

# EDUCATION

## CHAPTER 137

SENATE BILL NO. 2063  
(Legislative Council)  
(Interim Committee on Natural Resources)

### SALE OF STATE-OWNED LAND

AN ACT to create and enact section 15-02-05.1 of the North Dakota Century Code, relating to the duties of the commissioner of university and school lands; and to amend and reenact section 54-01-05.3 of the North Dakota Century Code, relating to the duties of the attorney general in reviewing bills for the sale of state-owned land.

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

SECTION 1.) Section 15-02-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-02-05.1. ADDITIONAL DUTIES OF COMMISSIONER.) In all cases where the attorney general is required by section 54-01-05.3 to review legislative bills dealing with the sale, lease, or exchange of state land, the commissioner of university and school lands shall provide the attorney general with an opinion as to whether the sale, lease, or exchange in question is consistent with the highest and best use of the land involved, and with an appraisal of the market value of the land. As an aid in making the determination, the commissioner shall classify all land owned by the state or its instrumentalities, as defined in subdivision a of subsection 4 of section 54-01-05.3, according to its highest and best use. As used in this section, "highest and best use" means that use of a parcel of land which will most likely produce the greatest benefit to the state and its inhabitants, and which will best meet the needs of the people. In making this determination the considerations of the commissioner shall include: soils capability, vegetation, wildlife use, mineral characteristics, public use, recreational use, commercial or industrial use, aesthetic values, cultural values, surrounding land use, nearness to expanding urban areas, and any other resource, zoning, or planning information relevant to the determination.

SECTION 2. AMENDMENT.) Section 54-01-05.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01-05.3. ATTORNEY GENERAL TO REVIEW BILLS PROVIDING FOR SALE OF LAND - COMMISSIONER OF UNIVERSITY AND SCHOOL LANDS TO RENDER OPINION ON LAND USE.)

1. Each bill which authorizes or directs the sale, lease, or exchange of specific land owned by the state, or any of its instrumentalities, or which authorizes the purchase or lease of specific land by the state, or any of its instrumentalities, except for transactions between such instrumentalities, shall, upon or prior to its introduction, be referred to the office of the attorney general. Upon receipt, the attorney general shall review the bill to determine that it contains a sufficient legal description and that it accurately describes the parties to the transaction. The attorney general shall be furnished an abstract of title to the land to be conveyed, continued to current date, and shall issue his legal opinion as to ownership of the land. The review and determination required by this section shall be completed within ten days after receipt of the bill, abstract of title, and the opinion of the commissioner of university and school lands, and the attorney general shall present the bill and a written report of his findings to the presiding officer of the house in which the bill was, or is to be, introduced.
2. The attorney general shall receive the opinion of the commissioner of university and school lands relative to whether the sale, lease, or exchange contemplated is consistent with the commissioner's classification of the particular parcel of land pursuant to section 15-02-05.1, and relative to the appraised value of the land. The attorney general shall include in his report the opinion of the commissioner of university and school lands.
3. If, as a result of the attorney general's action provided for in subsection 1, a bill is not returned to the presiding officer until after the date provided by the legislative rules as the final date for introduction of bills by members, the bill shall be received by the presiding officer and presented to the secretary or chief clerk for filing as if it had been received on the last day for introduction by members.
4. As used in subsection 1:
  - a. "Instrumentalities" means any state agency, board, commission, department, office, or institution which has or is to be given authority to acquire or convey land.
  - b. "Land" means any specific parcel or parcels of real property and all structures and improvements thereon.

## CHAPTER 138

## SENATE BILL NO. 2106

(Committee on Industry, Business &amp; Labor)

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

## STATE LAND DEPARTMENT FUNCTIONS

AN ACT to create and enact sections 15-03-04.1 and 15-03-04.2, chapter 15-08.1, and section 54-30-30.1 of the North Dakota Century Code, relating to the loan functions of the state land department and the real estate functions of the Bank of North Dakota; to amend and reenact section 15-03-01, subsection 1 of section 15-03-04, sections 15-03-05, 15-03-07, 15-03-14, 15-03-15, and 15-03-18 of the North Dakota Century Code, relating to the loan functions of the state land department and the real estate functions of the Bank of North Dakota; and to repeal sections 6-09-25, 15-03-06, 15-03-08, 15-03-09, 15-03-10, 15-03-11, 15-03-20, and 54-30-23 of the North Dakota Century Code, relating to the loan functions of the state land department and the real estate functions of the Bank of North Dakota.

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

SECTION 1. AMENDMENT.) Section 15-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-01. PERMANENT FUNDS - STATE TREASURER IS CUSTODIAN.) All moneys belonging to the permanent funds of the common schools and other public institutions derived from the sale of any of the lands described in section 15-01-02 or from any other source shall be paid to and held by the state treasurer and shall be subject to the order of the board of university and school lands. Such moneys shall be paid over on the order of the board for investment as provided in this chapter whenever the board requires the same.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-03-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. First mortgages on farmlands and improvements thereon in this state to the extent such mortgages are guaranteed or insured by the United States or any instrumentality thereof, or if not so guaranteed or insured,

not exceeding in amount eighty percent of the actual value of the property on which the same may be loaned, such value to be determined by competent appraisal.

SECTION 3.) Section 15-03-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-03-04.1. LOAN POOL ACCOUNT.) There is hereby created in the Bank of North Dakota a loan pool account. The board of university and school lands may purchase first mortgage farm loans made in accordance with this chapter from the Bank of North Dakota. All purchased farm loans shall be credited to the loan pool account and the investments, repayments, interest, and income shall be credited to the various land department trust funds in the proportion that each participates therein. The loan pool account shall consist of current loans whenever possible. In the event delinquent loans are kept in the loan pool account, the Bank of North Dakota shall handle foreclosures in accordance with standard banking practices and proceeds shall be properly credited to the loan pool account and income accounts. The Bank of North Dakota shall charge such fee for the management of each loan as the Bank of North Dakota and the board of university and school lands shall agree. Such fee may only be deducted from interest payments received on loans. Loans purchased by the board of university and school lands may have originated in the Bank of North Dakota or other financial institutions. The Bank of North Dakota shall certify that all loans purchased by the board of university and school lands are first mortgages and that there are no prior judgments, mortgages, liens, or other encumbrances against the security for such first mortgages.

SECTION 4.) Section 15-03-04.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-03-04.2. BOARD AUTHORITY OVER FARM LOANS.) The board of university and school lands shall have authority to promulgate policies, rules, and regulations for the purchase of first mortgage farm loans. The board shall set such terms, conditions, interest rates, and other guidelines as it may desire commensurate with its fiduciary responsibilities.

SECTION 5. AMENDMENT.) Section 15-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-05. ONE-THIRD OF PERMANENT FUNDS TO BE INVESTED IN FARM LOANS - EXCEPTION.) At least one-third of the whole amount of the several permanent funds, as computed by the commissioner of university and school lands at the end of each fiscal year, shall be invested in first mortgages on farmlands and rangelands in this state if there is a sufficient demand for investment in farm loans. First mortgage loans on farmlands and rangelands shall be made only in accordance with the provisions of this chapter.

SECTION 6. AMENDMENT.) Section 15-03-07 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-07. LIMITATIONS ON FARM LOANS.) Farm loans secured by a first mortgage shall be made only upon farmland and rangeland in this state, and only to persons or other legal entities who are actual residents of this state and who are actively engaged in the business of farming or ranching.

SECTION 7. AMENDMENT.) Section 15-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-14. CONVEYANCE OF MORTGAGED LAND TO STATE - EFFECT.) When a mortgage held by the state as security for the investment of permanent school funds of the state is in default and the foreclosure thereof is deemed advisable, the Bank of North Dakota, acting on behalf of the board of university and school lands, may accept from the owner of the record title of the land covered by the mortgage a deed conveying the land to the state. Such deed shall transfer and extinguish all title, interest, and right of redemption of the grantor, but shall not extinguish the mortgage lien on the land. Such lien may be foreclosed subsequently in the manner provided by law. The deed may be recorded in the office of the register of deeds of the county wherein the land is situated, and the mortgage held by the state may be released and satisfied. A deed of conveyance from the date of its execution shall have the same legal effect for all purposes as a sheriff's deed would have if the mortgage involved had been foreclosed.

SECTION 8. AMENDMENT.) Section 15-03-15 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-15. MEETING TO CONSIDER INVESTMENTS AND APPROVAL OF FARM LOANS - NOTICE - VOTE REQUIRED.) The board of university and school lands shall not authorize nor approve the purchase of securities or farm loans except at a meeting of the board held pursuant to a notice given by the secretary of the board to every member in time to afford each member an opportunity to be present at the meeting. The notice shall specify that the question of authorization of purchase or the action on the approval of purchase of certain securities or farm loans is to be considered at the meeting. A majority vote of all the members of the board shall be required to authorize or to approve the purchase of securities or farm loans, and such vote shall be taken by yeas and nays and shall be duly recorded in the books of the board. The board is authorized to employ such personnel as it deems necessary to serve as counsel and adviser to the board and assist it on the investment of funds in securities enumerated in section 21-10-07.

SECTION 9. AMENDMENT.) Section 15-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-18. COMMISSIONER TO RECEIVE AND PRESENT OFFERS FOR SALES OF SECURITIES - MAINTAIN RECORDS OF MORTGAGES AND SECURITIES.) The commissioner of university and school lands shall receive and present to the board all offers for the sale of securities. He shall keep such books as may be necessary to register and describe all securities and mortgages purchased or taken by the board for the benefit of any of the permanent funds under its control. The books kept by the commissioner shall be ruled to permit:

1. The registry of the name and residence of the person offering to sell any bonds, securities, or mortgages.
2. If bonds, the designation of the municipality, corporation, or sovereignty for which the offer is made.
3. A full and detailed description of every governmental bond, whether of the United States, this or any other state, or a municipality, and the date, number, series, amount, and rate of interest of each bond, and when the interest and principal, respectively, are payable.
4. If any other security, a full and detailed description of the security according to sound accounting principles.

The foregoing record shall be made before the completion of the purchase of any bond, security, or mortgage.

SECTION 10.) Chapter 15-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-08.1-01. DECLARATION OF POLICY AND INTENT.) It is declared to be the policy and intent of this state to provide for proper and economic management of its lands. Therefore, certain possessory interests in real property acquired by the state of North Dakota in the past or in the future shall be transferred to the board of university and school lands in trust for the state of North Dakota in accordance with this chapter. Lands managed pursuant to this chapter shall not be subject to the leasing and sale provisions found elsewhere in this code.

15-08.1-02. TRANSFER OF PRESENT POSSESSORY INTERESTS IN REAL PROPERTY.) All contracts for deed, tracts of real property, reserved minerals, mineral leases, surface leases, and all possessory interests in real property of whatever nature and derived from whatever source belonging to or managed by the Bank of North Dakota, together with future increments, accruals, and recoveries coming, arising, or resulting from any of such property, or from dealing therewith in whatever form, are each and all hereby transferred, assigned, conveyed, and granted to the state of

North Dakota, acting by and through the board of university and school lands. This transfer is self-executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents shall be conclusively presumed.

15-08.1-03. TRANSFER OF FUTURE POSSESSORY INTERESTS IN REAL PROPERTY.) All contracts for deed, tracts of real property, reserved minerals, mineral leases, surface leases, and all possessory interests in real property of whatever nature and derived from whatever source that may be acquired by the Bank of North Dakota, together with future increments, accruals, and recoveries coming, arising, or resulting from any of such property or from dealing therewith in whatever form, shall be transferred, assigned, conveyed, and granted to the state of North Dakota, acting by and through the board of university and school lands. All transfers made in accordance with this section are self-executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents shall be conclusively presumed.

15-08.1-04. EXCEPTIONS TO TRANSFERS.) The transfers of property set forth in sections 15-08.1-02 and 15-08.1-03 shall not include interests in real property that lie within the corporate limits of cities and shall not include interests in real property that the board of university and school lands feels can best be managed by the Bank of North Dakota.

15-08.1-05. EXISTING CONTRACTS AND ENCUMBRANCES RECOGNIZED.) The transfers made by this chapter shall be subject to all existing contracts, rights, easements, and encumbrances outstanding heretofore made or sanctioned by the Bank of North Dakota and shown in the files and records of the Bank of North Dakota.

15-08.1-06. DUTIES AND POWERS OF THE BOARD.) The board of university and school lands shall manage, operate, and supervise all properties transferred to it by this chapter; shall have full power of sale with respect to any and all such property; may enter into surface or mineral leases; may enforce all rights of the owner by all lawful means in its own name; and may make and execute all instruments of release or conveyance as agreements were made heretofore, or are made hereafter.

15-08.1-07. RULEMAKING AUTHORITY.) The board of university and school lands may promulgate rules and regulations for the sale, lease, encumbrance, and management of the lands acquired pursuant to this chapter.

15-08.1-08. CREATION OF LANDS AND MINERALS TRUST.) All income derived from the sale, lease, and management of the lands acquired by the board of university and school lands pursuant to this chapter and not belonging to other trust funds shall be

deposited in a fund to be known as the lands and minerals trust. The corpus and interest of such trust may be expended as the legislature may provide.

SECTION 11.) Section 54-30-30.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-30-30.1. TRANSFER TO BOARD OF UNIVERSITY AND SCHOOL LANDS.) All contracts for deed, tracts of real property, leases, and other interests in real property transferred to the president of the Bank of North Dakota by section 54-30-30 are hereafter governed by the provisions of chapter 15-08.1.

SECTION 12. REPEAL.) Sections 6-09-25, 15-03-06, 15-03-08, 15-03-09, 15-03-10, 15-03-11, 15-03-20, and 54-30-23 of the North Dakota Century Code are hereby repealed.

Approved April 6, 1977



## CHAPTER 139

SENATE BILL NO. 2022  
(Legislative Council)  
(Interim Committee on Budget "C")

## CONSTRUCTION OF STATE OFFICE BUILDING

AN ACT to provide authority for the board of university and school lands to invest permanent funds of the common schools in the construction of an office building, to establish the location of the office building, to provide a grant of land, to provide for the advertising and letting of construction bids, to provide for the rental of space to state agencies, to provide for a method of amortizing the capital investment, to provide for incidental authority in the board of university and school lands necessary to accomplish the purpose of this Act; and declaring an emergency.

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

SECTION 1. INVESTMENT OF COMMON SCHOOLS FUND.) The board of university and school lands may invest an amount not to exceed eight million dollars from the permanent fund of the common schools for the construction of an office building.

SECTION 2. LOCATION OF BUILDING - GRANT OF LAND.) The office building shall be located in the city of Bismarck on the capitol grounds and shall conform substantially to the architecture of existing capitol buildings and be in accordance with the capitol grounds master plan. The permanent fund of the common schools is granted sufficient land on the capitol grounds to be selected by the board of university and school lands with the approval of the capitol grounds planning commission in order to construct the office building and accomplish the purpose of this Act.

SECTION 3. EMPLOYMENT OF ARCHITECT - LETTING OF BIDS FOR CONSTRUCTION - NOTICE OF LETTING - AUTHORITY OF BOARD.) The board of university and school lands may employ an architect and contract for the construction of the office building with the lowest and best bidder among three or more bidders, after notice in two consecutive issues in four newspapers of general circulation in the state, one to be located in Bismarck, not less than twenty days before the day of letting. The board may either let the work in one entire contract or to different contractors, as the board may deem advisable. The board may reject any and all bids and call for new bids. The board may require a performance bond from each bidder, with surety in any amount it deems necessary.

SECTION 4. RENTAL OF OFFICE SPACE - REVIEW OF RENTAL CHARGES.) The board of university and school lands may lease office space to agencies of the state on a year-to-year basis. The board of university and school lands shall review the rental charged to state agencies renting space in the office building every two years prior to the preparation of agency budgets so that those agencies renting space will have adequate opportunity to seek legislative appropriations for such rental.

SECTION 5. AMORTIZATION OF COST - PAYMENT OF COSTS OF REPAIRS AND MAINTENANCE - DEPOSIT OF RENTAL INTO INTEREST AND INCOME FUND OF COMMON SCHOOLS.) The board of university and school lands shall amortize the cost of construction of the office building from the rentals received for office space over a fifty-year period with such annually amortized amount to be deposited into the permanent fund of the common schools. The board of university and school lands may, subject to legislative appropriation, pay the cost of repair and maintenance from the rental received for office space. The rental remaining after deducting the amount amortized and the actual cost of repairs and maintenance shall be deposited into the interest and income fund of the common schools.

SECTION 6. MAINTENANCE CONTRACT WITH DIRECTOR OF INSTITUTIONS.) The board of university and school lands may contract with the director of institutions on a cost basis for the repair and maintenance of the land and building acquired under the provisions of this Act.

SECTION 7. INCIDENTAL AUTHORITY - PAYMENT OF VOUCHERS.) The board of university and school lands may perform all acts incidental to the construction of the office building. The office of the department of accounts and purchases shall draw warrants on the state treasurer for the payment of vouchers drawn by the commissioner of university and school lands as directed by the board of university and school lands, and the state treasurer shall pay those warrants out of the permanent fund of the common schools.

SECTION 8. SUPREME COURT.) It is the intent of the legislative assembly that to relieve the crowded conditions of the supreme court the court be provided space in the building to be constructed pursuant to the provisions of this Act. The supreme court shall be allocated a minimum of twenty-one thousand usable square feet within the office building. The supreme court shall give final approval to the architectural design of the space included in the office building for its use. The architect selected for the design of the supreme court space within the office building shall take into consideration the supreme court space utilization studies and designs prepared by Space Management Consultants, Inc., and Ritterbush Associates, Inc., when designing the space for the supreme court. In addition, the office building shall be designed in a manner which will allow for future expansion of the building for additional supreme court space if necessary.

SECTION 9. LEGISLATIVE SPACE.) It is the intent of the legislative assembly that additional facility space be made available pursuant to the provisions of this Act and that it include space, either within the capitol or in the building constructed pursuant to the provisions of this Act, for no fewer than six legislative committee rooms and one large legislative hearing room.

SECTION 10. TRANSFER OF TITLE.) At the end of the construction cost amortization period of fifty years, the title in the office building shall be transferred from the permanent fund of the common schools to the state of North Dakota. Such rentals as may be charged after the expiration of the amortization period shall be deposited in the state general fund. The director of institutions shall be responsible for maintenance of the building after the expiration of the amortization period.

SECTION 11. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved April 20, 1977

## CHAPTER 140

HOUSE BILL NO. 1110

(Committee on Natural Resources)

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

## NOTICE OF SCHOOL LAND SALE AND LEASE

AN ACT to amend and reenact sections 15-04-09, 15-06-25, and 15-07-05 of the North Dakota Century Code, relating to notices of school land sales and leases.

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

SECTION 1. AMENDMENT.) Section 15-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-09. NOTICE OF LEASING - PUBLICATION - POSTING.) Each year at such time as in its judgment is for the best interests of the state, the board of university and school lands shall advertise and offer for lease the lands to be leased. All lands to be leased or offered for lease within the respective counties shall be advertised for lease by the board by publication once each week for a period of three weeks prior to the day of leasing in the official county newspaper where said land is situated and in such other newspapers as the board shall deem appropriate. A list of the lands to be offered for leasing shall be filed with the county treasurer of the county wherein such lands are situated at least ten days prior to the day of leasing. If, in the opinion of the board, the land that will be leased in any county will not be sufficient to warrant the expense of advertisement in a newspaper by description of each tract or parcel, the notice may be given by general advertisement.

SECTION 2. AMENDMENT.) Section 15-06-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-06-25. NOTICE OF SALE - CONTENTS - PUBLICATION.) The board of university and school lands shall cause a notice of sale of such tract to be published once each week for a period of three weeks prior to the day of sale in the official county newspaper where said land is situated and in such other newspapers as the board shall deem appropriate. Such notice shall describe the land to be sold, and shall state the amount bid therefor, and the terms and conditions of sale.

SECTION 3. AMENDMENT.) Section 15-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-05. PUBLIC SALE OF LANDS OTHER THAN ORIGINAL GRANT LANDS - NOTICE.) Any land sold at public sale under any provision of this chapter shall be sold to the highest bidder according to the terms fixed by the board of university and school lands, at the front door of the courthouse in the county seat of the county wherein the lands to be sold lie, between the hours of 9 o'clock a.m. and 4 o'clock p.m. of the day fixed for the sale. The board shall cause a notice of such public sale to be published once each week for a period of three weeks prior to the day of sale, in the legal newspaper for the county in which the land is situated and in such other newspapers as the board shall deem appropriate. Such notice shall describe the land and shall set forth the appraised value thereof and the terms and conditions of sale. The board shall cause notice of such sale to be mailed to the last renter, if any, of the land to be sold, addressed to him at his post-office address as shown in the records of the board.

Approved March 23, 1977

## CHAPTER 141

HOUSE BILL NO. 1109

(Committee on Natural Resources)

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

## IMPROVEMENTS ON STATE SCHOOL LANDS

AN ACT to create and enact section 15-05-12.1 of the North Dakota Century Code, relating to improvements placed on state lands; to amend and reenact section 15-08-26 of the North Dakota Century Code, relating to improvements placed on state lands; and to repeal section 15-05-12 of the North Dakota Century Code, relating to improvements placed on state lands.

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

SECTION 1.) Section 15-05-12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-05-12.1. IMPROVEMENTS MADE ON LANDS BY A MINERAL LESSEE.) The board of university and school lands may provide by rule or lease term for the sale, disposal, removal, or acquisition of improvements placed on lands by a lessee.

SECTION 2. AMENDMENT.) Section 15-08-26 of the North Dakota Century Code is hereby amended and reenacted to read 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 improvements which he has placed upon such lands 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, in addition to paying the purchase price or rental of the land, shall pay to the prior 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.

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.

SECTION 3. REPEAL.) Section 15-05-12 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1977

## CHAPTER 142

HOUSE BILL NO. 1111

(Committee on Natural Resources)

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

## TRESPASS ON STATE SCHOOL LANDS

AN ACT to create and enact section 15-08-21.1 of the North Dakota Century Code, relating to criminal trespass on state lands; to amend and reenact sections 15-05-08 and 15-08-20 of the North Dakota Century Code, relating to illegal mining activities and trespassing on state lands; and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 15-05-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-05-08. PENALTY FOR MINING AND PROSPECTING IN VIOLATION OF RULES GOVERNING.) Any person who mines, removes, or causes to be mined or removed, from any lands subject to the control of the board of university and school lands, any coal, lignite, uranium, oil and gas, or potash, unless mined or removed pursuant to the provisions of this chapter, or any person who prospects or explores for coal, lignite, uranium, oil and gas, or potash without permission from the board of university and school lands, is guilty of theft as defined in chapter 12.1-23. The offense shall be a class C felony. In addition, such person shall be civilly liable for trespass pursuant to chapter 15-08.

SECTION 2. AMENDMENT.) Section 15-08-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-20. WILLFUL AND CASUAL TRESPASS - CIVIL ACTION FOR DAMAGES.) Any person who commits any trespass upon any of the surface or subsurface lands and resources controlled by the board of university and school lands shall be liable in treble damages in an action to be brought in the name of the state, if the trespass is adjudged to have been willful, but single damages only shall be recovered in the action if the trespass is adjudged to have been casual and involuntary.

SECTION 3.) Section 15-08-21.1 of the North Dakota Century Code is hereby created and enacted to read as follows:



15-08-21.1. WILLFUL TRESPASS - PENALTY.) Any person who willfully trespasses upon any of the lands subject to control of the board of university and school lands, either by cutting down or destroying any timber or wood standing or growing thereon, or by carrying away any timber or wood therefrom, or by mowing or cutting or removing any hay or grass standing or growing or being thereon, or who injures or removes any buildings, fences, improvements, or other property belonging or appertaining to the land, or who unlawfully breaks or cultivates any of the lands, or who unlawfully tampers with any portion of the subsurface estate, or aids, directs, or countenances a trespass or other injury, is guilty of a class A misdemeanor.

Approved March 12, 1977

## CHAPTER 143

SENATE BILL NO. 2109

(Committee on Natural Resources)

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

GRANT AND NONGRANT LAND SALE  
RESERVATIONS

AN ACT to amend and reenact section 15-08-27 of the North Dakota Century Code, relating to mineral reservations on nongrant land under authority of the board of university and school lands.

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

SECTION 1. AMENDMENT.) Section 15-08-27 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-27. RESERVATIONS AND EXCEPTIONS ON THE SALE OF LAND.) In all sales of nongrant land under control of the board of university and school lands the same reservations and exceptions to the state of North Dakota shall be made as in the sales of grant land. Any such sale which does not contain such reservations and exceptions shall be construed as if such reservations and exceptions were contained therein.

Approved April 19, 1977

## CHAPTER 144

SENATE BILL NO. 2110

(Committee on Natural Resources)

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

## SOVEREIGN LANDS

AN ACT to create and enact chapter 15-08.2 of the North Dakota Century Code, relating to the sovereign lands of the state of North Dakota; to amend and reenact sections 38-11-02 and 47-06-08 of the North Dakota Century Code, relating to the leasing of public lands and ownership of islands and relicted lands.

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

SECTION 1.) Chapter 15-08.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-08.2-01. DECLARATION OF POLICY AND INTENT.) It is declared to be the policy and intent of this state that all sovereign lands of the state should be administered by the board of university and school lands consistent with the intents and mandates of the Enabling Act and the North Dakota Constitution. Lands managed pursuant to this chapter shall not be subject to leasing and sale provisions found elsewhere in this code.

15-08.2-02. DEFINITION.) For purposes of this chapter the term "sovereign lands" shall mean those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.

15-08.2-03. TRANSFER OF POSSESSORY INTERESTS IN REAL PROPERTY.) All possessory interests of whatever nature in the sovereign lands of the state owned or controlled by the state or any of its officers, boards, commissions, bureaus, departments, or the Bank of North Dakota together with any future increments, accruals, and recoveries coming, arising, or resulting from any of such property or from dealing therewith in whatever form are each and all hereby transferred, assigned, conveyed, and granted to the state of North Dakota, acting by and through the board of university and school lands. This transfer is self-executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents shall be conclusively presumed.

15-08.2-04. TRANSFER OF FUTURE POSSESSORY INTERESTS IN REAL PROPERTY.) All future possessory interests of whatever nature in sovereign lands that may be acquired by the state or any of its officers, boards, commissions, bureaus, departments, or the Bank of North Dakota together with future increments, accruals, and recoveries coming, arising, or resulting from any of such property or from dealing therewith in whatever form, shall be transferred, assigned, conveyed, and granted to the state of North Dakota, acting by and through the board of university and school lands. All transfers made in accordance with this section are self-executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents shall be conclusively presumed.

15-08.2-05. CHAPTER NOT TO AFFECT GARRISON DIVERSION CONSERVANCY DISTRICT.) The transfers of property set forth in sections 15-08.2-03 and 15-08.2-04 shall not affect the authority given the board of directors of the Garrison diversion conservancy district in section 61-24-08 (13).

15-08.2-06. EXISTING CONTRACTS AND ENCUMBRANCES RECOGNIZED.) The transfers made by this chapter shall be subject to all existing contracts, rights, easements, and encumbrances outstanding heretofore made or sanctioned by the state or any of its officers, boards, commissions, bureaus, or departments.

15-08.2-07. DUTIES AND POWERS OF THE BOARD.) The board of university and school lands shall manage, operate, and supervise all properties transferred to it by this chapter; shall have full power of sale with respect to any and all such property; may enter into surface or mineral leases; may enforce all rights of the owner by all lawful means in its own name; and may make and execute all instruments of release or conveyance as agreements with respect to such assets may require, whether such agreements were made heretofore, or are made hereafter.

15-08.2-08. RULE MAKING AUTHORITY.) The board of university and school lands shall promulgate rules and regulations for the sale, lease, encumbrance, and management of the lands acquired pursuant to this chapter, including publication of notice of any sale or lease at least once a week for two weeks in a newspaper of general circulation. Such rules shall also provide for consultation with the state engineer prior to the sale or lease of sovereign lands.

15-08.2-09. INCOME TO GENERAL FUND.) All income derived from the sale, lease, and management of the lands acquired by the board of university and school lands pursuant to this chapter and not belonging to other trust funds shall be deposited in the general fund.

SECTION 2. AMENDMENT.) Section 38-11-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 38-11-02. LEASES OF CERTAIN MINERAL RIGHTS IN STATE LANDS.) The state may issue prospecting permits or issue leases for the purpose of prospecting for and mining minerals contained in any portion of lands owned by this state or that may be contained in state lands sold with a reservation of mineral deposits.

SECTION 3. AMENDMENT.) Section 47-06-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-06-08. ISLANDS AND RELICTED LANDS IN NAVIGABLE STREAMS BELONG TO STATE.) Islands and accumulations of land formed in the beds of streams which are navigable belong to the state, if there is no title or prescription to the contrary. The control and management, including the power to execute mineral leases, of islands, relictions, and accumulations of land owned by the state of North Dakota in navigable streams and waters and the beds thereof, shall be in the board of university and school lands. All income and proceeds derived from such lands shall be deposited in the general fund for the purpose of defraying the general expenses of the state government. This section shall not be construed as affecting or changing the provisions of any contract already executed by or on behalf of the state of North Dakota or any department or agency thereof concerning such lands and shall not apply to lands within the Garrison diversion conservancy district.

\*NOTE: Section 38-11-02 was also amended by section 2 of Senate Bill No. 2111, chapter 322.

Approved April 19, 1977

## CHAPTER 145

HOUSE BILL NO. 1259  
(McCaffrey)

**BOARD OF HIGHER EDUCATION STUDENT  
REPRESENTATIVE**

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 and providing for an advisory student representative; and providing an appropriation.

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

SECTION 1. AMENDMENT.) Section 15-10-02 of the North Dakota Century Code is hereby amended and reenacted to read 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 North Dakota student association executive board shall submit to the state board of higher education a list of three 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. The term of the student advisory representative shall be one year. The student advisory representative shall receive necessary expenses for travel.

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500.00, or so much thereof as may be necessary, to the state board of higher education for the purpose of reimbursing the advisory representative from the North Dakota student association for expenses incurred in attending board of higher education meetings for the biennium beginning July 1, 1977, and ending June 30, 1979.

Approved April 6, 1977

## CHAPTER 146

SENATE BILL NO. 2163  
(Committee on Education)  
(At the request of the Board of Higher Education)

COMPENSATION OF BOARD OF HIGHER  
EDUCATION MEMBERS

AN ACT to amend and reenact section 15-10-08 of the North Dakota Century Code, relating to compensation of the members of the state board of higher education; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-08. COMPENSATION OF BOARD MEMBERS - EXPENSES - LEGISLATIVE APPROPRIATIONS.) Each appointive member of the state board of higher education shall receive fifty dollars per day for the time actually spent devoted to the duties of his office, and, in addition, shall receive his necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of his office. The legislative assembly shall provide adequate funds to carry out the functions and duties of the board. The compensation and expense payments provided by this Act shall be retroactive to January 1, 1977.

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

Approved April 6, 1977



## CHAPTER 147

HOUSE BILL NO. 1313  
(Matchie)

## NONRESIDENT STUDENT FOR TUITION PURPOSES

AN ACT to amend and reenact section 15-10-19 of the North Dakota Century Code, relating to the definition of a nonresident student for tuition purposes at institutions under the board of higher education, and reducing the age from twenty-one to eighteen.

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

SECTION 1. AMENDMENT.) Section 15-10-19 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-19. NONRESIDENT STUDENT FOR TUITION PURPOSES DEFINED - EXCEPTIONS.) A nonresident student is defined as follows:

1. A student less than eighteen years of age whose parents, custodial parent, or guardian resides in another state, a territory, or a foreign country, or whose parents, custodial parent, or guardian has resided within this state for a period of less than twelve months immediately prior to the date of his registration;
2. A student of age eighteen years or over who resides outside this state; or
3. A student of age eighteen years or over who has been a resident of this state for a period of less than twelve months immediately prior to the date of registration; provided that a student, whose parents, custodial parent, or guardian does not reside in this state, shall not be deemed to have initiated residence in this state until reaching the age of eighteen years, and provided further that attendance at an institution of higher learning within the state shall not alone be sufficient to qualify for residence in this state.

Military personnel assigned to a military installation in this state and their dependents, dependents of instructors who live in this state and teach in any institution of higher learning in this state, and

the spouse of a resident of this state, are excluded from the foregoing provisions, and shall be regarded as residents of this state for purposes of tuition, whether such dependents are over or under eighteen years of age.

Any student who may otherwise be classified as a nonresident under this section, but who is a citizen of the United States may, if his parents, custodial parent, or a guardian lives in this state, provide to the institution of higher learning which he plans to attend a statement signed by the county treasurer and the city auditor, if his parents, custodial parent, or guardian lives in a city, or by the county auditor if they reside outside a city, showing proof of their intent to establish residence in this state for a period of years. Such statements shall entitle the student to be regarded as a resident of this state for purposes of tuition if there is no substantial evidence to the contrary. Any student who, because of peculiar or unusual circumstances, is aggrieved by the above definition of a nonresident student may appeal to the board of higher education and the board shall, if it determines the circumstances justify such action, admit such student to the institution of higher learning as a resident for tuition purposes.

Approved April 21, 1977

## CHAPTER 148

HOUSE BILL NO. 1286  
(Murphy)

## VETERINARY, OPTOMETRY, AND DENTAL STUDENT NOTES

AN ACT to amend and reenact sections 15-10-28 and 15-10-28.1 of the North Dakota Century Code, relating to agreements with other states' institutions of higher learning and notes from veterinary medicine, optometry, or dental students.

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

SECTION 1. AMENDMENT.) Section 15-10-28 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-28. AGREEMENTS WITH OTHER STATES' INSTITUTIONS OF HIGHER LEARNING.) The state board of higher education is hereby authorized to enter into agreements with institutions of higher learning in other states, and, subject to the limits of legislative appropriations, to make such expenditures as are necessary for the purpose of utilizing the educational facilities of such institutions for teaching North Dakota students. In addition, the state board of higher education is authorized to enter into agreements with institutions of higher learning in other states for the acceptance of students from other states in North Dakota institutions of higher learning.

SECTION 2. AMENDMENT.) Section 15-10-28.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-10-28.1. BOARD OF HIGHER EDUCATION TO REQUIRE NOTE FROM VETERINARY MEDICINE, OPTOMETRY, OR DENTAL STUDENT - REPAYMENT.) At the time that payments are made to or on behalf of a student in veterinary medicine and surgery, optometry, or dentistry from the appropriations for reciprocal agreements, the board of higher education shall obtain a note signed by each such student in an amount equal to the sum by which the tuition is reduced at the institution attended by such student pursuant to a contract between the institution and the board of higher education. Each student who began, by actual attendance at classes, his or her studies subsequent to July 1, 1975, and before July 1, 1977, shall be permitted to substitute notes equal to the sum by which the tuition is reduced at the institution attended by such student for those notes actually signed by such student under the statute in effect at the time of signing such

\*NOTE: Section 15-10-28.1 was also amended by section 1 of House Bill No. 1090, chapter 149.

notes. In the case of students who enter veterinary, dental, or optometrical practice in North Dakota, each year of actual practice shall be equivalent to repayment of one-third of the unpaid balance of the loan and of one-third of the accrued interest thereon. The board of higher education shall determine the other terms of repayment of such notes and may temporarily waive the repayment of the note during the time the student is pursuing advanced study in veterinary medicine and surgery, optometry, or dentistry, or during the time such student is in the military service of the United States of America. The board may make refunds of all or any portion of any note which has been repaid by such student if, within two years after graduation, the student returns to North Dakota and practices in his specialty for the time required to repay such notes. Every student covered by this section who began, by actual attendance at classes, his or her studies prior to July 1, 1975, at an out-of-state institution having an agreement with the board of higher education, and who has continued those studies at the same institution uninterrupted except for normal school year vacations, shall only be required to practice or have practiced two years in North Dakota to repay the loan and accrued interest thereon. Each year of actual practice in North Dakota by such a student shall be equivalent to repayment of one-half of the unpaid balance of the loan and of one-half of the accrued interest thereon. Every student who began his or her studies prior to July 1, 1975, and who had an agreement with the board of higher education pursuant to this section, shall, notwithstanding any reciprocal agreement entered into pursuant to chapter 15-10.1, receive the same tuition differential payment as he or she was entitled to at the time of entering into the agreement.

Approved March 12, 1977

## CHAPTER 149

HOUSE BILL NO. 1090  
(Murphy)VETERINARY, OPTOMETRY, AND DENTAL  
STUDENT LOAN REPAYMENT

AN ACT to amend and reenact section 15-10-28.1 of the North Dakota Century Code, relating to repayment of student loans to the state.

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

SECTION 1. AMENDMENT.) Section 15-10-28.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-10-28.1. BOARD OF HIGHER EDUCATION TO REQUIRE NOTE UPON LOAN TO VETERINARY MEDICINE, OPTOMETRY, OR DENTAL STUDENT - REPAYMENT.) At the time that payments are made to or on behalf of a student in veterinary medicine and surgery, optometry, or dentistry from the appropriations for reciprocal agreements, the board of higher education shall obtain a note signed by each student in an amount equal to the average of the difference between the resident and nonresident tuition at the state institutions in each specialty listed above for which North Dakota has contracts. In the case of students who enter veterinary, dental, or optometrical practice in North Dakota, each year of actual practice shall be equivalent to repayment of one-third of the unpaid balance of the loan and of one-third of the accrued interest thereon. The board of higher education may temporarily waive the repayment of the note during the time the student is pursuing advanced study in veterinary medicine and surgery, optometry, or dentistry, or during the time such student is in the military service of the United States of America. Every student covered by this section who began, by actual attendance at classes, his or her studies prior to July 1, 1975, at an out-of-state institution having an agreement with the board of higher education, and who has continued those studies at the same institution uninterrupted except for normal school year vacations, shall only be required to practice or have practiced two years in North Dakota to repay the loan and accrued interest thereon. Each year of actual practice in North Dakota by such a student shall be equivalent to repayment of one-half of the unpaid balance of the loan and of one-half of the accrued interest thereon. Every student who began his or her studies prior to July 1, 1975, and who had an agreement with the board of higher education pursuant to this section, shall, notwithstanding any reciprocal agreement entered into pursuant to chapter 15-10.1, receive the same tuition differential payment as he or she was entitled to at the time of entering into the agreement.

\*NOTE: Section 15-10-28.1 was also amended by section 2 of House Bill No. 1286, chapter 148.

Approved March 5, 1977

## CHAPTER 150

HOUSE BILL NO. 1274  
(L. Hausauer, Peterson)

## GRANT OF LAND TO WAHPETON

AN ACT to authorize the board of higher education to deed property to the city of Wahpeton for use as a fire station.

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

SECTION 1.) The state board of higher education is hereby authorized to deed to the city of Wahpeton for a fire station the following described real property owned by the state of North Dakota for the use and benefit of the North Dakota state school of science:

That part of block one of the state school of science addition to the city of Wahpeton, North Dakota, described as follows:

Commencing at the northwest corner of block one, state school of science addition to the city of Wahpeton, North Dakota, as a point of beginning: thence south one hundred feet along the west boundary line of said block one; thence east one hundred fifty feet; thence north one hundred feet to the north boundary line of said block one; thence west one hundred fifty feet to the point of beginning.

The deed shall contain a provision that the city of Wahpeton shall use the property for a fire station to be erected by the city of Wahpeton and, if the property ceases to be used for such purposes, it shall revert to the state of North Dakota. The conveyance authorized herein shall be without compensation to the state of North Dakota from the city of Wahpeton. The real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

Approved March 12, 1977

## CHAPTER 151

SENATE BILL NO. 2384  
(Freed, Maher, Krauter, Barth, Jacobson)

## DICKINSON EXPERIMENT STATION LAND TRANSFERS

AN ACT to authorize the state board of higher education to sell certain land presently used by the Dickinson experiment station; to provide for the use of the proceeds of the sale of such land; to provide for the purchase of replacement land for the use of the Dickinson experiment station; and to provide authorization for a loan from the Bank of North Dakota; and to declare an emergency.

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

SECTION 1.) The state board of higher education is authorized to sell and convey the following property presently used by the Dickinson experiment station and comprising approximately five hundred eighty-four acres:

1. That portion of land owned by the board in the northeast quarter of section five, township one hundred thirty-nine north, range ninety-six west.
2. That portion of land owned by the board in the southeast quarter of section five, township one hundred thirty-nine north, range ninety-six west.
3. That portion of land owned by the board in the west half of section four, township one hundred thirty-nine north, range ninety-six west.
4. That portion of land owned by the board in the southwest quarter, the south half of the northwest quarter, and lots three and four, all of section five, township one hundred thirty-nine north, range ninety-six west.

SECTION 2.) Notwithstanding section 54-01-05.2, the land described in section 1 shall be sold to a nonprofit corporation whose members shall be: one legislator appointed by the legislative council; one member of the state board of higher education; the vice president for agriculture at North Dakota state university or his designee; the director of the main experiment station; one

member of the Dickinson city commission; and one member of the Dickinson planning and zoning commission. The specific terms for the sale and conveyance of the land described in section 1 to the nonprofit corporation shall be determined by the state board of higher education and the nonprofit corporation. The agreement may provide that payment by the nonprofit corporation for the land will be made from proceeds received as the land is sold by the nonprofit corporation. However, the agreement shall provide that the nonprofit corporation shall not sell the land at less than the appraised value of the land being sold at the time of sale and that all the land shall be sold and the proceeds paid to the state board of higher education within ten years after the sale of land to the nonprofit corporation. The agreement shall also provide that the nonprofit corporation shall reserve nine and two-tenths acres designated by the board for future use by Dickinson state college.

SECTION 3.) The state board of higher education is authorized to purchase the following described land, comprising approximately two thousand three hundred twenty acres, as replacement land for use by the Dickinson experiment station:

1. The southeast quarter of section eleven, the northwest quarter of section thirteen, the north half of section fourteen, and the south half of section fifteen, all in township one hundred forty north, range ninety-seven west.
2. The south half of section twenty-two and the northeast quarter of section twenty-seven, all in township one hundred forty north, range ninety-seven west.
3. The west half of section eight, township one hundred forty north, range ninety-six west.
4. The southwest quarter of section three, the east half of section ten, and the east half of the northeast quarter of section fifteen, all in township one hundred forty north, range ninety-seven west.

SECTION 4. AUTHORIZATION.) The state board of higher education is hereby authorized to borrow from the Bank of North Dakota the sum of \$1,500,000.00, or so much thereof as may be necessary, and the loan proceeds are hereby appropriated to the state board of higher education for the purpose of purchasing the land described in section 3 and constructing facilities on the land, all for the use of the Dickinson experiment station, for the biennium beginning July 1, 1977, and ending June 30, 1979. The loan from the Bank of North Dakota shall be for a term not to exceed ten years. The state board of higher education is hereby authorized to grant a security interest to the state of North Dakota, doing business as the Bank of North Dakota, in the property to be acquired. The members of the state board of higher education shall not be held personally liable for repayment of any loan obtained under this section, and the board shall be liable for repayment only in the



manner provided by this section. Any rents or profits or proceeds from the sale or other disposition of the property described in section 1 shall be used to make principal and interest payments on such amounts as may be borrowed by the board pursuant to this section. Upon payment of the total principal and interest on moneys borrowed by the board, any additional rents, profits, or proceeds as may be received shall be deposited in the general fund in the state treasury.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 22, 1977

## CHAPTER 152

SENATE BILL NO. 2546  
(Committee on Delayed Bills)  
(At the request of Senator Goodman)

## PURCHASE OF LAND IN GRAND FORKS

AN ACT to authorize the state board of higher education to purchase two and sixty-nine hundredths acres of land adjacent to the university of North Dakota medical center rehabilitation hospital using certain funds on hand.

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

SECTION 1. AUTHORIZATION TO PURCHASE.) The state board of higher education is hereby authorized to purchase two and sixty-nine hundredths acres of land adjacent to the university of North Dakota medical center rehabilitation hospital from the medical park corporation to use as a parking lot. The funds for the purchase shall be funds on hand of the medical center rehabilitation hospital not otherwise required for current operations.

SECTION 2. DESCRIPTION OF THE LAND.) The land to be purchased as provided in section 1 is the north two and sixty-nine hundredths acres of block four of the medical park addition in the city of Grand Forks, North Dakota, and being part of the east one-half of section eight, township one hundred fifty-one north, range fifty west, and more specifically described as follows: commencing at a point which is the northeast corner of the southeast quarter of section eight, township one hundred fifty-one north, range fifty west; thence south along the section line a distance of eight hundred forty-nine and ninety-two hundredths feet; thence west a distance of one thousand one hundred thirty-five feet to the southwest corner of lot one, block one, medical park addition, which is the point of beginning; thence  $S89^{\circ} 42' 30''W$  a distance of two hundred sixty-three and forty-nine hundredths feet; thence  $N20^{\circ} 14' 19''W$  a distance of one hundred fourteen and eighty-four hundredths feet to a point on a curve having a radius of one hundred sixty feet; thence along this curve in a north and northeasterly direction a distance of one hundred seventy-nine and thirteen hundredths feet; thence  $N45^{\circ} 00' 00''E$  a distance of two hundred seventy-seven and thirty-one hundredths feet to a point on a curve having a radius of two hundred forty feet; thence along this curve a distance of one hundred eighty-seven and eleven hundredths feet; thence south along the west boundary of lot one and lot two of block one, medical park addition, a distance of six hundred forty and forty-eight hundredths feet to the point of beginning; such area containing two and sixty-nine hundredths acres more or less.

Approved March 31, 1977

## CHAPTER 153

SENATE BILL NO. 2269  
(Goodman, Fritzell)

## SALE OF LAND IN GRAND FORKS

AN ACT to authorize the public or private sale of certain premises owned by the state of North Dakota doing business as the university of North Dakota situated in Grand Forks, North Dakota, and for authority to use the proceeds of such sale.

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

SECTION 1. AUTHORITY TO SELL.) The university of North Dakota, through the state board of higher education, is hereby authorized to sell at public or private sale those premises owned by the state of North Dakota described as lot twelve and the east half of lot thirteen, block one, of the university place addition to the city of Grand Forks, Grand Forks County, North Dakota.

SECTION 2. SALE PRICE.) The sale shall be for the appraised value of the property and shall be subject to authorization by the state board of higher education.

SECTION 3. USE OF PROCEEDS.) The proceeds of the sale, subject to authorization of the state board of higher education, shall be used to purchase the premises described as lot ten, block two, of the university place addition to the city of Grand Forks, Grand Forks County, North Dakota. Upon authority of the state board of higher education any remaining proceeds from the sale described above may be used by the university of North Dakota for the purchase of land or buildings of a similar nature.

Approved March 31, 1977

## CHAPTER 154

HOUSE BILL NO. 1369  
(Peterson, L. Hausauer)

## SALE OF LAND TO INTERNATIONAL INN, INC.

AN ACT to authorize the state board of higher education to sell and convey certain land owned by the state of North Dakota.

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

SECTION 1.) The state board of higher education is hereby authorized to sell and convey certain land described herein and owned by the state of North Dakota, under conditions hereinafter stated, at private sale, to International Inn, Inc., a North Dakota corporation, whose present mailing address is P. O. Box 777, Minot, North Dakota, 58701. The purchase price shall be the value established by three qualified real estate appraisers employed by the International Inn, Inc., and approved by the president of the state board of higher education, but in no event shall the purchase price be less than \$5,000.00. International Inn, Inc. shall pay the purchase price in cash. The land consists of and is described as follows:

A portion of outlet 21 of the northeast quarter (NE $\frac{1}{4}$ ) of section 14, township 155 north, range 83 west, Ward County, North Dakota, described as follows: Commencing at the northeast corner of section 14, township 155 north, range 83 west of the 5th p.m., Ward County, North Dakota; thence S0°06'W a distance of 333 feet; thence N89°54'W a distance of 530 feet; thence S0°06'W a distance of 500 feet to the point of beginning, said point of beginning being the southwest corner of outlet 22; thence S89°54'E along the south boundary line of outlet 22 a distance of 125 feet to the west boundary line of outlet 17; thence S0°06'W along said west boundary line of outlet 17 a distance of 488.36 feet to the southeast corner of outlet 21; thence N89°44'W along the south boundary line of outlet 21 a distance of 125 feet; thence N0°06'E a distance of 488.0 feet to the point of beginning, containing 1.401 acres, more or less.

Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed as are now held by the state. Upon the sale of such land, the proceeds shall be deposited in the general fund of the state treasury. The real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the state board of

higher education.

The real estate being sold is to be used by the International Inn, Inc., for construction of a parking ramp, and the project shall be so designed that it will result in no drainage on or across Minot state college property. The deed conveying the described land shall specifically provide that if such land is abandoned or used for purposes other than a parking ramp, the property will revert to the state of North Dakota.

SECTION 2.) The state shall not be responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Approved March 21, 1977

## CHAPTER 155

HOUSE BILL NO. 1532  
(Lipsiea)

## CONFIDENTIALITY OF STATE TOXICOLOGIST'S ANALYSIS

AN ACT to amend and reenact section 15-12-21 of the North Dakota Century Code, relating to the confidentiality of toxicological or chemical analysis by the office of state toxicologist under certain circumstances.

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

SECTION 1. AMENDMENT.) Section 15-12-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-12-21. STATE TOXICOLOGIST - DUTIES - FEES - CONFIDENTIALITY.) The office of state toxicologist shall be maintained in conjunction with the college of pharmacy at the North Dakota state university of agriculture and applied science, for the purpose of providing toxicological services to any person or the state or any political subdivision utilizing such services. The president of the North Dakota state university of agriculture and applied science, with the advice of the dean of the college of pharmacy, shall employ the services of a qualified toxicologist who shall be ex officio state toxicologist. The toxicologist may charge fees for services rendered. Such fees shall be set by the state toxicologist, with the approval of the dean of the college of pharmacy and shall be turned over monthly to the state treasurer and credited to the state general fund. The state toxicologist shall be available to the college of pharmacy for such other duties as the dean thereof shall designate. The results of toxicological or chemical testing or analysis made by the office of state toxicologist at the request of law enforcement agencies for criminal investigation or at the request of physicians for clinical evaluation and treatment shall not be disclosed directly or indirectly by the state toxicologist or any agent or employee of the office of state toxicologist to anyone other than the person or agency requesting the test or analysis, or to any person upon whom the toxicological or chemical test was performed or his authorized representative, except the state toxicologist may, in his discretion, permit the inspection of the reports of any such test or analysis results by any other person having a proper interest therein. The provisions of this Act shall not apply to section 39-20-13.

Approved April 9, 1977

## CHAPTER 156

HOUSE BILL NO. 1030  
(Legislative Council)  
(Interim Committee on Higher Education)

## JUNIOR COLLEGE BUDGET AND AUDIT INFORMATION

AN ACT to amend and reenact section 15-18-08 of the North Dakota Century Code, relating to the junior colleges and educational centers providing the appropriations committees with budget information and an audit of expenditures and activities.

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

SECTION 1. AMENDMENT.) Section 15-18-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-08. STANDARDS FOR STATE AID - REVIEW OF BUDGETS - AUDIT OF EXPENDITURES.) No school district maintaining a junior college or educational center operated by a state-supported institution of higher education shall be eligible to receive payments as provided in section 15-18-07 or as otherwise specifically provided by law unless it was established and eligible to receive such payments on July 1, 1969, and meets either such academic standards as shall be prescribed by the state board of higher education, or the vocational standards as shall be prescribed by the state board of vocational education. The state board of higher education shall provide for an annual inspection of each junior college or educational center operated by a state-supported institution of higher education to determine compliance with prescribed academic standards, and the state board for vocational education shall provide for an annual inspection of each junior college or educational center operated by a state-supported institution of higher education to determine compliance with prescribed vocational standards. Each school district maintaining a junior college or educational center shall annually submit a proposed institutional budget to the state board of public school education.

The state board of public school education shall review such budgets, and the staff of the state board of vocational education shall provide such professional and clerical assistance as is required for such review. Two copies of each proposed biennial institutional budget, in the same format as prescribed by the office of the budget for the colleges and universities under the state board of higher education, shall also be submitted to the office of the

legislative council for the information of the appropriations committees of the legislature. In addition, each school district maintaining a junior college or education center shall at least biennially provide the legislative audit and fiscal review committee with an official audit of their expenditures and activities.

Approved March 5, 1977



## CHAPTER 157

HOUSE BILL NO. 1101  
(Erickson)

## COOPERATIVE VOCATIONAL EDUCATION MILL LEVY

AN ACT to amend and reenact section 15-20.1-08 of the North Dakota Century Code, relating to a mill levy for cooperative vocational education programs.

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

SECTION 1. AMENDMENT.) Section 15-20.1-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.1-08. MILL LEVY FOR PARTICIPATING IN COOPERATIVE VOCATIONAL EDUCATION PROGRAMS.) Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed ten mills upon all taxable property within such school district for the purpose of participating in cooperative vocational education programs approved by the state board. Such levy shall be in addition to any other mill levies authorized by law.

Approved March 5, 1977

## CHAPTER 158

SENATE BILL NO. 2029  
(Legislative Council)  
(Interim Committee on Higher Education)

## POSTSECONDARY EDUCATION COMMISSION

AN ACT to provide for a postsecondary education commission, its membership, terms, compensation, and powers and duties; for receipt of federal and state moneys, its appropriation and expenditure; and to repeal sections 15-10-29, 15-10-30, 15-10-31, and 15-10-32 of the North Dakota Century Code, relating to the higher education facilities commission, its membership, appointment, term, vacancies, and powers and duties; receipt, deposit, appropriation, and expenditure of federal money; and compensation and travel expenses for commission members.

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

SECTION 1. POSTSECONDARY EDUCATION COMMISSION - MEMBERSHIP - APPOINTMENT - TERM - COMPENSATION.) There is hereby created a postsecondary education commission hereinafter referred to as the commission. The commission shall consist of the state board of higher education, the state board of vocational education, and three additional members to be appointed by the governor with the consent of the senate. Of the appointed members, one shall represent the governing boards of the junior colleges, one shall represent the governing boards of the private four-year colleges, and one shall represent the governing boards of the proprietary institutions. The appointed members shall have three-year terms, with the initial members appointed to staggered terms of one, two, and three years to be designated by the governor at the time of appointment. All members of the commission shall receive twenty dollars compensation per day for the performance of their duties. In addition, they shall receive mileage and expenses in the same manner and at the same rate as provided by law for state officials. Such amounts shall be payable from the postsecondary education commission fund. The commission shall elect a chairman and vice chairman from among the membership.

SECTION 2. POWERS AND DUTIES.) The powers and duties of the commission shall be:

1. To coordinate comprehensive planning of postsecondary

education as specified in the 1972 amendments to Title XII of the Higher Education Act of 1965 (P.L. 92-318), together with any amendments or supplements thereto, and any other federal program affecting postsecondary education as the governor may designate.

2. To conduct comprehensive inventories of and studies with respect to all public and private postsecondary educational resources in the state, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the state who desire and can benefit from postsecondary education may have the opportunity.
3. To establish committees or task forces, not necessarily consisting of commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, minorities, and segments of the society most concerned with a particular aspect of the commission's work.

SECTION 3. FEDERAL AND STATE MONEY RECEIVED BY COMMISSION - WHERE DEPOSITED - HOW APPROPRIATED - HOW EXPENDED.) Federal money received by the commission shall be deposited in the state treasury in a special fund to be known as the postsecondary education commission fund and there is hereby appropriated annually the sum necessary, but within the sum allocated by the federal act or acts, for the payment of expenses and grants authorized under the federal act. Any state moneys appropriated to the commission shall also be deposited in the fund for use as specified by this Act.

SECTION 4. REPEAL.) Sections 15-10-29, 15-10-30, 15-10-31, and 15-10-32 of the North Dakota Century Code are hereby repealed.

Approved March 23, 1977

## CHAPTER 159

HOUSE BILL NO. 1031  
(Legislative Council)  
(Interim Committee on Higher Education)

## POSTSECONDARY EDUCATIONAL INSTITUTIONS

AN ACT to authorize postsecondary educational institutions to operate in North Dakota; providing definitions, exemptions, powers and duties, minimum standards, prohibitions, refund of tuition fees, negotiation of promissory instruments, cancellation of contracts for instruction, treble damage remedies for defrauded students, board review, civil and criminal penalties, court jurisdiction and process, and enforcement; and to repeal chapter 15-50 of the North Dakota Century Code, relating to licensure of private trade, industrial, vocational, technical, business, and correspondence schools.

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

SECTION 1. SHORT TITLE.) This Act may be cited as the  
"Postsecondary Educational Authorization Act".

SECTION 2. DEFINITIONS.) As used in this Act:

1. "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services (primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance) for attainment of educational, professional, or vocational objectives.
2. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.
3. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a postsecondary educational institution in this state.

4. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.
5. "To grant" includes awarding, selling, conferring, bestowing, or giving.
6. "Education" or "educational services" or like term includes, but is not limited to, any class, course, or program of training, instruction, or study.
7. "Agent" means any person owning any interest in, employed by, or representing for remuneration, a postsecondary educational institution within or outside this state, who, by solicitation in any form made in this state, enrolls or seeks to enroll a resident of this state for education offered by such institution, or offers to award educational credentials, for remuneration, on behalf of any such institution, or who holds himself out to residents of this state as representing a postsecondary educational institution for any such purpose.
8. "Agent's permit" means a nontransferable written authorization issued to a natural person by the board which allows that person to solicit or enroll any resident of this state for education in a postsecondary educational institution.
9. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution.
10. "Entity" includes, but is not limited to, any company, firm, society, association, partnership, corporation, and trust.
11. "Board" means the state board of vocational education.
12. "Executive officer" means the director of vocational education.

SECTION 3. EXEMPTIONS.) The following education and educational institutions are exempted from the provisions of this Act:

1. Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.

2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively.
4. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided such education is not advertised or promoted as leading toward educational credentials.
5. Postsecondary educational institutions established, operated, and governed by this state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of such institutions.
6. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as such institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
7. Schools for hairdressers and cosmetologists regulated under chapter 43-11.
8. Schools of nursing regulated under chapters 43-12 and 43-21.
9. Schools of barbering regulated under chapter 43-04.

SECTION 4. BOARD POWERS AND DUTIES.) The board shall have, in addition to the powers and duties now vested in it by law, the following powers and duties to:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions under this Act. The standards and criteria shall include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate, or for an agent's permit, shall meet:
  - a. Before such authorization or permit may be issued; and
  - b. To continue such authorization or permit in effect.

The criteria and standards developed will effectuate the

purposes of this Act, but will not unreasonably hinder legitimate educational innovation.

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions and applications for agent's permits. Authorization to operate an academic or professional postsecondary educational institution offering educational credentials shall be issued only upon approval of the executive officer and the commissioner of the board of higher education or his designee.
3. Maintain a list of postsecondary educational institutions and agents authorized to operate in this state under the provisions of this Act. The list shall be available for the information of the public, and shall be sent to the superintendents of all school districts, to county superintendents of schools, and to guidance counselors certified by the department of public instruction.
4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this Act, provided, however, that nothing contained in any such reciprocity agreement shall be construed as limiting the board's powers, duties, and responsibilities with respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary educational institution, or an application for issuance or renewal of any agent's permit, or with respect to the enforcement of any provision of this Act, or any of the rules or regulations promulgated hereunder.
5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution now or hereafter operating in this state proposes to discontinue its operation.
6. Promulgate such rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this Act, and to hold such hearings as it may deem advisable in accordance with chapter 28-32 or as required by law in developing such rules, regulations, and procedures, or in aid of any investigation or inquiry.

7. Investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this Act; and in connection therewith to subpoena any persons, books, records, or documents pertaining to such investigation. The board may require answers in writing under oath to questions propounded by the board, and may administer an oath or affirmation to any person in connection with any investigation. The board may, after hearing, revoke or suspend authorizations to operate and agent permits. Subpoenas issued by the board shall be enforceable by any district court.
8. Require fees and bonds from postsecondary educational institutions and agents in such sums and under such conditions as it may establish, provided that fees established shall not exceed the reasonable cost of the service being provided.
9. Exercise other powers and duties implied but not enumerated in this section but in conformity with the provisions of this Act which, in the judgment of the board, are necessary in order to carry out the provisions of this Act.

SECTION 5. MINIMUM STANDARDS.) All postsecondary educational institutions shall be accredited by national or regional accrediting agencies recognized by the United States office of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution domiciled in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until such institution becomes eligible for accreditation by a recognized accrediting agency. Upon completion of the accreditation process, the institution shall submit evidence of accreditation, or a substantial good faith showing of progress toward such status. Only upon accreditation shall an institution become eligible for a regular authorization to operate.

SECTION 6. PROHIBITION.) No person, agent, group, or entity of whatever kind, alone or in concert with others, shall:

1. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this Act, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this Act.
2. Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, a



postsecondary educational institution not exempted from the provisions of this Act, whether such institution is within or outside this state, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to the provisions of this Act.

3. Accept contracts or enrollment applications from an agent who does not have a current permit as required by this Act.
4. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, in this state, whether such person, agent, group, or entity is located within or without this state, unless such person, agent, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 4 hereof, and the rules and regulations adopted by the board pursuant to subsection 6 of section 4 hereof.
5. Use the term "university", "institute", or "college" without authorization to do so from the board.
6. Grant, or offer to grant, educational credentials, without authorization to do so from the board.
7. Seek to incorporate within the state as a postsecondary educational institution without first obtaining a currently valid authorization to operate from the board, which authorization must be presented to the secretary of state upon application for articles of incorporation.

SECTION 7. REFUND OF TUITION FEES.) Postsecondary educational institutions shall refund tuition and other charges when written notice of cancellation is given by the student in accordance with the following schedule:

1. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the institution, all tuition and other charges except twenty-five dollars thereof shall be refunded to the student.
2. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the educational services, all tuition and other charges except twenty-five percent thereof shall be refunded to the student.

3. When notice is received upon or after completion of one-fourth of the educational services, but prior to the completion of one-half of the educational services, all tuition and other charges except fifty percent thereof shall be refunded to the student.
4. When notice is received upon or after the completion of fifty percent of the educational services, no tuition or other charges shall be refunded to the student.

The provisions of this section shall not prejudice the right of any student to recovery in an action against any postsecondary educational institution for breach of contract or fraud.

SECTION 8. NEGOTIATION OF PROMISSORY INSTRUMENTS.) No postsecondary educational institution shall negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the educational services. Any instrument negotiated in violation of this section shall be voidable by the maker, drawer, or endorser of the instrument.

SECTION 9. CANCELLATION OF CONTRACT FOR INSTRUMENT.) Any person shall have the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary educational institution within seven days after entering into such contract without incurring any tort or contract liability. In such event, the postsecondary educational institution may retain the amount of tuition and other charges as set forth in subsection 1 of section 7.

SECTION 10. REMEDY OF DEFRAUDED STUDENT - TREBLE DAMAGES.) Any person defrauded by a misrepresentation made by an agent of a postsecondary educational institution, by any advertisement or circular issued by the institution or agent, or by any person who sells textbooks to the institution or to the pupils thereof, may recover from such institution, agent, or person three times the amount paid.

SECTION 11. BOARD REVIEW.) Any person aggrieved by a decision of the board respecting denial or revocation of an authorization to operate, or of an agent's permit, or the placing of conditions thereon, whether on initial application or on application for renewal, and any person aggrieved by the imposition of a penalty by the board under section 13 of this Act, shall have the right to a hearing and review of such decision by the board and to judicial review in accordance with chapter 28-32.

SECTION 12. VIOLATIONS - CIVIL PENALTY.) Any person, group, or entity, or any owner, officer, agent, or employee thereof, who violates the provisions of section 6 of this Act, or who fails or refuses to deposit with the board the records required by the board under this Act, shall be subject to a civil penalty not to exceed

one hundred dollars for each violation. Each day's failure to comply with the provisions of said sections shall be a separate violation. Such fine may be imposed by the board in an administrative proceeding or by any court of competent jurisdiction.

SECTION 13. VIOLATIONS - CRIMINAL PENALTY.) Any person, group, or entity, or any owner, officer, agent, or employee thereof, who willfully violates the provisions of section 6 of this Act, or who willfully fails or refuses to deposit with the board the records required by the board under this Act, shall be guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15 hereof.

SECTION 14. JURISDICTION OF COURTS - SERVICE OF PROCESS.) Any postsecondary educational institution not exempt from the provisions of this Act, whether or not a resident of or having a place of business in this state, which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, submits such institution, and if a natural person his personal representative, to the jurisdiction of the courts of this state, concerning any cause of action arising therefrom, and for the purpose of enforcement of this Act by injunction pursuant to section 15 hereof. Service of process upon any such institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the Rules of Civil Procedure of this state, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section shall limit or affect the right to serve any process as prescribed by the Rules of Civil Procedure of this state.

SECTION 15. ENFORCEMENT - INJUNCTION.)

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary educational institution or an agent thereof is found, at the request of the board or on his own motion, may bring any appropriate action or proceeding (including injunctive proceedings, or criminal proceedings pursuant to section 13 hereof) in any court of competent jurisdiction for the enforcement of the provisions of this Act.
2. Whenever it shall appear to the board that any person, agent, group, or entity is, is about to, or has been

violating any of the provisions of this Act or any of the lawful rules, regulations, or orders of the board, the board may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the board in any court of competent jurisdiction in this state against such person, group, or entity, for the purpose of enjoining such violation or for an order directing compliance with the provisions of this Act, and all rules, regulations, and orders issued hereunder. It shall not be necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section shall be in addition to any other legal remedy which the board has, and shall be in addition to any right of criminal prosecution provided by law, provided, however, the board shall not obtain a temporary restraining order without notice to the person, group, or entity affected. The existence of board action with respect to alleged violations of this Act shall not operate as a bar to an action for injunctive relief pursuant to this section.

SECTION 16. REPEAL.) Chapter 15-50 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1977

## CHAPTER 160

HOUSE BILL NO. 1557  
(McCaffrey, Meiers)

## INDIAN EDUCATION CURRICULUM

AN ACT to implement an Indian education curriculum in elementary and secondary schools within existing minimum curriculum requirements.

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

SECTION 1. INDIAN EDUCATION CURRICULUM.) The superintendent of public instruction may contract for services to develop an Indian education curriculum to be implemented within the minimum curriculum requirements for elementary and secondary schools of the state. The superintendent shall provide for continuing research and evaluation and for in-service training necessary to implement such a curriculum.

Approved March 19, 1977

## CHAPTER 161

HOUSE BILL NO. 1078  
(Rylance)

## SCHOOL BOARD ELECTIONS

AN ACT to amend and reenact section 15-28-03 of the North Dakota Century Code, relating to school board elections.

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

SECTION 1. AMENDMENT.) Section 15-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-03. ANNUAL AND SPECIAL ELECTIONS - WHEN HELD - OFFICERS ELECTED - TERMS - OPTIONAL JOINDER WITH CITY ELECTION.) An annual election shall be held in each public school district on the first Tuesday in June of each year. At each annual election, members of the school board shall be elected to fill all vacancies therein caused by the expiration of terms of office or otherwise. Each member elected shall serve for a term of three years, except when elected to serve an unexpired term. Such term shall commence on the second Tuesday in July following his election, and he shall continue until his successor is elected and qualified. In addition to the annual election, a special election may be held at any time if approved by a resolution of the school board. Such election may be held for any purpose provided for by law. The annual election provided for in this section may, upon resolution of the school board, be held in conjunction with the regularly scheduled city election held in a city encompassing or encompassed by that school district. The school board may enter into an agreement with the city commission or the city council concerning the sharing of election personnel, the printing of election materials, and the apportioning of election expenses.

Approved March 5, 1977

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## CHAPTER 162

SENATE BILL NO. 2244  
(Committee on Education)

(At the request of the Department of Public Instruction)

### REPEAL OF SCHOOL BUILDING LEVY RESTRICTION

AN ACT to repeal section 15-35-07 of the North Dakota Century Code,  
relating to the erecting of school buildings.

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

SECTION 1. REPEAL.) Section 15-35-07 of the North Dakota  
Century Code is hereby repealed.

Approved March 12, 1977

## CHAPTER 163

SENATE BILL NO. 2442  
(Christensen)

## SCHOOL BUILDING USE

AN ACT to amend and reenact section 15-35-14 of the North Dakota Century Code, relating to the use of school buildings for other than school purposes.

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

SECTION 1. AMENDMENT.) Section 15-35-14 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-14. USE OF SCHOOL BUILDINGS FOR OTHER THAN SCHOOL PURPOSES.) School boards having charge of school buildings and other school facilities may permit the use thereof under proper restrictions for any appropriate purpose when not in use for school purposes. Equal rights and privileges shall be accorded to all religious denominations and to all political parties. Furniture fastened to the buildings shall not be removed or unfastened. Public school and high school auditoriums, gymnasiums, and other school facilities may be let for meetings, entertainments, or conventions of any kind, subject to such restrictions as the governing board of the district shall prescribe. Such use of the buildings and other facilities shall not be permitted to interfere with the operation of the schools or with school activities. A charge may be made for the use of the buildings, facilities, or any portion thereof.

Approved April 20, 1977



## CHAPTER 164

SENATE BILL NO. 2315  
(Sandness, Strand and Peterson)

## TEACHER'S REGISTER

AN ACT to amend and reenact section 15-38-03 of the North Dakota Century Code, relating to teacher's register in school districts.

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

SECTION 1. AMENDMENT.) Section 15-38-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-03. TEACHER'S REGISTER - CONTENTS - REPORT.) Each teacher employed in a rural, graded elementary or nonaccredited school district shall keep a school register and at the close of each term shall make a report stating the number of visits of the county superintendent of schools and such other items as may be required by the county superintendent. The report shall be made in duplicate, and both copies shall be sent to the county superintendent. If he finds the report correct, he shall send one copy immediately to the clerk of the school district. No teacher shall be paid any salary for the last month of a term until the report has been approved by the county superintendent and filed with the clerk.

Approved March 12, 1977

## CHAPTER 165

HOUSE BILL NO. 1261  
(McCaffrey)

TEACHER'S PROFESSIONAL PRACTICES  
COMMISSION

AN ACT to amend and reenact section 15-38-17 of the North Dakota Century Code, to assure that members of the commission shall not lose their regular salary or commission compensation while serving on official business of the teachers' professional practices commission.

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

SECTION 1. AMENDMENT.) Section 15-38-17 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-17. TEACHERS' PROFESSIONAL PRACTICES COMMISSION.) The teachers' professional practices commission shall consist of nine members. The governor shall appoint four members from a list of nominees submitted by the North Dakota education association, two members from a list submitted by the North Dakota school boards association, two members from a list submitted by the North Dakota association of school administrators, and one member selected by the state board of public school education from among its membership. Each list of nominees shall include at least three nominees for each position upon the commission. The term of office of members of the commission shall be three years commencing on July first of the year of the appointment, except that original appointments shall be for staggered terms of one, two, and three years in order that the terms of three members of the commission shall expire each year thereafter. Vacancies shall be filled for an unexpired term in the same manner as original appointments. No person shall serve for more than two consecutive terms as a member of the commission.

The commission shall annually select a chairman and vice chairman, and the superintendent of public instruction or his designee shall serve as secretary. Meetings shall be held after ten days' notice to all members at the call of the chairman or upon request in writing of a majority of the commission. A majority shall constitute a quorum and a majority of such quorum shall have authority to act upon any matter properly before the commission. It shall adopt its own rules of order and procedure not inconsistent with sections 15-38-16 through 15-38-19 and shall hold meetings pursuant to the provisions of sections 15-38-16 through 15-38-19.

The members of the commission shall receive twenty-five dollars for each day actually engaged in the service of the commission and shall be paid actual and necessary traveling and other expenses at the same rate as for employees of the state. No member of the commission shall lose his regular salary or the above compensation while serving on official business of the commission. The superintendent of public instruction shall approve proper vouchers for such expenses.

Approved March 17, 1977

## CHAPTER 166

HOUSE BILL NO. 1338  
(Swiontek, Lipsiea, McCaffrey, Meyer)

### TEACHER ORGANIZATION PAYROLL DEDUCTION

AN ACT to provide for payroll deduction for dues to teacher representative organization.

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

SECTION 1. PROVISION FOR PAYROLL DEDUCTION FOR DUES OF REPRESENTATIVE ORGANIZATION FOR TEACHERS.) Whenever a petition is presented to a school board, signed by a majority of the teachers in a representative organization as created pursuant to the terms of chapter 15-38.1 of the North Dakota Century Code, requesting that the dues for such representative organization be deducted from the regular paycheck of each teacher who is a member of such representative organization, the school board shall be required to comply with the terms of such petition. Nothing herein shall be interpreted to mean that the dues of a nonmember shall be deducted in such manner. Any member of the representative organization may, upon notice to the school board, be exempted from the payroll deduction provisions as herein set forth.

Approved March 23, 1977

## CHAPTER 167

SENATE BILL NO. 2359  
(Tallackson, Miller, Holmberg, Reiten)

## TEACHER'S REVIEW OF OWN PERSONNEL FILE

AN ACT to establish the right of teachers to review materials placed in the teacher's personnel file.

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

SECTION 1. TEACHER'S RIGHT OF REVIEW OF PERSONNEL FILE ESTABLISHED.) Every teacher employed in a school district or educational institution supported by public funds in this state shall have the right to review the contents of his personnel file originating after original employment.

SECTION 2. PLACEMENT OF MATERIAL IN PERSONNEL FILE.) The teacher may submit a written notation regarding any material and the same shall be attached to the file copy of the material in question.

SECTION 3. RIGHT TO OBJECT TO MATERIAL IN FILE.) If the teacher believes that any material placed in his file is inappropriate or in error, he may seek review of the placement of such material in the file.

SECTION 4. COMPLAINTS AGAINST TEACHER.) Any complaint made against a teacher or person for whom the teacher is administratively responsible, by any parent, student, or other person, shall promptly be called to the attention of the teacher if said complaint is to be placed in the teacher's personnel file.

SECTION 5. REQUEST FOR REPRODUCTION OF MATERIALS IN PERSONNEL FILE.) Upon written request, the teacher shall be furnished a reproduction of any material in his personnel file excluding those references and information given at the time he was being evaluated for employment. The teacher shall pay for the cost of such reproduction.

SECTION 6. NO SECRET FILES MAINTAINED.) It shall be deemed to be a class B misdemeanor for any person in any public school district in this state or in any educational institution supported by public funds to maintain a secret personnel file concerning any teacher or teachers to which said teacher or teachers do not have access as provided in this Act.

## CHAPTER 168

HOUSE BILL NO. 1074  
(Legislative Council)  
(Interim Committee on State and Federal Government)

## TEACHERS' RETIREMENT ASSESSMENTS AND BENEFITS

AN ACT to amend and reenact sections 15-39.1-09 and 15-39.1-10 of the North Dakota Century Code, relating to assessments for and benefits from the teachers' fund for retirement; and to provide an appropriation.

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

SECTION 1. AMENDMENT.) Section 15-39.1-09 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-09. MEMBERSHIP IN FUND AND ASSESSMENTS.) Every teacher shall be a member of the fund and shall be assessed upon his salary five percent per annum, which shall be deducted monthly and paid to the state treasurer by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the state treasurer a sum equal to five percent per annum of the salary of each teacher employed by it. All such sums shall be certified by the disbursing official and shall be paid quarterly to the state treasurer who shall set the same aside in the teachers' fund for retirement.

SECTION 2. AMENDMENT.) Section 15-39.1-10 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-10. ELIGIBILITY FOR BENEFITS.)

1. The following teachers are eligible to receive monthly lifetime retirement benefits under this section:
  - a. All teachers who have completed ten years of teaching credit and who have attained the age of sixty-five years.
  - b. All teachers who have attained the age of sixty-five years and who completed their final year of teaching in 1971.

2. The amount of retirement benefits shall be calculated as follows:
  - a. One percent of the monthly salary of the teacher for the school year next preceding July 1, 1971, multiplied by the number of years of service prior to that date; and
  - b. One and one-half percent of the monthly salary of the teacher for each school year subsequent to July 1, 1971.

For the purposes of this subsection, monthly salary means one-twelfth of the annual salary paid the teacher. If the salary of the teacher for the school year next preceding July 1, 1971, is shown to be unrepresentative of his normal salary or if the teacher was not employed during the year next preceding July 1, 1971, the board shall use the salary received during the last full year of teaching prior to the 1970-1971 school year for making the calculations required by this subsection.

3. Notwithstanding any other provision of this section, no full-time teacher who retired in 1971 or after such year, eligible to receive or who is receiving benefits under former chapter 15-39, chapter 15-39.1, or section 15-39.2-02, shall receive benefits which are less than:
  - a. Six dollars per month per year of teaching to twenty-five years; and
  - b. Seven dollars and fifty cents per month per year of teaching over twenty-five years.
  - c. Teachers, superintendents, assistant superintendents, principals, assistant principals, special teachers, supervisors of instruction and other supervisors, presidents, deans, school librarians, and registrars employed by any state institution under the supervision and control of the board of higher education and any person employed in teaching as lay faculty in a nonpublic school shall not be eligible for the minimum benefits provided by this subsection. As used in this subsection, the term "lay faculty" shall mean any person who teaches elementary or high school students in a nonpublic school, and is neither a member of an ecclesiastical order or religious house, or an ordained clergyman.

SECTION 3. APPROPRIATION - TRANSFER.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$14,500,000.00, or so much thereof as may be necessary, to the teachers' fund for retirement. The director of the department of accounts and purchases is hereby directed to transfer such funds from the general fund in the state treasury to the teachers' fund for retirement on July 1, 1977.

## CHAPTER 169

SENATE BILL NO. 2242  
(Committee on State and Federal Government)  
(At the request of the Teachers' Fund for Retirement)

## TEACHERS' FUND FOR RETIREMENT REPORTS AND OUT-OF-STATE TEACHING CREDIT

AN ACT to amend and reenact section 15-39.1-23 and subsection 1 of section 15-39.1-24 of the North Dakota Century Code, relating to the teachers' fund for retirement, civil penalties for the failure of employing units to make required reports, and credit for out-of-state teaching.

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

SECTION 1. AMENDMENT.) Section 15-39.1-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-23. PENALTIES FOR FAILURE TO MAKE REQUIRED REPORTS AND PAYMENTS.) Any employing body failing to file reports required by the board or failing to pay over for credit to the fund the amounts required to be paid by this chapter, shall be subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after such report was required to be filed or such payment became due. The board, if satisfied the delay was excusable, may waive, or if paid, refund all or part of the fifty dollar penalty but not the interest. Such penalty shall be paid to the fund and deposited in the same manner as other receipts under this chapter.

In addition no school district shall share in the apportionment of any money from the state for any year unless the school board, or an officer thereof, has made the reports required by the board as permitted by this chapter and has paid over for credit to the fund the amounts required to be paid by this chapter.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-39.1-24 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any teacher who comes from a school or educational institution supported by public taxation out of North Dakota and who becomes a teacher within the meaning of this chapter, by teaching one full school year in North Dakota following the out-of-state teaching, may elect to have no more than ten years of out-of-state teaching credited hereunder, except that any such years of out-of-state teaching shall not be eligible for credit in North Dakota if the years



claimed also qualify for retirement benefits from a retirement system out-of-state. Credit may be claimed at any time prior to retirement and interest shall be paid on all payments required under this subsection at a rate equal to the rate being paid on one-year certificates by the Bank of North Dakota. Every such teacher shall be advised of the provisions of this section by the school board in writing at the time of employment, and a copy of such notice with written acknowledgment thereof shall be filed with the board. Before receiving any retirement annuity, such teacher shall pay into the fund an amount equal to the amount of assessments for the number of years of out-of-state teaching that he elects based upon his first annual salary in North Dakota after his resumption of teaching in this state, which shall also be the basis of the retirement benefits to which he shall be entitled to receive. He shall also pay the full amount which the employing body would have had to pay as matching funds for the years to be credited.

Approved March 31, 1977

## CHAPTER 170

HOUSE BILL NO. 1026  
(Legislative Council)  
(Interim Committee on Education)

## EDUCATIONAL FINANCE

AN ACT to create and enact a new subsection to section 15-40.1-08 of the North Dakota Century Code, relating to foundation payments for special education pupils between certain ages; and to amend and reenact sections 15-40.1-06 and 15-40.1-16 of the North Dakota Century Code, relating to increasing the educational support payment and the transportation aid payment.

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

SECTION 1. AMENDMENT.) Section 15-40.1-06 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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 to support elementary and secondary education in this state from state and county 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 school buses.
2. It is hereby determined that the educational support per pupil during the first year of the 1977-1979 biennium shall be seven hundred seventy-five dollars and for the second year of the biennium the educational support per pupil shall be eight hundred fifty dollars and shall be 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.

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 shall be supported in the amount of two hundred twenty dollars, which shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07.

3. In determining the amount of payment due school districts for per-pupil aid under this section, the following shall be subtracted from the amount of such aid:
  - a. The product of twenty mills times the latest available net assessed and equalized valuation of property of the school district.
  - b. That amount in dollars of the state group rate for Title I of Public Law 81-874 represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 81-874 payments, except that this subsection shall not include 3B students residing in tax-exempt, federally owned mobile homes.

SECTION 2.) A new subsection to section 15-40.1-08 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

For elementary schools having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each special education pupil under the compulsory age for school attendance in average daily membership in each classroom or for each teacher.

SECTION 3. AMENDMENT.) Section 15-40.1-16 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to seventeen cents per mile for school buses having a capacity of sixteen or fewer pupils and thirty-four cents per mile for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each public school pupil who is transported in such

buses, provided that no such payment shall be made for any pupil who lives within the incorporated limits of a city with a population in excess of two hundred fifty and an area in excess of two square miles in which the school in which he is enrolled is located except as provided in section 15-40.1-16.1. 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 school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses 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.

Approved April 21, 1977

## CHAPTER 171

HOUSE BILL NO. 1281  
(Knudson, Martin)

SCHOOL AID PAYMENTS FOR STUDENTS ON  
ACTIVE DUTY

AN ACT to provide for the payment of school aid for any high school student on active duty while a member of the North Dakota national guard.

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

SECTION 1. PAYMENTS FOR STUDENTS ON ACTIVE DUTY.) Payments made pursuant to section 15-40.1-07 shall be made to the high school district in which a student is enrolled for graduation even though the student may be absent from daily classroom attendance, for a period not exceeding one semester, while engaged in active duty or training within or outside the state while a member of the North Dakota national guard.

Approved March 12, 1977

## CHAPTER 172

SENATE BILL NO. 2025  
(Legislative Council)  
(Interim Committee on Education)

## SPECIAL EDUCATION EXCESS COSTS

AN ACT to amend and reenact section 15-40.2-08 of the North Dakota Century Code, relating to payment of special education costs of handicapped children by the residence school district in child placement cases.

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

SECTION 1. AMENDMENT.) Section 15-40.2-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-08. RESIDENCY DETERMINATION IN CHILD PLACEMENT CASES - DECISION BY THREE-MEMBER COMMITTEE - PROVISIONS OF SECTION 15-40.2-05 TO APPLY.) For purposes of applying this chapter, the school district in which a child resides shall be construed to be the residence district of such child:

1. At the time any court order or order of a juvenile supervisor shall have been issued requiring such child to stay for any prescribed period at a foster home, or home maintained by any nonprofit corporation, or any referrals made from a state-operated institution;
2. At the time of any placement for any prescribed period of time by a county or state welfare agency with the consent of the parent or guardian at a foster home or home maintained by any nonprofit corporation; or
3. At the time of any voluntary admission to Grafton state school or any state-licensed child care home or agency.

Such residence district shall be liable for tuition upon claim of the admitting district, provided that both the residence district and the admitting district be notified of the placement, admission, or court order at the time the same is ordered. Notification shall be made by the placement agency. Where the parent or parents of the child were residents of the district at the time of placement under subsections 1 through 3 of this section, but such parent or

both parents subsequently gain residence in another school district, so that there is no parent residing in said residence district, then the tuition and excess cost due the admitting district shall be paid by the new district of residence in which the parent or parents reside. If the child is handicapped or otherwise requires special education or related services approved by the director of special education, the residence district shall be liable for the cost of tuition and for the excess educational costs related to such special education. If, at the time of referral or discharge from the Grafton state school or any state-licensed child care home or agency, the parents of a child no longer reside in the same school district as at the time of admission, the district of residence of the parents at the time of such referral or discharge shall be construed to be the residence district of such child. In the event of placement by a county or state welfare agency with the consent of the parent or guardian, or the voluntary admission to any state-licensed child care home or agency, including referrals made therefrom, the determination of tuition may be subject to an appeal filed with the county superintendent of schools and the three-member committee referred to in section 15-40.2-05, which shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the pupil concerned and render a decision in regard to the tuition charges. Those provisions of section 15-40.2-05 relating to multicounty districts, notification of unpaid tuition, and withholding of county equalization fund payments and state payments shall apply to this section. If the residency of neither parent can be determined to be within the state at the time of referral or discharge from the Grafton state school or any state-licensed child care home or agency, the tuition and the excess educational costs related to such special education due the admitting district shall be paid by the state from funds appropriated by the legislative assembly for the foundation aid program.

Approved April 19, 1977

## CHAPTER 173

HOUSE BILL NO. 1076  
(G. Larson)

## SCHOOL CONTRACT BID ADVERTISEMENT

AN ACT to amend and reenact section 15-47-15 of the North Dakota Century Code, relating to requirements for advertisement for bids on school district contracts.

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

SECTION 1. AMENDMENT.) Section 15-47-15 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-15. SCHOOL CONTRACTS - ADVERTISEMENT FOR BIDS - PUBLICATION - EXCEPTIONS.) No contract involving the expenditure of an aggregate amount greater than four thousand dollars except as hereinafter set forth, shall be entered into by any school district of any kind or class except upon sealed proposals and to the lowest responsible bidder after ten days' notice by at least one publication in a legal newspaper published in the county in which the school district, or a portion thereof, is located. If no newspaper is published in such county, the publication shall be made in a newspaper published in an adjacent county. The provisions of this section shall not apply to the following classes of contracts, namely:

1. For personal services of employees of the district;
2. For school text or reference books;
3. For any article which is not for sale on the open market;
4. For any patented, copyrighted, or exclusively sold device or feature required to match articles already in use;
5. For any patented, copyrighted, or exclusively sold article of so distinctive a nature that only one make of the article can be purchased; or
6. Any building contract.

Such exceptions shall be strictly construed. Every member of a school board who participates in a violation of this section shall be guilty of a class B misdemeanor.



## CHAPTER 174

SENATE BILL NO. 2390  
(Freed, Jones)

## REPEAL OF COUNTY POOR FARM TUITION

AN ACT to repeal section 15-47-18 of the North Dakota Century Code, relating to the payment of tuition for children whose parents live on county poor farms.

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

SECTION 1. REPEAL.) Section 15-47-18 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1977

## CHAPTER 175

SENATE BILL NO. 2431  
(Strinden, Nelson)

## SCHOOL DISTRICT ELECTION NOTICE

AN ACT to amend and reenact section 15-48-02 of the North Dakota Century Code, relating to notice for school district elections.

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

SECTION 1. AMENDMENT.) Section 15-48-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-48-02. NOTICE OF ELECTION - SPECIAL ELECTIONS.) The notice of election, whether for the annual school election or for a special election held pursuant to the provisions of this chapter, shall state clearly the question to be voted upon. Unless such question is submitted at the annual school election, a special election shall be called, and at least fourteen days' notice of such election shall be given by publishing a notice thereof in a newspaper of general circulation in such district, which the school board has designated as its official newspaper.

Approved April 20, 1977

## CHAPTER 176

HOUSE BILL NO. 1348  
(Metzger, Kloubec, Berger, Kelly)

## MEDICAL RESEARCH AND EDUCATIONAL CENTER

AN ACT to authorize the construction of a medical research and educational center at Fargo using federal funds, providing for use of the center by the university of North Dakota school of medicine, providing for construction on land owned by the United States of America under the jurisdiction of the United States veterans administration, and providing for a ninety-nine year lease to the state of North Dakota doing business as the university of North Dakota; providing an appropriation; and declaring an emergency.

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

SECTION 1. AUTHORIZATION - APPROPRIATION.) The university of North Dakota, through the state board of higher education, is hereby authorized to construct, with a grant of federal funds or other non-state funds, a medical research and educational center for the use and benefit of the school of medicine and to provide facilities for its medical program at a cost not to exceed \$1,500,000.00. The sum of \$1,500,000.00 in federal funds or other nonstate funds is hereby appropriated to the board of higher education for the purposes of this Act.

SECTION 2. LOCATION.) The medical research and educational center shall be constructed on land owned by the United States of America under the jurisdiction of the United States veterans administration. The land is described as approximately two and twenty-eight hundredths acres of land located in part of the southwest quarter of section twenty-nine, township one hundred forty north, range forty-eight west, fifth principal meridian, and part of the north-west quarter of section thirty-two, township one hundred forty north, range forty-eight west, fifth principal meridian, Cass County, North Dakota, being located adjacent to the existing veterans administration hospital in Fargo, North Dakota.

SECTION 3. LEASEHOLD.) The premises on which the medical research and educational center will be constructed, together with all necessary driveways and easements, shall be leased to the state of North Dakota doing business as the university of North Dakota for a period not to exceed ninety-nine years. The lease shall be secured as a condition precedent to the construction authorized by this Act.

SECTION 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1977

## CHAPTER 177

HOUSE BILL NO. 1249  
(Meyer)

## SCHOOL DISTRICT ANNEXATION

AN ACT to amend and reenact section 15-53.1-06 of the North Dakota Century Code, relating to the annexation of school districts.

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

SECTION 1. AMENDMENT.) Section 15-53.1-06 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-53.1-06. ANNEXATION HEARINGS - EQUALIZATION - NOTICE OF HEARINGS.) Before detaching territory from one school district or annexing territory to another school district, the county committee shall hold a hearing on the annexation thereof. At least fourteen days prior to the time the hearing is to be held, the committee shall cause notice of such hearing to be published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state. At such hearing the county committee shall receive testimony for the purpose of determining the value and amount of all school property and all bonded and other indebtedness of each school district affected by a change in boundaries, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts, and liabilities among the districts involved; and, if the annexation is approved by the state committee, the county committee may cause a tax to be levied against each district affected in accordance with the provisions of section 15-47-21 which will equalize the several interests fairly. If the adjoining district is in another county or counties, the county committee of all counties affected shall consider and jointly effect the annexation if a majority of the members of each of the county committees approves the annexation. In the event that the annexation is approved by a majority of the members of one or more county committees, the county superintendent of the county in which the annexing district is located shall submit the annexation to the state committee for approval or disapproval, and in such instance approval of the annexation shall have the same effect as approval by all county committees. If the annexation does not receive the approval of any county committee, it shall not be presented to the state committee.

\*NOTE: Section 15-53.1-06 was also amended by section 1 of House Bill No. 1481, chapter 178.

An appeal from the decision of the state committee may be had to the district court of the county in which the annexing district is located, in accordance with applicable provisions of chapter 28-32. Whenever a petition for annexation has failed to be approved by any county committee, a petition involving any of the same area shall not be submitted for a period of three months and such petition shall in no event be submitted more than twice in twelve consecutive months. Whenever a petition for annexation has failed to be approved by the state committee, a petition involving any of the same area shall not be submitted for a period of three months and such petition shall in no event be submitted more than twice in twelve consecutive months.

Approved March 12, 1977

## CHAPTER 178

HOUSE BILL NO. 1481  
(Jacobson, Erickson)

## SCHOOL DISTRICT REORGANIZATION

AN ACT to amend and reenact sections 15-53.1-06 and 15-53.1-18 of the North Dakota Century Code, relating to county committees for annexation and plans of reorganization of school districts in more than one county.

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

SECTION 1. AMENDMENT.) Section 15-53.1-06 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-53.1-06. ANNEXATION HEARINGS - EQUALIZATION - NOTICE OF HEARINGS.) Before detaching territory from one school district or annexing territory to another school district, the county committee shall hold a hearing on the annexation thereof. At least fourteen days prior to the time the hearing is to be held, the committee shall cause notice of such hearing to be published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state. At such hearing the county committee shall receive testimony for the purpose of determining the value and amount of all school property and all bonded and other indebtedness of each school district affected by a change in boundaries, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts, and liabilities among the districts involved; and, if the annexation is approved by the state committee, the county committee may cause a tax to be levied against each district affected in accordance with the provisions of section 15-47-21 which will equalize the several interests fairly. If the school districts involved in the proposed annexation are situated in more than one county, the county committee of the county encompassing the major portion of each school district shall consider and jointly effect the annexation if a majority of the members of each of such county committees approves the annexation. In the event that the annexation is approved by a majority of the members of one of the two county committees, the county superintendent of the county in which the annexing district is located shall submit the annexation to the state committee for approval or disapproval, and in such instance approval of the annexation shall have the same effect as approval by all county committees.

\*NOTE: Section 15-53.1-06 was also amended by section 1 of House Bill No. 1249, chapter 177.

If the annexation does not receive the approval of any county committee, it shall not be presented to the state committee. In such an instance, an appeal from the decision of the state committee may be had to the district court of the county in which the annexing district is located, in accordance with applicable provisions of chapter 28-32. Whenever a petition for annexation has failed to be approved by the state committee, a petition involving any of the same area shall not be submitted for a period of three months and such petition shall in no event be submitted more than twice in twelve consecutive months. If the school districts are situated in more than one county but the major portions of both such school districts are situated in the same county, the county committee of such county shall consider the matter.

SECTION 2. AMENDMENT.) Section 15-53.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-18. PLAN INVOLVING TERRITORY IN MORE THAN ONE COUNTY.) If the school districts involved in the proposed plan for reorganization are situated in more than one county, a special committee composed of not less than three members of the county encompassing the major portion of each school district shall prepare a plan for the reorganization of the school districts which shall be submitted to each county committee for its approval. In the event that the reorganization plan is approved by a majority of the members of one of the two 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 plan to the state committee for approval or disapproval. Approval of the reorganization plan by the state committee shall have the same effect as approval by all the county committees. If the reorganization plan fails to receive the approval of any county committee, it shall not be presented to the state committee for review. If the school districts are situated in more than one county but the major portions of both such school districts are situated in the same county, the county committee of such county shall consider the matter.

Approved March 19, 1977



## CHAPTER 179

SENATE BILL NO. 2314  
(Sandness, Strand, and Peterson)

## COMPENSATION OF COUNTY COMMITTEE MEMBERS

AN ACT to amend and reenact subsection 1 of section 15-53.1-11 of the North Dakota Century Code, relating to compensation for county committee members.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 15-53.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. In each county in this state there shall be a county committee which shall be formed by the selection of one resident from each of the county commissioner districts within the county. Each member shall receive the actual and necessary expenses incurred by him in the performance of his official duties in accordance with the schedule for state officers and employees. In addition thereto, each member may also receive ten dollars as compensation for each meeting of the committee actually attended by him. All payments for compensation and expenses shall be made upon warrant by the department of accounts and purchases as directed by the department of public instruction from moneys appropriated for that purpose.

The term of each county committee member shall be three years, staggered so that one term shall expire each year. Members of the county committee shall be selected by appointment by the county superintendent of schools with the approval of the board of county commissioners. Vacancies shall be filled in the same manner for the unexpired portion of the term. In the event a committee member shall fail, refuse, or be unable to perform his duties as a member of such committee, the county superintendent of schools, upon petition of a majority of the school boards having territory in whole or in part within the district which such committee member was appointed to represent, shall declare the position of such member upon the committee to be vacant, and shall immediately appoint a new member to the committee from that district.

## CHAPTER 180

HOUSE BILL NO. 1575  
(Knudson)

## SCHOOL BUILDING SALE OR REMOVAL

AN ACT to amend and reenact section 15-53.1-34 of the North Dakota Century Code, relating to the sale or removal of school buildings in reorganized districts.

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

SECTION 1. AMENDMENT.) Section 15-53.1-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-34. SALE OR REMOVAL OF SCHOOL BUILDINGS IN REORGANIZED DISTRICTS.) On motion of the school board, or on petition of a majority of the electors in an original school district included in a reorganized district established in accordance with the provisions of this article, for the sale or removal of a schoolhouse in such district the school board of the reorganized district may have the school building moved to the place designated in the petition, or sold if the petition so provides. The proceeds of such sale shall be placed in either the general fund or the building fund of the reorganized district, in the discretion of the school board. In the event such sale or removal is to a political subdivision of this state, it may be made for less than the fair market value of the school building upon motion unanimously approved by the school board.

Approved March 19, 1977

## CHAPTER 181

HOUSE BILL NO. 1475  
(G. Martin)

## REORGANIZATION ELECTIONS AND TEACHER CONTRACTS

AN ACT to create and enact a new section to chapter 15-53.1 of the North Dakota Century Code, relating to teacher negotiations in recently reorganized districts and termination of teachers in such districts; and to amend and reenact sections 15-53.1-22, 15-53.1-26, and 15-53.1-28 of the North Dakota Century Code, relating to dates for voting on reorganization plans and to the effective date of reorganization plans.

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

SECTION 1. AMENDMENT.) Section 15-53.1-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-22. APPROVED PLAN RECEIVED BY COUNTY SUPERINTENDENT - DUTY OF SUPERINTENDENT TO CALL SPECIAL ELECTION - DEFINITION OF VOTING UNITS - FAVORABLE RESULTS.) Upon receipt from the state committee of an approved plan for the reorganization of school districts, and approved terms of adjustment of property, debts, and liabilities among the districts involved, the county superintendent shall call a special election of the voters residing within the territory of the proposed new district, such election to be held at the place or places therein which have been determined by the county superintendent to be convenient for the voters. The special election shall be held after July first and no later than December thirty-first of the year in which the approved plan is received unless there are not sufficient business days left in that year to accomplish the required publication of notice, in which event the special election shall be held the following year. In holding such election, all existing districts within the proposed new district containing one or more incorporated cities regardless of number or size shall vote as a single unit, and all existing districts within such proposed new district regardless of number or size which do not contain one or more incorporated cities shall vote as a single unit. For the purposes of this section, all districts containing incorporated cities shall be considered an incorporated area, and all districts which do not contain at least one incorporated city shall be considered an unincorporated area. Notice of such election, stating the time and place of holding the election, shall be published by the county superintendent in the official county newspaper at

least fourteen days before the election. The election notices shall clearly state that the election has been called for the purpose of affording the voters an opportunity to approve or reject a proposal for the formation of a new school district and shall also contain a description of the boundaries of the proposed new district and a statement, if there be any, of the terms of adjustment of property, debts, and liabilities applicable thereto. The county superintendent shall appoint judges and clerks of the elections and the election shall be held and conducted in the same manner and the polls shall open and close at the same time as specified for elections in public school districts. The result of the elections shall be certified and delivered to the county superintendent within three days after the closing of the polls. If a majority of all votes cast by the electors residing within the unincorporated area of a proposed new district and the majority of all votes cast by the electors within the incorporated area of a proposed new district are both in favor of the formation of the district, the county superintendent shall make the proper adjustment of the property, assets, debts, and liabilities as provided in such approved plan and shall organize and establish such districts and in so doing shall perform all other necessary duties that are required by law to be performed by the county superintendent in connection with the organization and establishment of new school districts of any kind or type.

SECTION 2.) A new section to chapter 15-53.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

BOARD MAY NEGOTIATE PRIOR TO ASSUMPTION OF DUTIES -  
TERMINATION OF TEACHERS.)

1. Notwithstanding any provision of chapter 15-53.1, 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 such district in lieu of the old board or boards prior to the effective date of assumption of its other duties pursuant to section 15-53.1-28. The school board may enter into agreements with representative organizations pursuant to chapter 15-38.1.
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 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.

SECTION 3. AMENDMENT.) Section 15-53.1-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-26. SCHOOL BOARDS IN REORGANIZED AND ORIGINAL DISTRICTS.) After the establishment of any new school district, the school board for such new school district shall be elected at the regular annual school district election or at a special election called by the county superintendent of schools for that purpose. The first election to elect a school board in a newly reorganized district shall be governed by the provisions of chapter 15-28. Members of school boards elected in the newly reorganized districts shall not enter upon the duties of such office until the time specified in section 15-53.1-28 except as provided by section 1 of this Act. School boards in original school districts included within a reorganized district shall continue and remain in existence until the time specified in section 15-53.1-28 at which time the new school board elected for the newly reorganized district as provided in this section shall become the governing body of such school districts. Prior to the completion of the reorganization of any school district under the provisions of this article, the existing school board of any school district shall not contract or place such district under any obligation, except upon the recommendation of the county committee. Subsequent annual elections in such school district shall be governed by the laws pertaining hereto.

SECTION 4. AMENDMENT.) Section 15-53.1-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-28. EFFECTIVE DATE OF APPROVED REORGANIZATION PLANS - TRANSFER OF ALL PROPERTY.) Except as provided by section 1 of this Act, any reorganization plan voted upon and approved shall become operative and effective on the first day of July following its final approval. Any officer of a school district incorporated in whole or in part into a reorganized school district shall within thirty days from the date the reorganization is effective, turn over to the reorganized school district all of the property and other assets as finally adjusted and determined by the county committee. Unless it is otherwise agreed and provided by the reorganization plan, debts, obligations, and liabilities of the several districts or parts of districts incorporated into the reorganized district shall become the general debt, obligation, and liability of the reorganized district.

Approved April 14, 1977

## CHAPTER 182

HOUSE BILL NO. 1365  
(Stenehjem)

## REVENUE BOND ISSUE FOR UNIVERSITY BUILDINGS

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds for constructing revenue-producing buildings at the university of North Dakota; to make an appropriation; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSES.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds for the purpose of constructing revenue-producing buildings at the university of North Dakota, Grand Forks, as follows:

1. Apartment housing in any amount up to but not exceeding three million six hundred thousand dollars.
2. A warehouse building in any amount up to but not exceeding one hundred thousand dollars.

Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds, or so much thereof as may be necessary, plus any available funds received from federal or private sources, are hereby appropriated for the construction and equipment of the buildings authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the authorized bonds.

SECTION 3. LIMITATION - EXCEPTION.) Funds used for construction and equipment of the authorized buildings shall not exceed the amounts authorized in section 1, except to the extent that funds received from private or federal sources exceed the authorized amounts.

SECTION 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 31, 1977

## CHAPTER 183

SENATE BILL NO. 2267  
(Thane, Strinden)

REVENUE BOND ISSUE FOR SCHOOL OF  
SCIENCE PARKING LOTS

AN ACT to authorize the state board of higher education to issue revenue bonds for the construction and improvement of parking lot facilities at the state school of science at Wahpeton, to provide for a student facility fee, and to provide an appropriation.

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

SECTION 1.) In accordance with chapter 15-55, the state board of higher education is hereby authorized and empowered to issue and sell bonds for the purpose of constructing and improving parking lot facilities at the state school of science at Wahpeton, North Dakota, in an amount not to exceed one hundred thousand dollars. The bonds authorized by this section shall be retired solely from revenues from student facility fees as provided by section 2, and shall not be a general obligation of the state of North Dakota.

SECTION 2.) At the time of issuance of bonds under this Act, the board of higher education shall set a student facility fee to be charged to each student purchasing a parking permit at the state school of science at Wahpeton, North Dakota, at the time of the student's purchase of a parking permit. The amount of the fee shall be determined by the board at a level sufficient to pay the interest and principal of bonds issued under section 1 within fifteen years after their issuance, as such bonds become due.

SECTION 3. APPROPRIATION.) The proceeds resulting from the sale of bonds authorized under section 1, or so much thereof as may be necessary, are hereby appropriated for the construction and improvement of parking lot facilities authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Approved April 6, 1977

## CHAPTER 184

HOUSE BILL NO. 1025  
(Legislative Council)  
(Interim Committee on Education)

## STATE SCHOOL CONSTRUCTION FUND

AN ACT to amend and reenact sections 15-60-03, 15-60-04, and subsection 1 of section 57-15-16 of the North Dakota Century Code, relating to limitations on school construction fund expenditures, and allocation of tax levies of school districts which have not been allocated by contract with the state school construction fund; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-60-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-03. PURPOSES AND GENERAL POWERS.)

1. The state school construction fund is created for the purpose of constructing and improving public school buildings, and furnishing and equipping the same for use as public schools, as a part of the public school system of the state of North Dakota under the jurisdiction of the department of public instruction, hereafter referred to as the department. The state board of public school education, hereafter referred to as the board, is hereby granted and shall have and may exercise all the powers necessary or convenient for the carrying out of the aforesaid purposes including, but without limiting the generality of the foregoing, the following rights and powers:
  - a. To sue and be sued in all courts.
  - b. To acquire, purchase, hold, lease, sell, transfer, dispose of, or use any property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the state school construction fund.
  - c. To acquire by purchase, lease, or otherwise and to construct, improve, and repair projects.



- d. To make bylaws for the management and regulation of its affairs.
  - e. To appoint officers, agents, employees, and servants, to prescribe their duties, and to fix their compensation.
  - f. To fix, alter, charge, and collect rentals and other charges for the use of the facilities or, for the services rendered by, the board or projects thereof, at reasonable rates to be determined by it for the purpose of providing for the payment of the expenses of the board, the construction, improvement, and repair of its facilities and properties, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.
  - g. To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.
  - h. To have the power of eminent domain.
  - i. To pledge, hypothecate, and otherwise encumber, all or any of the revenues or receipts of the fund as security for all, or any of, the obligations of the board.
  - j. To do all acts and things necessary or convenient to carry out the powers granted to it by this chapter or any other acts.
2. The board shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any other school districts. No obligations or debts of the board shall be deemed to be obligations of the state or any other school districts, and the state or any other school districts shall not be liable for the payment of principal or interest on such obligations. The board 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 state school construction fund to the school district, but a school district shall not borrow more than thirty percent of the taxable valuation of the district from the fund and shall not be permitted to levy less than ten mills for the maintenance of a building fund. The levy required by this section for repayment must be maintained

over the life of the contract with the board, and the school district must have at the time of the loan an existing bonded indebtedness to the maximum limit permitted by law.

3. All contracts between the board 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 board and school district without the specific written approval of the department.

SECTION 2. AMENDMENT.) Section 15-60-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-04. LIMITATIONS OF PURPOSES AND AMOUNT EXPENDED.) The board may expend for construction or improvements for any district thirty percent of its taxable valuation, but not to exceed one million dollars to any one school district. No money shall be expended for gymnasiums or auditoriums except that in the event an entire school unit is constructed, the auditorium or gymnasium may be considered as part of the total plant and the district may be eligible, provided priority shall first be given the construction and improvements of school units not including an auditorium or gymnasium.

SECTION 3. AMENDMENT.) Subsection 1 of section 57-15-16 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The governing body of any school district shall levy

taxes annually for a school building fund, not in excess of twenty mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any school district. The governing body of such school district may create such building fund by appropriating and setting up in its budget for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law. In all cases where a portion or all of the proceeds of such levy have been allocated by contract to the payment of rentals upon contracts with the state school construction board, such levy shall be made annually by the governing body of the school district until the full amount of all such obligations is fully paid. Any portion of a levy for a school building fund which has not been allocated by contract with the state school construction fund must be allocated by the governing body pursuant to section 57-15-17. Upon the completion of all payments to the state school construction fund, such levy may be discontinued at the discretion of the governing body of the school district, or upon petition of twenty percent of the electors who voted in the last school election, the question of discontinuance of the levy shall be submitted to the electors of the school district at any regular or special election and, upon a favorable vote of sixty percent of the electors voting, such levy shall be discontinued. Any school district, executing a contract or lease with the state school construction board, which contract or lease requires the maintenance of the levy provided in this section, shall immediately file a certified copy of such contract or lease with the county auditor or auditors of the county or counties in which such school district is located. The county auditor or auditors shall register such contract or lease in the bond register in substantially the manner provided in section 21-03-23. Upon the filing of such contract or lease with the county auditor or auditors, the school district shall be without power to discontinue such levy and such levy shall automatically be included in the tax levy of such school district from year to year by the county auditor or auditors until a sufficient sum of money has been collected to pay to the state treasurer for the retirement of all obligations of such school district with the state school construction board.

SECTION 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1977

## CHAPTER 185

HOUSE BILL NO. 1337  
(Mund)

## STUDENT FINANCIAL ASSISTANCE PROGRAM

AN ACT to amend and reenact section 15-62.2-01 of the North Dakota Century Code, relating to the North Dakota student financial assistance program, and providing assistance to persons who are attending postsecondary institutions out of state due to a physical or mental handicap and the lack of special services and facilities necessary for the handicapped students within North Dakota.

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

SECTION 1. AMENDMENT.) Section 15-62.2-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-01. STUDENT FINANCIAL ASSISTANCE PROGRAM - ESTABLISHMENT - ADMINISTRATIVE RESPONSIBILITY.) There is hereby established a North Dakota student financial assistance program, which shall provide grants to assist the following students:

1. Resident undergraduate students having graduated from North Dakota high schools.
2. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to section 15-40.2-10, who are attending qualified institutions of postsecondary education within North Dakota.
3. North Dakota resident students who, because of physical or mental handicap as certified by a physician, are attending postsecondary institutions out-of-state due to the lack of special services or facilities, or both, necessary to meet the postsecondary educational needs of the handicapped students within North Dakota.

The student must be in substantial need of financial assistance. This program shall be administered by a single state agency, which shall be the state board of higher education or such other agency as may otherwise be designated by the governor in accordance with federal law. Hereinafter, reference to the "administrative agency" will signify that board, agency, or commission ultimately designated as provided in this section to officially administer the North Dakota student financial assistance program.

Approved March 31, 1977

## CHAPTER 186

HOUSE BILL NO. 1553  
(Meiers, Langley)

## INDIAN SCHOLARSHIP AMOUNT

AN ACT to amend and reenact section 15-63-05 of the North Dakota Century Code, relating to the amount of Indian scholarship payments.

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

SECTION 1. AMENDMENT.) Section 15-63-05 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-05. SCHOLARSHIP PAYMENTS - CONDITIONS.) Upon the granting of a scholarship and acceptance thereof, the recipient shall be eligible for a credit in fees in the enrolling institution of higher learning to apply toward the cost of registration, health, activities, board, books, and other necessary items of not to exceed six hundred sixty-seven dollars per quarter for three quarters, or one thousand dollars per semester for two semesters, in any academic year. The board for Indian scholarships may reduce the amount of any scholarship to accord with individual financial need or funds available. After the enrolling institution has deducted the amount due such institution, the remaining balance shall be given to the recipient for necessary expenses during the quarter or semester. At the beginning of each quarter or semester of a regular academic year, the board for Indian scholarships shall certify to the director of the department of accounts and purchases the name of each recipient and the amount payable, and the director of the department of accounts and purchases shall issue his warrant to the state treasurer who shall pay the amount of the scholarship to the institution of higher learning in which the recipient is enrolled. Renewal of the scholarship award shall be subject to the maintenance of a minimum grade average of "C" in the courses taken.

Approved April 20, 1977

## CHAPTER 187

SENATE BILL NO. 2243  
(Committee on Education)  
(At the request of the Indian Affairs Commission)

## INDIAN SCHOLARSHIP REFUNDS

AN ACT to create and enact a new section to chapter 15-63 of the North Dakota Century Code, relating to Indian scholarships; and declaring an emergency.

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

SECTION 1.) A new section to chapter 15-63 of the North Dakota Century Code is hereby created and enacted to read as follows:

SCHOLARSHIP REFUNDS - USE.) Any Indian scholarship refunds which shall be made shall be credited to the appropriation for the biennium in which such refunds are received and may be awarded as additional scholarships in that biennium. Any amounts remaining in the appropriation at the end of any biennium shall be cancelled pursuant to section 54-44.1-11 of this code.

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

Approved March 10, 1977

## CHAPTER 188

HOUSE BILL NO. 1361  
(Kuchera, Kelly, Mushik, Stenehjem)

## PUBLIC TELEVISION CONTRACTS

AN ACT to create and enact a new subsection to section 15-65-03 of the North Dakota Century Code, relating to the authority of the North Dakota educational broadcasting council to contract with noncommercial public television stations.

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

SECTION 1.) A new subsection to section 15-65-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

To contract with eligible applicants to build and operate public television stations in this state. Eligible applicants are those licensed by the federal communications commission to operate noncommercial public television stations. Operational contracts shall not exceed the amount raised within the preceding fiscal year by the applicant from nontax sources in this state.

Approved April 9, 1977