal is approved by a majority of the members of at least one-half of the county committees, or the members of one or more of the special committees fail or refuse to meet with the committee or committees from other counties, the county superintendent of the county in which the largest number of pupils who would be affected by the proposed new district reside shall submit the reorganization proposal to the state board for approval or disapproval. Approval of the reorganization proposal by the state board has the same effect as approval by all the county committees. If none of the county committees approves the reorganization proposal, it may not be presented to the state board for review. If the school districts are situated in more than one county but the major portions of those school districts are situated in the same county, the county committee of that county shall consider the matter.

SECTION 9. A new section to chapter 15-27.6 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Approved proposal received by county superintendent - Special election called - Formation of new district.

1. Upon receipt from the state board of an approved proposal for the reorganization of school districts, the county superintendent, after consulting with the interim district board, shall call a special election as provided in section 15-27.3-08.
2. If a majority of electors residing within each school district vote in favor of the formation of the new district, the county superintendent shall make the proper adjustments and perform all necessary duties as provided in subsection 6 of section 15-27.3-08.
3. If fewer than all of the districts vote in favor of a new district, any contiguous districts voting in favor of the proposal shall form a new district if the new district would qualify to receive the payments provided for in section 10 of this Act and if approved by the state board. Any contiguous districts voting in favor of forming a new district, but that would not qualify for payments under section 10 of this Act, may form a new district. To form a new district, the board members of the interim district board who represent the contiguous districts involved shall make a determination and adjustment of property, assets, debts, and liabilities of the districts as provided in section 15-27.3-04 and make a determination of tax levy as provided in section 15-27.3-06 and submit a new proposal to the state board for approval. If the state board approves the plan, the county superintendent shall make the proper adjustment of the property, assets, debts, and liabilities as provided in the proposal and organize and establish the districts and, in doing so, shall perform all other necessary duties as provided in subsection 6 of section 15-27.3-08.
4. If a school district does not vote in favor of forming a new school district, any part of that school district excluded from the reorganization proposal pursuant to section 6 of this Act may either proceed with annexation or remain a part of that school district.

SECTION 10. A new section to chapter 15-27.6 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Supplemental pupil payments.

1. A newly formed district is eligible to receive the supplemental pupil payment provided for in section 5 of this Act for an additional period of two years following the effective date of the reorganization based on the number of full-time equivalent students in average daily membership during the year prior to the effective date of the reorganization if the newly formed district:
 - a. Encompasses at least seven hundred square miles [181299.168 hectares], enrolls at least six hundred students, and, prior to the reorganization, consisted of three contiguous school districts, each of which operated grades kindergarten through twelve programs or grades one through twelve programs;
 - b. Prior to the reorganization, consisted of at least six contiguous school districts, four of which operated grades kindergarten through twelve programs or grades one through twelve programs; or

- c. Either enrolls a minimum of six hundred students or encompasses at least seven hundred square miles [181299.168 hectares], and, prior to the reorganization, consisted of four or five school districts, each of which operated grades kindergarten through twelve programs or grades one through twelve programs.
2. Sections 15-27.3-12 through 15-27.3-15 and 15-27.3-17 through 15-27.3-21 apply to school district reorganizations under this chapter.
3. A newly formed school district that was approved to receive a planning grant prior to the effective date of this Act is eligible to receive the additional supplemental pupil payments.

SECTION 11. A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

School district cooperative arrangements - Rules. The superintendent of public instruction, with assistance from the state board of public school education, shall adopt rules for the purpose of administering supplemental payments to a purchaser school district which enters into a cooperative arrangement with a provider school district for the purpose of purchasing educational services. Any school district enrolling at least one thousand students in grades kindergarten through twelve is defined as a "provider district". Any school district enrolling five hundred ninety-nine students or fewer in grades kindergarten through twelve is defined as a "purchaser district". A school district enrolling at least six hundred and fewer than one thousand students in grades kindergarten through twelve has the option of being a provider district or a purchaser district under this section. In paired relationships under this provision, purchaser districts that are contiguous to provider districts and therefore eligible to reorganize with or annex to the provider district shall commit to a vote on reorganization or annexation to the provider district no later than the end of the third year in order to receive full payment. The superintendent of public instruction, if requested, shall provide assistance to school districts in the development and implementation of a plan to enter into a cooperative arrangement to purchase educational services.

Pairing - Eligibility - Report.

The school districts must submit a plan to the state board of public school education. The plan must include:

- a. Evidence of school board approval, by majority vote, of the plan.
 - b. A plan for purchasing and providing educational services, including a description of the educational services that are to be purchased.
 - c. A time line for implementation of the plan.
 - d. Any other requirement of the superintendent of public instruction or the state board of public school education.
2. Upon approval of the plan and any amendments to the plan to enter into a cooperative arrangement to purchase and provide educational

services by a majority vote of the school board members of each district and the state board of public school education, the superintendent of public instruction shall make supplemental payments to the school district as provided in this chapter. No supplemental payments may be made for any service proposed to be purchased if the school district is receiving a payment from other sources, other than the state foundation aid program, for that service as determined under rules adopted by the superintendent of public instruction. No supplemental payments may be used to purchase any course or service, except transportation service, that is available in the school district receiving the supplemental payments at the time the plan is approved.

Cooperative arrangements - Supplemental payments.

1. The school district purchasing educational services is entitled to receive state aid for a period not to exceed three years in an amount equal to the actual cost of purchasing the educational services or up to one hundred sixty-five dollars per full-time equivalent pupil for each pupil from the school district purchasing educational services, whichever is less. The superintendent of public instruction shall distribute the payments pursuant to section 15-40.1-05 during the term of the cooperative arrangement or thereafter.
2. No school district that enters into a cooperative arrangement to purchase educational services may receive supplemental payments under chapter 15-27.6 during the term of the cooperative arrangement or thereafter.
3. At least ninety percent of the supplemental payments a school district receives must be used to purchase educational services and not more than ten percent of the supplemental payments may be used by the school district receiving the payments for administrative and transportation expenses related to the establishment and maintenance of the cooperative arrangement.
4. This chapter does not prohibit a school district with an enrollment of at least one thousand students in grades kindergarten through twelve from entering into cooperative arrangements with more than one school district.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 171

SENATE BILL NO. 2108
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

FOUNDATION AID FOR OTHER STATES

AN ACT to amend and reenact sections 15-27.1-11 and 15-40.2-09 of the North Dakota Century Code, relating to foundation aid payments for attendance of students at out-of-state schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.1-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.1-11. Reorganization, annexation, or dissolution of school district not operating a school - Transportation. Any school district in this state which is not operating either an approved elementary or high school within its boundaries on July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, and any school district that may cease to operate either an approved elementary or high school within its boundaries after July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall become, through the process of reorganization, annexation, or dissolution as provided by law, a part of a school district operating an approved elementary or high school. Any school district not operating either an approved elementary or high school within its boundaries on July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall complete reorganization with or annexation to an operating school district by July 1, 1989. Any school district that ceases to operate either an approved elementary or high school within its boundaries after July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall complete reorganization or annexation within two years from the date the school district ceased to operate either an approved elementary or high school. Any student who resides within a school district which is annexed to or reorganized with another district or districts pursuant to sections 15-27.1-11 and 15-27.4-01, and which has been sending students to a school district in a bordering state, county, or district, because of proximity or terrain, shall be permitted to attend or continue to attend school in the district in the bordering state, county, or district, subject to the provisions of section 15-40.2-09. The students in any district that is attached by annexation, reorganization, or dissolution pursuant to sections 15-27.1-11 and 15-27.4-01 must be provided transportation in the same manner transportation is provided to students in the school district the nonoperating district is attached to.

The county committee of the county encompassing the major portion of any school district affected by sections 15-27.1-11 and 15-27.4-01 which does not reorganize or annex itself to an operating school district within the time limit prescribed in sections 15-27.1-11 and 15-27.4-01 shall dissolve

and attach the nonoperating school district to an operating school district in accordance with chapter 15-27.4. This section does not apply to school districts established pursuant to chapter 15-27.5.

SECTION 2. AMENDMENT. Section 15-40.2-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.2-09. Attendance in public schools or institutions of bordering states, when permitted - Continuation of attendance when district annexed or reorganized. Students may attend a school in a bordering state under the following circumstances:

1. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school or institution in a bordering state, and the school board of the school district within which such student resides may contract with the bordering state for the education of such student.
2. A student who resides within a school district which is annexed to or reorganized with another district or districts, and which has been sending students to a school district in a bordering state because of proximity or terrain who attended a school district in a bordering state during the immediately preceding school year, shall be permitted to attend or continue attending school in the district in the bordering state.

If a request for attendance is denied under subsection 1 or subsection 2 by the school board of the district in which the student resides denies a request for attendance in another state, an appeal may be made to the three-member committee referred to in section 15-40.2-05. The decision of the committee may be appealed by the school board, or the parent or guardian of the student, to the state board of public school education, whose decision shall be final. In the event that the district does not comply with a decision requiring that tuition charges be paid, state payments shall be withheld as provided in section 15-40.2-05.

Payments shall be made by the county of the pupil's residence to the school district or institution in the bordering state for attendance under the provisions of this section in an amount equal to the per-pupil payments as provided in section 15-40.1-07 or 15-40.1-08, as the case may be, and the Payments must be made to the school district or institution in the bordering state for state foundation aid for students attending out-of-state schools under a reciprocal agreement based on actual enrollment for that year. Payments will be determined as provided in section 15-40.1-07 or 15-40.1-08 based on the weighting factor of the student's district or residence. The remainder of the pupil's tuition as determined under section 15-40.2-10 shall be paid by the district of the pupil's residence. Pupils attending public schools or institutions in bordering states in accordance with this section shall be certified by the district or institution in the bordering state to the county superintendent of the county of the pupil's residence, and payments shall be made from the county to the school district or institution in the bordering state. Transportation payments for students attending school in a bordering state must be determined as provided in section 15-40.1-16.

This section shall not be construed to require the district of residence to provide pupil transportation, or payments in lieu thereof, for pupils for whom the payment of tuition has been approved.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 172

SENATE BILL NO. 2067
(Legislative Council)
(Interim Judiciary Committee)

TAX CREDITS FOR FORMER SCHOOL DISTRICTS

AN ACT to amend and reenact subsection 6 of section 15-27.2-04 and section 15-27.4-03 of the North Dakota Century Code, relating to tax credits for those who own property within dissolved and annexed school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 15-27.2-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. a. If the annexation is approved by the state board, the county committee may cause a tax to be levied against each district affected in accordance with section 15-47-21 which will equalize the several interests fairly. The unobligated cash balance in excess of ten thousand dollars not designated for indebtedness ~~shall be~~ is a credit for the residents of those who own property within the annexed school district against taxes levied by the receiving school district in the year or years following the annexation depending on the average local effort based on the previous five-year average as calculated by the county superintendent. If a school district is attached to more than one school district, the credit that the residents of those who own property within the attached school district receive from the receiving school district must be in the same proportion to the remaining unobligated cash balance as the taxable valuation of the property bears to the total taxable valuation of the property in the school district that existed prior to annexation.
- b. Any political subdivision required to provide a tax credit under subdivision a, as a result of an annexation occurring after January 1, 1989, may upon approval of the county commissioners, provide a cash refund in lieu of the tax credit. The school district holding the unobligated cash balance shall, at the request of the county auditor, pay to the county treasurer the amount to be paid to those who own property within the annexed district. The treasurer shall issue the refund to the owner of the property, as shown on the county's assessment list at the time of payment. If there is a lien for unpaid taxes against any property, the treasurer shall first apply the tax credit toward any outstanding balance. Any amount remaining may then be paid to the property owner. The cash refunds must be calculated proportionately to the total

taxable value of the annexed district during the last year taxes were levied.

SECTION 2. AMENDMENT. Section 15-27.4-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.4-03. Unobligated cash balance of dissolved school district - Tax credits. The unobligated cash balance in excess of ten thousand dollars which is not designated for indebtedness of any school district dissolved after January 1, 1989, is a credit for the residents of those who own property within the dissolved school district against taxes levied by the school district the dissolved school district is attached to in the year or years following the dissolution depending on the average local effort based on the previous five-year average as calculated by the county superintendent. If a school district is dissolved and attached to more than one school district, the credit that the residents of those who own property within the attached school district receive from the receiving school district must be in the same proportion to the remaining unobligated cash balance as the taxable valuation of the property bears to the total taxable valuation of the property in the school district that existed prior to dissolution.

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 173

HOUSE BILL NO. 1523
(Representatives Bodine, Skar, Muhs)
(Senator Satrom)

TEACHER NEGOTIATIONS AND CONTRACTS

AN ACT to amend and reenact section 15-27.3-13 of the North Dakota Century Code, relating to teacher negotiations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.3-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.3-13. Board may negotiate prior to assumption of duties - Termination of teachers.

1. Notwithstanding any provision of this chapter, the school board for a new school district established pursuant to this chapter shall negotiate in the manner provided by chapter 15-38.1 with the teachers of the district in lieu of the old board or boards prior to the effective date of assumption of its other duties pursuant to section 15-27.3-15. The school board may enter into agreements with representative organizations pursuant to chapter 15-38.1. If on July first of the year the newly reorganized school district begins operations, a negotiated agreement has not been entered into between the board and the teachers pursuant to chapter 15-38.1, until the end of the negotiation process, no teacher employed by the newly reorganized school district may receive less in salary and benefits than that teacher received for the previous school year. For purposes of this section, salary and benefits include salary, insurance benefits, teachers' fund for retirement contributions, personal leave, sick leave, accumulated sick leave, extracurricular salary, reduction-in-force policy, grievance procedures, and recall procedures.
2. After the establishment of any new school district pursuant to this chapter, the school board for the new school district shall, on or before ~~April~~ fifteenth February first of the year in which the reorganization takes effect, hold a public hearing and present at the hearing a detailed plan setting forth the curriculum, class offerings, and staffing positions which will be offered by the new school district. The school board shall give notice of the hearing by publication in the official county newspaper in each county affected by the proposed reorganization, at least fourteen days prior to the date of the hearing. The school board for the new school district shall, on or before April fifteenth of the year in which the reorganization takes effect, notify those teachers of the districts which are being reorganized whether, taking into account reductions in staff positions due to the reorganization, they will be offered contracts of employment with the new district.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 174

SENATE BILL NO. 2452
(Senators Heinrich, Krebsbach, Tomac)
(Representatives Kolbo, Myrdal)

SCHOOL DISTRICT BUSINESS MANAGERS

AN ACT to create and enact a new subsection to section 15-29-08 of the North Dakota Century Code, relating to school district business managers; and to amend and reenact sections 15-27.5-03, 15-27.5-04, and 15-29-03 of the North Dakota Century Code, relating to school district business managers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.5-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.5-03. Organization of school board - Meetings — ~~Appointment of business manager.~~ A majority of the board is a quorum and the agreement of a majority of the members present is necessary for the transaction of any business. The annual meeting of the school board must be held during the month of July following the appointment to the board, on a date called by the president and convenient to the rest of the members. At the annual meeting in July, the board members shall elect one member to serve as president for a one-year term. Notice of any regular or special meeting must be given in writing to each member of the board; provided that the attendance at any meeting, without objection, by any board member constitutes a waiver of the notice required to be given to the member. The board must hold regular meetings for transacting business. Special meetings may be called by the president or by any two members of the board. ~~The board shall appoint a business manager who is not a member of the board who shall hold office at the will of the board and receive compensation as fixed by the board.~~

SECTION 2. AMENDMENT. Section 15-27.5-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.5-04. School board - Duties. Any school board established pursuant to this chapter shall, in the conduct of its business:

1. Place primary importance on the education and social well-being of the children residing in the school district.
2. Give due respect to the wishes of the parents of each child residing in the school district with regard to the provision of education to those children.
3. Enter into written contracts or agreements to provide for the education of the children residing in the school district.
4. Conduct all board meetings as provided in section 44-04-19.

5. Employ a business manager who is not a member of the board and fix compensation for that person. A business manager may be dismissed or suspended without prior notice for serious cause, otherwise only upon thirty days' written notice by the board.

SECTION 3. AMENDMENT. Section 15-29-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-29-03. Organization of school board - Election of president —~~Appointment of business manager.~~ At the annual meeting, the school board shall elect from among its members a president who shall serve for one year. ~~The board shall appoint a business manager who is not a member of the board who shall hold office during the pleasure of the board and receive such compensation for services as must be fixed by the board.~~

SECTION 4. A new subsection to section 15-29-08 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

To employ a business manager who is not a member of the board and fix compensation for that person. A business manager may be dismissed or suspended without prior notice for serious cause, otherwise only upon thirty days' written notice by the board.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 175

SENATE BILL NO. 2220

(Committee on Education)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT ELECTION EXPENSES

AN ACT to amend and reenact section 15-28-10 of the North Dakota Century Code, relating to payment for expenses of the notice of an annual school district election.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-28-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-28-10. Duties of election officials - Other statutes applicable. Sections 16.1-08-02, 16.1-10-01, 16.1-10-06, 16.1-10-06.1, 16.1-10-07, 16.1-10-08, 16.1-13-22, 16.1-13-23, 16.1-13-30, 16.1-15-01, 16.1-15-04, and 16.1-16-04 apply to elections held under sections 15-28-06 and 15-28-09. After the votes are canvassed, and within twenty-four hours after the polls are closed, the judges shall make their returns to the business manager of the school district. All expenses of elections held by a school district, ~~except the notice of the annual election,~~ shall be paid by the district.

Approved March 11, 1991

Filed March 11, 1991

* NOTE: Section 15-28-10 was also amended by section 1 of Senate Bill No. 2299, chapter 176.

CHAPTER 176

SENATE BILL NO. 2299
(Stenehjem)

SCHOOL DISTRICT ELECTION RESULTS

AN ACT to amend and reenact sections 15-28-10 and 15-47-06 of the North Dakota Century Code, relating to school district elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-28-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-28-10. Duties of election officials - Other statutes applicable. Sections 16.1-08-02, 16.1-10-01, 16.1-10-06, 16.1-10-06.1, 16.1-10-07, 16.1-10-08, 16.1-13-22, 16.1-13-23, 16.1-13-30, 16.1-15-01, 16.1-15-04, and 16.1-16-04 apply to elections held under sections 15-28-06 and 15-28-09. ~~After the votes are canvassed, and within twenty-four hours after the polls are closed, the judges shall make their returns to the business manager of the school district. All expenses of elections held by a school district, except the notice of the annual election, shall be paid by the district.~~

** SECTION 2. AMENDMENT. Section 15-47-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-47-06. Election procedure in all school districts - Canvass of boards - Tie vote - Absent voters - Recounts. An election in a public school district, except as otherwise provided in this title, must be conducted and the votes must be canvassed in the manner provided by the laws of this state for the election of county officers. Immediately after the polls are closed, the judges shall proceed to count and canvass the votes for each office and ~~the person receiving the highest number of votes for an office must be declared elected within twenty-four hours after the polls are closed, the returns must be signed by the judges and clerks of the election and filed with the business manager of the school district. If the election results in a tie, the business manager of the district immediately, and in writing, shall notify the candidates between whom the tie exists, and within three days after the election, and at a time agreed upon by said candidates, the election must be decided in the presence of the judges and clerks of election in a manner agreed upon by said candidates. A record of the proceedings must be made in the records of the business manager of the district. Returns must be made to the school board showing the number of votes cast for each person for any office, and such returns must be signed by the judges and clerks of election and filed with the business manager of the district within two days thereafter.~~ The school board shall canvass all election returns and shall declare the result of any election within three days thereafter, and the of the election, and in the case of a tie, within three days of the breaking of the tie pursuant to this section. The result of the election must be entered upon the records of the board. The person receiving the highest number of votes for each office in the district must be declared elected. Absent

* NOTE: Section 15-28-10 was also amended by section 1 of Senate Bill No. 2220, chapter 175.

** NOTE: Section 15-47-06 was also amended by section 1 of House Bill No. 1120, chapter 197, and by section 1 of Senate Bill No. 2506, chapter 212.

voters' ballots may be used in any school district election in accordance with chapter 16.1-07. Section 16.1-16-01 applies to public school district elections, except the members of the school board not subject to a recount and not disqualified under subdivision c of subsection 2 of section 16.1-05-02 shall perform the duties of the recount board, the school district business manager shall perform the duties of the county auditor, the school board takes the place of the county canvassing board, and all expenses of the recount must be paid as provided in section 15-28-10.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 177

SENATE BILL NO. 2582

(Graba)

(Approved by the Committee on Delayed Bills)

SCHOOL BOARD VACANCIES

AN ACT to amend and reenact section 15-29-06 of the North Dakota Century Code, relating to vacancies on school boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-29-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-29-06. Vacancies on school board - How filled. The school board shall have power to fill by appointment any vacancy which may occur on the board. An appointee shall hold office until the next annual election and until a successor is elected and qualifies. When any such appointment is made, the business manager shall certify the same to the county superintendent of schools. In the event that the school board shall fail to fill such vacancy within sixty days after notice of a vacancy has been filed with the county superintendent of schools, the county superintendent shall call a special election for the purpose of filling the vacancy. Such election must be conducted in the same manner as the annual school election. A vacancy shall occur on the school board by death, resignation, removal from the school district, or otherwise. Any school officer may be removed from office by a court of competent jurisdiction as provided by law, and in such event a vacancy shall exist. If a school board vacancy or vacancies occur that reduce the membership of the school board to less than a quorum, the state board of public school education shall appoint a person or persons to serve on the school board until the vacancy or vacancies have been filled in accordance with this section.

Approved April 5, 1991

Filed April 8, 1991

CHAPTER 178

HOUSE BILL NO. 1501
(Myrdal, Keisch)

SCHOOL DISTRICT OFFICIAL NEWSPAPER

AN ACT to amend and reenact subsection 25 of section 15-29-08 of the North Dakota Century Code, relating to a school district's official newspaper.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 25 of section 15-29-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

25. To designate, at the annual meeting, a newspaper of general circulation in the school district that meets the requirements of section 46-05-01 as the official newspaper of the school district.

Approved March 13, 1991
Filed March 13, 1991

CHAPTER 179

SENATE BILL NO. 2593
(Senators Kelsh, Freborg)
(Representatives Wardner, Stofferahn)
(Approved by the Committee on Delayed Bills)

SCHOOL BOARD FINAL OFFER MEETING

AN ACT to create and enact a new subsection to section 15-29-08 of the North Dakota Century Code, relating to school board meetings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 15-29-08 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law, if an impasse has been declared and final offer resolution is in effect, to hold one executive session of the board prior to submitting its final offer. The subject of the meeting must be limited to the determination of the board's final offer. Before holding the meeting, the board must, by a majority vote in a public meeting, decide to hold the executive session to determine its final offer. The time of commencement and place of the executive session must be announced at the public meeting. A written roll of members and all other persons present at the executive session must be made available to the public after the executive session. The proceedings of the executive session must be recorded on tape by the board and must be preserved for two years after the contract is signed. Minutes of the executive session must also be kept, and the minutes and the tape recording must be made available to the public after the negotiated contract is signed by the board.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 180

SENATE BILL NO. 2195
(Freborg)

SCHOOL BOARD MEMBER TRAINING

AN ACT to create and enact a new section to chapter 15-29 of the North Dakota Century Code, relating to in-service training for newly elected school board members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-29 of the North Dakota Century Code is created and enacted as follows:

School board members - Attendance at workshop. Each newly elected school board member shall, within one year of assuming office, attend an in-service training workshop hosted by the North Dakota school board association or its designee. The workshop must include presentations on the role of a school board member, the duties of a school board, and information regarding educational financing.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 181

SENATE BILL NO. 2542
(Senators David, O'Connell)
(Representatives Howard, Gorman)

HOME-BASED INSTRUCTION

AN ACT to create and enact a new section to chapter 198 of the 1989 Session Laws of North Dakota, relating to home-based instruction; and to amend and reenact section 5 of chapter 198 of the 1989 Session Laws of North Dakota, relating to home-based instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5 of chapter 198 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 5. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Students receiving home-based instruction - Quality assurance. In order to meet the state's compelling interest in assuring that citizens of the state receive a quality education, the following minimum indices of quality education are established:

1. A standardized achievement test used by the school district in which the child resides or, if requested by the parent, a standardized achievement test used by a state-approved private or parochial school must be given annually to each child receiving home-based instruction. The test must be given in the child's learning environment and must be administered by a certified teacher employed by the public school district in which the parent resides or, if requested by the parent, employed by a state-approved private or parochial school. The cost of such testing must be borne by the local school district in which the child resides if the test is administered by a certified teacher employed by a public school district or by the parent of the child if the test is administered by a certified teacher employed by a state-approved private or parochial school. Results of such testing must be provided to the local public school superintendent. If the child resides in a school district which does not employ a local school superintendent, the results must be filed with the county superintendent of schools for the county of the child's residence.
2. If the child's basic composite score on a standardized achievement test falls below the thirtieth percentile nationally, the child must be professionally evaluated for a potential learning problem. If the multidisciplinary assessment team evaluation determines that the child is not handicapped according to the eligibility criteria of the department of public instruction and the child does not

require specially-designed instruction according to rules adopted by the department of public instruction, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction a statement, from an appropriately licensed professional, that the child is currently making reasonable academic progress when the learning abilities of the child are taken into consideration. If such statement is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03. If the evaluation of the multidisciplinary assessment team determines that the child is handicapped, but not developmentally disabled, according to the eligibility criteria of the department of public instruction, and the student requires specially-designed instruction due to the handicap and that this instruction cannot be provided without special education and related services, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction an individualized education program plan, formulated within rules adopted by the department of public instruction, indicating that the child's needs for special education are being appropriately addressed by persons qualified to provide special education or related services. If such a plan is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03.

3. Any certificated teacher supervising home-based instruction shall spend a minimum average ~~each month~~ of one hour per week in contact with ~~each the first student and in conjunction with the parent.~~ With two or more children under supervision, the teacher shall monitor a minimum additional one-half hour per month for each child under the teacher's supervision who is receiving home-based instruction. The teacher shall evaluate the student's progress and report the student's progress at least twice annually to the local public school superintendent. If the school district does not employ a local school superintendent, the report must be filed with the county superintendent of schools for the county of the child's residence.
4. If the local superintendent of public schools or the county superintendent of schools in those school districts that do not employ a local superintendent determines that the child is not making reasonable academic progress consistent with the child's age or stage of development, the parent of the child must be notified of the conclusion reached and the basis for the conclusion. Upon receipt of that notice, the parent shall make a good faith effort to remedy any deficiency. The appropriate official shall report the failure on the part of a parent to make a good faith effort to the state's attorney pursuant to section 15-34.1-04 as a violation of this chapter. The superintendent of public instruction shall adopt rules to assist local superintendents of schools, county superintendents of schools, and the licensed professionals referred to in subsection 2, in determining whether a child is making reasonable academic progress.

SECTION 2. A new section to chapter 198 of the 1989 Session Laws of North Dakota is created and enacted as follows:

Home-based instruction - Liability. No state agency, public school, or county superintendent may be found liable for accepting as correct the information on the statement of intent or for any damages resulting from the parent's failure to educate the child.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 182

HOUSE BILL NO. 1450
(Representatives Snyder, Porter)
(Senators Krebsbach, Schoenwald)

HOME-BASED INSTRUCTION DIPLOMAS

AN ACT to create and enact a new section to House Bill No. 1421, compiled as chapter 198 of the 1989 Session Laws of North Dakota, relating to high school diplomas for students receiving home-based instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to House Bill No. 1421, compiled as chapter 198 of the 1989 Session Laws of North Dakota, is created and enacted as follows:

Home-based instruction - High school diploma - Fee. The superintendent of public instruction shall issue to a student who has completed the requirements for high school graduation through home-based instruction a diploma that clearly indicates that the requirements for graduation have been met through home-based instruction. The superintendent may charge a fee for issuing the diploma.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 183

SENATE BILL NO. 2107

(Committee on Education)

(At the request of the Superintendent of Public Instruction)

SCHOOLBUS DRIVER MEDICAL CARDS

AN ACT to amend and reenact section 15-34.2-14 of the North Dakota Century Code, relating to qualifications of schoolbus drivers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-34.2-14 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-34.2-14. Qualifications, character, and age of schoolbus and school vehicle drivers. The driver of a schoolbus or a school vehicle must be in good physical and mental health, able-bodied, free from communicable diseases, and must have normal use of both hands, both feet, both eyes, and both ears. It is the duty of school boards to designate reputable physicians to examine each driver annually. ~~Each~~ Every two years, each driver shall present a physician's certificate of physical fitness and a medical card, as required by the United States department of transportation, to the employing school board before a contract is signed. Such driver must possess a good moral character, must be at least twenty-one years of age, and must have a North Dakota driver's license. However, the school board may lower the minimum age of a driver below twenty-one. This section does not prohibit regular members of the faculty of an elementary or high school from operating vehicles for the purpose of transporting students to regular or special events related to the educational programs in which the students are enrolled.

Approved March 14, 1991

Filed March 15, 1991

CHAPTER 184

HOUSE BILL NO. 1399
(Representatives Coats, Kelsch)
(Senator Jerome)

SCHOOL DISTRICT TRANSPORTATION AGREEMENTS

AN ACT to amend and reenact section 15-34.2-16 of the North Dakota Century Code, relating to school district agreements for the provision of comprehensive transportation services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-34.2-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-34.2-16. Transportation of nonpublic elementary and high school students - Comprehensive transportation services - Conditions.

1. When authorized by the school board of a public school district providing transportation for public elementary and high school students, elementary and high school students attending nonpublic schools may be transported on public schoolbuses to and from the point or points on established public schoolbus routes on such days and during the times that the public school district may authorize and agree to the transportation of such students only when there is passenger room available on such buses, according to the legal passenger capacity for such buses, when such buses are scheduled according to this section; provided, however, no payments shall be made from state funds for any mileage costs for any deviation from the established public routes which may be caused by any agreement entered into pursuant to this ~~section~~ subsection.
2. The school board of a public school district providing transportation for public elementary and high school students may utilize the authority conferred by article VII, section 10 of the Constitution of North Dakota and section 54-40-08 to enter into agreements with other political subdivisions, the state, or the federal government for the joint provision and integration of transportation services to the public. All safety requirements imposed by law for school buses and school vehicles apply to transportation services to students provided pursuant to such an agreement, including requirements imposed by title 39 and requirements for schoolbus drivers set forth in section 15-34.2-14. Transportation services to students provided pursuant to this subsection qualify for state aid for transportation pursuant to chapter 15-40.1; however, no payments may be made from state funds for any mileage costs for any deviation from the established schoolbus routes, which may be caused by any agreement entered into pursuant to this subsection.

Approved March 13, 1991
Filed March 13, 1991

CHAPTER 185

SENATE BILL NO. 2472
(Senator Goetz)
(Representative A. Olson)

TEACHER CONVICTION NOTICE

AN ACT to create and enact a new section to chapter 15-36 of the North Dakota Century Code, relating to certificated teachers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

State's attorney - Duty to notify the superintendent of public instruction. The state's attorney shall notify the superintendent of public instruction, in writing, whenever a certificated teacher is convicted of a felony or a class A misdemeanor.

Approved 5, 1991
Filed April 8, 1991

CHAPTER 186

HOUSE BILL NO. 1593
(Representatives Martinson, Stofferahn)
(Senators Heinrich, Yockim, Lips)

TEACHERS' FINAL OFFER RESOLUTION

AN ACT to amend and reenact section 15-38.1-13 of the North Dakota Century Code, relating to teachers' representation and negotiation; to repeal sections 15-38.1-03, 15-38.1-04, 15-38.1-05, and 15-38.1-06 of the North Dakota Century Code, relating to the education factfinding commission and the cost of factfinding; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-38.1-13 of the North Dakota Century Code is amended and reenacted as follows:

15-38.1-13. Impasse procedures.

1. An impasse shall be deemed to exist under any of the following conditions:
 - a. Where an agreement as set forth in subdivision b of subsection 1 of section 15-38.1-12 has not been formulated and after a reasonable period of negotiation regarding terms and conditions of employment or employer-employee relations, a dispute exists between a school board and any representative organization, an impasse may be deemed to exist.
 - b. When both parties agree that an impasse exists.
 - c. In the event that the written agreement reached under section 15-38.1-12 does not include procedures for resolving a dispute which arises, an impasse may be deemed to exist.
 - d. Written agreements negotiated under section 15-38.1-12 may include procedures to be invoked in the event of disputes under the contract. Where such procedures are inadequate to resolve the dispute an impasse may be deemed to exist.
2. An impasse ~~may~~ shall be resolved in the following manner:
 - a. The parties may agree upon mediation of the controversy by mutually selecting a mediator or mediators, and agreeing to a distribution of the cost of the mediation.
 - b. ~~If mediation fails or is not attempted, the aggrieved school board or representative organization may request the commission to render assistance as provided in this section.~~

(1) Upon request of either contending party, and in the event that the commission determines that an impasse exists between a school board and a representative organization, the commission shall itself act as a factfinding commission or appoint a factfinder from a list of qualified persons maintained by the commission. If a factfinder is appointed, he shall have such powers as are designated to him by the commission and he shall make his recommendation to the commission. The commission shall consider the facts and make its findings and recommendation, or it shall consider the report and recommendation of its factfinder, and, after such further investigation as it may elect to perform, it shall make its findings and recommendation. Within forty days after the request to render assistance is received, the findings and recommendation of the commission shall be transmitted to the contending parties and if the issue is not then resolved, the commission shall between ten and twenty days after such transmittal make its findings and recommendation public.

(2) In the event that facts are found or recommendations made under factfinding procedures agreed upon between the contending parties and the impasse continues, the commission may consider such findings and recommendations without instituting its own factfinding procedures and from them issue its own findings and recommendation to the contending parties, and if the issue is not then resolved the commission shall between ten and twenty days after such transmittal make its findings and recommendation public.

If the impasse persists for thirty days, the parties shall, upon the request of either party, engage in final offer resolution of the remaining disputes, as follows:

- (1) The party requesting final offer resolution shall, with its request for resolution, name one person who resides in the school district to serve as a member of the resolution panel.
- (2) Within five days after the receipt of the request for final offer resolution, with the accompanying designation of a member of a resolution panel, the other party shall name a person who resides in the school district to serve as a member of the panel.
- (3) Within five days thereafter, the two designated members of the panel shall attempt to select a third person from the surrounding area to serve as the panel's chairperson. If the panel members have not agreed upon the selection of the chairperson within five days, the panel may select a person to serve as chairperson from a list provided by the federal mediation and conciliation service. If within five days the panel members have not agreed to the selection of a person from the federal mediation and conciliation service list, the panel shall notify the

superintendent of public instruction and ask that the superintendent provide them with the names of five persons who have given notice of their willingness to serve as panel chairpersons. The superintendent of public instruction shall compile a list of the names of at least nine persons who are qualified to serve as chairpersons in this capacity. The original list of potential chairpersons shall be compiled by having the governor, the attorney general, and the superintendent of public instruction each provide the names of three chairpersons who are experienced in educational activities and who have given notice of their willingness to serve as panel chairpersons. The original selections by the governor, the attorney general, and the superintendent of public instruction shall remain on the list for three years, two years, and one year respectively. The successors shall remain on the list for three years each, except that any person chosen to fill an open slot shall remain on the list only for the remaining time period of the potential chairperson whose name is being removed from the list. Upon receiving notification from one or both of the panel members of the need for a panel chairperson, the superintendent of public instruction shall provide to the panel members a list of five names of chairpersons, chosen at random by the superintendent, to serve as the chairperson of the resolution panel. One panel member determined by lot shall strike one name from the list. The other panel member shall then strike one name. This process must be repeated until one name remains. The person whose name remains is the panel chairperson.

- (4) Within ten days following the selection of the chairperson, the school board and the representative organization shall submit to the panel their respective final offers on all matters not yet agreed upon and shall indicate those items which have been the subject of previous agreement and are thereby excluded from the resolution process.
- (5) The panel, within twenty days, shall convene a hearing with the school board and the representative organization and after consideration of the evidence and arguments, shall within twenty days of the hearing issue an order which adopts the entire final offer of either party and is final and binding upon the parties.
- (6) In reaching a decision, the panel shall give due consideration to the statutory rights and obligations of the school board to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The panel may not consider any matter or issue not submitted under paragraph 4 above.
- (7) The hearing must be held within the subject school district, unless another location is selected by agreement of the parties.

- (8) Upon issuing an order involving dispute, the panel shall transmit the order and any written decision explaining the order to the superintendent of public instruction and to the school board and the representative organization. If any issues submitted to the panel are settled voluntarily before the panel issues its decision, notice of the settlement must be made by the panel in the report issued to the superintendent of public instruction.
- (9) After issuance of the order, the party shall execute a contract, pursuant to subsection 2 of section 15-38.1-12, incorporating the agreements of the parties and the terms of the panel's order. In addition, the parties to the resolution process may, at any time prior to or after issuance of an order of the panel, agree and settle upon wages, salaries, benefits, hours, tenure, reimbursable expenses, or other terms and conditions of employment regardless of the order. The parties shall, if so agreeing and settling, execute a written contract pursuant to subsection 2 of section 15-38.1-12.
- (10) The cost for mediation services must be borne equally by the parties. The superintendent of public instruction shall determine the cost of the final offer of resolution process, including per diem compensation, and other costs and these costs must be borne equally by the parties, except that each party is responsible for the costs of its panel member and its witnesses.
- (11) All meetings held pursuant to this section are subject to the open meetings laws of this state.
- (12) The final offer resolution procedure set forth in this section may be used only for impasses involving salaries and other monetary fringe benefits.
- (13) Notwithstanding any other provision of law, either party may request final offer resolution at any time after each party has presented its initial proposal.

SECTION 2. REPEAL. Sections 15-38.1-03, 15-38.1-04, 15-38.1-05, and 15-38.1-06 of the North Dakota Century Code are repealed.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 1995, and after that date is ineffective.

Approved March 18, 1991
Filed March 19, 1991

CHAPTER 187

SENATE BILL NO. 2196

(Committee on Education)

(At the request of the Teachers' Fund for Retirement)

TFFR BENEFITS, ASSESSMENTS, AND AUDITS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to federal limitations on retirement benefits under the teachers' fund for retirement; to amend and reenact subsection 9 of section 15-39.1-04, subsection 2 of section 15-39.1-09, section 15-39.1-22, and subsections 2 and 7 of section 15-39.1-24 of the North Dakota Century Code, relating to the definition of salary, employer payment of member assessments, an annual audit under the teachers' fund for retirement, and military service credit for members; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 15-39.1-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, and administrative, and extracurricular services during a school year as reported as salary on the member's federal income tax withholding statements plus the value of any fringe benefits selected at the member's option in lieu of monetary remuneration any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave or, personal leave, vacation leave, housing allowances, transportation expenses, early retirement incentive pay, severance pay, or medical insurance premiums paid by the employer in addition to salary, workers' compensation benefits, disability insurance premiums or benefits, referee pay, busdriver pay, janitorial pay, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer entered into within sixty months before retirement.

SECTION 2. AMENDMENT. Subsection 2 of section 15-39.1-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Each employer, at its option, may pay the teacher contributions required by subsection 1 for all compensation earned after June 30, 1983. The amount paid shall be paid by the employer in lieu of contributions by the employee. If an employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are

paid by the employer, they shall be treated as employer contributions in determining income tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they shall not be included as gross income of the teacher in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these teacher contributions from the same source of funds used in paying compensation to the teachers. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If teacher contributions are paid by the employer, they shall be treated for the purposes of this chapter in the same manner and to the same extent as teacher contributions made prior to the date the contributions were assumed by the employer. The option given employers by this subsection shall be exercised in accordance with rules adopted by the board.

SECTION 3. A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

Benefit limitations. Benefits with respect to a member participating under former chapter 15-39 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] for governmental plans. This section does not constitute an election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C. 415(b)(10)(C)].

SECTION 4. AMENDMENT. Section 15-39.1-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-39.1-22. Annual report of board audit. The board shall annually report conduct an annual audit of the fund for the fiscal year ending the preceding June thirtieth. The board shall provide a copy of the report to each member and the governor.

SECTION 5. AMENDMENT. Subsections 2 and 7 of section 15-39.1-24 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. Any teacher who has received an honorable discharge from military service of the United States of America may receive credit for no more than four years of active service, upon filing application and proof with the board and subject to the terms of this chapter upon teaching one year in North Dakota subsequent to military service. Members qualified to receive military credit under the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.] shall only pay member assessments plus interest pursuant to rules adopted by the board. For those individuals becoming eligible to receive military credit under the Veterans' Reemployment Rights Act after June 30, 1991, the employer shall pay the required employer contribution for military service.
7. Except as provided in ~~subsection~~ subsections 2 and 5, the amount of additional service eligible to be purchased under this section must be credited to the teacher when the teacher has made the required

payment. In all cases, the purchase cost must be on an actuarial equivalent basis.

SECTION 6. APPLICATION OF ACT. Sections 1 and 3 of this Act apply to benefits payable after June 30, 1991.

Approved March 18, 1991
Filed March 19, 1991

CHAPTER 188

HOUSE BILL NO. 1316
(Martinson)

TFFR BOARD OF TRUSTEES MEMBERS

AN ACT to amend and reenact section 15-39.1-05 of the North Dakota Century Code, relating to the appointment of members of the board of trustees of the teachers' fund for retirement; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-39.1-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-39.1-05. Management of fund. ~~The fund must be managed by a~~ A board of trustees, ~~which consists~~ consisting of the state treasurer, the superintendent of public instruction, and three persons appointed by the governor, shall manage the fund. One of the appointees must be a full-time school administrator chosen from a list of three nominees submitted to the governor by the North Dakota council of school administrators, one of the appointees must be actively employed as a full-time classroom teacher or as a full-time school counselor chosen from a list of three nominees submitted to the governor by the North Dakota education association, and one of the appointees must be a retired member of the fund chosen from a list of three nominees submitted to the governor by the North Dakota retired teachers association. A majority of the board must at all times consist of persons who are members of the fund. The term of the office of the appointees is three years with those terms fixed to terminate on June thirtieth of alternate years. The term of each appointee commences on July first next succeeding the appointee's appointment.

SECTION 2. APPLICATION OF ACT. This Act applies to gubernatorial appointments made after the effective date of this Act as the terms of office of the current appointees to the board expire.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 189

SENATE BILL NO. 2197
(Committee on Education)
(At the request of the Teachers' Fund for Retirement)

TFFR BENEFITS AND PARTIAL SERVICE

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to postretirement benefit adjustments under the teachers' fund for retirement; to amend and reenact subsection 2 of section 15-39.1-10 and sections 15-39.1-12.1 and 15-39.2-01 of the North Dakota Century Code, relating to computation of benefits, partial service retirement, and the benefit formula for college teachers under the teachers' fund for retirement; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 15-39.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The amount of retirement benefits is one and ~~two hundred seventy five thousandths~~ thirty-nine hundredths percent of the final average monthly salary of the member multiplied by the number of years of credited service. For the purposes of this subsection, final average monthly salary means one thirty-sixth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any three years of service under the fund.

SECTION 2. A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

Postretirement adjustments. An individual who on June 30, 1991, is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive three dollars per month multiplied by the individual's number of years of credited service for individuals who retired before 1980, two dollars per month multiplied by the individual's number of years of credited service for individuals who retired after 1979 and before 1984, or one dollar per month multiplied by the individual's number of years of credited service for individuals who retired after 1983 and who retire before July 1, 1991, or an increase of ten percent in the individual's currently payable annuity, whichever is greater. The minimum monthly increase under this section is five dollars and the maximum monthly increase under this section is seventy-five dollars.

SECTION 3. AMENDMENT. Section 15-39.1-12.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-39.1-12.1. Partial service retirement. A full-time teacher, except for an elected official or a member of the alternate retirement program under subsection 13 of section 15-10-17, who is ~~sixty-two~~ fifty-five or more years of age and has ~~ten~~ five or more years of service credit may negotiate a partial service retirement agreement with the teacher's employer which results in not less than a twenty percent reduction and not more than a sixty percent reduction in the teacher's full-time employment. The board shall pay a reduced retirement benefit to the teacher after the employer certifies to the board that a partial service retirement agreement has been approved by the teacher and the teacher's employer. The reduced retirement benefit must equal the full retirement benefit the teacher is eligible to receive at the time the partial service retirement agreement becomes effective less the percentage of full-time employment the teacher is working under the partial service retirement agreement. The board must disapprove any partial service retirement agreement that does not provide for proportionately reduced compensation and, except for any health and dental insurance benefits provided by the employer, other benefits customarily provided to teachers such as vacation and sick leave. A teacher subject to a partial service retirement agreement may further reduce worktime only once each school fiscal year and may elect only once in every five years after initial entry into the program to increase worktime to another less than full-time schedule. The employer shall certify to the board any amendments or changes to the partial service retirement agreement. A teacher who reduces worktime under this section must be given priority by the employer for return to a full-time position to the extent full-time work is available. A teacher subject to a partial service retirement agreement is not considered retired until the teacher becomes fully retired. Increased compensation and receipt of additional service credit by a teacher while subject to a partial service retirement agreement do not affect a partial service retirement benefit as initially determined by the board. An employer and a teacher subject to a partial service retirement agreement shall pay their respective required assessments under section 15-39.1-09 based on the full-time salary that would have been paid if the teacher had not entered into a partial service retirement agreement. A teacher subject to a partial service retirement agreement must receive at the time of full retirement a retirement benefit based on total service credit earned, including that earned during partial service retirement. The full retirement benefit must be based on the final average salary, as determined by the board, the teacher would have received if full-time employment had been maintained during the period the teacher was subject to a partial service retirement agreement. A teacher subject to a partial service retirement agreement may not elect a joint and survivor benefit payment option under section 15-39.1-16 to be effective while subject to a partial service retirement agreement. Disability and death benefits provided under this chapter may not be reduced under this section if a teacher dies while subject to a partial service retirement agreement.

SECTION 4. AMENDMENT. Section 15-39.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-39.2-01. Retired teachers - Election of coverage - Eligibility - Limitation. Notwithstanding the provisions of chapter 15-39.1, any person who retired from teaching under the teachers' insurance and retirement fund prior to July 1, 1971, who had ten or more years of teaching credit under that program ~~shall be~~ is entitled to elect to qualify for benefits under the teachers' fund for retirement by complying with the provisions of this chapter. A college teacher who retired from teaching after July 1, 1971, may, notwithstanding the provisions of section 15-39.1-25, elect to receive

benefits in accordance with chapter 15-39.1 and section 15-39.2-05. The amount of monthly benefits to which an annuitant electing to come under the 1971 law ~~shall be~~ is entitled until death ~~shall be~~ is equal to one and one-half percent of the monthly salary of the annuitant for the last school year for each year of service of ~~such~~ that annuitant. Monthly salary within the meaning of this provision ~~shall be~~ is deemed to be an amount equal to one-twelfth of the annual salary of the teacher. If for any reason the earnings of the teacher for the last year of teaching are shown to have been nonrepresentative of ~~his~~ the teacher's typical earnings, the board shall readjust the credit to be allowed for past years of service to the last year of typical earnings. As used in this section, "college teacher" means a retired teacher who is entitled to receive an annuity through the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF) as a result of having participated in the North Dakota state board of higher education TIAA-CREF retirement plan for North Dakota state institutions of higher education.

SECTION 5. APPLICATION OF ACT. Section 1 of this Act applies only to individuals who begin receiving monthly benefits from the fund under chapter 15-39.1 after June 30, 1991, and applies to those benefits payable after June 30, 1991. Sections 2 and 4 of this Act apply to benefits payable after June 30, 1991.

Approved April 3, 1991
Filed April 3, 1991

CHAPTER 190

HOUSE BILL NO. 1458
(Ritter)

UNACCREDITED SCHOOL FOUNDATION AID

AN ACT to amend and reenact section 15-40.1-06 of the North Dakota Century Code, relating to support levels for unaccredited elementary schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-40.1-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-06. Declaration of legislative intent - Educational support per pupil - School district equalization factor - Limitations.

1. It is the intent of the legislative assembly, not considering any separate and supplemental payments as may be provided by law, to support elementary and secondary education in this state from state funds based on the educational cost per pupil. In determining the educational cost per pupil, the following criteria shall not be used:
 - a. Expenditures for capital outlay for buildings and sites, or debt service.
 - b. Expenditures from school activities and school lunch programs.
 - c. Expenditures for the cost of transportation, including the cost of schoolbuses.
2.
 - a. The educational support per pupil during the first year of the 1989-91 biennium must be one thousand five hundred twenty-five dollars and for the second year of the biennium the educational support per pupil must be one thousand five hundred forty-five dollars and is the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08.
 - b. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07.
 - c. School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be

* NOTE: Section 15-40.1-06 was also amended by section 1 of Senate Bill No. 2113, chapter 191.

supported for the 1991-92 school year or for the first year that they become unaccredited in the amount of the educational support per pupil established in subdivision a, which is the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of pupils in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per pupil in the unaccredited school for each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per-pupil payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.

- d. School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the 1992-93 school year or for the first year that they become unaccredited in the amount of the educational support per pupil established in subdivision a, which is the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of pupils in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the per-pupil payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.
3. In determining the amount of payment due school districts for per-pupil aid under this section, the product of twenty-one mills for the 1989-90 school year and twenty-two mills for each year thereafter times the latest available net assessed and equalized valuation of property of the school district must be subtracted from the amount of such aid.
4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:

 - a. Annual average daily membership report.
 - b. Annual school district financial report.
 - c. The September tenth fall enrollment report.
 - d. The personnel report forms for certified and noncertified employees.
5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

CHAPTER 191

SENATE BILL NO. 2113 (Committee on Education)

(At the request of the Office of Management and Budget)

FOUNDATION AID LEVELS

AN ACT to amend and reenact subdivision a of subsection 2 of section 15-40.1-06 of the North Dakota Century Code, relating to the per-pupil payment for the 1991-93 biennium; and to provide for contingent additional per-pupil foundation aid payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 15-40.1-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. a. The educational support per pupil during the first year of the ~~1989-91~~ 1991-93 biennium must be one thousand five hundred ~~twenty-five~~ fifty-two dollars and for the second year of the biennium the educational support per-pupil must be one thousand ~~five~~ six hundred ~~forty-five~~ eight dollars and is the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08.

SECTION 2. CONTINGENT SEPARATE AND ADDITIONAL PER-PUPIL PAYMENT. The superintendent of public instruction shall distribute a separate and additional per-pupil payment from any unspent amount appropriated to the grants - foundation aid program for the biennium beginning July 1, 1991, and ending June 30, 1993, in the May 1, 1993, foundation aid payment to schools. Any payment made under this section must be on a weighted basis to be determined according to chapter 15-40.1.

SECTION 3. LEGISLATIVE INTENT - STATE SCHOOL AID - LIMITED ENROLLMENT. It is the intent of the legislative assembly that beginning with the 2000-2001 school year, any school district that has twenty-five or fewer students enrolled in grades nine through twelve and that has not attempted to restructure or enter into a cooperative agreement with another school district, including a reciprocal agreement for attending an out-of-state school, is not eligible to receive any state aid for students enrolled in grades nine through twelve. If it is not feasible for a school district to restructure or enter into a cooperative agreement, the school district is eligible for state aid.

Approved April 16, 1991
Filed April 18, 1991

* NOTE: Section 15-40.1-06 was also amended by section 1 of House Bill No. 1458, chapter 190.

CHAPTER 192

SENATE BILL NO. 2169
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

SCHOOLBUS TRANSPORTATION AID

AN ACT to amend and reenact section 15-40.1-16 of the North Dakota Century Code, relating to schoolbus transportation aid payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-40.1-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-16. Aid for transportation. There shall be paid from state funds to each school district providing schoolbus transportation in contract schoolbuses or in district-owned and operated schoolbuses, and to school districts with students riding commercial buses to and from school within the incorporated limits of a city, the following amounts:

1. For schoolbuses and school vehicles transporting pupils who live outside the incorporated limits of the city in which the school the pupil is enrolled is located, a sum equal to twenty-five cents per mile [1.61 kilometers] during each year of the ~~1989-91~~ 1991-93 biennium for vehicles having a capacity of nine or fewer pupils and ~~sixty-eight sixty-seven~~ cents per mile [1.61 kilometers] for each year of the ~~1989-91~~ 1991-93 biennium for schoolbuses having a capacity of ten or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of ten or more pupils are entitled to an amount equal to ~~twenty-five twenty-eight~~ cents per day for each public school pupil living outside the city limits who is transported in such buses.
2. For pupils who ride schoolbuses or commercial buses to or from school and who live within the incorporated limits of the city in which the school the pupil is enrolled is located, a sum equal to ~~twelve~~ seventeen and one-half cents per pupil per one-way trip. However, no payment shall be made under this subsection for a student who rode on a vehicle for which payments are claimed under subsection 1.

The mileage payments provided for in this section shall be made to each school district for transporting pupils to and from school. Such payments shall be made only to school districts operating schoolbuses in accordance with the laws of this state relating to standards for schoolbuses, and to the qualifications of schoolbus drivers. Certification as to the compliance with the laws of this state in regard to schoolbuses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section. ~~The superintendent of public instruction shall do an onsite audit of the books and records, regarding transportation cost, pupils transported and miles traveled, of at least ten school districts each fiscal year to verify compliance with section 15-40.1-16.~~

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 193

HOUSE BILL NO. 1359
(Kunkel, Muhs)

TRANSPORTATION AID FOR CERTAIN STUDENTS

AN ACT to amend and reenact section 15-40.1-16.1 of the North Dakota Century Code, relating to transportation aid for pupils enrolled in area vocational and technology centers and multidistrict special education programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-40.1-16.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-16.1. Transportation aid for certain vocational education and special education programs. There must be paid from state funds to each school district an amount for transporting pupils to and from schools in other districts and to and from schools within school districts for vocational education courses offered through cooperative arrangements approved by the state board of vocational education. Such amount must be the same amount for mileage and per day as is provided in subsection 1 of section 15-40.1-16. Payments must be made to school districts transporting pupils for special education programs approved by the superintendent of public instruction as follows:

1. School districts transporting nine or fewer pupils per vehicle are entitled to the payment provided in section 15-40.1-16 for vehicles having a capacity of nine or fewer pupils.
2. School districts transporting ten or more pupils per vehicle are entitled to the payment provided for in section 15-40.1-16 for schoolbuses having a capacity of ten or more pupils.

School districts entitled to transportation aid pursuant to this section shall receive such aid for all miles [kilometers] traveled and for all pupils transported, regardless of whether or not such pupils live within the incorporated limits of cities in which the schools in which they are enrolled are located. Provided, however, that no school district may receive more than one per-pupil payment for transportation regardless of the number of times any pupil is transported in any one day. Notwithstanding any other provisions of this section, the superintendent of public instruction shall, upon request, make the payments under this section which are due to school districts participating in area vocational and technology centers or multidistrict special education programs, for the transportation of pupils in those centers and programs, directly to the respective area vocational and technology centers or multidistrict special education programs.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 194

HOUSE BILL NO. 1405
(Representatives Dalrymple, Carlson)
(Senators Graba, Peterson)

HIGH SCHOOL CURRICULA

AN ACT to amend and reenact section 15-41-24 of the North Dakota Century Code, relating to high school curricula.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-41-24 of the North Dakota Century Code is amended and reenacted as follows:

15-41-24. High schools - Minimum curriculum. The following units of study shall be made available to all students in each public and private high school in this state at least once during each four-year period, and each private high school shall comply with the requirements of this section if such high school is to receive approval by the department of public instruction:

1. English, four units.
2. Mathematics, three units.
3. Science, four units.
4. Social studies, three units. Effective July 1, 1994, social studies must include one unit of world history and one unit of United States history, each of which must be integrated with a strong geography component.
5. Health and physical education, one unit.
6. Music, one unit.
7. Any combination of the following course areas: business education, economics and the free enterprise system, foreign language, industrial arts, vocational education, six units. For purposes of this subsection vocational education shall include home economics, agriculture, office education, distributive education, trade industrial, technical, and health occupations.

Each public or private high school may count for purposes of compliance with this section those vocational education courses which are offered through cooperative arrangements approved by the state board of vocational education.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 195

HOUSE BILL NO. 1199

(Committee on Education)

(At the request of the Superintendent of Public Instruction)

TEXTBOOK SALES

AN ACT to amend and reenact sections 15-43-01, 15-43-02, and 15-43-03 of the North Dakota Century Code, relating to conditions for sales of textbooks to school districts; and to repeal sections 15-43-04 and 15-43-06 of the North Dakota Century Code, relating to textbook lists and inducements to purchase textbooks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-43-01 of the North Dakota Century Code is amended and reenacted as follows:

15-43-01. Textbooks - Statement and bond required as a condition to sale. Before any person, firm, or corporation shall offer for selection, adoption, contract, sale, or exchange any school textbook or book for use in the schools of this state, such person, firm, or corporation shall:

1. File ~~a copy of the book~~ in the office of the superintendent of public instruction ~~with~~ a sworn statement setting forth the published list price and the lowest wholesale price at which ~~the book is~~ books are sold to any school board, school corporation, or school commission anywhere in the United States, and the lowest price at which the book is exchanged for an old book in the same subject of like grade and kind but of a different series, based upon three-year and five-year contract periods.
2. File with the superintendent of public instruction a bond running to the state of North Dakota, with a surety company authorized to do business in this state as surety thereon, in a penal sum of not less than two thousand dollars nor more than ten thousand dollars, the sum to be determined by the superintendent, conditioned as follows:
 - a. That any book listed in the statement, and in any other statement subsequently filed by the person, firm, or corporation, shall be supplied by the publisher to any school district in the state of North Dakota at the price and terms contained in the statement.
 - b. That the price and terms filed are to be reduced automatically in North Dakota whenever reductions are made by the publisher elsewhere in the United States so that at no time shall any book so filed and listed be sold to district school boards, or to their authorized purchasing agents, at a higher price than

is received for the book by the publisher elsewhere in the United States.

- ~~c.~~ That all textbooks offered for sale, adoption, contract, or exchange by the publisher in the state of North Dakota shall be equal in quality to those deposited in the office of the superintendent of public instruction as to paper, binding, printing, illustrations, subject matter, and all particulars that may affect the value of the textbooks.
- ~~d.~~ c. That in case an abridged or special edition of any book shall be prepared, the person, firm, or corporation manufacturing the same shall sell the special edition to district school boards in this state, or to their authorized purchasing agents, at the same wholesale price as that for which the book is sold elsewhere.
- ~~e.~~ d. That such person, firm, or corporation will not enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of school textbooks.

SECTION 2. AMENDMENT. Section 15-43-02 of the North Dakota Century Code is amended and reenacted as follows:

15-43-02. Approval of bond for sale of textbooks - License by superintendent of public instruction. The bond described in section 15-43-01 ~~shall~~ must be approved as to form by the attorney general, and upon approval, the person, firm, or corporation filing ~~such the~~ bond ~~shall may~~ be licensed by the superintendent of public instruction to sell in this state the book or books ~~of which copies have been as set forth in the published list price~~ filed in the office of the superintendent.

SECTION 3. AMENDMENT. Section 15-43-03 of the North Dakota Century Code is amended and reenacted as follows:

15-43-03. Breach of conditions in bond - Proceedings to collect on bond. If any person, firm, or corporation ~~shall supply, supplies~~ to any district school board, or any purchasing agent thereof, books ~~that are inferior to the samples on file with the superintendent of public instruction, or shall charge at a higher price than that filed or than is in the published list price filed in the office of the superintendent of public instruction or charged elsewhere in the United States,~~ the county superintendent of schools, on written complaint filed ~~with him~~ by the school board, shall inform the superintendent of public instruction of the breach of the terms of the bond. The superintendent shall notify the person, firm, or corporation of the complaint, and if the entity disregards the notice ~~is disregarded, or if such person, firm, or corporation~~ fails to comply with the terms of the agreement filed with the superintendent, the bond ~~shall must~~ be forfeited, and the attorney general, on written request of the superintendent of public instruction, shall proceed to collect the full amount thereof.

SECTION 4. REPEAL. Sections 15-43-04 and 15-43-06 of the North Dakota Century Code are repealed.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 196

SENATE BILL NO. 2143
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

HOMELESS CHILDREN EDUCATION

AN ACT to provide for the education of homeless children and the adoption of administrative rules by the superintendent of public instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Education of homeless children - Payment of costs - Administrative rules.

1. Homeless children in this state are entitled to a free public school education in the same manner and comparable to that of other public school pupils, in accordance with the Stewart B. McKinney Homeless Assistance Act [Pub. L. 100-77; 101 Stat. 525; 42 U.S.C. 11431, et seq.].
2. For the purposes of this section, "homeless child" means a homeless individual as described in the Stewart B. McKinney Homeless Assistance Act [Pub. L. 100-77, § 103(a); 101 Stat. 485; 42 U.S.C. 11302] and as defined in rules adopted by the superintendent of public instruction.
3. A school district shall allow a nonresident homeless child to attend school.
4. The superintendent of public instruction shall adopt and have published administrative rules under chapter 28-32 to implement the provisions of this section, including provisions for the proper school placement of homeless children according to the best interests of the child.

Approved March 14, 1991

Filed March 15, 1991

CHAPTER 197

HOUSE BILL NO. 1120

(Committee on Education)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT ELECTION ABSENT VOTERS

AN ACT to amend and reenact section 15-47-06 of the North Dakota Century Code, relating to use of absent voters' ballots in school district elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-47-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-47-06. Election procedure in all school districts - Canvass of boards - Tie vote - Absent voters - Recounts. An election in a public school district, except as otherwise provided in this title, must be conducted and the votes must be canvassed in the manner provided by the laws of this state for the election of county officers. Immediately after the polls are closed, the judges shall proceed to count and canvass the votes for each office and the person receiving the highest number of votes for an office must be declared elected. If the election results in a tie, the business manager of the district immediately, and in writing, shall notify the candidates between whom the tie exists, and within three days after the election, and at a time agreed upon by said candidates, the election must be decided in the presence of the judges and clerks of election in a manner agreed upon by said candidates. A record of the proceedings must be made in the records of the business manager of the district. Returns must be made to the school board showing the number of votes cast for each person for any office, and such returns must be signed by the judges and clerks of election and filed with the business manager of the district within two days thereafter. The school board shall canvass all election returns and shall declare the result of any election within three days thereafter, and the result of the election must be entered upon the records of the board. The person receiving the highest number of votes for each office in the district must be declared elected. Absent voters' ballots ~~may~~ must be used in any school district election in accordance with chapter 16.1-07. Section 16.1-16-01 applies to public school district elections, except the members of the school board not subject to a recount and not disqualified under subdivision c of subsection 2 of section 16.1-05-02 shall perform the duties of the recount board, the school district business manager shall perform the duties of the county auditor, the school board takes the place of the county canvassing board, and all expenses of the recount must be paid as provided in section 15-28-10.

Approved March 25, 1991

Filed March 26, 1991

* NOTE: Section 15-47-06 was also amended by section 2 of Senate Bill No. 2299, chapter 176, and by section 1 of Senate Bill No. 2506, chapter 212.

CHAPTER 198

HOUSE BILL NO. 1249
(Representatives A. Olson, Myrdal)
(Senator Vosper)

TEACHER DISCHARGE NOTICE

AN ACT to amend and reenact sections 15-47-26 and 15-47-38 of the North Dakota Century Code, relating to the definition of teacher and discharge of teachers; and to repeal section 15-47-38.1 of the North Dakota Century Code, relating to evaluation and renewal of first year teachers and superintendents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-47-26 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-47-26. "Teacher" defined. The term "teacher", as used in sections 15-47-27 and 15-47-28, must be construed to include all teachers, principals, and superintendents in all public school districts within this state, and all persons employed in teaching in any state institution, except institutions of higher education. The term "teacher", as used in section 15-47-38, must be construed to include all teachers, and principals, superintendents, assistant superintendents, and chief administrators of multidistrict special education units and area vocational and technology centers in all public school districts within this state, and all persons employed in teaching in any state institution, except institutions of higher education. For purposes of the sections above referenced, the term "teacher" does not include teachers who are replacing teachers on leave of absence or sabbatical leave or, for purposes of nonrenewal, teachers who are in their first year of teaching and teachers who are employed after January first as to that school year. A teacher hired after January first has all the rights provided in section 15-47-27.1 except that only one evaluation is required during that school year.

* SECTION 2. AMENDMENT. Section 15-47-38 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-47-38. Legislative intent in employment of teachers - Notification of discharge or failure to renew - Hearing.

1. The legislative assembly, in recognition of the value of good employer-employee relationships between school boards of this state and the teachers employed in the school systems, the need to recruit and retain qualified teachers in this state, and further in recognition of the many intangibles in evaluating the performance of individual members of the teaching profession, urges that each school board of this state ensure through formally adopted policies, that channels of communication exist between the board, supervisory personnel, and teachers employed within its school

* NOTE: Section 15-47-38 was also amended by section 2 of House Bill No. 1194, chapter 342.

system. In the very sensitive area of discharge of teachers for cause prior to the expiration of the term of the teachers' contracts, or in decisions not to renew the contracts of teachers, school boards shall give serious consideration to the damage that can result to the professional stature and reputation of such teachers, which stature and reputation were acquired only after the expenditure of substantial time and money in obtaining the necessary qualifications for such profession and in years of practicing the profession of teaching; and that in all decisions of school boards relating to discharge or refusal to renew contracts, all actions of the board be taken with consideration and dignity, giving the maximum consideration to basic fairness and decency.

2. The school board of any school district contemplating discharging a teacher for cause prior to the expiration of the term of the teacher's contract shall notify the teacher in writing of that fact at least ten days prior to the date of contemplated discharge. The teacher shall be informed in writing of the time and place for a special meeting of the school board to be held on the question of the teacher's discharge prior to a final decision on the matter. The teacher shall also be informed in writing of ~~his~~ the teacher's right to demand a specification of the reasons for discharge, which must, upon receipt of the demand of the teacher, be furnished not less than five days prior to the meeting to be held on the question of the teacher's discharge. The reasons shall be sufficient to justify the contemplated action of the board and shall not be frivolous or arbitrary. At the meeting with the board, if the teacher has informed the board in writing at least two days prior thereto that ~~he~~ the teacher will contest the charges brought against ~~him~~ the teacher, the board must sustain the charges with evidence produced at the hearing with witnesses who shall be subject to cross-examination by the teacher or ~~his~~ the teacher's representative. A witness, if a minor, shall be accompanied by a parent or parents, legal guardian, or legal counsel, if requested by the minor or the minor's parents. The teacher may then produce such witnesses as may be necessary to refute the charges, which witnesses shall be subject to cross-examination. All procedures relative to evidence, subpoena of witnesses, oaths, record of testimony, decision, rehearing, appeals, certification of record, scope and procedure for appeals, and appeals to the supreme court shall be conducted in accordance with ~~the provisions of~~ sections 28-32-06, 28-32-07, 28-32-09, 28-32-10, 28-32-11, 28-32-12, 28-32-13, 28-32-14, 28-32-15, 28-32-16, 28-32-17, 28-32-18, 28-32-19, 28-32-20, and 28-32-21. The meeting shall be an executive session of the board unless both the school board and the teacher requesting the meeting shall agree that it shall be open to other persons or the public. The teacher may be represented at the meeting by two representatives of ~~his~~ the teacher's own choosing; and the teacher's spouse, or one other family member of the teacher's choice, may also attend the meeting if the teacher so desires. In addition to board members, the business manager of the school district, and, unless the subject of the contemplated discharge, the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. If the teacher so requests ~~he~~ the teacher shall be granted a continuance of not to exceed seven days by the board unless for good cause otherwise shown. No cause of action for

libel or slander shall lie for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section.

3. A school board may dismiss a teacher, effective immediately, for any of the following causes:
 - a. Immoral conduct, insubordination, or conviction of a felony.
 - b. Conduct unbecoming a teacher which requires the immediate removal of a teacher from ~~his~~ the teacher's classroom duties.
 - c. Failure without justifiable cause to perform contracted duties.
 - d. Gross inefficiency which the teacher has failed to correct after reasonable written notice.
 - e. Continuing physical or mental disability which renders ~~him~~ the teacher unfit or unable to perform ~~his~~ the teacher's duties as a teacher.

A school board dismissing a teacher for cause under this subsection shall report the dismissal to the teachers' professional practices commission.

4. The school board by unanimous vote may suspend the teacher from regular duty if such action is deemed desirable during the process of determining if cause for dismissal exists. If, upon final decision, the teacher is dismissed, the board may in its discretion determine the teacher's salary or compensation as of the date of suspension. If the final decision is favorable to the teacher, there shall be no abatement of salary or compensation.
5. The school board of any school district contemplating not renewing a teacher's contract, as provided in section 15-47-27, shall notify the teacher in writing of such contemplated nonrenewal no later than April fifteenth. The teacher must be informed in writing of the time, which may not be later than April twenty-first, and place of a special school board meeting for the purpose of discussing and acting upon such contemplated nonrenewal. The teacher must also be informed in writing of the reasons for nonrenewal. The reasons given by the school board for its decision not to renew a teacher's contract must be drawn from specific and documented findings arising from formal reviews conducted by the board with respect to the teacher's overall performance. Each district shall have an established system through which written evaluations are prepared for every teacher employed by the district as provided in section 15-47-27. The reasons given by the board for not renewing a teacher's contract must be sufficient to justify the contemplated action of the board and may not be frivolous or arbitrary but must be related to the ability, competence, or qualifications of the teacher ~~as a teacher~~, or the necessities of the district such as lack of funds calling for a reduction in the ~~teaching~~ staff. At the meeting with the board the teacher may then produce such evidence as may be necessary to evaluate the reasons for nonrenewal, and either party may produce witnesses to confirm or refute the reasons. The administrator shall substantiate the

reasons with written or oral evidence presented at the meeting, unless the administrator is the subject of the contemplated nonrenewal, in which case the board shall substantiate the reasons with written or oral evidence presented at the meeting. All witnesses are subject to questioning for the purposes of clarification. At the meeting, the board shall discuss the reasons and determine whether or not the administrator has, in fact, substantiated the reasons evidence presented. If the board finds that the reasons for nonrenewal have not been substantiated, the nonrenewal proceedings will be dismissed. The meeting must be an executive session of the board unless both the school board and the teacher agree that it is to be open to other persons or the public. The teacher may be represented at the meeting by any two representatives of ~~his~~ the teacher's own choosing; and the teacher's spouse, or one other family member of the teacher's choice, may also attend the meeting if the teacher so desires. In addition to board members, the business manager of the school district, and, unless the subject of the contemplated nonrenewal, the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. At the meeting, if the teacher so requests, ~~he~~ the teacher must be granted a continuance of not to exceed seven days. No claim for relief for libel or slander lies for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section. The determination not to renew a contract if made in good faith is final and binding on all parties. Final notice of the determination not to renew a contract must be given in writing by May first as provided in section 15-47-27.

6. No teacher may be discharged and no school board may refuse to renew a teacher's contract under this section based solely upon an investigation of alleged child abuse or neglect made under section 50-25.1-05.1 in which a determination was made that no probable cause existed to believe that the child abuse or neglect was indicated, or in which a determination was made that probable cause did exist to believe that child abuse or neglect was indicated but a decision relating to the alleged abuse or neglect has not been made by a court of competent jurisdiction. If a school board is notified that a finding of probable cause is made, this subsection does not prevent the school board from moving to suspend the teacher under the provisions of subsection 4.

* SECTION 3. REPEAL. Section 15-47-38.1 of the 1989 Supplement to the North Dakota Century Code is repealed.

Approved March 20, 1991
Filed March 21, 1991

* NOTE: Section 15-47-38.1 was amended by section 16 of House Bill No. 1209, chapter 165.

CHAPTER 199

SENATE BILL NO. 2106
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

TEACHER CERTIFICATION TIME

AN ACT to amend and reenact subsections 1 and 2 of section 15-47-46 of the North Dakota Century Code, relating to the attainment of certification to teach kindergarten, elementary school, or middle school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 15-47-46 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. Except as provided in subsections 2 through 4, all teachers teaching kindergarten through grade eight must hold a teaching certificate and:
 - a. A minimum of a kindergarten endorsement to teach kindergarten; or
 - b. A major, minor, or endorsement in elementary education to teach elementary education in grades one through eight; or
 - c. An endorsement in kindergarten or elementary education from the superintendent of public instruction attained prior to or within two years of the assignment to teach kindergarten or elementary education. An endorsement may be obtained by completing teaching requirements and a minimum number of credit hours in courses prescribed by the superintendent of public instruction.
2. A teacher who holds a teaching certificate and a major or an endorsement in middle school education attained prior to or within two years of the assignment to teach middle school may teach grades five through eight.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 200

SENATE BILL NO. 2566
(Senator Tennesfos)
(Representative Gorman)

FARGO SCHOOL LEVY ELECTION

AN ACT to create and enact a new subsection to section 15-51-11 of the North Dakota Century Code, relating to power of the city of Fargo board of education to levy taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 15-51-11 of the North Dakota Century Code is created and enacted as follows:

The question of authorizing or discontinuing the unlimited taxing authority of the school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon filing with the school board of a petition containing signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for the district for the most recent year the census was taken. However, the approval of discontinuing the unlimited taxing authority does not affect the tax levy in the calendar year in which the election is held. In addition, the minimum levy may not be less than the levy that was in force at the time of the election. The district may increase its levy in accordance with chapter 57-15-01. If the district experiences growing enrollment, the district may increase the levy by an amount equal to the amount levied the preceding year per pupil times the number of additional pupils enrolled during the new year.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 201

HOUSE BILL NO. 1090
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

HANDICAPPED CHILD DEFINITION

AN ACT to amend and reenact subsection 3 of section 15-59-01 of the North Dakota Century Code, relating to the definition of the term "handicapped child".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 15-59-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Handicapped child" means a child who is mentally retarded, hard of hearing, deaf, deaf-blind, speech or language impaired, visually handicapped, seriously emotionally disturbed, specific learning disabled, orthopedically impaired, ~~or~~ otherwise health impaired, autistic, or traumatic brain injured who by reason thereof requires special education and related services or who has been excused from attending or participating in special education pursuant to subsection 4 of section 15-34.1-03.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 202

SENATE BILL NO. 2179
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

SPECIAL EDUCATION PROGRAM FUNDING INTENT

AN ACT to amend and reenact section 15-59-02.1 of the North Dakota Century Code, relating to legislative intent and special education cost sharing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-59-02.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-59-02.1. Legislative intent - Special education. This statement of legislative intent is provided to define more clearly the relationship between the state, school districts, and parents of handicapped children in the provision of special education and related services. "Related services" means transportation and such developmental and corrective or supportive services required to assist a handicapped child to benefit from special education.

The school administrator or his appointed representative or director of special education other than the child's teacher is responsible for bringing together professionals and parents to share assessment information related to all areas of suspected disability, develop an individualized education program plan for the handicapped student, and make recommendations for required special education and related services.

The legislative assembly believes that in order to assure equality of services which are provided for by limited state funds, the department of public instruction will be required to approve a contract for services based on an individualized education program developed for each handicapped student placed in a private school program or in programs outside the student's original special education unit.

The legislative assembly believes that when money is distributed to a school district for special education personnel, the department of public instruction should give consideration to the units of services provided by the district, the district's special education program costs, and the district's special education program needs.

The legislative assembly recognizes that a handicapped student whose individualized education program so requires is entitled to an educational program in excess of one hundred eighty days per year if regression caused by an interruption in educational programming, together with a student's limited recoupment capacity, renders it impossible or unlikely that the student will attain the level of self-sufficiency and independence from caretakers that the student would otherwise be expected to reach in view of the handicapping

condition. All summer programs attended by these students must have approval of the department of public instruction before receiving foundation aid or state special education reimbursement.

In the case of handicapped students who require boarding care away from the family residence in order to receive special education and related services in an approved program, it is the intent of the legislative assembly that the instructional costs and costs of related services, including boarding care, be borne by state special education funds and school district funds.

"All handicapped children have the right to a free appropriate education" means that all handicapped students have the right to special education and related services which must be provided at no cost to parents. "At no cost" means specifically designed instruction provided without charge but does not preclude expenses normally incurred or charged to parents of nonhandicapped children. Parents will assume such costs for a handicapped child as they would if the child was not handicapped. Personal items, including, but not limited to, hearing aids, eyeglasses, routine medical expenses, physical exams, medications, and all items necessary for a nonhandicapped child, will be the financial responsibility of the parent.

School districts must require use of family insurance, or similar third party payments, in whatever amount is allowed, as long as there is no financial loss to the child or the child's parent, for determining a child's medically related handicapping condition or other required related services which results in the child's need for special education. It is the school district's responsibility to assume costs not covered by the insurer or similar third party in the above situation.

The school district in which a handicapped student resides is responsible to provide transportation for the student as prescribed in the student's individualized education program.

Costs of transportation for the student to attend an approved special education program are the responsibility of the school district with aid from the department of public instruction.

The district of residence may use any reasonably prudent and safe means of transportation at its disposal to carry out the requirements of the individualized education program. Such means may include, but not be limited to, a regularly scheduled schoolbus, public or commercial transportation where appropriate, charter or specially contracted transportation, or transportation provided by a handicapped student's parent or other responsible party at school district expense.

If the transportation between the district of residence and the educational facility is provided by the parents, the reimbursement to the school district from department of public instruction funds must be for mileage costs only and may not include per diem costs for meals, lodging, lost wages, or other costs of any kind.

As the state department of health and consolidated laboratories human services has authority under chapter 25-16 to provide early intervention services to meet the needs of handicapped children ages zero through two years, the legislative assembly recognizes this provision and requires the department of public instruction, the state department of health and consolidated laboratories, and the department of human services to cooperate in planning and coordinating programs for these children.

CHAPTER 203

HOUSE BILL NO. 1578
(Representatives Gilmore, Gorder, Oban)
(Senators Heinrich, Lips, Peterson)

HANDICAPPED EDUCATION RIGHTS ENFORCEMENT

AN ACT to create and enact a new section to chapter 15-59 of the North Dakota Century Code, relating to payment of attorneys' fees to the parent or guardian of a handicapped child or a handicapped adult in certain cases; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-59 of the North Dakota Century Code is created and enacted as follows:

Enforcement of right to education - Attorneys' fees. Each parent or guardian of a handicapped child as defined in subsection 3 of section 15-59-01, or a handicapped adult between the ages of eighteen and twenty-one is entitled to enforce that handicapped child's or handicapped adult's right to an education guaranteed by state and federal law, through an administrative proceeding, civil action, or other remedy available by common law or statute. In any administrative or judicial proceeding to enforce that right, the court may, in its discretion, award reasonable attorneys' fees and costs to a parent, guardian, or handicapped adult who prevails in that proceeding. However, no attorney's fees or costs may be awarded for services rendered or costs incurred before the time when the parent, guardian, or handicapped adult submitted a written request to the appropriate school administrator or director of special education, for the relief sought and obtained in that proceeding.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 204

SENATE BILL NO. 2412
(Senator Goetz)
(Representative Gates)

SCHOOL CONSTRUCTION FUND

AN ACT to amend and reenact sections 15-60-01 and 15-60-03 of the North Dakota Century Code, relating to the school construction fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-60-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-60-01. Definitions. As used or referred to in this chapter, unless the context clearly indicates otherwise:

1. "Board" means the state board of public school education.
2. "Construction" means acquisition and construction, and the term "to construct" means to acquire and to construct in such manner as may be deemed desirable.
3. "Department" means the department of public instruction.
4. "Fund" means the state school construction fund created by this chapter.
5. "Improvement" means extension, enlargement, and improvement, and the term "to improve" means to extend, to enlarge, and to improve in such manner as may be deemed desirable.
6. "Project" means any structure, facility, or undertaking including a technological undertaking which the board is authorized to construct or improve, under this chapter.

SECTION 2. AMENDMENT. Section 15-60-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-60-03. Purposes and general powers.

1. There is established a state school construction fund to be maintained by the board at the Bank of North Dakota. The board may use the fund to buydown or reduce the interest paid by a school district on the Bank's portion of the construction loan. The interest buydown program under this section must be implemented under rules adopted by the board.
2. The Bank of North Dakota shall at no time enter into any contract with a school district under the provisions of this chapter, unless

such school district is at that time annually levying a sufficient mill levy which the board has determined will provide for repayment of the contracted loan within twenty years after the initial payment from the Bank of North Dakota to the school district, but a school district shall not borrow more than thirty percent of the taxable valuation of the district or five million dollars from the Bank and shall not be permitted to levy less than ten mills for the maintenance of a building fund. The loan contracted for by the school district from the Bank must be repaid by the school district together with two and one-half percent interest per annum. The interest buydown fund must be used by the board to cover the difference between the Bank's current loan rate and the rate of two and one-half percent interest per annum. The levy required by this section for repayment must be maintained over the life of the contract with the Bank, and the. To submit a qualifying loan application, a school district must have at the time of the loan application an existing indebtedness to the maximum limit permitted by law. In determining whether a school district has an existing indebtedness to the maximum limit permitted by law for purposes of this section, the value of taxable property means twice the taxable value of all taxable property in the school district equal to fifteen percent or more of the taxable valuation of all taxable property in that school district, except that this requirement does not pertain to consortiums, to reorganized districts, and when two or more districts engage in joint technological undertakings.

3. All contracts between the Bank and school districts shall be conditioned upon the preparation of general plans for the orderly development of improved attendance areas and administrative units and for the improved housing of the public schools of the state. These plans shall be prepared cooperatively by local, county, and state school authorities, in accordance with standards and regulations prescribed by the department. The department shall have authority and its duty shall be to review all construction projects to determine:
 - a. The extent to which they conform to state plans.
 - b. The amount of improvement to be brought about in attendance areas and administrative units.
 - c. The usefulness and adequacy of the proposed building for classroom purposes with respect to design, location, safety, comfort, and convenience.
 - d. The ability of the local school district or districts to amortize the cost of construction and to defray the cost of operation and maintenance.
4. No contract shall be executed between the Bank and school district without the specific written approval of the department.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 205

HOUSE BILL NO. 1128
(Committee on Finance and Taxation)
(At the request of the Bank of North Dakota)

STUDENT LOAN PROGRAM EXPENDITURES

AN ACT to amend and reenact section 15-62.1-01 and subsection 2 of section 15-62.1-02 of the North Dakota Century Code, relating to the designation of the agency that administers state guarantee loan programs and authorization of expenditure of guarantee moneys.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-62.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-62.1-01. Guarantee student loan programs - Administration - Advisory board. The Bank of North Dakota, hereinafter called the "agency", shall be the state agency designated to administer state guarantee loan programs, as provided in this chapter. The advisory board of directors to the Bank of North Dakota appointed pursuant to chapter 6-09.1 shall act in an advisory capacity concerning the programs. The agency, upon recommendation of the advisory board and subject to approval of the industrial commission, shall expend moneys received and from the interest earned on the principal balance in the reserve funds established pursuant to this chapter as may be necessary to implement and administer the programs. The term "student" includes a parent borrower under this chapter and the term "coinsurance" includes reinsurance.

SECTION 2. AMENDMENT. Subsection 2 of section 15-62.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. To take, hold, expend, and administer, on behalf of the state from any source any real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the agency shall be a general obligation of the state of North Dakota, nor shall be payable out of any moneys except those made available to the agency under this chapter.

Approved March 7, 1991
Filed March 7, 1991