

EDUCATION

CHAPTER 187

HOUSE BILL NO. 1248
(Committee on State and Federal Government)
(At the request of the Board of University and School Lands)

STATE LANDS INCOME

AN ACT to amend and reenact sections 15-01-01, 15-01-02.1, 15-01-03, 15-01-04, 15-08.1-04, 15-08.1-06, 15-08.1-08, 15-08.2-09, and 47-06-08 of the North Dakota Century Code, relating to the composition of the board of university and school lands, fees charged by the board of university and school lands for managing certain property, composition and meetings of the board, depositing of income from certain lands in the lands and minerals trust fund.

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

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

15-01-01. Board - Membership - Officers. The governor, secretary of state, state ~~auditor~~ treasurer, attorney general, and superintendent of public instruction shall constitute the "board of university and school lands". The governor shall be the ~~president chairman~~, the secretary of state shall be the vice ~~president chairman~~, and the commissioner of university and school lands shall be the secretary of the board. In the absence of the commissioner at any meeting of the board, the deputy commissioner of university and school lands shall act as secretary. When acting as the board of university and school lands, the members of the board shall act in person and shall not be represented by any assistant, clerk, or deputy.

SECTION 2. AMENDMENT. Section 15-01-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-02.1. Board of university and school lands to set and establish fees - Collections. The board of university and school lands shall have authority to set and establish fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land contracts, holding land sales, furnishing documents, ~~and~~ receiving and processing all loans made by the board, managing property acquired

under chapter 15-08.1, and managing property for other state entities. All leasing fees for agricultural purposes shall be collected by the county treasurer of the county wherein such land is leased at the time the first payment is made for leases, and such funds shall be deposited in the general fund of the county. All other fees provided for in this section shall be deposited in the state lands maintenance fund.

SECTION 3. AMENDMENT. Section 15-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-03. Meetings of board - Quorum. The board shall meet at the office of the commissioner on the last Thursday of each month ~~at ten o'clock in the forenoon.~~ Special meetings of the board may be held at any time at the written call of the ~~president~~ chairman or of any two members of the board. Three members of the board shall constitute a quorum.

SECTION 4. AMENDMENT. Section 15-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-04. Record of meeting. The secretary of the board shall enter in a suitable book kept for that purpose a full and correct record of all the proceedings of the board at each session thereof. The record, when approved by the board, shall be signed by the ~~president~~ chairman or presiding officer of the meeting and by the secretary.

SECTION 5. AMENDMENT. Section 15-08.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.~~

SECTION 6. AMENDMENT. Section 15-08.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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; ~~and may establish, charge, and collect fees for the management of property acquired under this chapter.~~ The board shall pay the costs incurred in carrying out its

duties under this chapter from the fees and income derived under this chapter.

SECTION 7. AMENDMENT. Section 15-08.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08.1-08. Income - Expenses - Reimbursement - Creation of lands and minerals trust. All The 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 must be apportioned to the entity from which the property was acquired. The expenses of sale, lease, and management of the property acquired from each entity must first be deducted from the income apportioned to the respective entity. If the property was acquired from a trust, the remainder after expenses must be credited to that trust. If the property was acquired from the Bank of North Dakota, the remainder after expenses must be credited to the Bank of North Dakota until the Bank has been reimbursed for the total principal, interest, and costs due the Bank at the time of transfer. The balance 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 legislative assembly may provide.

SECTION 8. AMENDMENT. Section 15-08.2-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08.2-09. Income to ~~general~~ lands and minerals trust 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~~ lands and minerals trust fund.

SECTION 9. AMENDMENT. Section 47-06-08 of 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 lands and minerals trust fund.~~ 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.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 188

HOUSE BILL NO. 1078
(Wald)

STARK COUNTY FAIR LANDS

AN ACT to authorize the board of university and school lands 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 board of university and school lands is authorized to sell and convey the following property to Stark County, North Dakota:

A tract of land comprising approximately one hundred seventy acres, known as the "State Second Addition", and lying in the southwest and northwest quarters of section five, township one hundred thirty-nine, range ninety-six, Stark County, North Dakota.

The property must be sold at a price agreeable to both parties but not less than the fair market value thereof, based upon two independent appraisals. The state shall reserve all mineral rights in and under the premises conveyed as are now held by the state. The sale of the property to Stark County by the board of university and school lands is deemed to be the best possible return to the state of North Dakota as provided in section 2 of chapter 203 of the 1985 Session Laws of North Dakota.

SECTION 2. The property being sold must be used by Stark County for the development of a county fairgrounds. If the property ceases to be used for that purpose, ownership of the property reverts to the state of North Dakota.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 189

HOUSE BILL NO. 1180
(Committee on State and Federal Government)
(At the request of the Board of University and School Lands)

PERMANENT FUNDS AND INVESTMENTS

AN ACT to amend and reenact sections 15-03-01, 15-03-04.1, 15-03-04.3, 15-03-16, 15-03-17, and 15-03-18 of the North Dakota Century Code, relating to custody of permanent funds, management of the loan pool account, continuing appropriation for certain investments and related fees, redemption of bonds, and records of investments; to repeal sections 15-03-03, 15-03-19, and 15-03-21 of the North Dakota Century Code, relating to custody of funds, warrants, and the collection of money due on securities; and to declare an emergency.

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 over 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. Section 15-03-04.1 of the North Dakota Century Code is hereby amended and reenacted 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 must be managed and serviced by the Bank of North Dakota. The 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. The board may authorize the Bank of North Dakota to renegotiate the mortgages in the loan pool account, including debt restructuring and reamortization, so long as the renegotiation is consistent with sound banking practices and the rules, regulations, and guidelines of the board. In the event ~~delinquent loans are kept in the loan pool account~~ foreclosures are necessary, 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 3. AMENDMENT. Section 15-03-04.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-04.3. Loan pool account - Execution of instruments Management by Bank of North Dakota. ~~The Subject to the provisions of this chapter the~~ Bank of North Dakota shall, in accordance with standard banking practices, manage all loans in the loan pool account and execute all instruments on behalf of the board of university and school lands that pertain to real estate mortgages in the loan pool account, including reamortization agreements, satisfactions and partial releases. The Bank of North Dakota shall also act as agent for the board and shall execute all instruments, including reamortization agreements, satisfactions and partial releases, that pertain to mortgages previously issued by the board. All instruments shall be executed in the same manner as specified in section 6-09-26.1. This section is self-executing and no assignment, power of attorney, or other instrument of transfer is necessary to establish the authority of the Bank of North Dakota to act on behalf of the board of university and school lands under this section.

SECTION 4. AMENDMENT. Section 15-03-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-16. Appropriation for purchase of investment bonds and mortgages investments. There is hereby appropriated annually the sum necessary for the payment severally of the purchase prices, investments of the board of university and school lands including interest accrued to the date of purchase, of investment bonds or mortgages interest, and related investment management fees, trustee fees, and custodial fees for the permanent funds under the control of the board. Each payment shall be made from the fund for which the purchase investment is made.

SECTION 5. AMENDMENT. Section 15-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-17. Redemption of bonds by political subdivisions. The board of university and school lands ~~and the state treasurer~~ shall allow any county, city, park district, township, or school district to redeem, at any time after two years from the date of issue, at par with accrued interest, any bonds issued by it which the state has purchased and holds as an investment of any of the permanent school funds of the state.

SECTION 6. 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 maintain records of mortgages and securities investments. 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 keep a complete record of all investments of 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 7. REPEAL. Sections 15-03-03, 15-03-19, and 15-03-21 of the North Dakota Century Code are hereby repealed.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 190

HOUSE BILL NO. 1031
(Legislative Council)
(Interim Budget Committee on Government Finance)

STATE INVESTMENT BOARD

AN ACT to amend and reenact sections 15-03-04, 15-03-15, 15-39.1-26, 21-10-01, 21-10-02, 21-10-04, 21-10-05, 21-10-06, 21-10-07, 21-10-08, 37-07.3-02, 37-14-14, and 54-30-15 of the North Dakota Century Code, relating to powers and duties of the state investment board, meetings of the state investment board, powers and duties of the state investment board director, and legal investments for the state investment board; and to repeal section 21-10-03 of the North Dakota Century Code, relating to activities of the state investment board in cooperation with the Bank of North Dakota.

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

SECTION 1. AMENDMENT. Section 15-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-04. Investment of funds - Purchase of bonds and mortgages - Appraisal Legal investments. Subject to the provisions of section 15-03-05, the board of university and school lands shall invest the money belonging to the permanent funds under its control in the following securities and investments:

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.
2. All investments that are enumerated under section 21-10-07 as legal investments for the state investment board. Securities which are a direct obligation of the treasury of the United States or of an instrumentality thereof.
3. Bonds or certificates of indebtedness of this state.

4. General obligation bonds of any other state.
5. Bonds, certificates of indebtedness, or warrants of any political subdivision of this state which constitute the general or contingent general obligations of the issuing tax authority, or revenue bonds of a political subdivision issued for public utility purposes or under the authority of chapter 40-57.
6. Loans and mortgage investments, insured or guaranteed in any manner, wholly or in part, or for which a commitment to so insure or guarantee has been issued by the United States or any instrumentality or agency thereof; or other investments that are issued by or fully insured or guaranteed by the United States or any instrumentality or agency thereof or this state or any instrumentality or agency thereof.
7. Bank of North Dakota certificates of deposit.
8. North Dakota savings and loan association and commercial bank certificates of deposit to the extent that such certificates are fully insured or guaranteed by the United States or an instrumentality or agency thereof.
9. Short-term commercial and finance company paper traded on a national basis and issued by a corporation having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.
10. Bonds, notes, or debentures of any corporation duly incorporated under the laws of any state of the United States rated as "A" or higher by a nationally recognized rating service approved by the board.
11. Nonrated bonds, notes, or debentures of any corporation duly incorporated under the laws of any state and whose principal business operations are carried on within this state, having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.
12. Evidence of indebtedness issued by instrumentalities of this state, including evidence of indebtedness issued by the North Dakota housing finance agency.

13. Mortgage loans purchased from lenders or certificates of indebtedness representing pools of mortgage loans purchased from lenders if the mortgages are made to persons to finance the purchase or substantial rehabilitation of owner-occupied, single family residential dwellings, including mobile homes and manufactured housing. The loans purchased must be secured by mortgages on real property located in this state. "Lender" means any bank or trust company chartered in this state, any national banking association located in this state, any state or federal savings and loan association located in this state, and any federal housing administration approved mortgagee or other mortgage lending institution engaged in home mortgage lending in this state.
14. Common or preferred stocks of any corporation organized under the laws of any state, but not more than twenty percent of the assets of each fund may be invested in common and preferred stocks.

As used in this section, the term "net income" means income after deducting operating and maintenance expenses, all taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income and expense.

The term "fixed charges" includes interest on funded and unfunded debt, amortization of debt discount and expense, and rentals for leased property.

SECTION 2. AMENDMENT. Section 15-03-15 of 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 and investments enumerated in section ~~21-10-07~~ 15-03-04.

SECTION 3. AMENDMENT. Section 15-39.1-26 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-26. Investment of moneys in fund. Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10, ~~except that the investments shall not be limited to those specified in section 21-10-07 and except that the state investment board shall have the authority to contract with insurance companies, trust banks, or other financial institutions to hold and invest fund moneys;~~ provided, that the total amount of all moneys so placed shall not exceed an amount equal to twenty percent of the total moneys of the fund. Such moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. Such moneys may be expended by the state investment board by the preparation of an appropriate voucher and submitting such voucher to the office of management and budget, except that any related investment counseling fees, trustee fees, or custodial fees charged by money management firms shall be paid out of moneys in the fund without the need for a prior appropriation or the submission of a voucher.

SECTION 4. AMENDMENT. Section 21-10-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-01. State investment board - Membership - Term - Compensation. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the ~~chairman~~ chairperson of the workmen's compensation bureau, the commissioner of insurance, the executive secretary of the teachers' fund for retirement, and ~~two~~ three members who are experienced in, and have considerable knowledge of the field of investments, who have considerable knowledge of the investments enumerated in section 21-10-07, and who are not otherwise employed by the state of North Dakota. ~~The ex officio members of the board~~ governor shall appoint the members with investment experience to four-year terms concurrent with the four-year terms of the elected officials on the board three-year, two-year, and one-year terms respectively on January 31, 1989. Thereafter, the appointed members shall serve four-year terms. The appointed members are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 54-06-09 and 44-08-04.

SECTION 5. AMENDMENT. Section 21-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-02. Board - Powers and duties. The board shall be charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents shall be custodian of securities purchased on behalf of funds under

the management of the board. The board may appoint an investment director or advisory service who shall be experienced in, and hold considerable knowledge of the field of investments and shall hold considerable knowledge of the investment of securities enumerated in section 21-10-07. The investment director or advisory service shall serve at the pleasure of the board. The investment director or advisory service may be an individual, corporation, partnership, or any legal entity which meets the qualifications established herein. The board may appoint, in addition to an investment director or advisory service, such personnel as it deems necessary to properly fulfill their responsibility. Existing department facilities for making traditional investments within the state shall continue to function subject however to supervision and management of the board. The board may authorize the investment director to lend securities held by the funds. These securities must be collateralized by direct or guaranteed obligations of the United States government as directed by the board.

SECTION 6. AMENDMENT. Section 21-10-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-04. Board - Meetings. The state investment board shall select one of its members to serve as chairman, and shall meet at the call of the chairman, director, or upon written notice signed by two members of the board. Such meetings shall be held not less than four eight times per year.

SECTION 7. AMENDMENT. Section 21-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-05. Director - Powers and duties. Subject to the limitations contained in the law or the policymaking regulations or resolutions promulgated by the board, the investment director shall have the power to make purchases, sales, exchanges, investments, and reinvestments of the funds under the management of the board. This section shall constitute a continuing appropriation of all moneys required for the making of investments of funds under the management of the board. The director shall see that moneys invested are at all times handled in the best interests of the state funds. Securities or investments may be sold or exchanged for other securities or investments. No sale or exchange shall be at a price less than the going market price at the time the securities or investments are sold or exchanged-

The investment director shall formulate and recommend to the investment board for approval, investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions, and restrictions upon the methods, practices or procedures for investment, reinvestment, purchase, sale, or exchange transactions which should govern the investment of funds under this chapter.

*** SECTION 8. AMENDMENT.** Section 21-10-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-06. Funds under management of board - Accounts. The board is charged with the investment of the following funds:

1. State bonding fund.
2. Teachers' fund for retirement, ~~in accordance with section 15-39-1-26.~~
3. State fire and tornado fund.
4. Workmen's compensation fund.
5. Veterans' home improvement fund, in accordance with section 37-15-14.1.
6. National guard training area and facility development trust fund.
7. National guard tuition trust fund.

Separate accounts shall be maintained for each of the above funds and the moneys or securities of the individual funds shall not be commingled. However, when it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds shall immediately be credited with their proportionate share of the proceeds. In the event of such purchase or exchange, title to the securities shall be taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board or the director thereof on investment policies, and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf.

SECTION 9. AMENDMENT. Section 21-10-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-07. Legal investments. ~~The following types of securities and investments are legal investments for funds, the investment of which is under the supervision of the board-~~

- 1- ~~Securities which are a direct obligation of the treasury of the United States or of an instrumentality thereof-~~
- 2- ~~Bonds or certificates of indebtedness of this state-~~

* NOTE: Section 21-10-06 was also amended by section 2 of House Bill No. 1236, chapter 288.

- 3- General obligation bonds of any other state-
- 4- Bonds, certificates of indebtedness, or warrants of any political subdivision of this state which constitute the general or contingent general obligations of the issuing tax authority, or revenue bonds of a political subdivision issued for public utility purposes or under the authority of chapter 40-57-
- 5- Loans and mortgage investments, insured or guaranteed in any manner, wholly or in part, or for which a commitment to so insure or guarantee has been issued by the United States or any instrumentality or agency thereof, or other investments that are issued by or fully insured or guaranteed by the United States or any instrumentality or agency thereof or this state or any instrumentality or agency thereof-
- 6- Bank of North Dakota certificates of deposit-
- 7- North Dakota savings and loan association and commercial bank certificates of deposit to the extent that such certificates are fully insured or guaranteed by the United States or an instrumentality or agency thereof-
- 8- Short-term commercial and finance company paper traded on a national basis and issued by a corporation having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period-
- 9- Bonds, notes, or debentures of any corporation duly incorporated under the laws of any state of the United States rated as "A" or higher by a nationally recognized rating service approved by the board-
- 10- Nonrated bonds, notes, or debentures of any corporation duly incorporated under the laws of any state and whose principal business operations are carried on within this state, having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period-
- 11- Evidence of indebtedness issued by instrumentalities of this state, including evidence of indebtedness issued by the North Dakota housing finance agency-

12. Mortgage loans purchased from lenders or certificates of indebtedness representing pools of mortgage loans purchased from lenders if the mortgages are made to persons to finance the purchase or substantial rehabilitation of owner-occupied, single family residential dwellings, including mobile homes and manufactured housing. The loans purchased must be secured by mortgages on real property located in this state. "Lender" means any bank or trust company chartered in this state, any national banking association located in this state, any state or federal savings and loan association located in this state, and any federal housing administration approved mortgagee or other mortgage lending institution engaged in home mortgage lending in this state.
13. Investments enumerated under chapter 15-03 as legal investments for the board of university and school lands.
14. Common or preferred stocks of any corporation organized under the laws of any state, but not more than twenty percent of the assets of each fund may be invested in common and preferred stocks.

As used in this section the term "net income" means income after deducting operating and maintenance expenses, all taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income and expense.

The term "fixed charges" includes interest on funded and unfunded debt, amortization of debt discount and expense, and rentals for leased property. The state investment board shall apply the prudent investor rule in investing for funds under its supervision. The "prudent investor rule" means that in making investments the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

SECTION 10. AMENDMENT. Section 21-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-08. Reserves - Percentage limitations. In order to meet claims and liabilities, reserves shall be established and maintained in each of the funds in accordance with recommendations of the authorized fiduciaries thereof consisting of cash, Bank of North Dakota certificates of deposit or short term United States Government securities in amounts between one percent and ten percent of the assets of each fund.

The board may authorize temporary deviations from the amounts of such reserves in its sound discretion.

~~Not more than fifty percent of the assets of any fund shall be invested in securities authorized by subsections 8, 9, and 10 of section 21-10-07.~~

SECTION 11. AMENDMENT. Section 37-07.3-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-07.3-02. National guard training area and facility development trust fund - Investment and income. The national guard training area and facility development trust fund consists of moneys transferred or credited to the fund, pursuant to this chapter and provisions of other laws. The state investment board shall invest the fund ~~in the legal investments~~ as authorized by section 21-10-07. All interest earned and income received on the investments accrue to the fund.

* **SECTION 12. AMENDMENT.** Section 37-14-14 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-14. Veterans' postwar trust fund. The veterans' postwar trust fund shall consist of moneys transferred or credited to the fund, pursuant to the provisions of this chapter and of other laws. The fund shall be invested by the state treasurer in legal investments authorized by section ~~21-10-07~~ 15-03-04. All income received on the investments is to be utilized in benefit and service to veterans as defined in section 37-01-40, or their dependents, as determined and appropriated by the legislative assembly.

SECTION 13. AMENDMENT. Section 54-30-15 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-15. Investment of bond sinking fund. The state treasurer, with the approval of the industrial commission, shall invest the fund designated as the real estate bond sinking fund in any securities designated as legal investments by section ~~21-10-07~~ 15-03-04. At the request of the commission, the state treasurer shall redeem and take up out of the real estate bond sinking fund any series of real estate bonds outstanding which may be called by the commission. Upon notification of the call the state treasurer shall cause to be published a notice of call as directed by the commission but not less than forty-five days prior to the date of call. No other disposition by appropriation, or otherwise, ever shall be made of the money in the fund until the bonds are paid fully or until the time limit provided by law for the payment thereof has expired, but if any of the bonds issued and delivered to the commission, as hereinbefore provided, are returned to the state treasurer not sold, then the returned bonds shall not be deemed a part of the bond issue secured by the fund.

* NOTE: Section 37-14-14 was also amended by section 4 of House Bill No. 1009, chapter 9.

* **SECTION 14. REPEAL.** Section 21-10-03 of the North Dakota Century Code is hereby repealed.

Approved March 20, 1987
Filed March 23, 1987

* NOTE: Section 21-10-03 was also amended by section 1 of House Bill No. 1236, chapter 288.

CHAPTER 191

HOUSE BILL NO. 1186
(Committee on State and Federal Government)
(At the request of the Board of University and School Lands)

STATE LAND LEASE TRACT SIZE

AN ACT to amend and reenact sections 15-04-10 and 15-08-25 of the North Dakota Century Code, relating to the size of state land lease tracts.

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

SECTION 1. AMENDMENT. Section 15-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-10. Leasing to be by auction - Requirements governing. The commissioner of university and school lands, or such other person as may be appointed by the board of university and school lands, shall conduct the leasing of the lands. The leasing shall be at public auction, to the highest bidder, and shall be held at the courthouse or the place where terms of the district court are held. The auction shall commence on the day specified in the advertisement for the leasing and shall be held between the hours of ten a.m. and five p.m., and shall continue from day to day until all tracts or parcels of land advertised for lease have been leased or offered for lease. Auctions for leasing lands shall not exceed ten days in any county, except that an adjournment may be made over Sunday or any legal holiday. Notice shall be given when the land is offered for lease, that all bids are subject to approval by the board. In counties where a large number of tracts of land are to be leased, the land situated in certain townships may be designated in the advertisement to be leased on certain specified days, and in that case the lands shall be leased or offered for lease on the days specified. If all designated lands are not offered for lease because of lack of time, the leasing of the lands unoffered may be adjourned until the following day or days when they shall be the first lands offered for lease. Lands that have not been subdivided specially shall be offered for lease in tracts of one-quarter section each, and lands except as provided in section 15-08-25. Lands specially subdivided may be offered for lease in the smallest subdivision thereof. At the time of offering the lands for lease, the county auditor of the county shall act as clerk. Within five days after the completion of the auction the county auditor shall certify to the board of

university and school lands a list of the lands leased, the price for which each tract was leased, the name of each lessee, and the initial amount of money paid by each lessee for rent.

SECTION 2. AMENDMENT. Section 15-08-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-25. Lease or sale of public lands traversed or bisected by a railroad or highway, road, railroad, canal, river, or lake. All boards, departments, and officials of government shall be authorized and permitted to lease or sell such school and public lands in separate tracts where such tract of land is traversed or bisected by a highway, road, or railroad, canal, river, or lake as two or more separate parcels, each of which may be leased or sold separately or together with an adjoining tract. It is the intent of this section that such tract located on one side or the other of a highway or a railroad, which may be less than one hundred sixty acres (64.75 hectares), as the case may be, may be sold or leased to separate purchasers or tenants.

Approved March 12, 1987

Filed March 16, 1987

CHAPTER 192

SENATE BILL NO. 2152
(Committee on Natural Resources)
(At the request of the Board of University and School Lands)

UNIVERSITY AND SCHOOL LANDS MINERAL LEASES

AN ACT to create and enact a new section to chapter 15-05 of the North Dakota Century Code, relating to the authority of the board of university and school lands to lease gravel, scoria, sand, and construction aggregate; and to declare an emergency.

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

SECTION 1. A new section to chapter 15-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Leases of gravel, scoria, sand, and construction aggregate. Notwithstanding the provisions of chapter 38-09, the board of university and school lands may enter into mineral leasing agreements for gravel, scoria, sand, and construction aggregate under rules adopted by the board. No lease under this section may be issued by the board for less than fair market value, nor may any lease under this section be issued for a period of more than five years.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 193

SENATE BILL NO. 2207 (Committee on Education)

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

STATE NONGRANT LAND SALES

AN ACT to create and enact a new section to chapter 15-06 of the North Dakota Century Code, relating to renegotiation of land contracts; to amend and reenact sections 15-07-02, 15-07-04, and 15-07-10 of the North Dakota Century Code, relating to sale of nongrant lands, and the right of repurchase of a former mortgagor; to repeal sections 15-06-33, 15-06-34, 15-06-35, 15-06-36, 15-06-37, 15-07-05, 15-07-06, 15-07-08, 15-07-09, 15-07-11, 15-07-12, 15-07-13, 15-07-14, 15-07-15, 15-07-16, 15-07-17, and 15-07-18 of the North Dakota Century Code, relating to sale of stumpage near Garrison dam and to specific requirements for terms and conditions of sale of nongrant lands; and to declare an emergency.

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

SECTION 1. A new section to chapter 15-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

Contracts - Renegotiation. The board of university and school lands may renegotiate the terms of any contract made under this chapter when requested by a purchaser who has paid at least thirty percent of the purchase price and is unable to make the payments as required by the contract. The renegotiation may include restructuring and reamortization so long as the resulting contract is consistent with the fiduciary responsibilities of the board.

SECTION 2. AMENDMENT. Section 15-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-02. Rules and regulations for sale of nongrant lands - Powers of board. The board of university and school lands may make such rules and regulations not in conflict with the provisions of this title as it shall deem necessary as to the manner, place, and time of payment of principal and interest and, the conduct of the business of selling and disposing of lands other than original grant lands, and the terms and conditions of those sales. The board may sell nongrant lands on amortized payment contracts, and renegotiate the

terms of those contracts, so long as the purchaser, at the time renegotiation is requested, has paid at least thirty percent of the purchase price and the resulting contract is consistent with this chapter and with the board's fiduciary responsibilities.

SECTION 3. AMENDMENT. Section 15-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-04. Private sale - Terms and prices Sale requirements. Any land sold under the provisions of this chapter shall be by public sale auction or sealed bids, except purchases under the provisions of sections section 15-07-10 and 15-08-13. If the land was acquired through the cancellation of a contract for deed, the price shall be not less than the amount due at the time of cancellation. If the land was acquired through foreclosure, the price shall be not less than the amount due at the time of the foreclosure sale. In either case, the purchase price also must include interest on the aforesaid amount at the rate of five percent per annum from the date of the cancellation or the foreclosure sale, as the case may be, and the amount of recording fees paid by the state.

SECTION 4. AMENDMENT. Section 15-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-10. Mortgagor has right to repurchase on crop share payment contract before sale of land - Notice to mortgagor. If any mortgagor or his heirs a member of the mortgagor's immediate family, including a father, mother, son, daughter, brother, sister, or spouse, shall desire to repurchase land lost through foreclosure or by a deed given in lieu of foreclosure, such repurchase may be made at a private sale any time before such lands are offered at public sale to the highest bidder. The terms and conditions of any sale under this section must be established by the board of university and school lands, consistent with this title and the fiduciary responsibilities of the board.

SECTION 5. REPEAL. Sections 15-06-33, 15-06-34, 15-06-35, 15-06-36, 15-06-37, 15-07-05, 15-07-06, 15-07-08, 15-07-09, 15-07-11, 15-07-12, 15-07-13, 15-07-14, 15-07-15, 15-07-16, 15-07-17, and 15-07-18 of the North Dakota Century Code are hereby repealed.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 194

SENATE BILL NO. 2469
(Senators Kelsh, Axtman, Richard)
(Representatives Brokaw, Watne, Shockman)

FARM HOME REDEMPTION

AN ACT to provide farmers the right to redeem separate known lots or parcels of property, including a known lot or parcel containing the farmer's home, separately from the remaining property; to amend and reenact section 15-07-04 of the North Dakota Century Code, relating to sale of land by the board of university and school lands; to provide an expiration date; and to declare an emergency.

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

SECTION 1. Declaration of findings. The legislative assembly declares that:

1. This state is suffering from a financial crisis in agriculture that affects the entire economic health of this state.
2. A large number of farm families are in economic distress and are being forced to leave their farms, abandon their investments, and move to other areas. This adversely affects the towns, business communities, and school districts in rural areas.
3. It is in the best interest of the state to protect farm families from the dislocation caused by the financial crisis in agriculture.
4. This Act is enacted pursuant to the police powers of the state in times of economic crisis and in accordance with article XI, section 22, of the Constitution of North Dakota, which requires the legislative assembly to adopt wholesome laws protecting homesteads.

SECTION 2. AMENDMENT. Section 15-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-04. Private sale - Terms and prices. Any land sold under the provisions of this chapter shall be sold by public sale except for purchases under the provisions of sections 15-07-10 and 15-08-13. If the land was acquired through the cancellation of a contract for deed, the price shall be not less than the amount due at the time of cancellation. If the land was acquired through foreclosure, the price shall be not less than the amount due at the time of the foreclosure sale less any amount that was paid for the separate redemption of the property designated pursuant to section 4 of this Act. In either case, the purchase price also must include interest on the aforesaid amount at the rate of five percent per annum from the date of the cancellation or the foreclosure sale, as the case may be, and the amount of recording fees paid by the state.

SECTION 3. Separate redemption of known lots or parcels - Notice. In any proceeding to foreclose any mortgage upon agricultural property as defined in subsection 1 of section 57-02-01, including a proceeding pursuant to chapter 15-03, 15-08, 32-19, 32-19.1, or 35-22, the executing creditor shall notify the debtor that the debtor may redeem known lots or parcels including a lot or parcel containing the debtor's home and some of the property surrounding the home separately from the remaining property. The notice required in sections 32-19-20 and 35-22-03 must contain a statement substantially similar to the following:

WARNING: This creditor is seeking foreclosure on agricultural property that may contain your dwelling. Under North Dakota Law, you have the right to separate known lots or parcels of property, including a lot or parcel containing your dwelling and the surrounding property, and have those known lots or parcels sold in the order or sequence you want at the foreclosure sale. The lots or parcels you designate must be described by an accurate legal description. You have the right to redeem the lots or parcels you designate and describe accurately, including the lot or parcel that contains your dwelling, separate from the remaining property that is being foreclosed upon, by paying the purchase price within the redemption period, which is generally one year from the date of the sale. The purchase price for the known lots or parcels is the price bid at the foreclosure sale for those lots or parcels. You should consult with an attorney so you do not lose these valuable rights. You must provide the sheriff and the register of deeds with a legal description of the known lots or parcels you wish to redeem at least ten business days before the date of the scheduled sheriff's sale.

If the creditor is foreclosing by action, an additional copy of the notice must be served with a summons and complaint. If the creditor is foreclosing by advertisement, an additional copy of the notice must be served no later than forty-five days prior to the date of the scheduled sale. The notice must be served in the same manner as service of a summons and complaint.

SECTION 4. Designation of known lots or parcels to be separately redeemed. The debtor may designate the known lots or parcels that are to be sold separately at the foreclosure sale. The known lots or parcels designated may include the home of the debtor, and may include its appurtenances and the surrounding contiguous land. The debtor shall serve a copy of the legal description of the designated lots or parcels on the sheriff and the register of deeds at least ten business days before the date of the scheduled sheriff's sale.

SECTION 5. Sale of property. Any sheriff who receives a designation of the legal description for the known lots or parcels pursuant to section 4 of this Act shall offer and sell those lots or parcels separately from the remaining property. At the foreclosure sale, or in writing at least ten days prior to the sale, the debtor may direct the division of the property into known lots or parcels and may direct the order in which the lots or parcels and the remaining property, or other property may be sold, as provided by section 28-23-07. In order to direct the division of property into known lots or parcels and to direct the order in which those lots or parcels are to be sold, the lots or parcels must have an accurate legal description.

SECTION 6. Redemption of known lots or parcels designated by the debtor after foreclosure. If, on the effective date of this Act, in any proceeding where a debtor has had agricultural property foreclosed upon but the period of redemption has not expired, and the debtor has not received the notice required by section 3 of this Act, the debtor may agree in writing with the purchaser of the agricultural property to separately redeem known lots or parcels that the debtor has designated, including a lot or parcel that contains the debtor's home, appurtenances, and other property. The agreement must be recorded and must include a legal description of the property redeemed and the amount to be paid to redeem the property.

SECTION 7. Rights of redemptioners or purchasers. No redemptioner or purchaser may subsequently redeem or purchase the designated property if the debtor exercises the right to redeem or purchase it.

SECTION 8. Deficiency judgments. A creditor's right to seek a deficiency judgment on the remaining land and debt is not affected by this Act.

SECTION 9. EXPIRATION DATE. This Act is effective through June 30, 1989, and after that date is ineffective.

SECTION 10. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 195

HOUSE BILL NO. 1244
(Committee on Industry, Business and Labor)
(At the request of the Board of University and School Lands)

LAND SALE CONTRACT CANCELLATION

AN ACT to amend and reenact sections 15-08-07, 15-08-12, 15-08-13, 15-08-18.1, 15-08-18.3, and 15-08-19 of the North Dakota Century Code, relating to redemption from land sale contract cancellation, cancellation of taxes upon expiration of period of redemption from land sale contract cancellation, and taxation and sale for taxes of land sold on contract; and to repeal section 15-08-14 of the North Dakota Century Code, relating to redemption of lands not listed for taxation.

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

SECTION 1. AMENDMENT. Section 15-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-07. Contracts of purchase - Rights of holder - Recording. A contract of purchase of lands, made pursuant to the provisions of this title, shall entitle the purchaser, his heirs or assigns, to the possession of the lands therein described and to maintain actions for injuries done to the lands or to recover possession thereof, unless the contract has ~~become void by forfeiture~~ been canceled and not redeemed. A contract of purchase in force may be recorded in the manner provided by law for recording of deeds of conveyance.

SECTION 2. AMENDMENT. Section 15-08-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-12. Cancellation of contracts of sale for default - Notice - Recording cancellation. If the annual interest or any installment of the purchase price shall not be paid within thirty days after the same shall become due under the provisions of any contract for sale, or if the taxes shall not be paid upon the lands described in said contract in accordance with the provisions of the contract, the contract shall be voidable from the time of any such default. The board of university and school lands, in the case of any voidable contract, may declare the contract canceled by a resolution adopted for that purpose. Upon such declaration of cancellation, the board

shall notify the holder of the contract by a written notice mailed to his post-office address as shown by its records, and shall cause a certified copy of such resolution to be forwarded to the county auditor. A certified copy of the resolution may be recorded in the office of the register of deeds. The resolution shall operate as a complete and final cancellation of the contract without any order or decree of a court except that the purchaser's rights and liabilities continue until the expiration of the period of redemption. Upon the expiration of the period of redemption after cancellation of any such contract, the board shall order the commissioner to take possession of the land described in the contract and serve notice of the expiration of the period of redemption upon the purchaser and the county auditor. When a contract has been canceled and not redeemed, the land described therein shall not be listed thereafter for taxation until it has been resold or a redemption has been made from such cancellation.

SECTION 3. AMENDMENT. Section 15-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-13. Redemption from cancellation of contracts or foreclosure of mortgages. Where the rights of a purchaser under a contract become forfeited has been cancelled under the provisions of this chapter, such the purchaser, his heirs or assigns, during a period of one year from the date of such cancellation, may pay to the commissioner of university and school lands all past due payments on principal and the amount of interest due and payable on the contract, together with all costs which have been incurred in addition thereto, and interest at the rate of four percent per annum on the interest and costs so due from the date of delinquency to the date of payment, and such payment shall operate as a redemption of the rights of such purchaser, his heirs or assigns, and such contract, from the time of such payment, shall be reinstated. As a part of such redemption, he shall pay taxes due or delinquent at the time of the ~~cancellation or foreclosure.~~ If the contract which has been canceled was a contract for crop share payments, the purchaser, his heirs or assigns, to redeem from such cancellation, shall pay all sums delinquent on such contract, including taxes, and shall pay to the commissioner the average of the income from lands described in such contract for the three years preceding such cancellation, for each year from such cancellation to the date of payment, and the further sum of fifty dollars, which shall be credited upon the unpaid principal redemption. When a redemption has been made from the cancellation of any contract, a certified copy of the resolution of the board of university and school lands rescinding the resolution of cancellation shall be forwarded to the county auditor. A certified copy of such resolution may be recorded in the office of the register of deeds in the county in which such land is situated. When a mortgage held by the board has been foreclosed and a sheriff's deed issued to the state, such mortgagor, his heirs or assigns, during the period of one year from the date of such foreclosure, may redeem the lands by paying all past due, deferred, and interest payments, together with all costs which have been incurred through the foreclosure of the mortgage, together with

interest on such sums at the rate of four percent per annum. In the event of redemption of said lands from a foreclosure of a mortgage, the commissioner shall execute and deliver a contract of sale to the purchaser, his heirs or assigns, in the form prescribed by the board. No redemption shall be permitted after the name of a tax purchaser has been substituted in place of that of the contract holder or mortgagor. No redemption shall be permitted of any contract canceled, or mortgage foreclosed prior to July 1, 1963, excepting only during the period of one year from July 1, 1963.

SECTION 4. AMENDMENT. Section 15-08-18.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-18.1. Taxation of public lands sold on contract - Cancellation. Where real property owned by the state of North Dakota as trustee of permanent school funds for the use and benefit thereof is sold upon contract providing for a future conveyance, the department or office making such contract on the part of the vendor shall immediately notify the county auditor of the county wherein the real property is situated, of the making of the contract, the description of the real property therein described, and the name of the vendee. The real property shall be put upon the tax rolls of the county and assessed and the taxes shall be levied thereon, based upon its taxable value on the first day of February next succeeding the date of the contract. Failure to notify the county auditor according to the provisions of this section shall make the commissioner of university and school lands personally liable in a civil action to be brought by the state's attorney of the county wherein the land lies against the commissioner for the amount of the taxes that would have been levied had the notice been given as herein provided. In the event that the contract is canceled by the vendor and not redeemed, the taxes shall be immediately canceled and stricken from the tax rolls by the county auditor upon notice of such cancellation expiration of the period of redemption being given to him by the vendor.

SECTION 5. AMENDMENT. Section 15-08-18.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-18.3. Taxation upon ~~reinstatement of contract or sale to vendee under preference right~~. In the event that a vendee governed by the provisions of section 15-08-18.1, or his heirs, ~~shall redeem real property from cancellation and have his contract reinstated under any law granting such right of reinstatement, or in the event that such a vendee or his heirs purchases real property under the terms and conditions of any law granting a preference right of purchase, the taxes levied upon the real property under the provisions of section 15-08-18.1 shall be a lien upon the interest of the vendee and his heirs, but not as against the vendor, and shall become delinquent and shall be collected as other real property taxes become delinquent and are collected~~. Immediately upon ~~a contract being reinstated or~~ real property being repurchased as herein provided, the vendor shall notify the county auditor in

the same manner as is provided for by section 15-08-18.1 and the real property shall be assessed and taxes levied thereon, subject to further subsequent cancellation of the reinstated or new contract, and the resulting cancellation of the taxes on the property concerned. If real property is repurchased for cash by a vendee or his heirs under a preference right to do so, ~~or when property is conveyed pursuant to a reinstated contract,~~ the taxes levied against the interest of the vendee shall be paid in addition to any sum required to be paid by the law under which the purchaser is granted a preference right of purchase.

SECTION 6. AMENDMENT. Section 15-08-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-19. Taxation and sale for taxes of land sold by state on deferred payment contract. Lands contracted to be sold by the state shall be subject to taxation from the date of the contract, and the taxes assessed thereon shall be collected and enforced in the same manner as taxes against other lands. If the contract is not canceled or if the contract has been canceled and the period of redemption has not yet run, the lands upon which taxes are delinquent may be sold for taxes as other lands are sold. After the expiration of three years from the date of the tax sale certificate, and after notice of expiration of the period of redemption has been given as required in title 57, and after expiration of the time to redeem given under such notice, the purchaser at the tax sale shall acquire such rights and interests as belonged to the holder and owner of the contract issued under the provisions of this chapter and only such rights. The holder of the tax sale certificate may present the same, together with a certificate from the county auditor that notice of expiration of the time for redemption has been given and that no redemption has been made, to the commissioner of university and school lands, and thereupon may have his name substituted in the contract for that of the original holder and owner of the contract as the assignee of such original holder and owner, upon condition that he shall make payment of any principal or interest then in default under the contract of sale. If the lands are sold to the county for taxes, the county may assign its tax sale certificate at any time, and the assignee shall have the rights given by this section to the holder of a tax sale certificate issued to an individual. No tax deed shall be issued upon any tax sale certificate while the legal title to the lands remains in the state of North Dakota.

SECTION 7. REPEAL. Section 15-08-14 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 196

HOUSE BILL NO. 1504
(Stofferahn, Klundt, Watne, Myrdal)

DEBTOR ASSISTANCE PROGRAM NOTICE

AN ACT to require creditors or vendors, in all proceedings to foreclose a mortgage or cancel a contract for the sale of agricultural property, to advise the debtor of the existence of available state administered or sponsored assistance programs; and to provide an expiration date.

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

SECTION 1. Notice to debtors of assistance programs in actions to foreclose a mortgage or cancel a contract. In all proceedings by an executing creditor, vendor, or successor in interest to foreclose any mortgage upon or cancel any contract for the future conveyance of agricultural property as defined in subsection 1 of section 57-02-01, including proceedings pursuant to chapters 15-03, 15-08, 32-18, 32-19, 32-19.1, and 35-22, the notice required in sections 32-19-20, 35-22-03, 15-08-12, and 32-18-01, must contain a statement containing a list of appropriate state assistance programs compiled by the commissioner of agriculture advising the debtor as to the existence of state administered or sponsored programs in this state directed at providing assistance to financially distressed farmers. This section does not apply to a creditor, vendor, or successor in interest who is an individual or a farm corporation authorized under chapter 10-06.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 197

HOUSE BILL NO. 1300
(Representatives Martinson, A. Hausauer, Halmrast)
(Senators Lips, Nelson, Heinrich)

BISMARCK STATE COLLEGE

AN ACT to amend and reenact subsection 6 of section 15-10-01 and subdivision d of subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to the name of Bismarck college.

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

SECTION 1. AMENDMENT. Subsection 6 of section 15-10-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The following junior colleges and off-campus educational center: Bismarck ~~junior state~~ college, Lake Region community college, and the university of North Dakota - Williston center.

SECTION 2. AMENDMENT. Subdivision d of subsection 13 of section 15-10-17 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Employees of Bismarck ~~junior state~~ college and Lake Region community college coming under the jurisdiction of the board who are members of the teachers' fund for retirement may elect prior to July 1, 1985, to continue membership in the teachers' fund for retirement in lieu of the alternate retirement program. If an employee does not elect to continue membership in the teachers' fund for retirement, membership in that fund will terminate and the employee will become a member of the alternate retirement program established by the board effective July 1, 1985. An employee of the above-named colleges who becomes a member of the alternate retirement program may elect prior to July 1, 1985, to have the employee's assessments and employer's contributions in the teachers' fund for retirement with interest transferred by the board of trustees of the teachers' fund for retirement to the employee's account in the alternate retirement program. If an employee elects to transfer the employee's assessment and employer's contributions together with interest to the alternate retirement program, the employee relinquishes all rights the employee or the employee's beneficiary may have to benefits provided in chapters 15-39, 15-39.1, and 15-39.2.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 198

HOUSE BILL NO. 1456
(R. Berg, G. Berg, Cleveland)

HIGHER EDUCATION FACULTY ENGLISH PROFICIENCY

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to an English language proficiency requirement for faculty of state institutions of higher education.

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

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

Faculty - English language proficiency. Any professor, instructor, teacher, or assistant at a state institution of higher education must exhibit proficiency in the English language. Any deficiency must be remedied by special training or coursework provided by the institution.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 199

SENATE BILL NO. 2363
(Senator Satrom)
(Representative Martinson)

ALTERNATE RETIREMENT PROGRAM

AN ACT to create and enact a new subdivision to subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to transfer of contributions from the public employees retirement system to the alternate retirement program for employees at institutions under the control of the state board of higher education; to provide for limited retroactive effect of this Act; and to declare an emergency.

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

SECTION 1. A new subdivision to subsection 13 of section 15-10-17 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Employees of institutions under the control of the state board of higher education who are members of the public employees retirement system, who become entitled to participate in the alternate retirement program, and who transfer the employee's contribution to that program, are entitled to a transfer of contributions in accordance with this subdivision. An eligible employee is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, transferred by the board of trustees of the public employees retirement system to that employee's account in the alternate retirement program. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapter 54-52.

SECTION 2. LIMITED RETROACTIVE EFFECT OF ACT. This Act is retroactive for employees who became eligible for membership in the alternate retirement program after June 30, 1984, but before the effective date of this Act, and who transferred their employee's contribution to the alternate retirement program before the effective date of this Act.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 200

HOUSE BILL NO. 1273
(Strinden, Kelly, Kloubec, Shaft)

INSTITUTIONAL RESEARCH CONFIDENTIALITY

AN ACT to create and enact a new subsection to section 15-10-17 of the North Dakota Century Code, relating to the powers and duties of the board of higher education.

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

SECTION 1. A new subsection to section 15-10-17 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To adopt rules to protect the confidentiality of proprietary information received from sponsors of research conducted by the institutions as well as information generated by that research. No rule promulgated by the board may in any way limit or otherwise affect the applicability or implementation of any rule or regulation of the state department of health. Each grant or contract involving confidential information must be explained in the institution's report to the board of grants and contracts received and must be reviewed at the board's public meeting.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 201

SENATE BILL NO. 2418
(Schoenwald)

RESIDENT VETERAN TUITION WAIVER

AN ACT to amend and reenact section 15-10-18.2 of the North Dakota Century Code, relating to the definition of resident veteran.

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

SECTION 1. AMENDMENT. Section 15-10-18.2 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18.2. Definitions.

1. "Dependent" for purposes of section 15-10-18.3 means any child of a resident veteran, as "veteran" is defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.
2. "Resident veteran" means a ~~person~~ veteran who:
 - a. Was born in and lived in this state until entrance into the armed forces of the United States;
 - b. Was born in, but was temporarily living outside this state, not having abandoned residence therein prior to entrance into the armed forces of the United States;
~~or~~
 - c. Was born elsewhere but had resided within this state for at least six months prior to entrance into military service and had prior to or during such six-month period:
 - (1) Registered for voting, or voted in this state;

- (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; or
 - (3) If not registered for voting in this state, not registered for voting in another state; or
- d. Has been a resident of this state for the ten years prior to the request for tuition waiver.

Approved April 7, 1987
Filed April 9, 1987

CHAPTER 202

HOUSE BILL NO. 1204
(Committee on Education)
(At the request of the Attorney General)

TUITION FOR SURVIVORS OF PUBLIC SERVANTS

AN ACT to create and enact two sections to chapter 15-10 of the North Dakota Century Code, relating to free tuition in North Dakota institutions of higher education for survivors of firefighters or peace officers.

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

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

Definitions. For purposes of section 2 of this Act:

1. "Firefighter" means a person who is a member of a paid or volunteer fire department that is a part of, or administered by, this state, any political subdivision of this state, or a rural fire protection district.
2. "Peace officer" means any person who is employed by a state law enforcement agency or a political subdivision of the state who is charged with the prevention and detection of crime and the enforcement of the criminal laws of the state, and who has full power of arrest.
3. "Survivor" means the children under the age of twenty-one and the spouse of a firefighter or peace officer at the time of the firefighter's or peace officer's death.

SECTION 2. A new section to chapter 15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

Free tuition in North Dakota institutions of higher education for survivor of firefighter or peace officer. Should a firefighter or peace officer die as a direct result of injuries received while engaged in the performance of official duties under circumstances dangerous to human life, the survivor, upon being duly accepted for enrollment into any North Dakota state-supported institution of higher education or state-supported technical or vocational school, must be allowed to obtain a bachelor's degree, or certificate of completion, for so long as the survivor is eligible, free of any tuition and fee charges, except those charged to retire outstanding bonds; provided, however, that the bachelor's degree or certificate of completion is earned within a thirty-six month or eight-semester period or its equivalent; and further provided that tuition and fee charges may not include costs for aviation flight charges or expenses.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 203

SENATE BILL NO. 2196
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

HIGHER EDUCATION EMPLOYEE EXPENSES

AN ACT to amend and reenact section 15-10-25 of the North Dakota Century Code, relating to the payment of mileage and travel expenses for employees of institutions of higher education.

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

SECTION 1. AMENDMENT. Section 15-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-25. Abstracts of expenditures and payroll to the office of management and budget. An officer designated by the state board of higher education for each educational institution under its control shall prepare an abstract of expenditures and payroll, each month, or at such other times as may be necessary, showing the name and amount due each claimant, and the fund from which the payment shall be made, and shall certify that all expenditures were incurred in accordance with law. The abstract shall be submitted to the office of management and budget and a warrant-check shall be prepared for the total amount claimed in the abstract against each fund. The funds disbursed shall be deposited in the Bank of North Dakota to the credit of the appropriate institution and shall be subject to individual checks by such institution. One copy of the abstract shall be kept on file by the office of management and budget, one copy shall be retained by the officer making the abstract, and one copy shall be filed with the treasurer of the institution.

Mileage and travel expense payments for employees of institutions of higher learning shall be made upon the submission of vouchers ~~for the approval of or abstracts approved by the office of the budget.~~ The office of management and budget shall prepare warrant-checks drawn on the state treasurer against the appropriate fund for such mileage and travel expense payments, which payments board of higher education or an officer designated by the board for each educational institution under its control. Payments shall not exceed the amounts allowed for other state officials and employees.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 204

HOUSE BILL NO. 1540
(Gerntholz, V. Olson, Thompson)

SELECTIVE SERVICE REGISTRATION

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to registration with the selective service as a requirement for receipt of student financial aid.

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

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

Student registration with selective service system. No person who is required by the Military Selective Service Act [Pub. L. 759; 62 Stat. 604; 50 U.S.C. App. 451 et seq.] to register with the selective service system may receive student financial aid funds from the state until that person has registered. The state board of higher education may adopt rules to achieve the purpose of this section.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 205

SENATE BILL NO. 2471
(Senators Mushik, J. Meyer, Nalewaja)
(Representatives Kelly, Wentz, Moore)

CHILD WELFARE RESEARCH BUREAU

AN ACT to establish a child welfare research bureau at the university of North Dakota; and to provide an appropriation.

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

SECTION 1. Child welfare research bureau - Establishment - Director.

1. A child welfare research bureau is hereby established to be administered and funded by and in conjunction with the university of North Dakota.
2. A director shall be appointed by the university. The director shall manage the bureau, hire necessary personnel, and prepare a biennial budget. The university shall fix the salaries of the director and bureau personnel, and may remove the director for cause.

SECTION 2. Functions. The purpose of the child welfare research bureau shall be to conduct applied research on matters pertaining to the welfare of children and youth in this state. The bureau may render services consistent with its purpose, including:

1. Compilation, analysis, publication, and dissemination of statistics, summaries, and other information relating to research conducted on matters pertaining to the welfare of children and youth.
2. Technical assistance to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities that serve children and youth.

SECTION 3. Gifts and grants. The child welfare research bureau may contract for and benefit from private contributions, gifts, and grants from the federal government, private organizations, and other sources pursuant to section 15-10-12.

SECTION 4. APPROPRIATION - BUDGET SECTION APPROVAL. There is hereby appropriated, upon approval of the budget section of the legislative council, any moneys as may become available from federal, private, and other funds to the university of North Dakota for the biennium beginning July 1, 1987, and ending June 30, 1989, for the purpose of establishing a child welfare research bureau at the university of North Dakota.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 206

HOUSE BILL NO. 1293
(Representatives Lindgren, Moore)
(Senator Dotzenrod)

NDSU PUBLICATIONS

AN ACT to amend and reenact section 15-12-12 of the North Dakota Century Code, relating to the publication by the county commission and county extension agent of services and publications available through North Dakota state university.

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

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

15-12-12. North Dakota state university services and publications - County auditor - Duty Publication of information. Each county auditor shall cause the list of publications of the North Dakota state university of agriculture and applied science, as furnished by the state university, to be published in the official newspaper of the county for one issue during the first week in June of each year commission shall, jointly with the county extension agent, publish quarterly in the official county newspaper an advertisement, approximately 3 x 10 SAU in size, describing the free publications available from the cooperative extension service of North Dakota state university and the services available through the county extension office. The cost of the advertisement, based upon the legal advertising rate provided in section 46-05-03, shall be determined in consultation with the North Dakota newspaper association and shall be shared equally by the county and the cooperative extension service of North Dakota state university. The county auditor shall furnish the advertisement to the newspaper from information furnished by the county extension agent.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 207

HOUSE BILL NO. 1164
(Committee on Social Services and Veterans Affairs)
(At the request of the Highway Department)

DEPUTY TOXICOLOGISTS

AN ACT to amend and reenact section 15-12-21 of the North Dakota Century Code, relating to the authority of the state toxicologist to appoint deputy state toxicologists.

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 state toxicologist may designate a qualified deputy state toxicologist to exercise the authority and responsibility prescribed by law for the state toxicologist. The deputy state toxicologist shall serve at the pleasure of the 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 section shall not apply to section 39-20-13.

* NOTE: Section 15-12-21 was also amended by section 1 of House Bill No. 1120, chapter 208.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 208

HOUSE BILL NO. 1120
(Committee on State and Federal Government)
(At the request of the State Board of Higher Education)

TOXICOLOGIST FEES

AN ACT to amend and reenact section 15-12-21 of the North Dakota Century Code, relating to fees charged by the state toxicologist.

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 deposited in the toxicologist's operating fund under section 15-10-12.~~ 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 section shall not apply to section 39-20-13.

Approved March 12, 1987
Filed March 16, 1987

* NOTE: Section 15-12-21 was also amended by section 1 of House Bill No. 1164, chapter 207.

CHAPTER 209

HOUSE BILL NO. 1643
(C. Nelson)

GENERAL EQUIVALENCY CERTIFICATE FEES

AN ACT to authorize the superintendent of public instruction to charge fees for copies of general equivalency certificates.

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

SECTION 1. General equivalency certificates - Fees for copies. The superintendent of public instruction may charge a fee of not to exceed three dollars for each general equivalency certificate issued by the superintendent of public instruction, a fee not to exceed ten dollars for certified copies of general equivalency certificates, and a fee of two dollars for copies of transcripts of persons earning general equivalency certificates. Any moneys derived from fees generated under this section must be deposited in the revolving printing fund in the state treasury and may be expended by the superintendent of public instruction to cover costs of administering this section.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 210

HOUSE BILL NO. 1278
(Representatives O'Connell, Kolbo, Myrdal)
(Senators Kelly, Heinrich, Peterson)

SCHOOL DISTRICT ELECTIONS

AN ACT to amend and reenact section 15-22-23, subsection 1 of section 15-28-03, and sections 15-28-04 and 15-28-07 of the North Dakota Century Code, relating to the date of school district elections.

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

SECTION 1. AMENDMENT. Section 15-22-23 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-23. County superintendent of schools to publish notice of annual election. At least fourteen days before the annual election, the county superintendent of schools in each county shall publish, in the official newspaper of the county, notice that annual elections will be held on the first or second Tuesday in June a date between April first and June thirtieth in public school districts. If no newspaper is published in the county, the notice ~~shall~~ must be published in a newspaper in an adjoining county in the state.

SECTION 2. AMENDMENT. Subsection 1 of section 15-28-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. An annual election ~~shall~~ must be held in each public school district on the first or second Tuesday in June a date between April first and June thirtieth, at the discretion of the school board, ~~of each year~~. At each annual election, members of the school board ~~shall~~ must 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~~ The term ~~shall commence on~~ of any elected member commences at the second Tuesday annual meeting in July following ~~his~~ the member's election, and ~~he shall continue~~ continues until ~~his~~ a 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.

SECTION 3. AMENDMENT. Section 15-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-04. Election precincts, polling places, and officers. At least ~~fourteen~~ thirty-five days prior to the ~~Tuesday in June~~ date chosen for the annual election ~~in each year,~~ the school board of each public school district, by motion or resolution, shall designate one or more precincts and polling places for the school election. ~~Such~~ The precincts shall ~~must~~ be arranged so as to divide the electors in the district as nearly equally as possible, and no precinct ~~shall~~ may have a population in excess of six thousand residents as shown by the last federal decennial census. The polling places established in ~~such~~ the precincts ~~shall~~ must be located as conveniently as possible for the voters in the precinct, and a polling place once established by the board ~~shall~~ must remain the polling place for the precinct until it is changed by subsequent action of the board. The board shall appoint two persons to act as judges and two persons to act as clerks of the election in each precinct. Before opening the polls, each of the judges and clerks shall take an oath or affirmation ~~that he will to perform his~~ the duties ~~as of~~ of judge or clerk, as the case may be, according to law and to the best of ~~his~~ the judge's or clerk's ability. The oath or affirmation may be administered by any officer authorized to administer oaths, or by any of the judges or clerks to the others.

SECTION 4. AMENDMENT. Section 15-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-07. Notice of election - Form. The notice of election ~~shall~~ must be in substantially the following form:

Notice is hereby given that on Tuesday -----, (insert the day of the week) the ----- day of June -----, -----, annual elections will be held for the purpose of electing member(s) of school boards, and the polls will be open at ----- a.m. ----- (insert time standard) and will close at ----- p.m. ----- (insert time standard) of that day.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 211

HOUSE BILL NO. 1153
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT BOUNDARIES

AN ACT to amend and reenact subsection 5 of section 15-27.1-06 of the North Dakota Century Code, relating to the powers of the county committee and the state board of public school education.

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

SECTION 1. AMENDMENT. Subsection 5 of section 15-27.1-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Establish standards by the adoption of rules to govern the county committees and state board in the development and approval of school district reorganization plans or reorganization, annexation, and dissolution proposals. The standards must require any school district to be formed under any plan or proposal providing for the operation of a high school to have sufficient tax base and fiscal capacity to clearly permit the district to offer the minimum curriculum prescribed by section 15-41-24 taught by teachers possessing the qualifications required by section 15-41-25. Exceptions to the standards may be allowed by a county committee or the state board only in extreme cases where because of sparsity of population or geographical barriers it is impossible to obtain compliance with them. ~~The county committees or the state board may not approve any reorganization, annexation, or dissolution proposal unless it has logical boundaries following a uniform pattern without undue irregularities.~~

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 212

SENATE BILL NO. 2044
(Legislative Council)
(Interim Education Finance Committee)

NONOPERATING SCHOOL DISTRICTS

AN ACT to create and enact a new section to chapter 15-27.1 of the North Dakota Century Code, relating to the reorganization, annexation, or dissolution of nonoperating school districts; and to amend and reenact section 15-27.4-01 of the North Dakota Century Code, relating to the dissolution of school districts not operating schools and attachment of their territory to school districts operating schools.

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

SECTION 1. A new section to chapter 15-27.1 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reorganization, annexation, or dissolution of school district not operating a school - Transportation. Any school district in this state which is not operating either an approved elementary or high school within its boundaries on the effective date of this Act, unless it begins operating an approved elementary or high school prior to July 1, 1989, and any school district that may cease to operate either an approved elementary or high school within its boundaries after the effective date of this Act, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall become, through the process of reorganization, annexation, or dissolution as provided by law, a part of a school district operating an approved elementary or high school. Any school district not operating either an approved elementary or high school within its boundaries on the effective date of this Act, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall complete reorganization with or annexation to an operating school district by July 1, 1989. Any school district that ceases to operate either an approved elementary or high school within its boundaries after the effective date of this Act, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall complete reorganization or annexation within two years from the date the school district ceased to operate either an approved elementary or high school. Any

student who resides within a school district which is annexed to or reorganized with another district or districts pursuant to this Act, and which has been sending students to a school district in a bordering state, county, or district, because of proximity or terrain, shall be permitted to attend or continue to attend school in the district in the bordering state, county, or district. The students in any district that is attached by annexation, reorganization, or dissolution pursuant to this Act must be provided transportation in the same manner transportation is provided to students in the school district the nonoperating district is attached to.

The county committee of the county encompassing the major portion of any school district affected by this Act which does not reorganize or annex itself to an operating school district within the time limit prescribed in this Act shall dissolve and attach the nonoperating school district to an operating school district in accordance with chapter 15-27.4.

SECTION 2. AMENDMENT. Section 15-27.4-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27.4-01. Dissolution of public school districts - Responsibility of county committee - Duty of county superintendent. The county committee shall forthwith schedule and provide notice of a public hearing to dissolve a school district and attach the territory to other school districts upon the following occurrences:

1. Receipt by the county committee of notice from the county superintendent that:
 - a. A school district can no longer levy sufficient taxes to carry on normal school operations;
 - b. A school district within the county has not operated a school by the thirty-first of December of the year following the calendar year in which such operation ceased, providing fifty percent of the pupils from such school district are not attending schools in another state as is required by section 1 of this Act;
 - c. There exists territory not organized into a school district; or
 - d. Any portion of a school district within the county has been severed from the district by the expansion and growth of a city and the severed portion is not contiguous with the district.
2. When any portion of a school district has been left out of a school district reorganization, the county committee shall, within forty-five days after voter approval of the school district reorganization proposal, order a hearing

pursuant to section 15-27.4-02 for the purpose of determining to which school district or districts the remaining territory should be attached.

After approval by the state board of the proposed dissolution, the county committee shall provide for the attachment of the territory of the dissolved district to one or more adjoining school districts effective July first next following the approval unless another effective date is provided for by the county committee. Qualified electors residing in the attached territory are entitled to vote and hold office in the school district to the same extent as all other qualified electors residing in the district, and the territory is part of the school district as fully in every respect as if it had been included in the district when organized. This section does not prevent the district from providing for the education of the children to the extent that its current budget in the judgment of the school board will permit, or relieve the district from any existing responsibility for the education of children attending its schools before the effective date of the order. This section does not change the effect of any election held within the school district pursuant to chapter 15-48 before the effective date of the order.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 213

SENATE BILL NO. 2520
(Moore)

ANNEXED SCHOOL DISTRICT FUNDS

AN ACT to amend and reenact subsection 6 of section 15-27.2-04 of the North Dakota Century Code, relating to credit for residents of annexed school districts that have surplus funds prior to the annexation.

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

SECTION 1. AMENDMENT. Subsection 6 of section 15-27.2-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. If the annexation is approved by the state board, the county committee may cause a tax to be levied against each district affected in accordance with section 15-47-21 which will equalize the several interests fairly. The unobligated cash balance in excess of ten thousand dollars not designated for indebtedness shall be a credit for the residents of the annexed school district against taxes levied by the receiving school district in the year or years following the annexation depending on the average local effort based on the previous five-year average as calculated by the county superintendent. If a school district is attached to more than one school district, the credit that the residents of the attached school district receive from the receiving school district must be in the same proportion to the remaining unobligated cash balance as the taxable valuation of the property bears to the total taxable valuation of the property in the school district that existed prior to annexation.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 214

SENATE BILL NO. 2211
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

ANNEXATION PETITIONS

AN ACT to amend and reenact subsection 8 of section 15-27.2-04 of the North Dakota Century Code, relating to the submission of annexation petitions to the county committee.

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

SECTION 1. AMENDMENT. Subsection 8 of section 15-27.2-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. Whenever a petition for annexation has failed to be approved by any county committee, a petition involving any of the same area may not be submitted to the county committee for a period of three months and such after the filing of the petition. The petition may not be submitted to the county committee more than twice in twelve consecutive months.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 215

SENATE BILL NO. 2209
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

STATE BOARD ANNEXATION CONSIDERATION

AN ACT to amend and reenact subsection 9 of section 15-27.2-04 of the North Dakota Century Code, relating to the submission of annexation petitions to the state board of public school education.

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

SECTION 1. AMENDMENT. Subsection 9 of section 15-27.2-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Whenever a petition for annexation has failed to be approved by the state board, a petition involving any of the same area may not be submitted to the state board for a period of three months ~~and such~~ after the filing of the petition. The petition may not be submitted to the state board more than twice in twelve consecutive months.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 216

HOUSE BILL NO. 1275
(Hamerlik)

SCHOOL DISTRICT REORGANIZATION

AN ACT to amend and reenact section 15-27.3-19 of the North Dakota Century Code, relating to changes in approved school district reorganization proposals; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 15-27.3-19 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 217

HOUSE BILL NO. 1276
(Hamerlik)

SCHOOL BOARD RURAL MEMBERS

AN ACT to amend and reenact section 15-28-02 of the North Dakota Century Code, relating to the election of rural members to school boards; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 15-28-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-02. Rural members of school board. When a school district is composed of six or more sections of land having a city within its boundaries and when the population of the school district does not exceed two thousand persons, at least two members of the school board shall be residents upon farms outside the corporate limits of the city. When a school district is composed of six or more sections of land and has within its boundaries a city with a population of more than two thousand but less than fifteen thousand persons, and has at least twenty-five families residing upon farms outside the corporate limits of the city but upon farmsteads located within the school district and sending children to school in such school district, at least one member of the board shall be a resident upon a farm outside the corporate limits of the city. ~~Provided, that when~~ However, if the taxable valuation of the rural area of a school district containing a city is greater than the taxable valuation of the urban area of the district, the majority of the members of the school board shall reside upon farms outside the corporate limits of the city; provided, that all voters of the school district, regardless of whether the district is reorganized, are entitled to vote for each candidate to the school board whenever the variance in population between any of the geographic voting areas of the school district is in excess of ten percent.

For purposes of this section, school board members shall be considered as rural members and as residing upon a farm if they reside within a city that according to the latest federal census has a population of two hundred or less and is located within a school district that has four or more incorporated cities within its boundary.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 218

SENATE BILL NO. 2446
(Senators Heinrich, Kelly)
(Representatives Myrdal, V. Olson)

SCHOOL DISTRICT BUSINESS MANAGER

AN ACT to amend and reenact sections 15-29-03, 15-29-03.1, 15-29-04, 15-29-06, subsection 12 of section 15-29-08, sections 15-29-09, 15-29-10, 15-29-11, and 15-29-13 of the North Dakota Century Code, relating to changing references from school district clerk to school district business manager; and to change statutory references from clerk of the school district to business manager of the school district.

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

SECTION 1. AMENDMENT. Section 15-29-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. AMENDMENT. Section 15-29-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-03.1. School district ~~clerk~~ business manager to be substituted for school district treasurer and clerk. ~~It is the intent of the legislative assembly that the clerk~~ The business manager of any public school district shall be substituted for, take any action previously taken by, and shall perform any duties previously performed by the treasurer and the clerk of such public school district.

SECTION 3. AMENDMENT. Section 15-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-04. Duties of president. The president shall preside at all meetings of the board, appoint all committees subject to approval of the board, sign all warrants ordered by the board to be drawn upon the ~~clerk~~ business manager for school moneys, and perform other acts required by law. In the absence of the president at any meeting, a president pro tempore may be elected by the board.

SECTION 4. AMENDMENT. Section 15-29-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 5. AMENDMENT. Subsection 12 of section 15-29-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. To defray the necessary and contingent expenses of the board, including the compensation of its ~~clerk~~ business manager.

SECTION 6. AMENDMENT. Section 15-29-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-09. Duties of the ~~clerk~~ business manager of the school board. The ~~clerk~~ business manager of the school board shall:

1. Keep a true and complete record of all of the proceedings of the school board.
2. Take charge of all the books and documents of the district and deliver them to ~~his~~ the business manager's successor in office.
3. Prepare and submit to the board and to the county superintendent of schools an annual report which shall contain such items as may be required by the superintendent of public instruction.

4. Countersign all warrants for school moneys drawn upon the ~~school district clerk~~ business manager by order of the board.
5. Perform all duties ~~enjoined upon him~~ required of the business manager under title 57 and title 21.
6. Perform such other duties as the board may require.
7. Keep a separate true and correct account of the receipts and expenditures of each fund of the district.
8. Prepare and submit quarterly to the board a written report of the state of the finances of the district, and to submit such report at any other time upon the request of the board; provided, however, that in school districts in which are located only one-room or two-room schools, the ~~clerk~~ business manager shall be required to submit such a report only upon the request of the board.
9. Produce at any meeting of the board or of any committee appointed to examine his accounts, whenever ordered to do so by the board, all of the books and papers pertaining to ~~his~~ the business manager's office.
10. Keep safely in ~~his~~ possession or under ~~his~~ control all school moneys coming into ~~his~~ the business manager's hands.
11. Pay out district moneys under ~~his~~ the business manager's control in accordance with ~~the provisions of~~ section 15-29-13. The form of warrant shall be prescribed by the superintendent of public instruction and shall be so drawn that when signed by the ~~clerk~~ business manager in an appropriate place it becomes a check on the school district depository.
12. Receive and have custody of all moneys from every source which the school board of the district is authorized to receive.
13. Attend meetings of the board, when requested, and perform all duties required of him under title 57 and title 21.

SECTION 7. AMENDMENT. Section 15-29-10 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-10. District records open to examination - Records as evidence. The records, vouchers, and papers of the district are open to examination by any taxpayer of the district. These records, or a transcript thereof certified by the ~~clerk~~ business manager, must be received in all courts as prima facie evidence of the facts therein set forth.

SECTION 8. AMENDMENT. Section 15-29-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-11. Clerk's Business manager's bond. The clerk business manager of each school district shall furnish to the school district a bond conditioned that he the business manager will honestly and faithfully discharge the duties of his office and that he the business manager shall safely keep and render a true account of all funds and property that shall come into his the business manager's hands as such clerk business manager, and pay and deliver the same according to law. Such bonds shall be in an amount to be fixed by the school board but shall be not less than twenty-five percent of the maximum amount of money that shall be subject to the clerk's business manager's control at any one time.

SECTION 9. AMENDMENT. Section 15-29-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-13. Form of warrants - How warrants paid by clerk business manager - Activities fund - Incidental revolving fund. The clerk business manager shall pay out moneys only upon the presentation of a warrant signed by the president of the board, and only if there is money in his the business manager's hands or subject to his the business manager's order sufficient for the payment thereof. The form of warrant to be used by a school district shall be prescribed by the superintendent of public instruction. When making payment of a warrant on school district funds, the school district clerk business manager shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned, shall become a check on the school district depository. Immediately upon countersigning any warrant and inserting the name of the depository bank thereon, he the business manager shall enter the payment in his clerk's the record. The clerk business manager shall not issue a check on the depository bank except as provided in this section.

The school board by resolution shall establish an activities fund for the support of various extracurricular activities under the auspices of the school board. Receipts from extracurricular activities shall be deposited in the activities fund. The school district clerk business manager shall pay out moneys only upon the presentation of a warrant signed by the president of the board and countersigned by the clerk business manager. The superintendent of schools shall submit to the school board a monthly report of receipts, expenditures, and balances in each account in the activities fund.

The school board may, by resolution, establish an incidental revolving fund in the depository bank and designate the superintendent of schools or such other school administrator as the board may select to draw checks directly on such fund for such incidental expenses as the school board may direct in the resolution. The amount to be retained in such fund shall be established by the school board and drawn from the general fund.

The superintendent or other school administrator designated to draw checks on such fund shall submit a monthly report to the school board listing the checks drawn, the payee, and the purpose for which the check was drawn.

SECTION 10. Clerk of school district renamed business manager of school district. Wherever the terms "clerk of the district", "clerk of the school district", "school district clerk", "district clerk", "clerk of the school board", or any derivative of these terms which, when used in context indicates an intention to refer to the clerk of any public school district, appear in the North Dakota Century Code, the term "business manager of the school district", or an appropriate derivative of that term, is to be substituted for the relevant term.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 219

SENATE BILL NO. 2423
(Peterson, Maxson)

TEACHER'S CERTIFICATES

AN ACT to amend and reenact sections 15-36-15, 15-36-16, and 15-38-19 of the North Dakota Century Code, relating to the authority of the superintendent of public instruction to suspend, revoke, or annul teachers' certificates, and the certificate proceedings conducted by and the authority of the teachers' professional practices commission.

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

SECTION 1. AMENDMENT. Section 15-36-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-15. Revocation of teacher's certificates - Grounds - Effect. The superintendent of public instruction ~~shall~~ may suspend for a period of time, or revoke and annul any teacher's certificate granted in this state upon any or all of the following grounds:

1. For any cause which would have authorized or required ~~him~~ the superintendent to refuse to grant the certificate if the facts were known at the time when the certificate was granted.
2. For incompetency, immorality, intemperance, or cruelty of the certificate holder.
3. For the commission, by the The certificate holder, of a crime as defined in the laws of has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or of the United States before any federal court, of an offense determined by the superintendent of public instruction to have a direct bearing upon a person's ability to serve the public as a teacher, or the superintendent of public instruction determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

4. For the refusal by the certificate holder to perform his duty as the duties of a teacher or for his the general neglect of the work of the school.
5. For the breach, by the certificate holder, of his a contract with any school district.
6. Serious violation or a series of violations of the professional codes and standards promulgated in accordance with law.

The revocation of a certificate shall terminate the employment of the holder of such certificate in the school in which he the holder is employed when the certificate is revoked, but the teacher holder shall be paid to the time he received the notice of the revocation was received. Appeals from any order of revocation may be taken to the district court of Burleigh County as provided by chapter 28-32.

SECTION 2. AMENDMENT. Section 15-36-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-16. Proceedings to suspend, revoke, or annul certificate. The superintendent of public instruction may upon his own motion, or, upon the receipt of a formal complaint by the teachers' professional practices commission alleging grounds for the revocation or suspension for a period of time of any person's teacher's certificate shall make such preliminary investigation as he may deem necessary, and if it shall appear probable that such grounds exist, he shall proceed with to suspend for a period of time, revoke, or annul any person's teacher's certificate as set forth in subsections 1, 2, 4, 5, and 6 of section 15-36-15, shall conduct proceedings in accordance with chapter 28-32. The superintendent of public instruction, upon receipt of a formal complaint which includes a certified copy of a criminal judgment alleging grounds for suspension or revocation of any person's teacher's certificate as set forth in subsection 3 of section 15-36-15, shall conduct proceedings in accordance with chapter 28-32. Upon the completion of such proceedings, if the superintendent of public instruction shall find that grounds for revocation to annul, revoke, or suspension suspend for a period of time do exist, he the superintendent shall issue his an order in the manner provided in chapter 28-32 to annul, revoke, or suspend for a period of time the teacher's certificate of such person as provided in section 15-36-15.

SECTION 3. AMENDMENT. Section 15-38-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-19. Complaints against teachers. The commission shall accept and investigate complaints against any member of the teaching profession engaged in teaching in the public schools in regard to alleging a violation or violations of regulations promulgated in accordance with section 15-38-18 or otherwise pertaining to his personal or professional conduct or performance, or such

investigation or alleging grounds as set forth in subsections 1, 2, 4, 5, and 6 of section 15-36-15. Such investigations may be made upon ~~its~~ the commission's own motion. Following such investigation the commission may dismiss such complaint as unfounded, issue a written warning and reprimand, or, following an opportunity for such teacher to informally appear before the commission, file a formal complaint with the superintendent of public instruction requesting the suspension for a period of time ~~or~~, revocation or annulment of the ~~teachers'~~ teacher's certificate of the teacher involved and stating the reasons therefor. The commission shall make the results of its investigation fully available to the superintendent of public instruction in such cases. Upon receipt of such formal complaint, the superintendent of public instruction shall proceed as provided in sections 15-36-16 and 15-36-17 and in accordance with section 15-36-15.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 220

SENATE BILL NO. 2208
 (Committee on Education)
 (At the request of the Teachers' Fund for Retirement)

TFFR CHANGES

AN ACT to amend and reenact sections 15-39.1-04, 15-39.1-06, subsection 1 of section 15-39.1-09, sections 15-39.1-22, and 15-39.1-27 of the North Dakota Century Code, relating to the teachers' fund for retirement.

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

* SECTION 1. AMENDMENT. Section 15-39.1-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-04. Definitions. For purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.
2. "Base salary" as applied to the purchase of additional service credit ~~shall be~~ means the teacher's first annual salary earned in North Dakota immediately following the period for which service credit may be purchased.
- 2- 3. "Beneficiary" means the person designated in writing by the member or, in the absence of such designation, the member's surviving spouse, if any.
- 3- 4. "Board" ~~shall mean~~ means the board of trustees of the teachers' fund for retirement.
- 4- 5. "Contract" means a written agreement with any school board or other governing body of any school district of this state or a letter of appointment by a state institution, state agency, or other employer participating in the fund.
- 5- 6. "Fund" ~~shall mean~~ means the teachers' fund for retirement.

* NOTE: Section 15-39.1-04 was also amended by section 1 of House Bill No. 1494, chapter 221.

- 6- 7. "Interest", as applied to member assessments or as applied to the repurchase of credit for withdrawn years, is six percent compounded annually. "Interest", as applied to the purchase of extra service credit as defined in section 15-39.1-24, is eight percent compounded annually.
8. "Retirement annuity" means the payments made by the fund to a member after retirement, these payments beginning on the first or fifteenth day of the month following eligibility for a benefit.
- 7- 9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, and administrative services during a school year as reported on the member's federal income tax withholding statements plus the value of any fringe benefits selected at the member's option in lieu of monetary remuneration. "Salary" does not include fringe benefits such as payments for unused sick leave or vacation leave, housing allowances, transportation expenses, early retirement incentive pay, severance pay, or medical insurance premiums paid by the employer in addition to salary.
- 8- 10. "State institution" ~~shall include~~ includes all state colleges and universities, the school of forestry, the school of science, the school for the blind, the school for the deaf, the Grafton state school, and the North Dakota industrial school.
- 9- 11. "Teacher" ~~includes~~:
- a. Includes:
- (1) All persons who are certified to teach in this state who are contractually employed in teaching in any state institution or by any school board or other governing body of any school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers employed in any state institution or in the school system of any school district in this state, except that the superintendent and assistant superintendent of the Grafton state school may be brought within this definition at their option.
- b- (2) The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, state school supervisors and inspectors, every person engaged as president, dean, school librarian, or registrar of any state institution,

the secretary of the North Dakota education association, all assistant secretaries and professional staff of such association, the commissioner of higher education, and the professional staff of the North Dakota high school activities association.

e- (3) The executive director of the North Dakota school boards association, the executive secretary of the ~~teachers' fund for retirement~~, the executive director of the North Dakota council of school administrators, and the ~~secretary of the North Dakota school administrators association~~; provided, that such persons were certified staff of teachers centers, but only if the person was previously members a member of and have has credits in the fund.

b. The term "teacher" does Does not include persons connected with any professional school or college of any state institution as lecturers who are engaged in the practice of their respective professions and with whom teaching is merely an avocation.

SECTION 2. AMENDMENT. Section 15-39.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-06. Organization of board. The board may hold meetings as ~~may be necessary~~ for the transaction of business and a meeting may be called by the president or any two members of the board upon reasonable notice to the other members of the board. The president for the ensuing year ~~shall~~ must be elected at the first meeting following July first of each year. ~~The state treasurer shall act ex officio as treasurer and the board shall be empowered to may employ a secretary an administrator, who need not be a member of the board and who shall perform such duties as the board may prescribe prescribes.~~

* SECTION 3. AMENDMENT. Subsection 1 of section 15-39.1-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. ~~Every teacher, except under~~ Except as provided in subsection 2 of section 15-39.1-10.3, every teacher is a member of the fund and must be assessed upon the teacher's salary six and twenty-five hundredths percent per annum, which ~~shall~~ must be deducted monthly and paid to the ~~state treasurer fund~~ 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 fund~~ state treasurer fund a sum equal to six and twenty-five hundredths percent per annum of the salary of each teacher employed by it. ~~All such sums must be certified by the~~

* NOTE: Section 15-39.1-09 was also amended by section 1 of Senate Bill No. 2503, chapter 222.

disbursing official and paid quarterly to the state treasurer who shall set the same aside in the teachers' fund for retirement. The disbursing official shall certify the sums and pay the sums quarterly to the fund.

SECTION 4. AMENDMENT. Section 15-39.1-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-22. Annual report of board. ~~On or before the first day of October of each year, the~~ The board shall annually report for the fiscal year ending the preceding June thirtieth day of June preceding. A. The board shall provide a copy of the report shall be submitted at the annual meeting of the members, which shall be at the time and place of the annual meeting of the North Dakota education association, and a copy of the report shall be annually submitted to each member and the governor.

SECTION 5. AMENDMENT. Section 15-39.1-27 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-27. "Year" defined - Computing for part-time teachers Computation of years of service. In computing the terms of service of a member under the provisions of this chapter, for a member employed full time, a year shall is deemed to be one hundred seventy-five days of compensation. A time Employment less than one hundred seventy-five days of compensation shall is not deemed to be included as a full year but only as such the proportion of a year as the number of days of compensation hours employed in each year of service bears to one seven hundred seventy-five days of compensation hours.

At least four duty hours per day for twenty days per month shall constitute a month's teaching credit toward a retirement annuity for part-time teachers.

Approved March 26, 1987

Filed March 30, 1987

CHAPTER 221

HOUSE BILL NO. 1494
(C. Nelson)

TFFR INTEREST, DISABILITY, AND SERVICE CREDIT

AN ACT to amend and reenact subsection 6 of section 15-39.1-04 and sections 15-39.1-18 and 15-39.1-24 of the North Dakota Century Code, relating to a definition of interest, disability retirement, and purchase of service credit under the teachers' fund for retirement.

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

* SECTION 1. AMENDMENT. Subsection 6 of section 15-39.1-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Interest", as applied to member assessments or as applied to the repurchase of credit for withdrawn years, is six percent compounded annually. ~~"interest", as applied to the purchase of extra service credit as defined in section 15-39.1-24, is eight percent compounded annually.~~

SECTION 2. AMENDMENT. Section 15-39.1-18 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-18. Disability retirements.

1. Any member may also retire and receive a disability annuity if, after a period aggregating ten years of at least one year of service as a member in this state, the member suffers from total disability as determined by the board.
2. The amount of the disability annuity shall equal the retirement benefit credits which the member had earned to the date of disablement is the greater of twenty percent of the last annual salary, or the amount computed by the retirement formula in section 15-39.1-10 without consideration of age. A member determined eligible for a disability annuity under this section may elect to receive

* NOTE: Section 15-39.1-04 was also amended by section 1 of Senate Bill No. 2208, chapter 220.

an annuity under any of the options allowed in section 15-39.1-16.

3. The disability annuity ~~shall continue~~ continues until the death or prior recovery of the disabled annuitant. The board shall ascertain by examinations annually, or more often if necessary in the opinion of the board, the continued disability status of a disabled annuitant.
4. If a disabled annuitant recovers and returns to active teaching, ~~he shall retain that annuitant is entitled to the retirement benefit credits which he the annuitant earned prior to the time of disablement, and the credits which he the annuitant earned after his return returning to active teaching shall~~ must be added to those earned prior to ~~his~~ disablement.
5. If the member elected a disability annuity under an option allowed under section 15-39.1-16, then subsequent retirement benefits must also be under that option.

SECTION 3. AMENDMENT. Section 15-39.1-24 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-24. ~~Teacher entitled to~~ Purchase of additional credit. Prior to retirement a teacher may purchase additional credit for use toward retirement in the following instances and manner:

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.
2. Any teacher who has received an honorable discharge from military service of the United States of America may receive credit for no more than four years of active service, upon filing application and proof with the board and subject to the terms of this chapter upon teaching one year in North Dakota subsequent to military service.
3. A teacher who attends a college, university, or other recognized school for two consecutive semesters or three consecutive quarters, other than summer sessions, for the purpose of improving ~~his~~ the teacher's qualifications in the teaching profession ~~shall be is~~ entitled to have such periods while in attendance at ~~such~~ that college, university, or school credited, not to exceed three years

- of teaching service, under the provisions of this chapter; provided, that. To be eligible for purchasing credit under this subsection, the teacher has must have taught at least one full school year in North Dakota immediately preceding his entrance into the college, university, or school and that, or, immediately following such training he shall, the teacher must have taught not less than one full school year in a public school or state institution of this state.
4. Any teacher, after acquiring one year of service credit in the fund, may elect to purchase no more than ten years' service credit in accordance with this chapter, for years of service as a nonpublic schoolteacher, prior to July 1, 1971. For the purposes of this subsection, "nonpublic schoolteacher" means "lay faculty" as defined by subdivision k of subsection 1 of former section 15-39-01.
 5. A teacher may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later a legislative session must be purchased within one year after the adjournment of that legislative session.
 6. A teacher may purchase credit for service as an administrator or teacher in the field of education if employed by an agency of the United States government teaching school age children. The maximum service that may be purchased under this subsection is ten years.
 7. The Except as provided in subsection 5, the amount of additional service eligible to be purchased under this section shall must be credited to the teacher when the teacher has made the required payment within five years of initial eligibility or by July 1, 1986, whichever is later. The payment shall include teacher and employer assessments, plus interest, calculated upon the teacher's base salary, which shall also be the basis of the retirement benefits which the teacher shall be entitled to receive. In all cases, the purchase cost must be on an actuarial equivalent basis.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 222

SENATE BILL NO. 2503
(Senators Heinrich, Satrom, Holmberg)
(Representatives Christman, C. Nelson)

TFFR BENEFITS AND VESTING

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to postretirement benefit adjustments under the teachers' fund for retirement; to amend and reenact subsection 1 of section 15-39.1-09, subsections 1 and 2 of section 15-39.1-10, and section 15-39.1-11 of the North Dakota Century Code, relating to assessment and contribution rates, payments of benefits, and vesting under the teachers' fund for retirement; and to provide for application of this Act.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 15-39.1-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every teacher, except under subsection 2 of section 15-39.1-10.3, is a member of the fund and must be assessed upon the teacher's salary six and twenty-five hundredths percent per annum, which ~~shall~~ must be deducted monthly and paid to the ~~state treasurer fund~~ 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 fund~~ six and twenty-five hundredths percent per annum of the salary of each teacher employed by it. All such sums must be certified by the disbursing official and paid quarterly to the ~~state treasurer who shall set the same aside in the teachers' fund for retirement.~~

SECTION 2. AMENDMENT. Subsections 1 and 2 of section 15-39.1-10 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The following members are eligible to receive monthly lifetime retirement benefits under this section:

* NOTE: Section 15-39.1-09 was also amended by section 3 of Senate Bill No. 2208, chapter 220.

- a. All members who have completed ~~ten~~ five years of teaching credit and who have attained the age of sixty-five years.
 - b. ~~All members who have attained the age of sixty-five years and who completed their final year of teaching in 1971.~~
 - e. All members who have a combined total of years of service credit, of which one year must be was completed after July 1, 1979, and years of age which equals ninety.
2. The amount of retirement benefits shall be calculated as follows: One is one and fifteen-hundredths twenty-two hundredths percent of the final average monthly salary of the member multiplied by the number of years of credited service. For the purposes of this subsection, final average monthly salary means one thirty-sixth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any three ~~of the last ten~~ years of service under the fund.

SECTION 3. AMENDMENT. Section 15-39.1-11 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-11. Vesting of rights. When any member has paid assessments for a period of ten five years, he shall have for service in this state, that member has a vested right to a retirement annuity but he shall receive no is not entitled to payments hereunder under this chapter until he the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12.

SECTION 4. A new section to chapter 15-39.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Postretirement adjustments. An individual who, on June 30, 1987, is receiving benefits from the fund on an account paid under former chapter 15-39 is entitled to a monthly increase in that individual's annuity. The monthly increase is fifteen dollars plus one dollar and fifty cents for every year benefits have been drawn from the fund, but cannot exceed an increase of seventy-five dollars per month. An individual who, on June 30, 1987, is receiving benefits from the fund on an account paid under this chapter is entitled to a monthly increase of one dollar and fifty cents for every year benefits have been drawn from the fund.

SECTION 5. APPLICATION OF ACT. Section 4 of this Act applies to benefits payable after June 30, 1987.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 223

SENATE BILL NO. 2266
(Committee on State and Federal Government)
(At the request of the Public Employees Retirement System)

BENEFITS BETWEEN RETIREMENT SYSTEMS

AN ACT to amend and reenact sections 15-39.1-10.3, 39-03.1-14.1, and 54-52-17.2 of the North Dakota Century Code, relating to eligibility for accrual of benefits between retirement systems and purchase of prior service credit for members of certain public retirement systems.

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

SECTION 1. AMENDMENT. Section 15-39.1-10.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-10.3. Effect of public employees retirement system service on vesting and Multiple plan membership - Eligibility for benefits - Dual membership Amount of benefits.

1. a. A For the purpose of determining vesting of rights under this chapter, a teacher's years of service credit for the purpose of vesting of rights under this chapter is the total of the years of service credit earned in the fund and the years, with twelve months of compensation equal to a year, of service employment, earned in the any number of the following:
 - (1) The public employees retirement system and the.
 - (2) The highway patrolmen's retirement system. A
- b. If a teacher who terminates eligible employment under the fund and who, if that teacher has not received a refund of member assessments, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of assessments if the teacher begins eligible employment under the public employees retirement system or the highway patrolmen's retirement system.

The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later. The board shall terminate the inactive status of a teacher under this subsection subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under the public employees retirement system and the highway patrolmen's retirement system a plan described in paragraph 1 or 2 of subdivision a.

- c. A teacher who has service credit in the fund and in the public employees retirement system or the highway patrolmen's retirement system, or both, must receive any number of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter, calculated by using the certified salaries of the retirement plan of last membership in the computation of final average monthly salary. The board shall calculate benefits for a teacher under this section by using only those years of service credit earned under this chapter.
2. If a teacher, who is a member of the fund, is also employed in any position where membership in the public employees retirement system is required, then for purposes of current employment the teacher is a member of the retirement system in which the teacher has the most years of service credit. If the teacher has an equal amount of service credit in both the fund and the public employees retirement system, the teacher is a member of the public employees retirement system. The board of trustees of the teachers' fund for retirement and the state retirement board shall jointly certify to the appropriate employers of the teacher the fact of the beginning and termination of eligibility for dual membership in the respective retirement systems and the retirement system to which the teacher is required to be a member under this subsection. The employers upon receipt of this certification shall pay over to that retirement system the member assessments and employer contributions at the rates currently existing for that system. If the teacher is required to be a member of the public employees retirement system, the board, at the teacher's election, shall designate the teacher an inactive member of the fund without refund of the teacher's accumulated assessments with interest until the teacher ceases the employment which requires membership in both the fund and the public employees retirement system.
3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of

subsection 1, repurchase that service credit that was canceled.

SECTION 2. AMENDMENT. Section 39-03.1-14.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03.1-14.1. Effect of other state retirement systems' service on eligibility Multiple plan membership - Eligibility for benefits and - Amount of benefits paid.

1. a. A For the purpose of determining eligibility for benefits under this chapter, a member's years of service for the purpose of determining eligibility for benefits under this chapter is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following:

(1) The public employees retirement system and the years of service credit earned in the.

(2) The teachers' fund for retirement. A

b. If a member who terminates eligible employment under this chapter and who, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions if the member begins eligible employment in the teachers' fund for retirement or the public employees retirement system. The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later. The board shall terminate the inactive status of a member under this section subdivision if the member gains eligible employment under this chapter or if the employee member terminates eligible employment under teachers' fund for retirement or the public employees retirement system a plan described in paragraph 1 or 2 of subdivision a.

c. A member who has service credit in the system and in the teachers' fund for retirement or the public employees retirement system, or both, must receive any number of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter, calculated by using the certified salaries of the retirement plan of last membership. The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

2. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

SECTION 3. AMENDMENT. Section 54-52-17.2 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17.2. Effect of teachers' fund for retirement service on eligibility Multiple plan membership - Eligibility for benefits and - Amount of benefits paid---Dual membership.

1. a. An For the purpose of determining eligibility for benefits under this chapter, an employee's years of service employment for the purpose of determining eligibility for benefits under this chapter is the total of the years of service employment earned in the public employees retirement system and the years of service credit earned in the any number of the following:
- (1) The teachers' fund for retirement and the.
- (2) The highway patrolmen's retirement system. An
- b. If an employee who terminates eligible employment under the system and who, if that employee has not received a refund of the employee's account balance, and if the employee begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that employee may elect to remain an inactive member of the system without refund of the employee's account balance if the member begins eligible employment in the teachers' fund for retirement or the highway patrolmen's retirement system. The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later. The board shall terminate the inactive status of an employee under this subsection subdivision if the employee gains eligible employment under this chapter or if the employee terminates eligible employment under teachers' fund for retirement and the highway patrolmen's retirement system a plan described in paragraph 1 or 2 of subdivision a.
- c. An employee who has service credit in the system and in the teachers' fund for retirement or the highway patrolmen's retirement system, or both, must receive any number of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this

chapter calculated by using the certified salaries of the retirement plan of last membership. The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

2. If an employee, who is a participating member, is also employed in any position where membership in the teachers' fund for retirement is required, then for purposes of current employment the employee is a member of the retirement system in which the employee has the most years of service employment. If the employee has an equal amount of service in both the public employees retirement system and the teachers' fund for retirement, the employee is a member of the public employees retirement system. The board of trustees of the teachers' fund for retirement and the state retirement board shall jointly certify to the appropriate employers of the employee the fact of the beginning and termination of eligibility for dual membership in the respective retirement systems and the retirement system to which the employee is required to be a member under this subsection. The employers upon receipt of this certification shall pay over to that retirement system the member assessments and employer contributions at the rates currently existing for that retirement system. If the employee is required to be a member of the teachers' fund for retirement, the board, at the employee's election, shall designate the employee an inactive member of the public employees retirement system until the employee ceases the employment which requires membership in both the public employees retirement system and the teachers' fund for retirement.
3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 224

HOUSE BILL NO. 1145
(Committee on State and Federal Government)
(At the request of the Public Employees Retirement System)

RETIREMENT AND MEDICAL RECORD CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 15-39.1, a new section to chapter 39-03.1, a new section to chapter 54-52, and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to confidentiality of certain retirement and medical records.

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

SECTION 1. A new section to chapter 15-39.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Confidentiality of records. Information pertaining to a teacher's retirement assessments and accumulated interest, disability applications and benefits, and surviving spouse applications and benefits under this chapter is confidential and is not a public record. The information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the teacher has given written consent to have the information disclosed.
2. A person legally representing the teacher, upon proper proof of representation, and unless the teacher specifically withholds consent.
3. A person authorized by a court order.

SECTION 2. A new section to chapter 39-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Confidentiality of records. Information pertaining to a contributor's accumulated deductions, disability applications and benefits, and surviving spouse applications and benefits under this chapter is confidential and is not a public record. The information

and records may be disclosed, under rules adopted by the board only to:

1. A person to whom the contributor has given written consent to have the information disclosed.
2. A person legally representing the contributor, upon proper proof of representation, and unless the contributor specifically withholds consent.
3. A person authorized by a court order.

SECTION 3. A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Confidentiality of records. Information pertaining to a member's retirement account balance, disability applications and benefits, and surviving spouse applications and benefits under this chapter is confidential and is not a public record. The information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withholds consent.
3. A person authorized by a court order.

SECTION 4. A new section to chapter 54-52.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Confidentiality of records. Information pertaining to an eligible employee's group medical records for claims and amounts applied for under the supplemental life insurance coverage under this chapter is confidential and is not a public record. The information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the eligible employee has given written consent to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withholds consent.
3. A person authorized by a court order.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 225

HOUSE BILL NO. 1037
(Legislative Council)
(Interim Education Finance Committee)

HIGH SCHOOL SUMMER PROGRAMS

AN ACT to amend and reenact section 15-40.1-07 of the North Dakota Century Code, relating to proportionate payments to school districts for high school summer programs and the superintendent of public instruction's authority to adopt rules for those payments.

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

SECTION 1. AMENDMENT. Section 15-40.1-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-07. High school per-pupil payments - Amount - Proportionate payments. There shall be paid each year from state funds to all school districts of the county operating high schools and to school districts contracting to educate high school pupils in a federal school, subject to adjustment as provided in section 15-40.1-09, payments as follows:

1. For high schools having under seventy-five pupils in average daily membership, the amount of money resulting from multiplying the factor 1.70 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
2. For high schools having seventy-five or more, but less than one hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.40 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
3. For high schools having one hundred fifty or more, but less than five hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.32 times the educational support per pupil as

provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

4. For high schools having a total high school enrollment of five hundred fifty or more pupils in average daily membership, the amount of money resulting from multiplying the factor 1.20 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

Every high school district shall receive at least as much in total payments as it would have received if it had the highest number of pupils in the next lower category. However, no payment shall be made for those pupils for whom federal agencies provide education. Such payments shall not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, and the other standards prescribed by this chapter have been met. Payments shall be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district shall be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation or students enrolled in less than four units of standard high school work who are in their fourth year of high school coursework and who are enrolled in approved alternative high school curriculum programs, proportionate payments shall be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs shall be eligible for proportionate payments provided each course offered in such programs satisfies requirements for graduation and, comprises at least as many clock hours as courses offered during the regular school term. However, no proportionate payments may be made to school districts for summer physical, and complies with rules adopted by the superintendent of public instruction. The superintendent may adopt rules regarding eligibility for school districts to receive proportionate payments for such summer education programs.

Districts that did not maintain high schools during the year of 1964-1965 shall not be eligible for payments unless they have a minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. Payments pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

Approved April 10, 1987
Filed April 14, 1987

CHAPTER 226

HOUSE BILL NO. 1416
(Representatives D. Olsen, Meyer, Klundt)
(Senator Freborg)

FOUNDATION PAYMENTS IN CHANGED DISTRICTS

AN ACT to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to foundation aid payments to school districts with high schools that reorganize or annex.

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

SECTION 1. A new section to chapter 15-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

High school per-pupil payments - Dissolution or annexation of school districts.

1. If any school district receiving per-pupil payments calculated under section 15-40.1-07 annexes to or reorganizes with another school district, the school district resulting from the annexation or reorganization is entitled to receive the same per-pupil payments for each high school pupil as each separate school district received for each high school pupil prior to the annexation or reorganization, for a period of four years.
2. The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the annexation or reorganization.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 227

HOUSE BILL NO. 1171
(Gates)

TEACHER QUALIFICATIONS

AN ACT to create and enact a new section to chapter 15-47 of the North Dakota Century Code, relating to the qualifications of elementary and junior high school teachers; and to amend and reenact section 15-40.1-08 of the North Dakota Century Code, relating to the qualifications required of kindergarten and elementary teachers in order for a school to receive foundation aid.

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

SECTION 1. AMENDMENT. Section 15-40.1-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. Elementary per-pupil payments - Amount. There shall be paid from state funds to school districts of the county operating elementary schools and to school districts contracting to educate elementary pupils in a federal school, employing teachers holding valid certificates or permits in accordance with section 2 of this Act and chapter 15-36, payments based on the number of registered students at the beginning of each school year, adjusted as provided in section 15-40.1-09, as follows:

1. For one-room rural schools there shall be paid that amount of money resulting from multiplying the factor 1.30 times the educational support per pupil as provided in section 15-40.1-06 for each of the first sixteen pupils in grades one through eight in average daily membership, and for each additional pupil in grades one through eight in average daily membership there shall be paid .9 times the educational support per pupil as provided in section 15-40.1-06, except that no payment shall be made for more than twenty pupils in average daily membership.
2. For elementary schools having under one hundred pupils in average daily membership there shall be paid that amount of money resulting from multiplying the factor 1.0 times

the educational support per pupil as provided in section 15-40.1-06 for each of the first twenty pupils in grades one through six in average daily membership in each classroom or for each teacher and for each additional pupil in grades one through six in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational support per pupil as provided in section 15-40.1-06, except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher.

3. For elementary schools having one hundred or more pupils in average daily membership, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .9 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
4. For elementary schools in school districts having an average daily membership of one thousand or more elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .95 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
5. For each of the above classes of elementary schools, except for one-room rural schools, there shall be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades seven and eight in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
6. 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.

7. For elementary schools providing kindergartens which are established according to provisions of section 15-45-01, and for out-of-state kindergarten programs, approved by the state superintendent and utilized by North Dakota school districts bordering other states, there shall be paid that amount of money resulting from multiplying the factor .50 times the educational support per-pupil payment for that elementary school as determined under this section for each of the first twenty-five pupils in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher. The full per-pupil payment shall be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period shall receive a proportionately smaller per-pupil payment.

Every school district shall receive at least as much in total payments for elementary pupils as it would have received if it had the highest number of pupils in the next lower category. Payments pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

SECTION 2. A new section to chapter 15-47 of the North Dakota Century Code is hereby created and enacted to read as follows:

Teacher qualification - Kindergarten through grade eight - Exceptions.

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

prescribed by the superintendent of public instruction.

2. A teacher who holds a teaching certificate and a major or an endorsement in middle school education may teach grades five through eight.
3. A teacher who holds a teaching certificate and a major or minor in the course area or field in which the teacher is teaching may teach grades seven and eight.
4. A teacher who holds a teaching certificate and meets the requirements of the superintendent of public instruction may teach special education, foreign language, art, music, physical education, and computer education in kindergarten through grade eight.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 228

SENATE BILL NO. 2384
(Senators Mathern, Hilken)
(Representatives Goetz, A. Olson, Brokaw)

MULTIPLE SCHOOL DISTRICT AGREEMENT TAXING

AN ACT to create and enact a new section to chapter 15-40.1 and a new subdivision to subsection 1 of section 57-15-14.2 of the North Dakota Century Code, relating to taxing authority of school districts entering into cooperative agreements.

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

SECTION 1. A new section to chapter 15-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Interdistrict cooperative agreements - Taxing authority. The boards of two or more school districts may enter into interdistrict cooperative agreements to share levied taxes in all or a portion of their respective districts. The rate of taxes to be levied on any property included in the joint taxing area or district is the rate of tax provided in the cooperative agreement not exceeding levy limitations that apply to the district in which property subject to the tax is located. At the time of fixing the levies, the county auditors of each county in which all or a portion of the cooperating district is located shall fix and levy taxes on that portion of the property described in the cooperative agreement which is located in their county at the rate provided in the cooperative agreement.

SECTION 2. A new subdivision to subsection 1 of section 57-15-14.2 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The district's share of contribution to finance an interdistrict cooperative agreement authorized by section 1 of this Act.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 229

HOUSE BILL NO. 1604
(Representatives O. Hanson, D. Olsen, Wentz)
(Senator J. Meyer)

SPECIAL EDUCATION STUDENT CHARGES

AN ACT to amend and reenact section 15-40.2-03 of the North Dakota Century Code, relating to school district tuition payments.

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

SECTION 1. AMENDMENT. Section 15-40.2-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-03. Tuition payments. School districts educating pupils in other school districts shall pay the full cost of education. Such costs shall be determined on the basis of average daily membership and shall include annual expenditures from the general fund and annual educational expenditures from all special funds; provided, that only those expenditures permitted in determining the educational cost per pupil in section 15-40.1-06 shall be included in determining average current operating expenses. To such average current operating expense in the county for kindergarten, elementary, or high school students, as the case may be, except special education students where a fair rental charge for each student for capital outlay must be determined by the department of public instruction, shall be added ~~double~~ the statewide total of all school districts' annual expenditures from sinking and interest funds, plus ~~double~~ the statewide total of all school districts' annual tax receipts to the building funds, including any amounts expended from school districts' general funds for capital outlay, divided by the average daily membership of the state. From this amount, the following shall be deducted for each individual pupil:

1. Such payments as are received for him from state payments received by the admitting district, less the average amount per North Dakota resident pupil enrolled in the school district realized from a twenty-mill school district levy; and

2. A credit applied for any school taxes paid to the admitting district by the parent or guardian of the admitted pupil.

The amount remaining shall be the tuition charge for the individual pupil, and shall be paid under this chapter.

The amount calculated for kindergarten students shall be one-half of the amount calculated for elementary students.

If the district of residence and the parent or guardian are both paying tuition, the credit allowed under this section for taxes paid to the admitting district by the parent or guardian shall be credited to the district of residence and the parent or guardian in proportion to the amount of tuition paid by each.

Nothing contained in this chapter shall affect the right of a school district to charge and collect such tuition as may be fixed by agreement from pupils who are not residents of this state, in accordance with section 15-40.2-10.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 230

HOUSE BILL NO. 1161
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

TUITION COMMITTEE COMPOSITION

AN ACT to amend and reenact section 15-40.2-05 of the North Dakota Century Code, relating to the composition of the three-member tuition committee; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 15-40.2-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-05. Application of parent or guardian for payment of tuition by district. The parent or guardian of any pupil who is a resident of a district may apply in writing to the school board of the school district of residence of the pupil for approval of the payment of tuition charges to another school district for attendance of the pupil in such other school district. The school board shall, within sixty days of its receipt of such application, meet with the parent or guardian of the pupil concerned and render a decision in regard to payment of tuition charges. If the school board has not rendered a decision within sixty days of receipt of the application, the application shall be deemed approved. If the school board of the district of residence shall approve such application, it shall pay the tuition charges. In the event such application shall be disapproved, the parent or guardian of the pupil may file an appeal with the county superintendent of schools, and a three-member committee consisting of the county judge a member appointed by the board of county commissioners for a term of three years or appointed to fill the unexpired portion of a term at the time a vacancy occurs, the state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the pupil concerned, hold a hearing, giving advance notice to the parties directly involved, and render a decision in regard to payment of the tuition charges. The hearing must be conducted in a manner that allows the arguments and responses of all parties to be presented. In making such its decision, the committee shall determine whether the pupil is a high school pupil, which, for purposes of this

section, shall be defined to mean grades nine through twelve, or whether the pupil is an elementary school pupil, which, for purposes of this section, shall be defined to mean grades one through eight, or whether the pupil is a kindergarten pupil, which, for purposes of this section, shall be defined as a program established pursuant to chapter 15-45, and then proceed in accordance with the following:

1. High School. If the pupil is a high school pupil and the committee finds that the attendance of such pupil is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular pupil, or in cases of extreme family or pupil hardship, the committee may approve or disapprove the application. Upon approval, the committee shall approve the payment of tuition by the district of residence of the pupil, obligating such district of residence to pay the same. The committee's approval for the payment of tuition may be for any fixed number of school terms, up to the completion of the pupil's high school education. The decision of the committee may be appealed to the state board of public school education and the decision of the board shall be final.
2. Elementary. If the pupil is an elementary pupil and the committee finds that the attendance of such pupil is necessitated by shorter distances or in cases of extreme family or pupil hardship, the committee may approve or disapprove the application. Upon approval, the committee shall approve the payment of tuition by the district of residence of the pupil, obligating such district of residence to pay the same. The committee's approval for the payment of tuition shall be limited to one school term, and subsequent applications for the payment of tuition may be made annually. The decision of the committee shall be final.
3. Kindergarten. If the pupil is a kindergarten pupil, the school board of the district of the pupil's residence may pay tuition to the receiving district. The committee shall not hear an appeal from the parents or guardian as provided for in this section if the school board of the district of residence decides not to pay tuition to the admitting district. If the school board of the district of residence does not pay the tuition to the admitting district, the parent or guardian of the pupil may pay the tuition to the admitting district under the provisions of section 15-40.2-02.

If any portion of the school district lies in more than one county, the joint committee shall consist of the county judge a member appointed by the board of county commissioners for a term of three years or appointed to fill the unexpired portion of a term at the time a vacancy occurs, the state's attorney, and the county

superintendent of schools from each county lying within the district, and the concurrence of a majority of all members the quorum of the joint committee must render a decision regarding payment of the tuition. In the event that the district of residence of the pupil does not comply with the decision requiring that the tuition charges be paid, the admitting district shall notify the county superintendent of schools of the county of the pupil's residence and the state superintendent of public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are in fact due the admitting district and are unpaid, all payments from the state for foundation aid to the district of residence of the pupil, shall be withheld until the tuition due has been fully paid.

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

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 231

HOUSE BILL NO. 1424
(Representatives Stofferahn, L. Hanson, V. Olson)
(Senator Kelsh)

HANDICAPPED STUDENT TUITION

AN ACT to create and enact section 15-40.2-08.1 of the North Dakota Century Code, relating to the payment of tuition for handicapped children placed outside their school districts of residence for purposes other than education; and to amend and reenact section 15-40.2-08 of the North Dakota Century Code, relating to tuition payments for foster care students placed outside their school districts of residence.

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

SECTION 1. AMENDMENT. Section 15-40.2-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-08. Residency determination and the payment of tuition in cases of foster care child ~~placement~~ placements for purposes other than education.

1. For purposes of applying this chapter, the school district in which a child resides shall be construed to be the district of residence of such child:
 - 1- a. 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- b. At the time of any placement for any prescribed period of time by a county or state social service agency with the consent of the parent or guardian at a foster home or home maintained by any nonprofit corporation; or
 - 3- c. At the time of any voluntary admission to a state-licensed child care home or agency.

2. Such The district of residence shall be liable for tuition upon claim of the admitting district; provided, that both the district of residence 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.
3. Where the parent or parents of the child were residents of the district at the time of placement under ~~subsections 1 through 3~~ subdivisions a through c of subsection 1, but such parent or both parents have subsequently moved elsewhere, so that there is no parent residing in said district of residence to another school district within North Dakota, then the tuition and excess cost due the admitting district shall be paid by the district of residence of the parent or parents. If the child does not have a parent or parents residing in North Dakota, or if parental rights have been terminated, then the tuition due the admitting district must be paid by the state from funds appropriated by the legislative assembly for the foundation aid program. If the child is handicapped or otherwise requires special education or related services approved by the director of special education, the district of residence shall be liable to pay the admitting district as part of the cost of educating such student an amount for the school year equal to two and one-half times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department; provided, that such payment may not exceed the actual per-pupil cost incurred by the admitting district. The remainder of the actual cost of educating the handicapped student not covered by other payments or credits shall be paid from funds provided to the department of public instruction by the legislative assembly for special education. If the handicapped child does not have a parent or legal guardian residing in North Dakota, the state shall pay the cost of tuition and the excess educational costs.
4. In the event of a voluntary admission to any state-licensed child care home or agency, the determination of tuition may be subject to an appeal filed with the county superintendent of schools. The three-member committee referred to in section 15-40.2-05, 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.
5. Those provisions of section 15-40.2-05 relating to multicounty districts, notification of unpaid tuition, and withholding of state payments apply to this section.

SECTION 2. Section 15-40.2-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-40.2-08.1. Payment of tuition in cases of handicapped children placed for purposes other than education.

1. The payment of tuition in cases of handicapped children placed outside their school districts of residence for purposes other than education must be made by the school district of residence and by the state in the proportions set forth in subsection 2. For purposes of applying this section, the school district in which a child resides shall be construed to be the district of residence of such child:
 - a. When the placement is made for any prescribed period of time by a county or state social service agency or a regional human service center at a state-licensed child care home or agency;
 - b. When the placement is made from a state-operated institution; or
 - c. When the placement is made pursuant to an order of any state court, tribal court, or a juvenile supervisor which requires a child to stay for any prescribed period of time at a state-licensed child care home or agency.
2. For the biennium beginning July 1, 1987, and ending June 30, 1989, the school district of residence is liable to pay the admitting district as part of the cost of educating the student an amount for the school year equal to two and one-half times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department; provided, that such payment may not exceed the actual per-pupil cost incurred by the admitting district. The remainder of the actual cost of educating the student not covered by other payments or credits shall be paid from funds provided to the department of public instruction by the legislative assembly for special education.
3. For succeeding bienniums the school district of residence is liable to pay the admitting district as part of the cost of educating the student an amount for the school year equal to the state average per-pupil elementary or high school cost, depending on whether the enrollment is in a grade or high school department, provided that the payment may not exceed the actual per-pupil cost incurred by the admitting district. The remainder of the actual cost of educating the handicapped student not covered by other payments or credits must be made as follows:

- a. For the biennium beginning July 1, 1989, and ending June 30, 1991, the school district of residence is liable for sixty percent of the cost and the state is liable for forty percent of the cost.
 - b. For the biennium beginning July 1, 1991, and ending June 30, 1993, the school district of residence is liable for forty percent of the cost and the state is liable for sixty percent of the cost.
 - c. For the biennium beginning July 1, 1993, and ending June 30, 1995, the school district of residence is liable for twenty percent of the cost and the state is liable for eighty percent of the cost.
 - d. After June 30, 1995, the state is liable for one hundred percent of the cost.
4. The state and the school district of residence are liable for tuition and the actual cost of educating the student upon claim of the admitting school district; provided, that the state, the district of residence, and the admitting school district are notified of the placement by the placement agency, institution, or court at the time the same is ordered. Notification shall be made by the placement agency.
 5. If the handicapped student does not have a parent residing in North Dakota, or if parental rights have been terminated, the state shall pay the actual cost of educating the handicapped student from funds appropriated by the legislative assembly for the foundation aid program. If the handicapped student has reached the age of majority and continues to receive special education and related services from a public school district, the district of residence of the student remains the same as the student's parent or parents until the special education services are concluded.
 6. In the event of a voluntary admission to any state-licensed child care home or agency, the determination of tuition may be subject to an appeal filed with the county superintendent of schools. The three-member committee referred to in section 15-40.2-05, 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 state payments apply to this section.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 232

HOUSE BILL NO. 1299
(Representatives Klundt, Schindler)
(Senator Heinrich)

SCHOOL DISTRICT MILL LEVIES

AN ACT to amend and reenact sections 15-45-01, 32-12.1-08, 40-55-08, 40-55-09, 52-09-08, 57-15-14, and 57-15-14.2 of the North Dakota Century Code, relating to kindergartens, the insurance reserve fund, recreation systems, old-age survivors' fund, tax levy limitations, and consolidation of school district mill levies; and to repeal section 57-15-14.3 of the North Dakota Century Code, relating to school district general fund mill levies.

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

SECTION 1. AMENDMENT. Section 15-45-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-01. Establishing kindergartens - Election on mill levy. The school board of any school district may, upon its own motion, establish free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term. A school board which establishes free kindergartens may levy a tax pursuant to subdivision ~~f~~ p of subsection 1 of section ~~57-15-14.3~~ 57-15-14.2. On a petition signed by qualified electors of the school district comprising at least five percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, but in no case less than twenty-five qualified electors, the school board must submit the question of establishing a kindergarten program at the next annual or special school election. ~~If the question of establishing a kindergarten program is placed on the ballot, that question must include a statement of any increase in the district's mill levy needed to finance the program.~~ The question must be approved by the qualified electors of the district by the respective margins of electorate approval as provided for in section 57-15-14, ~~and approval of the question constitutes elector approval of the additional mill levy necessary to finance the program.~~

SECTION 2. AMENDMENT. Section 32-12.1-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12.1-08. Political subdivision insurance reserve fund - Tax levy.

1. A political subdivision, other than a school district, may establish and maintain an insurance reserve fund for insurance purposes, and all political subdivisions including school districts may include in the annual tax levy of the political subdivision such amounts as are determined by the governing body to be necessary for the purposes and uses of the insurance reserve fund. Except in the case of a school district, the tax levy authorized by this section shall not exceed the limitation in section 57-15-28.1. If a political subdivision has no annual tax levy, the political subdivision may appropriate from any unexpended balance in its general fund such amounts as the governing body of the political subdivision shall deem necessary for the purposes and uses of the insurance reserve fund.
2. Except in the case of a school district, the fund established pursuant to this section shall be kept separate and apart from all other funds and shall be used only for the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims. Payments by a school district for the same purposes shall be made out of the district's ~~special~~ general fund as established in section 57-15-14.2.

SECTION 3. AMENDMENT. Section 40-55-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-08. Election to determine desirability of establishing recreation system - How called. The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the municipality, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system, and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; provided, however, that such questions shall not be voted upon at the next general election unless such action of the

governing body shall be taken, or such petition to submit such question shall be filed thirty days prior to the date of such election. A school district may levy a tax for the establishment, maintenance, and conduct of a public recreation system pursuant to subdivision q of subsection 4 1 of section 57-15-14-3 57-15-14.2.

SECTION 4. AMENDMENT. Section 40-55-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-09. Favorable vote at election - Procedure. Except in the case of a school district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality or park district, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if the same is authorized as herein provided, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality or park district. This tax is to be in addition to the maximum of taxes permitted to be levied in such municipality or park district. The mill levy herein authorized may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality or park district after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality or park district shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality, school district, or park district, in its discretion, may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character building facility. A school district may levy a tax for the conduct and maintenance of a public recreation system pursuant to subdivision q of subsection 4 1 of section 57-15-14-3 57-15-14.2.

*** SECTION 5. AMENDMENT.** Section 52-09-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-08. Default in taxes - Interest - Action to collect - Levy of tax by political subdivisions. Taxes unpaid on the date on which they are due and payable as prescribed by the bureau, shall bear interest at the rate of one-half of one per centum per month from and after such date until payment plus accrued interest is received by the bureau; provided, that the bureau may prescribe fair and reasonable regulations pursuant to which such interest shall not accrue with

*** NOTE:** Section 52-09-08 was also amended by section 1 of House Bill No. 1426, chapter 604.

respect to taxes required. In no case shall the amount of interest imposed hereby be less than five dollars. Interest collected pursuant to this section shall be paid into the old-age and survivors' fund.

1. If within thirty days after due notice, the employer defaults in payment of taxes or interest thereon, the amount due shall be collected by civil action in the name of the bureau and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect taxes or interest thereon shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions.
2. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income of the political subdivision.
3. The political subdivision, except a school district, a multidistrict special education board, or a center board of a multidistrict vocational education center, shall levy a tax sufficient to meet its obligations under this chapter, up to a maximum levy not exceeding the limitation in section 57-15-28.1. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section shall be paid out of the general fund of the political subdivision. All payments by a school district for obligations incurred under this chapter shall be made out of the school district's ~~special~~ general fund established pursuant to section 57-15-14.2.

SECTION 6. AMENDMENT. Section 57-15-14 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax levy limitations in school districts. The aggregate amount levied each year for the purposes listed in section ~~57-15-14.3~~ 57-15-14.2 by any school district, except the Fargo school district, shall not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of ~~seventy~~ seventy one hundred eighty mills on the dollar of the taxable valuation of the district, except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
 - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the qualified electors voting upon the question at any regular or special school district election.

- b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the qualified electors voting at any regular or special election upon such question.
2. In any school district having a total population of less than four thousand, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.
3. In any school district in which the total assessed valuation of property has increased twenty percent or more over the prior year and in which as a result of that increase the school district is entitled to less in state foundation aid payments provided in sections 15-40.1-06 through 15-40.1-08 because of the deduction required in subsection 3 of section 15-40.1-06, there may be levied any specific number of mills more in dollars than was levied in the prior year up to a general fund levy of seventy one hundred eighty mills on the dollar of the taxable valuation of the school district. The additional levy authorized by this subsection may be levied for not more than two years because of any twenty percent or greater annual increase in assessed valuation. The total amount of revenue generated in excess of the eighteen percent increase which is otherwise permitted by this section may not exceed the amount of state aid payments lost as a result of applying the deduction provided in subsection 3 of section 15-40.1-06 to the increased assessed valuation of the school district in a one-year period.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five qualified electors, in which case the petition shall be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district shall be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing

either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 7. AMENDMENT. Section 57-15-14.2 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14.2. Mill levies requiring board action - Proceeds to special general fund account.

1. A school board of any school district may levy an amount sufficient to cover general expenses including the costs of the following:
 - a. Board and lodging for high school students as provided in section 15-34.2-06.
 - b. The teachers' retirement fund as provided in section 15-39.1-28.
 - c. Tuition for students in grades seven through twelve as provided in section 15-40.2-12.
 - d. Special education program as provided in section 15-59-08.
 - e. The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.
 - f. A final judgment obtained against a school district.
 - g. The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund for contracted employees of a multidistrict special education board.
 - h. The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.
 - i. Unemployment compensation benefits.
 - j. The removal of asbestos substances from school buildings and any repair, replacement, or remodeling that results from such removal.

- k. Participating in cooperative vocational education programs approved by the state board.
 - l. Maintaining a vocational education program approved by the state board and established only for that school district.
 - m. Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.
 - n. Establishing and maintaining school library services.
 - o. Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.
 - p. Establishing free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term.
 - q. Establishing, maintaining, and conducting a public recreation system.
2. A school board may levy no more than a total of ninety mills for the purposes listed in subsection 1 except that this limitation does not apply to mill levies pursuant to subdivisions a, c, f, and j of subsection 1. If a school district maintained a levy to finance either its participation in a cooperative vocational education program or its sponsorship of single-district vocational education programs prior to July 1, 1983, and the district discontinues its participation in or sponsorship of those vocational education programs, that district must reduce the proposed aggregated expenditure amount for which its general fund levy is used by the dollar amount raised by its prior levy for the funding of those programs.
3. All proceeds of any levy established pursuant to this section shall be placed in the school district's special general fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied.

SECTION 8. REPEAL. Section 57-15-14.3 of the North Dakota Century Code is hereby repealed.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 233

HOUSE BILL NO. 1525
(C. Nelson, Rydell, L. Hanson, O'Connell, Goetz)

KINDERGARTEN REQUIREMENTS

AN ACT to amend and reenact sections 15-45-02 and 15-45-03 of the North Dakota Century Code, relating to requirements for public kindergartens.

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

SECTION 1. AMENDMENT. Section 15-45-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-02. Kindergarten curriculum - Rules - Length of kindergarten term Approval requirements. The school board shall establish a curriculum for kindergarten and such other rules governing the kindergartens as it may deem best, and shall govern them, so far as practicable, in the manner and by the officers provided by law for the government of other public schools. All public kindergartens must comply with the following requirements:

1. All kindergarten teachers must hold valid certificates issued under rules adopted by the superintendent of public instruction as provided in chapter 15-36.
2. The governing body of each kindergarten shall submit to the superintendent of public instruction and must follow a curriculum providing developmentally appropriate skills in the areas identified in section 15-38-07 and promulgated under subsection 4 of section 15-29-08.
3. All kindergartens shall provide the equivalent of a minimum of thirty full days of instruction. The school board shall determine whether kindergarten shall be provided on a half-day or a full-day basis.
4. All kindergartens shall comply with all municipal and state health, fire, and safety laws.
5. No kindergarten may enroll a child who is not five years old by midnight August thirty-first of the year of

enrollment, except a child who by reason of special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the persons operating the kindergarten. A child who has been enrolled in another approved kindergarten program may be enrolled at a younger age. However, no child may start kindergarten in any year unless that child is five years old by the following January first.

Any person operating a private or parochial kindergarten may seek approval from the superintendent of public instruction and those programs must meet the requirements of this section in order to be approved. Only programs receiving approval from the superintendent of public instruction may be called approved kindergartens.

SECTION 2. AMENDMENT. Section 15-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-03. Kindergarten teachers - Qualifications Accreditation standards. Kindergarten teachers shall hold valid certificates issued by the The superintendent of public instruction entitling them to teach kindergarten in the elementary schools of may adopt standards for the accreditation of all kindergartens operated in this state. All kindergartens that comply with these standards are accredited kindergartens.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 234

HOUSE BILL NO. 1593
(Hamerlik)

MEDICAL CENTER

AN ACT to amend and reenact sections 15-52-02, 15-52-03, 15-52-04, 15-52-07, 15-52-16, 15-52-20, 15-52-29, and subsection 1 of section 15-52-30 of the North Dakota Century Code, relating to control and operation of the state medical center, members and terms of the medical center advisory council, duties of the council, use of center facilities by political subdivisions, qualifications of loan applicants, loan conditions, training and scholarships for psychiatric personnel, and authorized contracts or agreements; and to repeal section 15-52-06 of the North Dakota Century Code, relating to fees and charges of the medical center.

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

SECTION 1. AMENDMENT. Section 15-52-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-02. Control and operation. The control and operation of ~~such~~ the North Dakota state medical center shall be the duty and responsibility of the administrative authorities of the university of North Dakota and its medical school under the ~~supervision~~ policies of the state board of higher education or its successor in authority.

SECTION 2. AMENDMENT. Section 15-52-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-03. Medical center advisory council - Members, terms, meetings. In order to assure the proper coordination and integration of the North Dakota state medical center with all other health and welfare activities of the state, a permanent medical center advisory council is hereby established to advise, consult, and make recommendations to the university administration, and to the several agencies represented on the council concerning the program of the North Dakota state medical center, the adaptation thereof to the needs of the state and to the requirements and facilities of the several

agencies involved, and the use of the North Dakota state medical center and its facilities by the various institutions and agencies of the state and its political subdivisions. The council shall consist of ~~eleven~~ ~~fourteen~~ members: two to be named by the governor; one to be named by and from the membership of the state board of higher education, or any state entity that succeeds the board, the executive director of each of the following: the department of human services, or a designee of the director; the state board of higher education, or such boards or departments as shall succeed them or any of them; the state health officer of the North Dakota state department of health; one to be named by and from the membership of the North Dakota state medical association; and one to be named by and from the membership of the North Dakota hospital association; and the veterans administration hospital in Fargo; the house of representatives, appointed by the speaker; and the senate, appointed by the president of the senate; with the remaining four members shall be the persons serving as chairmen of the area health education center governing bodies in the cities of Grand Forks to be selected from the four campus areas of the medical school with headquarters in Bismarck, Fargo, Bismarck Grand Forks, and Minot. One member from each quadrant will be selected by the board to serve a three-year term with a two-term limit. The initial appointments must be staggered.

The representatives named by the state agencies and boards above referred to shall be selected to serve as members of the medical center advisory council for periods of at least one year, but in no instance may they serve longer than their term of office on the public agency. The representatives from the North Dakota state medical association and the North Dakota hospital association shall serve a term of three years or until their successors are named and qualified. The two members appointed by the governor shall serve for three-year terms as representatives of the public at large. The directors of the area health education centers shall serve during the term of their directorships.

The council shall name its own chairman and the dean of the university of North Dakota medical school shall serve as executive secretary thereof. The council shall meet not less than twice each year, and, from time to time, on its own motion or upon request of the university administration, to consider plans and programs of action for the North Dakota state medical center, and make its recommendations thereon to the several agencies of the state and its political subdivisions involved and to the legislative assembly.

SECTION 3. AMENDMENT. Section 15-52-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-04. Duties of council. The medical center advisory council shall study, consider, and formulate plans for facilitating and implementing, through the instrumentality of such the North Dakota state medical center, a unified program for the improvement and maintenance of the health of the people of North Dakota in all of its phases, and such study shall include specifically ways and means

of bringing about the complete training of adequate numbers of qualified physicians and surgeons for the people of North Dakota, both in the general practice of medicine and surgery and the field of public health, the training of nurses and public health nurses, of allied health professionals, of sanitary engineers, of public health administrators, and all other personnel concerned with the improvement and preservation of the health of the people of North Dakota. The council shall also consider and formulate plans for the establishment and maintenance of facilities for the care, treatment, and hospitalization of indigent and such other patients as should be admitted to treatment for the fullest use of the facilities of the North Dakota state medical center, and the establishment of plans for the fullest possible use of the facilities by private physicians and surgeons and by public health and welfare administrators and agencies for the improvement of their services to the people of the state. Such plans as are capable of being put into effect without further legislative action shall be recommended for immediate action.

SECTION 4. AMENDMENT. Section 15-52-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-07. Political subdivisions shall use facilities of center. All agencies of the state, counties, and municipalities in any way concerned with health, medical care, or public welfare, shall make the fullest possible use of the facilities and services of the North Dakota state medical center and shall pay therefor the established fees and charges, and may contribute to the North Dakota state medical center specific fees or monthly payments for specific facilities and services furnished, for the care of the indigent, those suffering from communicable diseases, and those eligible for physical and vocational rehabilitation.

SECTION 5. AMENDMENT. Section 15-52-16 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-16. Qualifications of loan applicants. An applicant is deemed qualified only if the applicant:

1. Has been a resident of the state of North Dakota at least ~~two years~~ one year prior to the date of entering medical school or dental school;
2. Has successfully completed the first year of the curriculum in medicine at the university of North Dakota or has successfully completed the first year of the curriculum in dentistry in a qualified and reputable dental school;
3. Can present to the university satisfactory proof that the applicant has been accepted as a student in the second, third, or fourth year of a qualified and reputable

four-year school of medicine or dentistry, or will be so accepted upon payment of tuition, and

4. is of good moral character.

SECTION 6. AMENDMENT. Section 15-52-20 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-20. Loan conditions. Loans granted by the university under section 15-52-10 and sections 15-52-15 through 15-52-28 are to be upon the condition that the full amount thereof shall be repaid in cash with ~~nine~~ six percent interest annually from the date of each payment pursuant to a loan agreement, the repayment to be in yearly installments on a schedule set by the university and the first installment becoming due and payable one year from the date on which the applicant ~~completes the first year of residency if a medical student begins practice, but under no circumstances to exceed five years from the date of graduation or one year from the date of graduation from a dental school if a dental student.~~ if prior approval is obtained from the university, such first installment shall not become due and payable until one year from the date on which the applicant completes additional residency or other advanced study or military service of not more than three years' duration.

SECTION 7. AMENDMENT. Section 15-52-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-29. Training of psychiatric personnel - Scholarships. The North Dakota state medical center, under the direction policies of the state board of higher education, is hereby authorized and directed to provide or encourage means for providing for the training of such psychiatrists and other psychiatric personnel as may be necessary to properly staff state institutions and agencies providing services in the field of mental health. The board of higher education North Dakota medical center shall be authorized to execute contracts with any suitable public or private agency providing such training services and facilities and to pay for such services from funds of the medical center as provided in section 15-52-09.

The board is specifically authorized and directed, acting through the medical center, to provide scholarships ~~or stipends~~ in such amounts as may be necessary for the use of qualified physicians during periods in which such physicians are in training in the field of psychiatry. Such scholarships shall be conditioned upon service upon the staffs of state institutions and agencies by such psychiatrists after the completion of their formal training for such term as the board may prescribe. ~~Failure to serve for the prescribed period of time or to satisfactorily complete the course of training required by the board shall cause the amount of the scholarship or stipend paid to such persons to become due and repayable to the medical center with interest as prescribed by the board.~~

SECTION 8. AMENDMENT. Subsection 1 of section 15-52-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The state board of higher education upon the recommendation of the medical center advisory council is hereby authorized to enter into contracts or agreements, both interstate and intrastate, to provide medical education opportunities. These contracts and agreements shall be made within the limits of available legislative appropriation and may be for such periods of time as the board of higher education deems necessary.

SECTION 9. REPEAL. Section 15-52-06 of the North Dakota Century Code is hereby repealed.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 235

HOUSE BILL NO. 1143 (Committee on Education)

(At the request of the State Board of Higher Education)

HIGHER EDUCATION BONDS

AN ACT to amend and reenact sections 15-55-02, 15-55-05, and 15-55-06 of the North Dakota Century Code, relating to conditions for issuance of state board of higher education bonds, deposits of proceeds of bonds, and issuance of warrants by the state auditor.

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

SECTION 1. AMENDMENT. Section 15-55-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02. Board may borrow money and issue bonds - Conditions - Bonds tax free. For the purpose of paying all or part of, but not to exceed, the cost of construction, equipment, and furnishing of any such buildings or any addition to existing buildings, or other campus improvements, or in order to refund any outstanding bonds or interim financing issued for such purpose, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings or other campus improvements, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of the board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. The bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest and may be subject to such other terms or conditions as may be provided by resolution or resolutions to be adopted by the board. The bonds may be sold in such manner and at such price or prices **not less than ninety-five percent of par**

plus accrued interest to date of delivery, as may be considered by the board to be advisable. The average net interest cost to maturity for any bond issues sold at private sale shall not exceed twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. Any grants agreed to be made by the United States of America or any agency or instrumentality thereof to reduce the interest cost of bonds, whether or not pledged to the payment of the bonds or interest thereon as part of the income and revenue to be derived from the operation of the buildings or improvements pledged to the payment of the issue, shall be considered as a reduction in the interest costs of the bonds with respect to which the grant is made, for purposes of the rate limitations on interest costs provided herein. The bonds shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota, or by any county, municipality, or political subdivision therein. The board, in its discretion, may authorize one issue of bonds hereunder for the construction, furnishing, and equipment of more than one building or other campus improvement and may make the bonds payable from the combined revenues of all buildings or other campus improvements acquired in whole or in part with the proceeds thereof, and where bonds are so issued the words "the building", as herein used, refers to all the buildings or other campus improvements so acquired.

SECTION 2. AMENDMENT. Section 15-55-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-05. Deposit and use of proceeds of bonds - Authorizing issuing of warrants - Contracts. The proceeds from the sale of the bonds herein authorized shall be deposited to the credit of the board and kept in a separate fund in the state treasury, in the Bank of North Dakota or in a bank which is a duly designated depository for state funds and is a member of the federal deposit insurance corporation. Provided, that when such funds are deposited in a bank other than the Bank of North Dakota or a bank which is not a duly designated depository for state funds, such bank shall be required to pledge as security for such deposit, securities in an amount equal to the sum by which such deposit exceeds the amount of federal deposit insurance corporation insurance. Securities which shall be eligible for such pledge shall be notes or bonds issued by the United States government, its agencies or instrumentalities, all bonds and notes guaranteed by the United States government, federal land bank bonds, or bonds issued by any state of the United States. In lieu of the deposit of such securities, a surety bond may be accepted from the bank designated as a depository in a sum equal to the amount of funds such bank may receive in excess of the amount guaranteed by the federal deposit insurance corporation. Such proceeds shall be used solely for the purpose for which the bonds are authorized except that the board may invest such funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, or obligations of the state of North Dakota or of any municipality as defined in section

21-03-01 prior to or during building or other campus improvement construction except to the extent such investment is prohibited or restricted by any covenant made with or for the benefit of bondholders. The board is authorized to make all contracts and to cause the execution of all instruments which in its discretion may be deemed necessary or advisable to provide for the construction, furnishing, and equipment of the building or other campus improvement or for the sale of the bonds or for interim financing deemed necessary or advisable pending the sale of the bonds and pledging the proceeds of the bonds. The state auditor is hereby authorized and directed to issue warrants upon the state treasury against such funds, if any, deposited by the board in the state treasury for such amounts as he may from time to time find to be due upon audited itemized estimates and claims which bear the approval of the officials designated by the board for such purpose.

SECTION 3. AMENDMENT. Section 15-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-06. Designations of agent and depositories - Disposition and use of revenues - Funds created. All income and revenues derived from the operation of any building or other campus improvement financed or the revenues of which are pledged in the manner provided in this chapter shall be collected by such officer or agent of the institution where the building or other campus improvement is located as the state board of higher education from time to time, may designate, and shall be accounted for by him such officer or agent, deposited, and remitted as in this section provided. The said board, in its resolution authorizing the bonds or in the trust agreement or agreements executed and delivered by the board, shall provide for the disposition of and accounting for all such revenues by such officer or agent, including the designation of a depository or depositories, the payment of expenses of operation and maintenance, the remittance of revenues to the paying agent designated in the bonds for payment of principal of and interest on the bonds when due, and the investment and disposition of revenues not immediately required for payment of expenses, principal, and interest. The board may designate as a depository for such revenues and funds either the state treasury or the Bank of North Dakota or the trustee under the trust agreement for the bondholders or a bank which is a duly designated depository for state funds or as provided in section 15-55-05. The said board may in its resolution authorizing the bonds or in the trust agreement or agreements executed and delivered by the board provide for an expense fund to be retained by the collecting officer for the purpose of paying and may direct him the collecting officer to pay the accrued or anticipated expenses of operation and maintenance of the building or campus improvement, and if the board so directs or if such expense fund is so provided, the collecting officer may pay such expenses as so directed by the board or from said fund. The funds required to be remitted to the state treasurer, if any, and any funds derived from revenues pledged to the bondholders shall be held by him the collecting officer or in the depository for such funds designated by the board in a special fund or funds, to be applied solely to the

payment of the principal and interest on said bonds, and the establishment of a reserve for future payments until all of said bonds and interest thereon have been fully paid; provided, that to the extent not prohibited or restricted by any covenant made with or for the benefit of the bondholders, the board may invest any such funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, or obligations of the state of North Dakota or of any municipality as defined in section 21-03-01 and may devote revenues not currently required for payment of principal and interest, for the creation or maintenance of a debt service reserve, or for expenses of operation and maintenance to such purposes as the board may from time to time designate, including replacing the furnishings and equipment of such building or buildings or campus improvements and improving said building or buildings or campus improvements. As principal and interest become due, the state auditor, not less than fifteen days prior to the payment dates, shall issue warrants upon the treasurer for the amount of such payment coming due, and the state treasurer shall make payment from any such fund of the amounts due.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 236

SENATE BILL NO. 2435
(Senators Lodoen, Ingstad, Yockim)
(Representatives Haugen, Larson)

REFUNDING BONDS

AN ACT to amend and reenact section 15-55-02.1, subdivision c of subsection 7 of section 21-03-06, section 40-27-13, and subsection 3 of section 40-36-13 of the North Dakota Century Code, relating to the refunding of bonds by the state board of higher education, counties, cities, townships, school districts, park districts, recreation service districts, and rural fire protection districts.

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

SECTION 1. AMENDMENT. Section 15-55-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02.1. Refunding bonds. The amount of refunding bonds which the state board of higher education may issue under this chapter shall not exceed the principal amount of the bonds to be refunded. Bonds may be refunded whether heretofore or hereafter issued, but no bonds may be refunded hereunder under this chapter unless they the bonds either mature or are callable for prior redemption under their terms within thirty years from the date of issuance of the refunding bonds, or unless the holder or holders thereof of the bonds voluntarily surrender them for exchange or payment. Outstanding bonds of more than one issue or series and bonds for refunding and other bonds to construct, furnish, or equip any building or addition or other campus improvement for which bonds are authorized may be combined into one issue or series and may provide for and restrict the combination of future series with the issue. Except as in this section otherwise provided, such in this section, the bonds shall must have such details and shall must be authorized and issued in the manner provided in this chapter provided. Refunding bonds so issued may carry forward for the payment of the refunding bonds such security and sources of payment as were pledged to the payment of the bonds refunded, and a combined issue of refunding and other bonds may combine such security and sources of payment with a pledge of the revenues of buildings or other campus improvements acquired in whole or in part from the

proceeds of the issue, including the security and sources of payment of any future series of refunding bonds or revenues of any building or other campus improvement acquired from the proceeds of a future series if and to the extent that provision is made for combination of future series with the issue. The word "building" as used in this section shall be construed to refer to means all the buildings or other campus improvements the revenues of which are pledged. Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold at either public or private sale, or may be sold in part and exchanged in part. There shall be is no interest rate ceiling on those issues issued solely for refunding purposes. The sale price may exceed the principal amount of refunding bonds and the excess may be used to provide for payment of redemption premiums of the bonds to be refunded and to provide for expenses of the issuance and sale of the bonds and the retirement of the outstanding bonds. All other proceeds of the sale shall must be, to the extent needed, be immediately applied to the retirement of the bonds to be refunded, or such the proceeds or investments thereof shall must be placed in escrow to be held and applied to the payment of the bonds to be refunded, or in the case of crossover refunding, must be invested in securities irrevocably appropriated to the payment of principal and interest on the refunding bonds until the date the proceeds are applied to the payment or redemption of the bonds to be refunded.

Such The proceeds may, in the discretion or pursuant to covenant of the board, be invested in obligations of the United States of America, or in obligations fully guaranteed by the United States of America, but the obligations so purchased must have such maturities and bear such rates of interest payable at such times as will assure the existence of money sufficient to pay the bonds to be refunded when due or when redeemed pursuant to call for redemption, together with any interest and redemption premiums, if any. The proceeds or obligations so purchased shall must be deposited in trust with the trustee for the refunded bonds, or with the banking corporation or association which is the paying agent for the refunded bonds, or with the state treasurer, to be held, liquidated, and the proceeds of such liquidation paid out for the payment of the bonds to be refunded and interest and redemption premiums thereon as such the refunded bonds become due or subject to redemption under call for redemption previously made, or upon earlier voluntary surrender thereof with the consent of the board. The determination of the board in issuing refunding bonds that the issuance and sale of refunding bonds is necessary for the best interests of the institution and that the limitations herein imposed upon the issuance of refunding bonds have been met shall be is conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

SECTION 2. AMENDMENT. Subdivision c of subsection 7 of section 21-03-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. To refund outstanding bonds not yet due or to become due or subject to redemption and prepayment within six months, when in the judgment of the governing body the best interests of the municipality will be served thereby, through the reduction of debt service costs or the extension or adjustment of maturities in relation to the resources available for their payment. The proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable and called for redemption, to an earlier prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity or, if prepayable and called for redemption, at the earlier redemption date, and pay any premium required for redemption on such date; ~~and the~~ or in the case of a crossover refunding, shall be invested in securities irrevocably appropriated to the payment of principal and interest on the refunding bonds until the date the proceeds are applied to the payment or redemption of the bonds to be refunded. The governing body's resolution authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and may provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds. Moneys on hand in the sinking fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, or other legally available funds of the municipality may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new refunding bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

SECTION 3. AMENDMENT. Section 40-27-13 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-13. Refunding callable funding bonds or refunding warrants - Terms and conditions. Any municipality may refund, according to the procedure set forth in this chapter, any funding bonds issued under this chapter which are callable prior to maturity or which shall be surrendered voluntarily for refunding, by the issuance of bonds upon the same terms and conditions except as to interest, whenever by so doing a saving in interest can be effected. Any municipality having valid outstanding refunding special improvement warrants or bonds issued pursuant to this chapter, which are due, or to become due within one year, in whole or in part as to principal or interest or both or which are redeemable either at the option of the municipality or with the consent of the warrant or bondholders, may issue new refunding special improvement bonds to refund such outstanding warrants or bonds, if there is not sufficient money in the fund or funds against which such outstanding refunding warrants or bonds are drawn to pay the principal or interest or both or if a deficiency is likely to occur in the fund or funds within one year for payment of principal or interest thereon. Such new bonds may be issued for the purpose of extending the maturities of the outstanding refunding warrants or bonds, or reducing the debt service thereon, or equalizing the general tax which the municipality may be, or may become, obligated to levy to discharge deficiencies in the fund or funds against which they are drawn. Such new bonds shall be issued according to the procedure set forth in this chapter for the issuance of the original refunding special improvement warrants or bonds. In any case where refunding improvement bonds are issued and sold six months or more before the earliest date on which all outstanding refunding improvement warrants or bonds of the issue to be refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the new bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each warrant or bond refunded to its maturity or, if it is prepayable and called for redemption, to an earlier prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such warrant or bond at maturity or, if prepayable and called for redemption, at the earlier redemption date, and any premium required for redemption on such date; or in the case of a crossover refunding, shall be invested in securities irrevocably appropriated to the payment of principal and interest on the refunding improvement bonds until the date the proceeds are applied to the payment or redemption of the bonds or warrants to be refunded. The governing body's resolution authorizing the new bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and may provide for the call

for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the new bonds. Moneys on hand in the refunding improvement bond fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, or other legally available funds of the municipality may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

SECTION 4. AMENDMENT. Subsection 3 of section 40-36-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Exchange or sell any refunding bonds more than six months in advance of the date on which the bonds being refunded mature or are redeemable in accordance with their terms to reduce the debt service costs, extend or adjust maturities in relation to the revenues pledged for payment of the bonds, permit the more advantageous sale of additional bonds, or any other purpose deemed necessary or desirable by the governing body, then the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable and called for redemption, to an earlier prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity or, if prepayable and called for redemption, at the earlier redemption date, and any premium required for redemption on such date; or in the case of a crossover refunding, shall be invested in securities irrevocably appropriated to the payment of principal and interest on the refunding bonds until the date the proceeds are applied to the payment or redemption of the bonds to be refunded. The governing body's resolution authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and may provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the

escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds. Moneys on hand in the sinking fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, or other legally available funds of the municipality may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 237

HOUSE BILL NO. 1216
(Committee on Education)

(At the request of the State Board of Higher Education)

UND PARKING LOT BONDS

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds for the construction of revenue-producing parking lots at the university of North Dakota; to provide 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 in any amount up to but not exceeding five hundred thousand dollars for the purpose of constructing revenue-producing parking lots at the university of North Dakota. Bonds issued under the provisions of this Act may 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 authorized under section 1, 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 the equipment of the facility authorized in section 1. Any unexpended balance from the sale of bonds must be placed in sinking funds for the retirement of the authorized bonds.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 238

SENATE BILL NO. 2163
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

GIFTED AND HANDICAPPED CHILD

AN ACT to amend and reenact subsections 2 and 3 of section 15-59-01 of the North Dakota Century Code, relating to the definition of the terms "gifted child" and "handicapped child".

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

SECTION 1. AMENDMENT. Subsections 2 and 3 of Section 15-59-01 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Gifted child" means a gifted and talented child identified by professional, qualified persons, who, by virtue of outstanding abilities, is capable of high performance and who requires differentiated educational programs and services beyond those normally provided by the regular school program in order to realize his or her contribution to self and society.
3. "Handicapped child" means a child who is mentally retarded, hard of hearing, deaf, deaf-blind, speech or language impaired, visually handicapped, seriously emotionally disturbed, specific learning disabled, crippled orthopedically impaired, or otherwise health impaired who by reason thereof requires special education and related services.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 239

HOUSE BILL NO. 1199
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

SPECIAL EDUCATION BOARDING CARE COSTS

AN ACT to amend and reenact section 15-59-02.1 of the North Dakota Century Code, relating to boarding care and the use of family insurance proceeds or similar third party payments for the provision of related services.

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

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

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

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

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

The legislative assembly recognizes that a handicapped student whose individualized education program so requires is entitled to an

educational program in excess of one hundred eighty days per year if regression caused by an interruption in educational programming, together with a student's limited recoupment capacity, renders it impossible or unlikely that the student will attain the level of self-sufficiency and independence from caretakers that the student would otherwise be expected to reach in view of the handicapping condition. All summer programs attended by these students must have approval of the department of public instruction before receiving foundation aid or state special education reimbursement.

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

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

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

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

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

The district of residence may use any reasonably prudent and safe means of transportation at its disposal to carry out the requirements of the individualized education program. Such means may include, but not be limited to, a regularly scheduled schoolbus, public or commercial transportation where appropriate, charter or

specially contracted transportation, or transportation provided by a handicapped student's parent or other responsible party at school district expense.

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

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

Approved March 12, 1987

Filed March 16, 1987

CHAPTER 240

SENATE BILL NO. 2118
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

MULTIDISTRICT SPECIAL EDUCATION PROGRAMS

AN ACT to create and enact section 15-59.2-01.1 of the North Dakota Century Code, relating to the corporate powers and corporate names of multidistrict special education programs.

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

SECTION 1. Section 15-59.2-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-59.2-01.1. Multidistrict special education programs - Corporate powers - Corporate name. Each multidistrict special education program is a body corporate for special education purposes and the name of each special education program must be chosen by the multidistrict board. The multidistrict special education program shall possess all powers and shall perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name, it may sue and be sued, enter into contracts, and convey such real and personal property as come into its possession by will or otherwise. It may have a corporate seal by which its official acts may be attested.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 241

HOUSE BILL NO. 1578
(Representatives Hamerlik, Cleveland, Wentz)
(Senator Stenehjem)

MERIT SCHOLARSHIP PROGRAM

AN ACT to create and enact six new sections to chapter 15-62.2 of the North Dakota Century Code, relating to the establishment of a North Dakota merit scholarship program; and to amend and reenact sections 15-62.2-01, 15-62.2-02, and 15-62.2-04 of the North Dakota Century Code, relating to administration of the student financial assistance program and merit scholarship program.

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

SECTION 1. A new section to chapter 15-62.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. As used in this chapter, unless the context otherwise requires:

1. "Eligible candidate" means a graduate of a high school in this state or a resident of this state for tuition purposes whose assessment composite scores on the test of academic achievement administered by the American college testing program place the student in at least the ninety-fifth percentile of all students taking the test for the year preceding January first of the year in which the student is applying for a scholarship, and who ranks in the upper twentieth percentile of the student's high school class.
2. "Eligible institution" means an accredited public or nonprofit private postsecondary institution in this state.
3. "Full-time resident student" means a person who is a graduate of a high school in this state or who is a resident of this state for tuition purposes and who is enrolled at an eligible institution carrying a course of study which is "full time" as defined by the eligible institution.

4. "High school class rank" means the position a merit scholarship candidate holds in the candidate's graduating class as of the seventh semester of the candidate's high school program.
5. "Merit scholar" means a full-time resident student who is awarded a merit scholarship or who has previously received a merit scholarship.
6. "Merit scholarship" means a financial award granted to a state scholar as determined by this chapter.

SECTION 2. A new section to chapter 15-62.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Administration of merit scholarship program. The board of higher education shall administer the merit scholarship program and shall adopt procedures and guidelines necessary to carry out the purposes of this chapter. The board of higher education shall establish appropriate procedures for fiscal control, fund accounting, and necessary reports.

SECTION 3. A new section to chapter 15-62.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Reapplication eligibility - Amount of scholarships - Duration. Merit scholars are eligible to reapply for merit scholarships for subsequent academic years provided they maintain a 3.6 grade point average based upon a 4.0 grading system. The amount of the merit scholarship must equal the tuition charged at the merit scholar's eligible institution but may not exceed the amount charged for tuition at the state universities. A state scholar may receive a merit scholarship for not more than eight semesters or twelve quarters of undergraduate study, or until the attainment of the student's baccalaureate degree, whichever comes first.

SECTION 4. A new section to chapter 15-62.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Selection of merit scholars. All eligible candidates must be ranked by their composite scores on the test of academic achievement administered by the American college testing program. If two or more eligible students have the same scores, they must be ranked by their high school class rank calculated on a percentile basis. Merit scholarships must be offered to students in descending order according to this ranking until available funds have been expended, or until the pool of eligible applicants has been exhausted. Merit scholarships must be awarded in April of each year for the following academic year, or as soon thereafter as practical.

SECTION 5. A new section to chapter 15-62.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Payment of merit scholarships. One-half of the annual merit scholarship must be paid to each merit scholar at the beginning of the fall semester and one-half at the beginning of the spring semester for students attending institutions on the semester system. One-third of the merit scholarship must be paid to each merit scholar at the beginning of each quarter for merit scholars attending institutions on the quarter system. Payments must not be made until the merit scholar's enrollment and full-time resident student status has been certified by the eligible institution the student is attending. Merit scholarship funds must be paid by warrant-check prepared by the office of management and budget upon vouchers prepared for this purpose.

SECTION 6. A new section to chapter 15-62.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Use of funds - Refund policy. Merit scholarships may be used to defray costs of tuition, fees, room, board, books, supplies, and other expenses incidental to attending an eligible institution. If a merit scholar discontinues attendance before the completion of any semester or quarter for which a merit scholarship has been received, any refund is governed by the published refund or repayment policy of the eligible institution.

SECTION 7. AMENDMENT. Section 15-62.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-01. Student financial assistance program and merit scholarship programs - Establishment - Administrative responsibility. There is hereby established a The North Dakota student financial assistance program, which shall and merit scholarship programs are established to provide grants or merit scholarships, or both, to assist the following students:

1. Resident undergraduate students pursuant to section 15-10-19.
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.

4. Merit scholars who qualify and are selected for merit scholarships pursuant to sections 1 through 6 of this Act.

The A student must be in substantial need of financial assistance to receive grants under the student financial assistance program. This program shall be administered by the The state board of higher education shall administer the student financial assistance program and the merit scholarship program.

SECTION 8. AMENDMENT. Section 15-62.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-02. Board of higher education - Powers and duties. ~~The powers and duties of the board of higher education under this chapter shall be:~~

1. ~~To administer~~ Administer the North Dakota student financial assistance program, ~~and the North Dakota merit scholarship program~~ and ~~to~~ adopt functional rules ~~and regulations~~ regarding the eligibility and selection of grant ~~and merit scholarship~~ recipients.
2. ~~To determine~~ Determine the amount of individual grants, but not to exceed five hundred dollars per recipient per academic year ~~under the North Dakota student financial assistance program.~~
3. ~~To establish~~ Adopt for the North Dakota student financial assistance program, criteria for substantial need based upon the ability of the parents or guardian to contribute toward the applicant's educational expenses.
4. ~~To establish~~ Establish the appropriate procedures for fiscal control, fund accounting, and necessary reports.
5. ~~To apply~~ Apply for, receive, expend, and administer granted moneys from federal or private sources.

SECTION 9. AMENDMENT. Section 15-62.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-04. Funds received by the board of higher education - Where deposited - How appropriated - How expended. Funds received by the board of higher education ~~shall~~ must be deposited in the state treasury in a special ~~fund funds~~ to be known as the North Dakota student financial assistance fund ~~and the North Dakota merit scholarship fund~~ and expended in accordance with legislative ~~appropriation~~ appropriations. All expenditures from ~~this fund shall~~ these funds must be paid by warrant-check prepared by the office of management and budget upon vouchers submitted by the board of higher education.

Approved April 10, 1987
Filed April 14, 1987