

EDUCATION

CHAPTER 159

HOUSE BILL NO. 1215

(Representative Dalrymple)
(Senator G. Nelson)

AGRONOMY SEED FARM PROPERTY CONVEYANCE

AN ACT to authorize the state of North Dakota and the North Dakota state board of higher education, for the use and benefit of North Dakota state university agricultural experiment station otherwise known as the agronomy seed farm, to convey certain state-owned land to the city of Casselton, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Transfer of land authorized.

1. The state of North Dakota and the North Dakota state board of higher education, for the use and benefit of North Dakota state university agricultural experiment station otherwise known as the agronomy seed farm, may convey to the city of Casselton, North Dakota, land owned by the state which is located in Cass County and described as follows:

The East 33 feet of the South 1,611.20 feet of the Southeast Quarter (SE 1/4) of Section Three (3), Township One Hundred Thirty-nine (139) North, Range Fifty-two (52) West, Cass County, North Dakota less the South 50 feet thereof.

2. The conveyance authorized by this Act is exempt from the provisions of sections 54-01-05.2 and 54-01-05.5.
3. The attorney general shall review and approve as to form and legality all legal documents required for the conveyance authorized by this Act, including title opinions.

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 160**SENATE BILL NO. 2355**

(Senator Thane)

**HIGHER EDUCATION RICHLAND COUNTY LAND
CONVEYANCE**

AN ACT to authorize the state board of higher education to sell certain land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Transfer of land authorized.

1. The state board of higher education may sell land owned by the board which is located in Richland County and described as follows:
 - a. That part of Block numbered Two (2) of State School of Science Addition to the City of Wahpeton, Richland County, North Dakota, described as follows: Beginning at the Northwest corner of Block Two (2) of Rosemeade Addition to the said City of Wahpeton, which is also on the South line of Fourteenth Avenue North in the said City of Wahpeton; thence South, on the West line of said Block Two (2), a distance of 158.8 feet, to the Southwest corner of said Block Two (2); thence South 89°01' East, on the North line of the property of described as Tracts 2 and 3 in Document Number 259871 (as said document is recorded in the Office of the Richland County Register of Deeds'), which is also the South line of the Northeast portion of said Block Two (2) of State School of Science Addition, a distance of 300.42 feet, to the Northwest corner of the said property as described in Tract 3 in Document Number 259871; thence North 0°13' East, on the extended West line of the said property as described in Tract 3 in Document Number 259871, to the said South line of Fourteenth Avenue North; thence Northeast and East, on the said South line of Fourteenth Avenue North, to the point of beginning.
2. The conveyance authorized by this Act is exempt from sections 54-01-05.2 and 54-01-05.5. However, the conveyance may only be made after the property has been appraised and sold at public auction. At the public auction the property may not be sold for less than the minimum appraised value. If no bid that equals or exceeds the minimum appraised value is received at the auction, the board may negotiate a price for the land with a purchaser. The price negotiated may not be less than greater of the highest bid received at the public auction or ninety percent of the minimum appraised value. All moneys realized from the sale must be deposited in the general fund in the state treasury.
3. The attorney general shall review and approve as to form and legality all legal documents required for the conveyance authorized by this Act, including title opinions.

Approved April 13, 1995
Filed April 18, 1995

CHAPTER 161**SENATE BILL NO. 2179**

(Political Subdivisions Committee)

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

BOARD OF UNIVERSITY AND SCHOOL LANDS STARK COUNTY PROPERTY TRANSFER

AN ACT to amend and reenact section 1 of chapter 367 of the 1963 Session Laws, relating to the deed to property formerly owned by the state at Bathgate, North Dakota; to provide for issuance of a new deed for the Bathgate property; and to authorize the board of university and school lands to convey certain state-owned land to Stark County, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1 of chapter 367 of the 1963 Session Laws is amended and reenacted as follows:

1. The board of administration is hereby authorized to sell all buildings and lands formerly used as the school for the blind at Bathgate to the Pembina County pioneer rest home, a North Dakota nonprofit corporation, for the consideration of one dollar. The provisions of this Act shall not be construed as authorizing the sale of land in excess of forty acres. ~~The deed of conveyance shall contain a provision for a reversion to the state of North Dakota of all right, title and interest in the property should the property cease to be used as a home for the aged by a nonprofit corporation.~~

SECTION 2. ISSUANCE OF NEW DEED. The office of management and budget shall arrange for issuance of a corrective deed to Pembina County pioneer rest home to reflect the amendment made by section 1 of this Act. The provisions of sections 54-01-05.2 and 54-01-05.5 do not apply to the deed issued under this section.

SECTION 3. Transfer of land authorized.

1. The board of university and school lands may convey to Stark County, North Dakota, land owned by the state which is located in Stark County and described as follows:

A tract of land in Stark County located in Section 5, Township 139 North, Range 96 West, described as the State Addition less the following tracts: (1) Lot 1 of Block 34; (2) A tract of land consisting of Lots 1-10 of Block 1; Lots 1-26 of Block 2; Lots 1-30 of Block 3; and all of 18th Ave. West and 19th Ave. West lying between the north property line of Fairway Street and the south property line of Empire Road, all of the above lots, blocks and avenues described in tract (2) being located in the State Addition of Dickinson, North Dakota, and being more particularly described as follows, to wit:

Beginning at a point 40 feet west and 40 south of the northeast corner of said Section 5, said point also being the northeast property corner of Lot 1, Block 1 of said State Addition; thence South 00 15'34" East along the east property line of said Block 1 a distance of 1,225.49 feet to the southeast property corner of Lot 10 of said Block 1; thence westerly on a bearing of South 89 49'34" West along the south property lines of said Blocks 1, 2, and 3 a distance of 785.00 feet to the southwest property corner of Lot 16 of said Block 3; thence northerly along the west property line of said Block 3 on a bearing of North 00 15'34" West a distance of 1,225.64 feet to the northwest property corner of Lot 30 of said Block 3; thence easterly along the north property lines of said Blocks 3, 2, and 1 on a bearing of North 89 49'04" East a distance of 785.00 feet to the True Point of Beginning.

2. The property may not be sold for less than the fair market value, based upon two independent appraisals.
3. The state shall reserve all mineral rights in and under the premises conveyed as are now held by the state.
4. The conveyance authorized by this section is not subject to section 54-01-05.5.
5. The attorney general shall review and approve as to form and legality all legal documents required for the conveyance authorized by this section, including title opinions.

Approved April 3, 1995
Filed April 3, 1995

CHAPTER 162**SENATE BILL NO. 2127**

(Agriculture Committee)

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

SCHOOL LANDS LEASING AND RECREATIONAL USE

AN ACT to amend and reenact sections 15-01-02.1, 15-04-04, 15-04-10, 15-04-11, 15-04-13, 15-08-25, and subsections 2 and 4 of section 53-08-01 of the North Dakota Century Code, relating to surface leasing of state school lands and the definition of land for recreational use purposes; to repeal sections 15-04-03, 15-04-16, 15-04-17, and 15-06-20 of the North Dakota Century Code, relating to surface leasing of state school lands and the sale of coal lands; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-01-02.1 of the North Dakota Century Code is amended and reenacted 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, 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 must 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 must be deposited in the general fund of the county.~~ All other fees provided for in this section must be deposited in the state lands maintenance fund.

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

15-04-04. Failure to summer-fallow cultivated lands cause for cancellation of lease. If the lessee renting cultivated land fails or neglects to summer-fallow the land at the proper time, the board of university and school lands may declare the lease canceled and the amount paid as rent ~~as provided in section 15-04-03~~ must be forfeited.

SECTION 3. AMENDMENT. Section 15-04-10 of the North Dakota Century Code is amended and reenacted as follows:

15-04-10. Leasing to be by auction - Requirements governing. The commissioner of university and school lands, or such other person appointed by the commissioner, shall conduct the leasing of the lands. The leasing must be at public auction, to the highest bidder, and must be held at the county seat. The auction must commence on the day and time specified in the advertisement for the leasing. Notice must 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 must 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 must be the first lands offered for lease. Lands that have not been subdivided specially must be offered for lease in tracts of one quarter section each, 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 4. AMENDMENT. Section 15-04-11 of the North Dakota Century Code is amended and reenacted as follows:

15-04-11. Amount of bid deposited at time of leasing - Minimum bid. The highest bidder for any parcel of land shall deposit the amount of his ~~the~~ bid for one year's rental ~~on the day of the sale with the county treasurer, who shall act as treasurer~~ at the auction. No bid may be accepted which is less than the minimum price fixed pursuant to the provisions of section 15-04-07.

SECTION 5. AMENDMENT. Section 15-04-13 of the North Dakota Century Code is amended and reenacted as follows:

15-04-13. Approval of leases by board - Execution of lease contracts. ~~Immediately upon the receipt of the reports of the county auditor as required by section 15-04-10; the~~ The board of university and school lands shall approve and confirm such leases as in its judgment should be made and shall certify ~~at once~~ to the commissioner a list of the approved leases by December thirty-first. The commissioner, ~~without delay,~~ shall execute contracts of lease in the form prescribed by the board and shall forward same to the lessee. ~~The commissioner shall certify forthwith, to the auditor of the proper county, a list of the leases that have been approved by the board.~~

SECTION 6. AMENDMENT. Section 15-08-25 of the North Dakota Century Code is amended and reenacted as follows:

15-08-25. Lease or sale of public lands traversed or bisected by a highway, road, railroad, canal, river, or lake. All boards, departments, and officials of government are authorized and permitted to lease or sell school and public lands 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. Lands consisting of less than one hundred usable acres [40.47 hectares] may either be leased or sold separately or with tracts in the same section or adjacent section.

SECTION 7. AMENDMENT. Subsections 2 and 4 of section 53-08-01 of the North Dakota Century Code are amended and reenacted as follows:

2. "Land" includes all public and private land, roads, water, watercourses, private ways and buildings, structures and machinery or equipment thereon ~~when attached to the realty~~.
4. "Recreational purposes" includes; ~~but is not limited to; any one or any combination of the following:~~ hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and visiting, viewing or enjoying historical, archaeological,

geological, scenic, or scientific sites, or otherwise using land for purposes of the user any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

SECTION 8. REPEAL. Sections 15-04-03, 15-04-16, 15-04-17, and 15-06-20 of the North Dakota Century Code are repealed.

SECTION 9. EMERGENCY. Section 7 of this Act is declared to be an emergency measure.

Approved March 17, 1995

Filed March 20, 1995

CHAPTER 163

SENATE BILL NO. 2124

(Education Committee)

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

BOARD OF UNIVERSITY AND SCHOOL LANDS FUNDS

AN ACT to amend and reenact sections 15-03-05.2, 15-03-16, 15-35-01.1, and 15-60-10 of the North Dakota Century Code, relating to the distribution of income earned by the permanent funds managed by the board of university and school lands, continuing appropriations for certain board of university and school lands investment fees, approval of school district construction projects, and issuance of school construction loans; and to repeal section 15-03-15 of the North Dakota Century Code, relating to the approval of farm loans and investments by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-03-05.2 of the North Dakota Century Code is amended and reenacted as follows:

15-03-05.2. Distribution of fund income. The board shall distribute only that portion of ~~the fund~~ a fund's income that is consistent with the long-term goals of preserving the purchasing power of the ~~funds fund~~ fund and maintaining income stability to the fund ~~beneficiaries~~. ~~The income that is retained must be added to the permanent funds and remain inviolate beneficiary.~~ If the amount of income earned by a fund in a fiscal year is greater than the amount distributed to the fund beneficiary in the preceding fiscal year, the board shall:

1. Distribute to the fund beneficiary all or a portion of the income in excess of the previous fiscal year's distribution;
2. Retain for distribution in future years all or a portion of the income in excess of the preceding fiscal year's distribution in an amount not to exceed ten million dollars; or
3. Add to the permanent fund all or a portion of the income in excess of the preceding fiscal year's distribution.

No income may be retained ~~and for future distribution or~~ added to ~~the a~~ a permanent funds fund if it would result in a decrease in distributions to the ~~common schools or other fund beneficiaries~~ beneficiary from the amount distributed during the preceding fiscal year. Actual cash distributed during a fiscal year must be based on the estimated income of each fund. If the board's determination of the amount to be distributed for a fiscal year is different than the actual cash distributed, an adjustment must be made to ~~the~~ distributions during the following fiscal year. For the purpose of this section, any such adjustment must be considered part of the prior fiscal year's distribution.

SECTION 2. AMENDMENT. Section 15-03-16 of the North Dakota Century Code is amended and reenacted as follows:

15-03-16. Appropriation for investments. There is hereby appropriated annually the sum necessary for the investments of the board of university and school lands including accrued interest, and related investment management fees, trustee fees, consulting fees, and custodial fees for the funds under the control of the board. Each payment must be made from the fund for which the investment is made.

SECTION 3. AMENDMENT. Section 15-35-01.1 of the North Dakota Century Code is amended and reenacted as follows:

15-35-01.1. Approval required for certain school district construction projects.

1. Notwithstanding the powers and duties of school boards of public school districts otherwise provided by law, all construction, purchase, repair, improvement, renovation, or modernization of any school building or facility within a school district estimated by the school boards to cost in excess of twenty-five thousand dollars may not be commenced unless approved by the superintendent of public instruction. No such construction, purchase, repair, improvement, renovation, or modernization of any school building or facility may be approved unless the school district proposing the project demonstrates the need ~~and~~, the educational utility of the project, fiscal need, and the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the state board of public school education. In the event of disagreement between the superintendent of public instruction and the school board applying for approval of a construction project under this section, the school board may appeal the application to the state board of public school education and the decision of the state board approving or disapproving the application is final.
2. ~~If a school district intends to apply for a loan from the board of university and school lands pursuant to chapter 15-60, the school district must demonstrate fiscal need and capacity to repay the loan under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the board of university and school lands.~~
3. For purposes of this section, "facility" includes a parking lot, athletic complex, or any other improvement to real property owned by the school district.

⁷⁶ **SECTION 4. AMENDMENT.** Section 15-60-10 of the North Dakota Century Code is amended and reenacted as follows:

15-60-10. Loans.

1. The board may ~~make loans for purposes described in this chapter to school districts from~~ authorize the use of moneys deposited in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02-

⁷⁶ Section 15-60-10 was also amended by section 1 of House Bill No. 1216, chapter 204.

The board shall consider an application for a loan in the order of its approval by the superintendent under subsection 2 of section 15-35-01.1 for the purpose of funding loans described in this chapter. The outstanding principal balance of loans made from the fund funded under this chapter may not exceed twenty-five million dollars. The board may adopt policies and rules for funding school construction loans.

2. An application for a loan A project must be approved by the superintendent pursuant to section 15-35-01.1 before the application may be submitted to the board a loan may be issued under this section. An application for a loan under this section must be submitted to the superintendent. The application must contain information deemed necessary by the superintendent, including a discussion of alternative sources or methods for financing the construction or improvement, and must be considered in the order of its approval under subsection 1 of section 15-35-01.1. If the superintendent approves the loan, the superintendent may also determine the loan amount and a percent of interest to be paid on the loan. In determining the amount of a loan, the superintendent shall take into account the cost of the project and the fiscal capacity of the school district. To be eligible for a loan, the school district must have an existing indebtedness equal to at least fifteen percent of the school district's taxable valuation. The interest on a loan may not exceed the rate of two percent below the net interest rate on comparable tax-exempt obligations as determined on the date the application is approved by the superintendent pursuant to section 15-35-01.1, provided the interest rate may not exceed six percent. The superintendent may adopt rules governing school construction loans.
3. Loan applications approved by the board superintendent must be forwarded to the Bank. The Bank shall assist the board by preparing and approving the loan documents, handling the loan closing, and servicing the loan manage and service all school construction loans issued under this chapter and shall execute all necessary loan instruments. The Bank may charge loan recipients a fee for managing and servicing the loan. The Bank shall receive payments of principal and interest from the school districts, and shall remit payments of principal and interest to the board for redeposit in the fund. The interest must be used and deposited in accordance with section 21 of article X of the Constitution of North Dakota, which must use or deposit the payments in accordance with section 57-62-02 and section 21 of article X of the Constitution of North Dakota.

SECTION 5. REPEAL. Section 15-03-15 of the North Dakota Century Code is repealed.

Approved March 6, 1995
Filed March 6, 1995

CHAPTER 164**SENATE BILL NO. 2126**

(Agriculture Committee)

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

**MORTGAGOR REPURCHASE RIGHTS IN
FORECLOSED LAND**

AN ACT to amend and reenact section 15-07-10 of the North Dakota Century Code, relating to the repurchase of nongrant lands by the original mortgagor following foreclosure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-07-10 of the North Dakota Century Code is amended and reenacted as follows:

15-07-10. Mortgagor has right to repurchase. If any mortgagor or a member of the mortgagor's immediate family, including a father, mother, son, daughter, brother, sister, or spouse, desires 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 by matching the highest bid within one hour after public sale.~~ 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.

Approved March 1, 1995

Filed March 1, 1995

CHAPTER 165**SENATE BILL NO. 2125**

(Agriculture Committee)

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

SCHOOL LAND VALUATION AND SALE

AN ACT to amend and reenact section 15-09-04 of the North Dakota Century Code, relating to the valuation and sale of school lands for public purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-09-04. Board to fix price for lands described in application - Conveyance. ~~If the~~ The board of university and school lands may sell the property described in the application to the applicant at a price not less than the appraised value if the board concludes at the hearing that the land described in the application is required for the purposes stated in such application; it shall fix a price, not less than the appraised valuation thereof, at which the conveyance of the entire tract of land will be made voluntarily and that a conveyance of the property is consistent with this title and the fiduciary responsibilities of the board. If the land described in the application is less than an entire tract, the board, in fixing the price at which such partial tract will be conveyed, shall take its value into consideration together with all detriment caused to the remaining portions of the tract by the conveyance of the partial tract. If the applicant agrees to the price fixed by the board for the land described in the application and pays the full purchase price therefor, the board shall cause the tract to be conveyed to the applicant.

Approved March 1, 1995

Filed March 1, 1995

CHAPTER 166

HOUSE BILL NO. 1433

(Representative Berg)

HIGHER EDUCATION SYSTEM LONG-TERM PLAN

AN ACT to amend and reenact section 15-10-14.2 of the North Dakota Century Code, relating to the higher education system long-term plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁷ SECTION 1. AMENDMENT. Section 15-10-14.2 of the North Dakota Century Code is amended and reenacted as follows:

15-10-14.2. Higher education system review - ~~Seven-year plan~~ Plan - Report to legislative assembly.

1. In ~~each odd-numbered year~~ October 1996, and every six years ~~thereafter~~, the state board of higher education shall meet with the legislative council and the governor ~~or the governor's designee to solicit ideas and issues the council members and the governor believe are priority issues regarding the future of the system of higher education in~~ to review the status of the university system, and to establish the long-term goals and objectives that will best serve the citizens of this state.
2. During each year after the meetings required by subsection 1, the state board of higher education shall:
 - a. Prioritize the long-term goals;
 - b. Develop specific directions for the pursuit of the goals given priority;
 - c. Develop measurable criteria in order to determine the rate of progress toward achieving the goals given priority; and
 - d. Develop specific timelines within which the goals given priority must be attained.
3. In ~~each even-numbered year~~ October 1997, and every six years ~~thereafter~~, the state board of higher education shall ~~present to meet with the legislative council and the governor a seven-year comprehensive plan for the system of higher education in this state. The plan must describe the current and desired condition of the system, in light of the needs of faculty, administrators, and students, and must specifically describe:~~

⁷⁷ Section 15-10-14.2 was also amended by section 1 of Senate Bill No. 2535, chapter 167.

- a. The measures the board plans to take to ensure that the system of higher education meets the postsecondary education and training needs of the citizens and employers of the state.
 - b. The measures the board plans to take to improve the quality of higher education for students.
3. The seven-year plan must contain the rationale of the state board of higher education for the items it has listed in the plan as top priority and the methods the board intends to take to address these top priority issues during the next seven years. The plan must describe what the citizens of the state can expect as a result of the board's actions; the cost or savings of those actions; and specific, detailed options for meeting any costs.
4. The state board of higher education shall report on the seven-year plan, including a report on how the funds proposed in the budget for the upcoming biennium will be used to implement the plan; to the legislative assembly at the organizational session and shall present the directions, criteria, and timelines the board developed in accordance with subsection 2.
4. The state board of higher education shall also present to the legislative council and the governor options for generating within the university system the revenues needed to ensure attainment of the goals given priority.
5. The state board of higher education shall meet with the legislative council and the governor at least once during each intervening year and shall present a progress report regarding its goals and objectives, together with any other information requested by the legislative council or the governor.

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 167**SENATE BILL NO. 2535**

(Senators Nalewaja, Grindberg, Kinnoin)
(Representatives Christenson, Poolman, Rydell)

HIGHER EDUCATION SEVEN-YEAR PLAN CONTENTS

AN ACT to amend and reenact section 15-10-14.2 of the North Dakota Century Code, relating to the higher education seven-year plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁸ SECTION 1. AMENDMENT. Section 15-10-14.2 of the North Dakota Century Code is amended and reenacted as follows:

15-10-14.2. Higher education system review - Seven-year plan - Report to legislative assembly.

1. In each odd-numbered year, the state board of higher education shall meet with the legislative council and the governor or the governor's designee to solicit ideas and issues the council members and the governor believe are priority issues regarding the future of the system of higher education in this state.
2. In each even-numbered year, the state board of higher education shall present to the legislative council and the governor a seven-year comprehensive plan for the system of higher education in this state. The plan must describe the current and desired condition of the system, in light of the needs of faculty, administrators, and students, and must specifically describe:
 - a. The measures the board plans to take to ensure that the system of higher education meets the postsecondary education and training needs of the citizens and employers of the state.
 - b. The measures the board plans to take to improve the quality of higher education for students, including defining and meeting student and institutional expectations regarding teaching and learning, the curriculum, the quality of campus life, and educational services.
3. The seven-year plan must contain the rationale of the state board of higher education for the items it has listed in the plan as top priority and the methods the board intends to take to address these top priority issues during the next seven years. The plan must describe what the citizens of the state can expect as a result of the board's actions, the cost or savings of those actions, and specific, detailed options for meeting any costs.

⁷⁸ Section 15-10-14.2 was also amended by section 1 of House Bill No. 1433, chapter 166.

4. The state board of higher education shall report on the seven-year plan, including a report on how the funds proposed in the budget for the upcoming biennium will be used to implement the plan, to the legislative assembly at the organizational session.

Approved March 28, 1995

Filed March 29, 1995

CHAPTER 168

HOUSE BILL NO. 1277
(Representatives Boehm, Kempenich)

HIGHER EDUCATION ADMISSION CRITERIA

AN ACT to amend and reenact subsection 4 of section 15-10-17 of the North Dakota Century Code, relating to admission criteria prescribed by the board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁹ SECTION 1. AMENDMENT. Subsection 4 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

4. To determine the moral and educational qualifications of applicants for admission to the various courses of instruction ~~and, to prescribe rules, regulations, and bylaws~~ by rule criteria for the admission of students, ~~but no~~ and to ensure that the criteria for admission are applied to all applicants in a uniform and nondiscriminatory manner, regardless of the school or educational setting from which an applicant obtained a high school diploma or its equivalent. No instruction, either sectarian in religion or partisan in politics, shall ever be allowed in any department of such institutions, and no sectarian or partisan test shall ever be allowed or exercised in the election of professors, teachers, or other officers of the institutions, or in the admission of students, or for any purpose whatsoever.

Approved March 21, 1995
Filed March 21, 1995

⁷⁹ Section 15-10-17 was also amended by section 2 of House Bill No. 1058, chapter 243.

CHAPTER 169

HOUSE BILL NO. 1087

(Education Committee)

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

RESIDENT STUDENT FOR HIGHER EDUCATION DEFINED

AN ACT to amend and reenact subsection 2 of section 15-10-19.1 of the North Dakota Century Code, relating to the definition of resident student for higher education tuition purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A "resident student" for tuition purposes means:

- a. A person less than eighteen years of age whose guardian, custodial parent, or parents ~~reside in~~ are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the date of registration beginning of the academic term;
- b. A person of age eighteen or over who ~~resides in~~ is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the date of registration; provided the person is not a dependent of a parent who is not a resident of this state beginning of the academic term;
- c. A person who graduated from a North Dakota high school within ~~sixty four months of registration~~ six years of the beginning of the academic term;
- d. A full-time active duty member of the armed forces assigned to a military installation in this state;
- e. A spouse or dependent of a full-time active duty member of the armed forces assigned to a military installation in this state, a dependent of an instructor who lives and teaches in any institution of higher education in this state, and a spouse of any other resident for tuition purposes; and
- f. Any other person who ~~registers within sixty months after residing in this state for a period of at least thirty six consecutive months was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term.~~

Approved March 6, 1995

Filed March 6, 1995

CHAPTER 170**HOUSE BILL NO. 1322**

(Representatives Bernstein, Dalrymple, Kaldor)
(Senators Nalewaja, Mathern)

NDSU EIGHTEENTH STREET DEVELOPMENT FUND

AN ACT to create and enact a new section to chapter 15-12 of the North Dakota Century Code, relating to creation of a special fund to develop eighteenth street on the campus of North Dakota state university.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-12 of the North Dakota Century Code is created and enacted as follows:

Eighteenth street development fund. A special fund is established in the state treasury to be known as the eighteenth street development fund. Net income received by North Dakota state university from leases of real property for the development and commercialization of the nineteenth avenue project, located in the north one-half of the northwest quarter of section thirty-one, township one hundred forty north, range forty-eight west, county of Cass, state of North Dakota, and consisting of approximately three hundred feet in width and one thousand thirty-two feet in length and bordered by nineteenth avenue north, university drive, and north tenth street in the city of Fargo, must be deposited into the fund. "Net income" means lease rental payments less expenses for improving, maintaining, and developing the nineteenth avenue project. The fund and interest earned on the fund must be used for the payment of expenses and special assessments associated with the construction and improvement of eighteenth street on the campus of North Dakota state university located in section thirty-six, township one hundred forty north, range forty-nine west, county of Cass, state of North Dakota. The fund is not subject to the provisions of section 54-44.1-11.

Approved March 31, 1995
Filed April 3, 1995

CHAPTER 171**SENATE BILL NO. 2144**

(Education Committee)

(At the request of the State Board of Public School Education)

DIVISION OF INDEPENDENT STUDY NONRESIDENT SERVICES

AN ACT to amend and reenact section 15-19-01 of the North Dakota Century Code, relating to services provided to nonresidents by the division of independent study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A complete curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, must be maintained upon the campus of one of the state institutions of higher education by the state board of public school education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, or as provided in subsection ~~5 of this section~~ **6** all pupils under the age of sixteen taking advantage of the provisions of this chapter must be required to attend their local district schools and to study their correspondence lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at a place designated by the state director in accordance with the rules of the state board of public school education. If in attendance at a local school pupils must be supplied with desk space in their respective school without charge, and they shall attend school regularly, and be under the same disciplinary supervision of the teachers as the other school pupils.
3. The division of independent study may provide services to persons who are not North Dakota residents.
4. The correspondence work must be completed in accordance with the rules established by the state board of public school education.
- 4→ 5. Correspondence pupils shall pay for books and materials used by them, postage required to mail reports to the division, and other fees as may be prescribed by the board of public school education.

- ~~§~~ 6. Pupils exempt from the compulsory school attendance laws pursuant to subsection 5 of section 15-34.1-03 may enroll in correspondence courses offered through the division of independent study. These students may study their correspondence lessons in their learning environment under the supervision of a parent. The tests for the correspondence study must be administered by a certified teacher employed either by the public school district in which the parent resides or a state-approved private or parochial school.

Approved March 6, 1995
Filed March 6, 1995

CHAPTER 172**HOUSE BILL NO. 1270**

(Representatives Grosz, Freier, Sveen)
(Senators Andrist, G. Nelson, B. Stenehjem)

**STUDENT PERFORMANCE STANDARDS AND
PARTICIPATORY DECISIONMAKING REPEAL**

AN ACT to repeal sections 15-21-04.6 and 15-29-08.3 of the North Dakota Century Code, relating to student performance standards and assessments and school district policies and plans for participatory school decisionmaking.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 15-21-04.6 and 15-29-08.3 of the North Dakota Century Code are repealed.

Approved March 10, 1995
Filed March 13, 1995

CHAPTER 173

SENATE BILL NO. 2159

(Education Committee)

(At the request of the Superintendent of Public Instruction)

SCHOOL AGE AND PLACEMENT

AN ACT to amend and reenact sections 15-21-13.1, 15-34.2-03, 15-40.1-01, 15-40.2-01, 15-40.2-05, 15-40.2-08, 15-47-01, and 57-15-14.5 of the North Dakota Century Code, relating to uniform accounting and reporting, family transportation, definition of a high school student, tuition agreements in districts that do not provide grade levels of service, meetings of county committees regarding tuition hearings, students placed for reasons other than education, school age, and long-distance learning levies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-21-13.1 of the North Dakota Century Code is amended and reenacted as follows:

15-21-13.1. Uniform accounting and reporting system. The superintendent of public instruction shall implement a uniform ~~computerized~~ system for the accounting, budgeting, and reporting of fiscal data for all school districts in the state. The superintendent of public instruction shall ~~select one type of computer hardware, which must be compatible with personal computer systems, and no more than two~~ recommend accounting software programs to be used by school districts.

SECTION 2. AMENDMENT. Section 15-34.2-03 of the North Dakota Century Code is amended and reenacted as follows:

15-34.2-03. Transportation - Payment optional with school board. The school board of any school district in the state may pay to each family living more than two miles [3.22 kilometers] from a school in the district which is taught the required length of time, a reasonable sum per day for each day's attendance of a student or students of such family, when transported by ~~a~~ an adult member of the family or by a conveyance furnished or paid for by the family, or when the family has paid for lodging for the child, according to the distance between the home of the family and the school. Such distance must be measured by the route from the front door of the school attended to the front door of the family's residence according to the most convenient public course of travel.

SECTION 3. AMENDMENT. Section 15-40.1-01 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-01. High school student defined. As used in this chapter and in the provisions relating to payments from the state, the term "high school student" includes only students who:

1. Have completed all of the work of the first eight grades, but have not completed the work of the twelfth grade.
2. Are residents of this state or who are attending a North Dakota school under a foreign student exchange program.

⁸⁰ SECTION 4. AMENDMENT. Section 15-40.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-40.2-01. Transfer of pupils to other districts or institutions - Tuition agreements - Student discretion upon cessation of educational services.

1. The school board of any district may send kindergarten, elementary, or high school pupils into another school district or to an accredited institution of another state when, because of shorter distances and other conveniences, it is to the best interests of the school district to do so, and in such instances the board may pay the tuition of such pupils to the district or institution to which they are sent. The school board may arrange, and when petitioned to do so by a majority of qualified electors of the district, shall arrange with the school boards of other districts or with the institutions, to send pupils to such other districts or institutions who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from such other schools or institutions.
2. ~~When~~ If a school district ~~ceases to~~ does not provide educational services to an entire grade level, the students in that grade level may attend school at a public school of their choice, outside their district of residence without going through the procedures outlined in section 15-40.2-05. The school district of residence shall ~~either pay tuition or seek a tuition waiver from~~ to the admitting school district. A student may exercise the provisions of this subsection whether the school district of residence ceased to provide the required grade level before or after the effective date of this Act.

⁸¹ SECTION 5. AMENDMENT. Section 15-40.2-05 of the North Dakota Century Code is amended and reenacted 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 must be deemed approved. If the school board of the district of residence approves such application, it shall pay the tuition charges. In the event such application is 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 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

⁸⁰ Section 15-40.2-01 was also amended by section 15 of Senate Bill No. 2209, chapter 177.

⁸¹ Section 15-40.2-05 was also amended by section 2 of House Bill No. 1044, chapter 196.

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 its decision, the committee shall determine whether the pupil is a high school pupil, which, for purposes of this section, must be defined to mean grades nine through twelve, or whether the pupil is an elementary school pupil, which, for purposes of this section, must be defined to mean grades one through eight, or whether the pupil is a kindergarten pupil, which, for purposes of this section, must 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 is 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 is limited to one school term, and subsequent applications for the payment of tuition may be made annually. The decision of the committee is 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 may 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 twenty-five percent or more of the taxable valuation of the school district of residence lies in more than one another county, the joint committee shall consist of 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 the county lying within the district in which the school district headquarters is located, and any counties in which twenty-five percent or more of the taxable valuation is located, and the concurrence of a majority of 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, must be withheld until the tuition due has been fully paid.

This section may 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.

⁸² **SECTION 6. AMENDMENT.** Section 15-40.2-08 of the North Dakota Century Code is amended and reenacted as follows:

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

1. For purposes of applying this chapter, the school district in which a child resides must be construed to be the district of residence of such child:
 - a. At the time an order of a state court, tribal court, or juvenile supervisor requires such child to stay for any prescribed period at a state-licensed foster home, or state-licensed child care home or facility;
 - 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 state-licensed foster home, or state-licensed child care home or facility;
 - c. At the time of a placement to or from a state-operated institution; or
 - d. At the time of any voluntary admission to a state-licensed child care home or facility or state-operated institution.
2. The district of residence shall be liable for:
 - a. Tuition upon claim of the admitting district.
 - b. Tutoring services upon claim of the admitting facility, provided that the tutoring services are delivered by a certified and qualified teacher according to rules established by the superintendent of public instruction.
3. Where the guardian, parent, or parents of the child were residents of the district at the time of placement under subdivisions a through d of subsection 1, but such guardian, parent, or both parents have subsequently moved to another school district within North Dakota, then the tuition due the admitting district must be paid by the district of residence of the guardian, parent, or parents. If the guardian, parent, or parents have moved to another state, or if parental rights have been

⁸² Section 15-40.2-08 was also amended by section 3 of Senate Bill No. 2063, chapter 194.

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.

4. In the event of a voluntary admission to any state-licensed child care home or facility or state-operated institution, the determination of tuition may be subject to an appeal filed with the county superintendent of schools. Within fifteen days, the three-member committee referred to in section 15-40.2-05 shall 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. If the district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction, and upon verification that such tuition payments are in fact due and are unpaid, an amount equal to the unpaid tuition must be withheld from payments for foundation aid to the district of residence of the pupil until the tuition due has been fully paid.
6. An amount equal to the state average per-pupil elementary or high school costs, depending on the educational level of the student, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per-pupil cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state from funds appropriated for special education in the case of a student with disabilities, or from funds appropriated for foundation aid in all other cases.
7. If a student with disabilities, who is placed in accordance with the provisions of this section, reaches the age of majority and continues to receive special education and related services, the district of residence remains the same as that of the student's guardian, parent, or parents until the special education services are concluded.
8.
 - a. The placement agency shall provide written notice by registered mail of a placement made under court order or in an emergency to the superintendent of the district of residence and the superintendent of the admitting district within five working days after the placement.
 - b. Except as provided in subdivision a, the placement agency shall provide written notice by registered mail of a placement to the superintendent of the district of residence and the superintendent of the admitting district at least ten working days before the placement.
 - c. The placement agency shall afford the district of residence reasonable opportunity to participate in permanency planning for the child.

SECTION 7. AMENDMENT. Section 15-47-01 of the North Dakota Century Code is amended and reenacted as follows:

15-47-01. Schools free and accessible - School ages. The public schools of the state must be equally free, open, and accessible at all times to all children

between who have reached the ages age of six by midnight August thirty-first for school districts that do not provide kindergarten or the age of five for school districts that provide kindergarten, and have not reached the age of twenty-one, except that children by midnight August thirty-first. Children who do not arrive at reach the age of six years by between midnight August thirty-first and midnight December thirty-first may not start the first grade in an elementary school until the beginning of the following year, except children who by reason of if they have special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district, or who if they have completed kindergarten in an approved kindergarten; may start school at a younger age. However, under no circumstances may a child start first grade that school year if he is not six years of age by January first. Children who do not arrive at the age of five years by between midnight August thirty-first and midnight December thirty-first may not start kindergarten until the beginning of the following school year, except children who by reason of if they have special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district may start school at a younger age. However, under no circumstances may a child start kindergarten that school year if he or she is not five years of age by January first.

SECTION 8. AMENDMENT. Section 57-15-14.5 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14.5. Long-distance learning and educational technology levy - Voter approval.

1. The school board of a public school district may, upon approval by a majority vote of the electors of the school district at any regular or special election, dedicate a tax levy for purposes of this section not to exceed five mills on the dollar of taxable valuation of property within the district.
2. All revenue accruing from the levy under this section must be used only for purposes of establishing and maintaining long-distance learning and purchasing and maintaining educational technology. For purposes of this section, educational technology includes computer software, computers and computer networks, and other computerized equipment, which must be used for student instruction.
3. If the need for the fund terminates, the governing board of the public school district shall order the termination of the levy and shall transfer the remaining balance to the general fund of the school district.

Approved April 12, 1995

Filed April 13, 1995

CHAPTER 174**HOUSE BILL NO. 1046**

(Legislative Council)

(Interim Education Services Committee)

(Representatives Gulleson, Kroeber, Gorder, Aarsvold)

(Senators Scherber, St. Aubyn)

SCHOOL STAFF DEVELOPMENT MEETINGS

AN ACT to amend and reenact section 15-21-18 of the North Dakota Century Code, relating to joint meetings and cooperative activities of the boards of higher education, vocational and technical education, and public school education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-21-18 of the North Dakota Century Code is amended and reenacted as follows:

15-21-18. Joint meetings of board of higher education, state board for vocational and technical education, and state board of public school education. The state board of higher education, and the members of the state board for vocational and technical education in their capacity as both the state board for vocational and technical education and the state board of public school education, shall hold at least one joint meeting each year at the joint call of the director for vocational and technical education, the superintendent of public instruction, and the commissioner of higher education for the purpose of coordinating their programs; cooperating in professional growth and development opportunities for kindergarten through grade twelve staff; and cooperating in any other manner that accomplishes the objectives of the three boards involved.

Approved March 14, 1995

Filed March 14, 1995

CHAPTER 175**SENATE BILL NO. 2210**

(Political Subdivisions Committee)

(At the request of the Superintendent of Public Instruction)

LEASES BY SUPERINTENDENT OF PUBLIC INSTRUCTION

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, relating to leasing of real property by the superintendent of public instruction; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Superintendent may lease unused portions of real property.

1. The superintendent of public instruction may lease surplus portions of real property, including buildings and improvements, owned by the state and administered under the direction of the superintendent of public instruction at the school for the blind, school for the deaf, and division of independent study.
2. Revenues from leases entered into under this section must be deposited and expended in accordance with approved agency budgets. Any lease of unused portions of buildings may be made only after consultation with and adherence to conditions recommended by the administrator of the state fire and tornado fund.
3. The term of a lease granted under this section may not exceed five years, but any lease must provide that it is cancelable by the state without liability at the end of any state fiscal biennium, or that the lease is renewable at the sole discretion of the superintendent of public instruction at the beginning of each fiscal biennium. Other terms and conditions may be prescribed by the superintendent for leases made under this section, including conditions for renewing leases. The attorney general shall approve the adequacy of the legal form of leases under this section before their execution.

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

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 176**HOUSE BILL NO. 1041**

(Legislative Council)
(Interim Education Finance Committee)
(Senator C. Nelson)

**COUNTY SUPERINTENDENT OF SCHOOLS DUTY
ASSIGNMENT**

AN ACT to create and enact a new section to chapter 15-22 of the North Dakota Century Code, relating to the duties of county superintendents of schools; and to repeal sections 15-21-10, 15-22-10, 15-22-11, 15-22-13, 15-22-15, 15-22-16, 15-22-20, 15-22-26, 15-35-10, 15-38-02, 15-38-03, 15-38-14, 15-40.1-19, 15-47-17, 15-47-23, and 65-04-07 of the North Dakota Century Code, relating to the duties of county superintendent of schools, filing requirements, contingency funds, disaster drills, teacher registers, and reporting requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-22 of the North Dakota Century Code is created and enacted as follows:

County superintendents of schools - Assignment of duties. Notwithstanding any other provision of law, a board of county commissioners may by majority vote choose not to employ a county superintendent of schools and may assign, to one or more qualified persons, all statutory duties of county superintendents of schools. The assignment of duties must be set forth in a written plan, and the plan must be approved by a majority of the presidents of school boards whose districts include land in the county and must be placed on file with the legislative council.

SECTION 2. REPEAL. Sections 15-21-10, 15-22-10, 15-22-11, 15-22-13, 15-22-15, 15-22-16, 15-22-20, 15-22-26, 15-35-10, 15-38-02, 15-38-03, 15-38-14, 15-40.1-19, 15-47-17, 15-47-23, and 65-04-07 of the North Dakota Century Code are repealed.

Approved April 7, 1995
Filed April 7, 1995

CHAPTER 177

SENATE BILL NO. 2209

(Education Committee)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT ANNEXATION AND
REORGANIZATION

AN ACT to create and enact a new section to chapter 15-27.1, section 15-27.4-02.1, and a new section to chapter 15-40.3 of the North Dakota Century Code, relating to school district levies after annexation or dissolution, unobligated cash balance in a dissolution, and open enrollment exemptions; and to amend and reenact section 15-27.1-11, subsection 2 of section 15-27.2-01, sections 15-27.2-04, 15-27.3-01.1, 15-27.3-02, 15-27.3-05, 15-27.3-06, 15-27.3-14, 15-27.4-01, subsection 3 of section 15-27.4-02, sections 15-27.4-03, 15-40.1-07.3, subsection 2 of section 15-40.2-01, and subsection 1 of section 15-40.2-04, relating to school district annexation, reorganization, and dissolution and payment of tuition and open enrollment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-27.1-11. Reorganization, ~~annexation~~, or dissolution of school district not operating a school - Transportation. Any school district that, for a period of one year, does not operate either an elementary or high school, must become by the end of that year, through the process of reorganization; ~~annexation~~, or dissolution, part of a school district operating 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 section, or dissolved pursuant to this section and section 15-27.4-01, whose school district has been sending the students to a school district in a bordering state, county, or district, because of proximity or terrain, shall be permitted to attend or continue to attend school in the district in the bordering state, county, or district, subject to the provisions of section 15-40.2-09. The students residing within a school district that is ~~annexed to or~~ reorganized with another district or districts pursuant to this section, or dissolved pursuant to this section and section 15-27.4-01 must be provided transportation in the same manner transportation is provided to students in the school district the nonoperating district is attached to.

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

This section does not apply to school districts established pursuant to chapter 15-27.5.

SECTION 2. A new section to chapter 15-27.1 of the North Dakota Century Code is created and enacted as follows:

Payment of school district levies after annexation or dissolution. When an annexation of territory under chapter 15-27.2 or an attachment of territory by dissolution under chapter 15-27.4 has been approved by the state board:

1. The territory annexed or attached to the receiving school district is subject to all of the receiving school district's levies, except those to retire bonded debt existing before the annexation or attachment, unless determined otherwise in the state board's findings made when the board approved the annexation or dissolution; and
2. The territory annexed to the receiving school district is not subject to any of the levies of the school district detached from, except those to retire bonded debt existing before the annexation, unless determined otherwise in the state board's findings made when the board approved the annexation.

⁸³ **SECTION 3. AMENDMENT.** Subsection 2 of section 15-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The annexation petition must:
 - a. Be obtained from the county superintendent;
 - b. Identify all of the ~~land area~~ territory to be annexed before it is circulated. The territory must constitute one land area, with no territory identified in the petition separate from other territory identified in the petition;
 - c. Be signed in the presence of the carrier of the petition; and
 - d. Be submitted to the county superintendent of the county in which the majority of land identified in the petition is located.

SECTION 4. AMENDMENT. Section 15-27.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15-27.2-04. Annexation hearings - Equalization - Notice of hearings.

1. Before detaching territory from one school district or annexing territory to another school district, the county committee shall hold a hearing on the annexation.
2. At least fourteen days prior to the time the hearing is to be held, the committee shall cause notice of such hearing to be published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state.
3. At such hearing the committee shall consider testimony and documentary evidence with respect to any of the following factors:

⁸³ Section 15-27.2-01 was also amended by section 1 of House Bill No. 1042, chapter 178.

- a. The value and amount of all school property and all bonded and other indebtedness of each school district affected by a change in boundaries.
 - b. The amount of all outstanding indebtedness of each district and that which would constitute an equitable adjustment of all property, assets, debts, and liabilities among the districts involved.
 - c. The taxable valuation of existing districts and the differences in such valuation which would accrue under the proposed annexation.
 - d. The size, geographical features, and boundaries of the districts.
 - e. The number of pupils attending school and the population of the districts.
 - f. The location and condition of the districts' school buildings and their accessibility to affected pupils.
 - g. The location and condition of roads, highways, and natural barriers within the respective districts.
 - h. The school centers where children residing in the districts attend high school.
 - i. Conditions affecting the welfare of the pupils in the land area that is the subject of the annexation petition.
 - j. The boundaries of other governmental units and the location of private organizations in the territories of the respective districts.
 - k. The educational needs of local communities in the involved districts.
 - l. An objective in economizing in the use of transportation and administrative services.
 - m. Projected future use of existing satisfactory school buildings, sites, and playfields in the involved districts.
 - n. A reduction in disparities in ~~per-pupil~~ per student valuation between school districts and the objective of equalization of educational opportunities for pupils.
 - o. Any other relevant factors which, in the judgment of the committee, are of importance.
4. Following the committee's consideration of testimony and documentary evidence with respect to any of the factors listed in subsection 3, the committee shall make specific findings with reference to every one of those factors to which testimony or documentary evidence was directed.
 5. All proposed annexations must be given final approval by the state board following a hearing conducted by the board at which testimony and documentary evidence shall be considered with respect to any of the factors listed in subsection 3. The state board shall make specific

findings with reference to every one of those factors to which testimony or documentary evidence was directed.

6. a. If the annexation is approved by the state board, the county committee may cause a tax to be levied against each district affected in accordance with section 15-47-21 which will equalize the several interests fairly. The unobligated cash balance in excess of ten thousand dollars not designated for indebtedness is a credit for those who own property within the annexed school district against taxes levied by the receiving school district in the year or years following the annexation based on the previous five-year average of the total mills levied for education by the district being annexed, as calculated by the county auditor. If a school district is attached to more than one school district, the credit that those who own property within the attached school district receive from the receiving school district must be in the same proportion to the remaining unobligated cash balance as the taxable valuation of the property bears to the total taxable valuation of the property in the school district that existed prior to annexation.
 - b. Any political subdivision required to provide a tax credit under subdivision a, as a result of an annexation occurring after January 1, 1989, may upon approval of the county commissioners, provide a cash refund in lieu of the tax credit. The school district holding the unobligated cash balance shall, at the request of the county auditor, pay to the county treasurer the amount to be paid to those who own property within the annexed district. The treasurer shall issue the refund to the owner of the property, as shown on the county's assessment list at the time of payment. If there is a lien for unpaid taxes against any property, the treasurer shall first apply the tax credit toward any outstanding balance. Any amount remaining may then be paid to the property owner. The cash refunds must be calculated proportionately to the total taxable value of the annexed district during the last year taxes were levied.
7. If the school districts involved in the proposed annexation are situated in more than one county, the county committee of the county encompassing the major portion of each school district shall consider and jointly effect the annexation if a majority of the members of each of such county committees approves the annexation. If the annexation is approved by a majority of the members of one of the two county committees, the county superintendent of the county in which the annexing district is located shall submit the annexation to the state board for approval or disapproval, and in such instance approval of the annexation shall have the same effect as approval by all county committees.
8. 7. 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 after the filing of the original petition with the county. The petition may not be submitted to considered by the county committee more than twice in twelve consecutive months.
9. 8. 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 county committee for a period of three months after the filing of the petition state board's determination not to approve the annexation. The petition may not be submitted to considered by the state board more than twice in twelve consecutive months.

- ~~10- 9.~~ If the school districts are situated in more than one county but the major portions of both such school districts are situated in the same county, the county committee of such county shall consider the matter.
- 11- 10. Any determination made by a single county committee with respect to an annexation proposed under this section may be appealed to the state board. A decision of the state board with respect to a proposed annexation may in turn be appealed to the district court of the judicial district in which the territory proposed is located in accordance with chapter 28-32.

SECTION 5. AMENDMENT. Section 15-27.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-01.1. School district reorganization - How to initiate. School districts or parts of school districts may reorganize under this chapter. A school district may become involved in a reorganization proposal by a majority vote of its school board members. A reorganization proposal must be prepared by the school districts that have voted to become involved in the reorganization proposal.

SECTION 6. AMENDMENT. Section 15-27.3-02 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-02. Proposal involving territory in more than one submitted to county committees. If the school districts involved in a reorganization proposal are situated in more than one county, a special committee composed of not fewer than three members of each of the county committees of the counties encompassing the major portion of each school district shall prepare a proposal for the reorganization of the school districts. The reorganization proposal must be submitted to each the county committee committees of the counties encompassing the major portion of each involved school district for its approval. If the reorganization proposal is approved by a majority of the members of at least one of the two county committees, or the members of one or more of the special committees fail or refuse to meet with the committee or committees from other counties committee, the county superintendent of the county in which the largest number of pupils who would be affected by the proposed new district reside shall submit the reorganization proposal to the state board for approval or disapproval. Approval of the reorganization proposal by the state board has the same effect as approval by all the county committees. If the reorganization proposal fails to receive the approval of any county committee, it may not be presented to the state board for review. If the school districts are situated in more than one county but the major portions of both such school districts are situated in the same county, the county committee of that county shall consider the matter.

SECTION 7. AMENDMENT. Section 15-27.3-05 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-05. Public hearing on proposals for reorganization - Hearing testimony for adjusting. The county committee shall hold a public hearing on the advisability of any reorganization proposal. Notice of hearings must be given by

publishing a notice in the official county newspaper at least fourteen days prior to the date of each hearing. If the county committee fails to call a hearing or to give the required public notice, a petition signed by twenty-five percent of the qualified electors in the area proposed to be included in the new school district and presented to the committee makes it mandatory for a hearing to be called. Notice of the hearing must be published within ten days after the petition has been filed, and must set forth the date selected for the hearing, which may not be more than twenty days after the date of publication. The county committee shall also hear at such time as may be fixed by it, testimony offered by any person or school district interested in the reorganization proposal. The testimony and documentary evidence considered by the county committee must include any information regarding the following factors:

1. The value and amount of all school property of whatever nature involved in the proposed action.
2. The nature, amount, and value of all bonded, warrant, and other indebtedness of each school district affected by the proposed action, including all unexecuted obligations with separate consideration given to the amount of outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements, and the location of such improvements in order that an equitable adjustment of all property, debts, and liabilities among the districts involved be made.
3. The taxable valuation of the existing districts and the differences in such valuation which would accrue under a proposed reorganization.
4. The size, geographical features, and boundaries of the districts.
5. The number of pupils attending school and the population of the districts.
6. The location and condition of the districts' school buildings and their accessibility to affected pupils.
7. The location and condition of roads, highways, and natural barriers within the respective districts.
8. The school centers where children residing in the districts attend high school.
9. Conditions affecting the welfare of the teachers and pupils of the involved districts.
10. The boundaries of other governmental units and the location of private organizations in the territories of the respective districts.
11. The educational needs of local communities in the involved districts.
12. An objective in economizing in the use of transportation and administrative services.
13. Projected future use of existing satisfactory school buildings, sites, and playfields in the involved districts.

14. A reduction in disparities in per-pupil valuation between school districts and the objective of equalization of educational opportunities for pupils.
15. Any other relevant factors which, in the judgment of the county committee, are of importance.

Following the county committee's consideration of testimony and documentary evidence with respect to the factors listed in subsections 1 through 15, the committee shall make specific findings with reference to those factors to which testimony or documentary evidence was directed in proceedings before the committee.

The county committee shall keep a record of the hearing on the reorganization of school districts and of all findings and terms of adjustment of property, debts, and liabilities among the districts involved, and shall submit the same to the state board at the time of submitting the reorganization proposal for state board approval. ~~A subcommittee composed of not fewer than three members of a county committee, or three members of the county committee of each county concerned in case territory in two or more counties is involved, may hold any hearing that the county committee is required to hold.~~

SECTION 8. AMENDMENT. Section 15-27.3-06 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-06. Reorganized school districts - Determination of tax levy. Prior to the submission of a reorganization proposal, the county committee or committees shall determine the amount necessary to meet the expenses of the proposed reorganized district and shall propose a tax levy sufficient to meet those expenses. The proposed tax levy must be submitted to the state ~~committee board~~ board as a part of the reorganization proposal and, if approved by the state ~~committee board~~ board, must be included as a part of the proposal and submitted to the electors of the proposed new district as provided in this chapter. Tax levies submitted as a part of a reorganization proposal which is approved as provided in this chapter are not subject to mill levy limitations provided by law.

SECTION 9. AMENDMENT. Section 15-27.3-14 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-14. Continuance of elementary schools in reorganized districts. Each elementary school included in reorganized school districts must be kept in session as provided by law, except that any school may be discontinued when the school board in the district where the school is located, by a ~~unanimous four-fifths~~ unanimous four-fifths vote, approves its closing. The school board may reopen such school at any time upon its own motion. The school may be reopened only at the beginning of the next regular school term which follows by at least ninety days the date of the school board's action.

SECTION 10. AMENDMENT. Section 15-27.4-01 of the North Dakota Century Code is amended and reenacted as follows:

15-27.4-01. Dissolution of public school districts - Responsibility of county committee - Duty of county superintendent.

1. The county committee shall 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 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 as is required by section 15-27.1-11;
 - c. There exists territory not organized into a school district;
 - 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; or
 - e. The school district has determined that it is in the best interests of its students to dissolve and become attached to surrounding school districts. The school district shall make this determination whenever the objective is to liquidate the school district. The annexation procedures under chapter 15-27.2 may not be used to annex, through one or more annexation petitions, all of the territory in a school district to surrounding school districts.
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.
3. After approval by the state board of the proposed dissolution, the 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.
4. Receipt of notice by the county committee from the county superintendent under subsection 1 renders ineffective all annexation petitions involving any of the same territory that have not been approved by the state board as of the date the county committee received the notice. In addition, no annexation petitions involving any of the same territory may be filed with the county superintendent.

⁸⁴ SECTION 11. AMENDMENT. Subsection 3 of section 15-27.4-02 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~At or after~~ After the hearing, the county committee shall by resolution order the district dissolved and its territory attached, or the unorganized territory attached, to one or more adjoining school districts in such manner as will, in its judgment, provide the best educational opportunities for pupils of the public schools and the wisest use of public funds for the support of the public school system in the school districts and attached territory.

SECTION 12. Section 15-27.4-02.1 of the North Dakota Century Code is created and enacted as follows:

15-27.4-02.1. Unobligated cash balance up to ten thousand dollars. Any unobligated cash balance up to ten thousand dollars which is not designated for indebtedness must be held in a separate fund by the county auditor of the county in which the majority of the territory of the dissolved school district is located. The county auditor shall hold the fund for one year after the effective date of the dissolution. During that year, the county auditor shall accept assets and pay debts attributable to the dissolved school district which were not resolved before the effective date of the dissolution. At the end of the year, unless determined otherwise by the state board when the dissolution was approved, the cash balance remaining in the fund must be divided and distributed to the school districts in the same proportion as taxable valuation received by the school districts to which the territory of the dissolved school district was attached.

⁸⁵ SECTION 13. AMENDMENT. Section 15-27.4-03 of the North Dakota Century Code is amended and reenacted as follows:

15-27.4-03. Unobligated cash balance of dissolved school district in excess of ten thousand dollars - Tax credits or refunds.

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

⁸⁴ Section 15-27.4-02 was also amended by section 2 of House Bill No. 1042, chapter 178.

⁸⁵ Section 15-27.4-03 was also amended by section 1 of House Bill No. 1302, chapter 180.

2. Upon approval of the board of county commissioners, any school district required to provide a tax credit under subsection 1 may provide a cash refund in lieu of the tax credit. At the request of the county auditor, the school district holding the unobligated cash balance shall pay to the county treasurer the amount to be paid to those who own property within the dissolved district. The treasurer shall issue the refund to the owner of the property as shown on the county's assessment list at the time of payment. If there is a lien for unpaid taxes against any property, the treasurer shall first apply the tax credit toward any outstanding balance. Any amount remaining may then be paid to the property owner. The cash refunds must be calculated proportionately to the total taxable value of the dissolved district during the last year taxes were levied.

SECTION 14. AMENDMENT. Section 15-40.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-07.3. High school per-pupil per student payments - ~~Dissolution or annexation~~ Reorganization of school districts.

1. If any school district receiving per-pupil per student payments calculated under section 15-40.1-07 ~~annexes to or~~ reorganizes with another school district under chapter 15-27.3 or 15-27.6, 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.

⁸⁶ SECTION 15. AMENDMENT. Subsection 2 of section 15-40.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. When a school district ceases to provide educational services to an entire grade level, the students in that grade level may attend school at a public school of their choice, outside their district of residence without going through the procedures outlined in section 15-40.2-05. The school district of residence shall ~~either pay tuition or seek a tuition waiver from~~ to the admitting school district.

⁸⁷ SECTION 16. AMENDMENT. Subsection 1 of section 15-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

⁸⁶ Section 15-40.2-01 was also amended by section 4 of Senate Bill No. 2159, chapter 173.

⁸⁷ Section 15-40.2-04 was also amended by section 1 House Bill No. 1044, chapter 196.

1. a. Except as provided in this subsection, any school district that admits nonresident students to its schools, as provided by this chapter, shall charge tuition for those students. School districts have the option of charging tuition for nonresident students enrolled in an approved alternative education program. The whole amount of the tuition must be paid by the district from which the student is admitted, in accordance with section 15-40.2-03, or by the student's parent or guardian, in accordance with section 15-40.2-06.
- b. Except as otherwise provided, any school district that fails to charge and collect tuition for nonresident students as provided for in section 15-40.2-03 and this section shall forfeit foundation payments for those nonresident students for whom tuition is not paid. A school district may accept a nonresident student from another school district in this state which offers the same grade level as that in which the student is enrolled, without a charge and collection of tuition if a written agreement is made between the sending and receiving districts. No written agreement is necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged. A school district may accept a nonresident student described in section 15 of this Act from another school district in this state without a charge and collection of tuition and without a written agreement.
- c. No school district may charge or collect from any nonresident student, parent or guardian of a nonresident student, or the district of the student's residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident students.

SECTION 17. A new section to chapter 15-40.3 of the North Dakota Century Code is created and enacted as follows:

Students not subject to this chapter. A student, who as the result of dissolution resides in a district other than the one the student chooses to attend at the time of dissolution, is not subject to the provisions of this chapter and may attend school in the chosen school district. The student may not be considered a student in average daily membership in the student's school district of residence for purposes of section 15-40.3-02.

Approved April 12, 1995
Filed April 13, 1995

CHAPTER 178**HOUSE BILL NO. 1042**

(Legislative Council)
(Interim Education Finance Committee)

**SCHOOL DISTRICT ANNEXATION RESIDENCY
REQUIREMENTS**

AN ACT to amend and reenact subsection 2 of section 15-27.2-01 and subsection 3 of section 15-27.4-02 of the North Dakota Century Code, relating to residency requirements in school district annexations and dissolutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁸ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The annexation petition must:

a. Be obtained from the county superintendent;

b. Identify all of the land area to be annexed before it is circulated;

c. Identify one student who resides in the area to be annexed and who will attend a public school during the school year following approval of the petition.

d. Be signed in the presence of the carrier of the petition; and

~~d~~ e. Be submitted to the county superintendent of the county in which the majority of land identified in the petition is located.

⁸⁹ **SECTION 2. AMENDMENT.** Subsection 3 of section 15-27.4-02 of the North Dakota Century Code is amended and reenacted as follows:

3. At or after the hearing, the county committee shall by resolution order the district dissolved and its territory attached, or the unorganized territory attached, to one or more adjoining school districts in such manner as will, in its judgment, provide the best educational opportunities for pupils of the public schools and the wisest use of public

⁸⁸ Section 15-27.2-01 was also amended by section 3 of Senate Bill No. 2209, chapter 177.

⁸⁹ Section 15-27.4-02 was also amended by section 11 of Senate Bill No. 2209, chapter 177.

funds for the support of the public school system in the school districts and attached territory. The county committee may not order the attachment of any territory unless a minor resides within the boundaries of the territory to be attached.

Approved March 6, 1995

Filed March 6, 1995

CHAPTER 179

SENATE BILL NO. 2059

(Legislative Council)
(Interim Education Finance Committee)
(Representatives Keiser, Kaldor)

SCHOOL DISTRICT TRANSPORTATION AND REORGANIZATION

AN ACT to amend and reenact sections 15-27.3-10, 15-27.3-19, 15-27.3-20, 15-40.1-16, and 15-40.1-18 of the North Dakota Century Code, relating to the school district transportation services and changes in school district reorganization proposals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.3-10 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-10. Transportation required provisions effective until changed. A Any provision in a reorganization proposal must provide for relating to the transportation of students and must specify if family-type or public schoolbus-type of transportation shall be used, and if the proposal is approved by the voters of the new district, then the school board of the district shall provide adequate and practical transportation of the type specified, except that if family-type transportation is specified, the school board may later substitute public schoolbus-type transportation. A reorganized school district shall establish a schedule of transportation payments as is proper under the circumstances affecting that district, but the schedule of payments may not be less than the amount determined under subsection 2 of section 15-40.1-16 for state aid for family-type transportation effective before August 1, 1995, must remain in effect until changed in accordance with section 15-27.3-19.

SECTION 2. AMENDMENT. Section 15-27.3-19 of the North Dakota Century Code is amended and reenacted 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, 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 qualified electors equal in number to twenty percent of the persons enumerated in the most recent school district census, 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 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 district. If a majority of all votes cast by the electors residing in each of the

~~geographic areas~~ district is in favor of the proposed change, then the proposed change is effected. If a reorganization plan has been in effect for at least ten years, any proposed change to geographic voting areas is effective upon a majority vote in an election at large by the qualified electors of the district. 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 3. AMENDMENT. Section 15-27.3-20 of the North Dakota Century Code is amended and reenacted as follows:

15-27.3-20. Powers of school board in reorganized district - Exceptions. After five years from the effective date of the reorganization proposal, the school board of a reorganized district shall exercise the powers granted to a school board by section 15-29-08 or any other provisions of law regardless of limitations contained in the reorganization proposal. This section does not authorize the school board of a reorganized district to exercise any powers prohibited or limited by section ~~15-27.3-10, 15-27.3-17, or 15-27.3-19.~~

SECTION 4. AMENDMENT. Section 15-40.1-16 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-16. Aid for transportation.

1. There must be paid from state funds to each school district providing schoolbus transportation in contract schoolbuses or in district-owned and operated schoolbuses, and to school districts with students riding commercial buses to and from school ~~within the incorporated limits of a city,~~ the following amounts:
 - a. For schoolbuses and school vehicles transporting students who live outside the incorporated limits of the city in which the students' school the student is enrolled is located, a sum equal to twenty-five cents per mile [1.61 kilometers] for vehicles having a capacity of nine or fewer students and sixty-seven cents per mile [1.61 kilometers] for schoolbuses having a capacity of ten or more students and for schoolbuses and school vehicles transporting students who live within the incorporated limits of a city in which the students' school is located, a sum equal to twenty-five cents per mile [1.61 kilometers]. School districts qualifying for payments for buses having a capacity of ten or more students are entitled to an amount equal to ~~twenty-eight~~ forty cents per day for each public school student living outside the city limits who is transported in such buses.
 - b. For students who ride schoolbuses or commercial buses to or from school and who live within the incorporated limits of the city within which the school that the students attend is located, a sum equal to ~~seventeen and one-half~~ twenty cents per student per one-way trip. ~~However, no payment may be made under this subdivision for a student who rode on a vehicle for which payments are claimed under subdivision a.~~

The mileage payments provided for in this subsection must be made to each school district for transporting students to and from school. Payments may be made only to school districts operating schoolbuses in

accordance with the laws of this state relating to standards for schoolbuses, and to the qualifications of schoolbus drivers. Certification as to compliance with the laws of this state in regard to schoolbuses and their drivers must be made in such manner and detail as the superintendent of public instruction may require at the time an application is made for payments provided under this subsection.

2. For students transported by family transportation in accordance with section 15-34.2-03, the state shall reimburse school districts in an amount determined by using the rate of forty cents per day for each mile [1.61 kilometers] over two miles [3.22 kilometers] according to the distance between the student's home and the school. Such distance must be measured by the route from the front door of the school attended to the front door of the family's residence according to the most convenient public course of travel.
3. The superintendent of public instruction shall develop, and require that school districts use, a uniform cost accounting system to calculate and administer the reimbursement provided for and in this section. The superintendent shall prepare all forms and statements that may be necessary for a school district to apply for the same.

SECTION 5. AMENDMENT. Section 15-40.1-18 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-18. State transportation payments to school districts. The superintendent of public instruction shall determine the total amount of payments to be made to the school districts for transportation aid. The office of management and budget shall pay the sum certified by the superintendent of public instruction to each school district. Payments shall must be made in the same manner and at the same time as other payments from the state to school districts are made, as provided in section 15-40.1-05. ~~During the 1993-94 school year, no school district may receive more than one hundred percent of the actual costs it incurs in the provision of transportation services. During the 1994-95 school year, no~~ No school district may receive more than ninety percent of the actual costs it incurs in the provision of transportation services. ~~The superintendent of public instruction shall calculate the difference between the actual costs incurred by all districts in the provision of transportation services during the 1994-95 school year and ninety percent of the actual costs incurred by all school districts in the provision of transportation services during the previous school year. The superintendent shall use the difference to increase the per student payments provided for in subsections 1 and 2 of section 15-40.1-16 by the same amount under each subsection.~~ For purposes of this section, actual costs include the transportation operating expenditures reported to the superintendent of public instruction for the most recent year plus the eight-year average cost of transportation equipment determined by the superintendent of public instruction.

Approved April 17, 1995
Filed April 18, 1995

CHAPTER 180**HOUSE BILL NO. 1302**

(Representatives Jacobs, Froseth, Grumbo, Clark, Thoreson)
(Senator Wanzek)

SCHOOL DISTRICT DISSOLUTION TAX CREDITS

AN ACT to amend and reenact section 15-27.4-03 of the North Dakota Century Code, relating to tax credits resulting from the dissolution of school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁰ **SECTION 1. AMENDMENT.** Section 15-27.4-03 of the North Dakota Century Code is amended and reenacted as follows:

15-27.4-03. Unobligated cash balance of dissolved school district - Tax credits. The unobligated cash balance in excess of ten thousand dollars which is not designated for indebtedness of any school district dissolved after January 1, 1989, is a credit for those who own property within the dissolved school district against taxes levied by the school district the dissolved school district is attached to in the year or years following the dissolution based on the previous five-year average of the total mills levied for education by the district being annexed, as calculated by the county auditor. If a school district is dissolved and attached to more than one school district, the credit that those who own property within the attached school district receive from the receiving school district must be in the same proportion to the remaining unobligated cash balance as the taxable valuation of the property bears to the total taxable valuation of the property in the school district that existed prior to dissolution. Upon approval of the board of county commissioners, a political subdivision required to provide a tax credit under this section may provide a cash refund in lieu of the tax credit. At the request of the county auditor, the school district holding the unobligated cash balance shall pay to the county treasurer the amount to be paid to those who own property within the dissolved district. The treasurer shall issue the refund to the owner of the property, as shown on the county's assessment list at the time of payment. If there is a lien for unpaid taxes against the property, the treasurer shall first apply the tax credit toward the outstanding balance. The amount remaining may then be paid to the property owner.

Approved March 21, 1995

Filed March 21, 1995

⁹⁰ Section 15-27.4-03 was also amended by section 13 of Senate Bill No. 2209, chapter 177.

CHAPTER 181**SENATE BILL NO. 2444**
(Senator Freborg)**SCHOOL BOARD ELECTIONS**

AN ACT to amend and reenact section 15-28-02 of the North Dakota Century Code, relating to definitions of rural and urban areas for purposes of school board membership elections; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-28-02. Rural members of school board - Definitions. 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 must 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 must be a resident upon a farm outside the corporate limits of the city. However, if the taxable valuation of agricultural property in 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 must 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. For purposes of this section:

1. "Agricultural property" means property outside the limits of an incorporated city and zoned agricultural.
2. "Rural" means property outside the limits of an incorporated city.

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

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 182**HOUSE BILL NO. 1075**

(Representative Dobrinski)

SCHOOL BOARD MEMBER TERMS

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-28-03. Annual and special elections - When held - Officers elected - Terms - Optional joinder with city election or primary election.

1. An annual election must be held in each public school district on a date between April first and June thirtieth, at the discretion of the school board. At each annual election, members of the school board 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. The term of any elected member commences at the annual meeting in July following the member's election, and continues until 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, for any purpose provided for by law.
2. The annual election provided for in this section may, upon resolution of the school board, be held in conjunction with the regularly scheduled city election, established by state law or established pursuant to the home rule powers of the city, held in a city located wholly or partially within that school district. The school board may enter into an agreement with the governing body of the city concerning the sharing of election personnel, the printing of election materials, the use of one set of pollbooks, and the apportioning of election expenses. If only one set of pollbooks is used, the pollbook must contain a reference indicating the voter's eligibility to vote in the city or school board election, or both. References in this chapter to the date of school board elections, insofar as they relate to a school board that holds its elections in conjunction with a city, are deemed to mean or to refer to the date of the applicable city election.
3. Such a A school board ~~has the further option to~~ may convert the terms of office of its members to four years rather than three years in order that school board elections like city elections may be held biennially rather than annually. A school board may convert the future terms of its members to four years by passing a resolution requiring the conversion. Upon the expiration of the three-year term of each incumbent in office on the date the resolution is passed, the term of office for that position on the board is four years, except that the resolution may provide that one of the positions being converted to a

four-year term must first be converted to one two-year term before becoming a four-year term. If the resolution provides for one two-year term, that term must be chosen by lot. If the extension of a term to four years results in the term ending in an odd-numbered year, one additional and transitional term of three years must be provided before the term becomes a four-year term of office. Once the school board has accomplished the transition to biennial elections, references in this title to annual elections as they apply to the school board are deemed to mean biennial elections, and the election held pursuant to section 15-28-11 must be held in even-numbered years.

4. A school board that has converted the terms of its members to four years may revert to three-year terms by passing a resolution providing for the reversion. When the four-year term of each board member holding office on the date of the resolution's passage expires, the term of office for that position becomes three years.

~~3~~ 5. If the school election is held in conjunction with the primary election, the school board may enter into an agreement with the governing body of the county or counties in which the district lies concerning use of a single canvassing board, the sharing of election personnel, the printing of election materials, and the apportioning of election expenses.

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 183**SENATE BILL NO. 2333**

(Senator Grindberg)

(Representatives Austin, Carlson)

SCHOOL ELECTION FILING DEADLINES

AN ACT to amend and reenact subsection 2 of section 15-28-09 of the North Dakota Century Code, relating to filing deadlines for school elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 15-28-09 of the North Dakota Century Code is amended and reenacted as follows:

2. When a school annual election or special election is held in conjunction with a statewide election, any candidate for election as a member of the school board of a school district shall file with the business manager of the school district, not less than ~~forty-five~~ sixty days before the election and before four p.m. on the ~~fifty-fifth~~ sixtieth day, a statement setting forth the candidate's name and the position for which that person is a candidate. A statement which is mailed to the business manager must be in the business manager's physical possession before four p.m. on the ~~fifty-fifth~~ sixtieth day before the election.

Approved March 2, 1995

Filed March 3, 1995

CHAPTER 184

HOUSE BILL NO. 1040

(Legislative Council)
(Interim Education Finance Committee)
(Senator O'Connell)

SCHOOL BOARD MEETINGS SCHEDULE

AN ACT to amend and reenact section 15-29-02 of the North Dakota Century Code, relating to school board meetings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-29-02 of the North Dakota Century Code is amended and reenacted as follows:

15-29-02. Regular and special meetings Meetings of board - Notice of special meetings - Schedule.

1. The annual meeting of ~~the~~ a school board must be held during the month of July following the annual election, on a date called by the president and convenient to the rest of the members, with ~~such~~ notice given as ~~is~~ prescribed in ~~this section~~ subsection 3 for special meetings; ~~at which time the newly~~ Newly elected members shall assume the duties of their offices at that time. ~~The~~
2. Once each calendar month thereafter, a board shall hold a regular meeting for the transaction of business ~~once in each calendar month thereafter; provided, however, that the~~ The board of any school district in which are located having only one-room or two-room schools may meet as often as the board deems necessary, but not less than four times in each year.
3. Special meetings may be called by the president, or by any two members of ~~the~~ a board. Written or printed notice of a special meeting must be given to each member of ~~the~~ a board; ~~provided, however, that the attendance~~ Attendance by a board member at any meeting, without objection, by any member constitutes a waiver of the notice ~~required to be given to such~~ requirement for that member.
4. A school board operating under an academic cooperative agreement approved by the superintendent of public instruction may participate in multiboard meetings in addition to, instead of, or in conjunction with the regular board meetings required by subsection 2. Multiboard meetings must be for the purpose of pursuing joint academic or cooperative activities and must be held at the times and locations agreed to by the presidents of the participating boards. In addition to any other requirements set forth in section 44-04-20, the presidents of each school

board shall ensure that public notice of each multiboard meeting in which the school board will participate is published in the major local newspapers of general circulation at least one week before the meeting date.

Approved March 6, 1995

Filed March 6, 1995

CHAPTER 185**SENATE BILL NO. 2169**
(Senator Lips)**SCHOOL BOARD MEMBER COMPENSATION**

AN ACT to amend and reenact section 15-29-05 of the North Dakota Century Code, relating to the compensation of school board members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-29-05 of the North Dakota Century Code is amended and reenacted as follows:

15-29-05. Compensation of board members. Each ~~member of the school board may receive not in excess of twenty-five dollars as shall set a level of compensation for each meeting of the board actually attended~~ services payable to its members, provided that no member may receive more than one thousand dollars annually for this purpose. In addition ~~thereto~~ to compensation for services, each member may be reimbursed for all necessary meals and lodging and travel expense actually incurred while engaged on official business of the board, at the same rate as provided for state officers and employees. Any mileage claimed may not exceed the number of miles [kilometers] between the points traveled as measured by the most usual route.

Approved March 1, 1995
Filed March 1, 1995

CHAPTER 186

SENATE BILL NO. 2491

(Senators LaFountain, Grindberg, Heinrich, Heitkamp)
(Representatives Boucher, Kerzman)

AMERICAN INDIAN LANGUAGE AND CULTURE TEACHER CERTIFICATION

AN ACT to create and enact a new section to chapter 15-29 and a new section to chapter 15-38 of the North Dakota Century Code, relating to the provision of teaching services by persons certified as instructors in the areas of North Dakota American Indian languages and culture; and to amend and reenact subsection 10 of section 15-29-08, section 15-36-12, subsection 11 of section 15-39.1-04, sections 15-41-25, 15-47-42, and 15-47-46 of the North Dakota Century Code, relating to teacher certification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹¹ SECTION 1. AMENDMENT. Subsection 10 of section 15-29-08 of the North Dakota Century Code is amended and reenacted as follows:

10. To contract with, employ, and pay all teachers in the schools and, for cause, to dismiss or suspend any teacher when the interests of the school may require it. Every Except as provided in section 2 of this Act, every teacher ~~shall be required to~~ must hold a valid North Dakota teaching certificate issued by the superintendent of public instruction. No person who is related to any member of the board by blood or marriage ~~shall~~ may be employed as a teacher without the concurrence of two-thirds of the board.

SECTION 2. A new section to chapter 15-29 of the North Dakota Century Code is created and enacted as follows:

School boards - Authority to contract for certain services. A school board may contract with and provide reimbursement for the provision of teaching services by a person certified as an instructor in the areas of North Dakota American Indian languages and culture by the education standards and practices board.

SECTION 3. AMENDMENT. Section 15-36-12 of the North Dakota Century Code is amended and reenacted as follows:

15-36-12. Certificate must be exhibited to business manager of the school district - Completion of term after expiration of certificate. No teacher is entitled to receive any compensation for the time ~~he~~ the teacher teaches in a public school without a certificate to teach which lawfully is issued and in force in the county in which the school is taught. Prior to receiving ~~his~~ a salary for the first month taught in a school district, a teacher must exhibit ~~his~~ the teacher's certificate to the business

⁹¹ Section 15-29-08 was also amended by section 3 of House Bill No. 1178, chapter 203.

manager of the school district. If a teacher's certificate expires by its own limitations within six weeks of the close of the term, the teacher may finish the term without reexamination or renewal thereof. This section does not apply to any person providing teaching services in accordance with section 2 of this Act.

SECTION 4. A new section to chapter 15-38 of the North Dakota Century Code is created and enacted as follows:

Education standards and practices board - Certification of North Dakota American Indian language instructors. The education standards and practices board may certify an individual as an instructor of North Dakota American Indian languages and culture if the individual is recommended for certification to teach North Dakota native languages by the indigenous language boards created by the four North Dakota tribal governments of this state's reservations and if the individual:

1. Displays competence in North Dakota American Indian languages and culture and has successfully completed a three-semester-hour course in classroom instruction at a tribal college or other institution of higher education; or
2. Holds a baccalaureate degree and has knowledge of and experience in North Dakota American Indian languages and culture.

⁹² SECTION 5. AMENDMENT. Subsection 11 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11. "Teacher" ~~includes~~ means:

- a. 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~~. The superintendent and assistant superintendent of the developmental center at Grafton may be brought within this definition at their option.
- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, developmental center at Grafton supervisors and inspectors, the executive director and professional staff of the North Dakota education association, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association.
- c. The executive director of the North Dakota school boards association, the executive secretary of the fund, the executive

⁹² Section 15-39.1-04 was also amended by section 1 of Senate Bill No. 2170, chapter 191; section 10 of Senate Bill No. 2012, chapter 34; and section 25 of House Bill No. 1027, chapter 120.

director and professional staff of the North Dakota council of school administrators, and certified staff of teachers centers, but only if the person was previously a member of and has credits in the fund.

- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

SECTION 6. AMENDMENT. Section 15-41-25 of the North Dakota Century Code is amended and reenacted as follows:

15-41-25. High schools - Teacher qualification. ~~Not later than July 1, 1961~~ Except as provided in section 2 of this Act, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 shall have a valid teacher's certificate and shall have a major or minor in the course areas or fields that ~~he~~ the teacher is teaching if ~~such~~ the high school is to receive any approval by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, and health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which ~~he~~ the teacher is employed may not affect the approval of the employing school district.

SECTION 7. AMENDMENT. Section 15-47-42 of the North Dakota Century Code is amended and reenacted as follows:

15-47-42. Status and authority of student and eminence-credentialed teachers. Any student teacher, ~~during the time the student teacher is assigned as a student teacher, or eminence-credentialed teacher hired or assigned in this capacity~~ must be given the same legal authority and status as if the student or eminence-credentialed teacher were a certificated employee of the school district ~~in which he is assigned~~. The authority of the student or eminence-credentialed teacher ~~most extend~~ extends to all aspects of student management or discipline, ~~in~~ the handling of confidential student records ~~of students~~, and ~~in~~ to all other aspects of legal authority granted to certificated ~~employees of the school districts~~ teachers in the state. The student or eminence-credentialed teacher must be deemed a certificated employee of the district with respect to acts performed by ~~him~~ the student or eminence-credentialed teacher at the direction, suggestion, or consent of the ~~certificated~~ district employees under whose supervision and control the ~~holder~~ student or eminence-credentialed teacher performs ~~his~~ duties, whether or not the duties are performed entirely in the presence of ~~the district employees of the district~~ assigned to supervise the ~~holder~~ student or eminence-credentialed teacher, and must be deemed an employee of the school district within the meaning of sections 32-12.1-05 and 39-01-08 relating to liability insurance carried by political subdivisions. For purposes of this section, "eminence-credentialed teacher" means a person providing teaching services in accordance with section 2 of this Act.

SECTION 8. AMENDMENT. Section 15-47-46 of the North Dakota Century Code is amended and reenacted as follows:

15-47-46. Teacher qualification - Kindergarten through grade eight - Exceptions.

1. Except as provided in subsections 2 through 4 or section 2 of this Act, all teachers teaching kindergarten through grade eight must hold a teaching certificate and:

- a. A minimum of a kindergarten endorsement to teach kindergarten;
 - b. A major, minor, or endorsement in elementary education to teach elementary education in grades one through eight; or
 - c. An endorsement in kindergarten or elementary education from the superintendent of public instruction attained prior to or within two years of the assignment to teach kindergarten or elementary education. An endorsement may be obtained by completing teaching requirements and a minimum number of credit hours in courses prescribed by the superintendent of public instruction.
2. A teacher who holds a teaching certificate and a major or an endorsement in middle school education attained prior to, or within two years of, the assignment to teach middle school may teach grades five through eight.
 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 4, 1995
Filed April 4, 1995

CHAPTER 187**HOUSE BILL NO. 1348**

(Representatives Drovdal, Kempenich, Boehm)
(Senators Bowman, Heinrich, O'Connell)

NONPUBLIC HIGH SCHOOL APPROVAL

AN ACT to create and enact a new section to chapter 15-41 of the North Dakota Century Code, relating to the approval of nonpublic high schools; and to amend and reenact subsection 1 of section 15-34.1-03 of the North Dakota Century Code, relating to compulsory attendance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-34.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. That the child is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools and the superintendent of public instruction. No Except as provided in section 2 of this Act, no such school shall be approved unless the teachers therein are legally certificated in the state of North Dakota in accordance with section 15-41-25 and chapter 15-36, the subjects offered are in accordance with sections 15-38-07, 15-41-06, and 15-41-24, and such school is in compliance with all municipal and state health, fire, and safety laws.

SECTION 2. A new section to chapter 15-41 of the North Dakota Century Code is created and enacted as follows:

Nonpublic high schools - Approval criteria. The superintendent of public instruction shall approve any nonpublic high school having an enrollment of fifty students or fewer, provided the school meets the following requirements:

1. The school meets all statutory requirements of subsection 1 of section 15-34.1-03 regarding the subjects to be taught, the length of the school year, and health, fire, and safety standards.
2. If the school uses telecommunications or other electronic means to deliver curricular programs, the programs are prepared by persons holding at least baccalaureate degrees and delivered in the presence of a person who holds a North Dakota secondary teaching certificate or who meets or exceeds the average cutoff scores of the states that have normed the national teacher's examination.
3. The school employs at least one state certificated high school teacher to serve in a supervisory capacity for each twenty-five students.
4. The average composite scholastic achievement test scores of students enrolled in the school or the students' scores achieved on comparable standardized tests meet or exceed the national average test scores.

- 5. The school and its employees are governed by a board of directors that includes parental representation.

Approved March 7, 1995

Filed March 8, 1995

CHAPTER 188

HOUSE BILL NO. 1488

(Representatives Boehm, Rennerfeldt, Wardner)
(Senators Christmann, Wanzek)

HOME-BASED SCHOOL INSTRUCTION

AN ACT to amend and reenact sections 15-34.1-06 and 15-34.1-07 of the North Dakota Century Code, relating to home-based instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-34.1-06 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-06. Home-based instruction. Home-based instruction is an educational program for students based in the child's home and supervised by the child's parent or parents. A parent who provides home-based instruction may only invoke the home-based instruction exception to compulsory attendance. A parent is qualified to supervise a program of home-based instruction if the parent is certified to teach in North Dakota; has a ~~high school education or has received a general educational development certificate and is monitored by a certified teacher baccalaureate degree~~; or has met or exceeded the cut-off score of the national teacher exam given in North Dakota, or in any other state if North Dakota does not offer such a test. A parent who has a high school diploma or a general education development certificate is qualified to supervise home-based instruction but must be monitored by a certificated teacher during the first two years the parent supervises that instruction, and if the child being instructed receives a composite standardized achievement test score below the fiftieth percentile nationally, the monitoring required by this section must continue during the following school year or longer if the child has not achieved the fiftieth percentile. Home-based instruction must include those subjects required to be taught in accordance with sections 15-38-07, 15-41-06, and 15-41-24 and must be provided for at least four hours per day for a minimum of one hundred seventy-five days per year. Every parent supervising home-based instruction shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including any standardized achievement test results. A parent shall furnish these records to any school to which the child may transfer upon request of the superintendent or other administrator of that public school district. A parent intending to supervise home-based instruction for the parent's child shall file an annual statement with the superintendent of the public school district in which the child resides. If the school district does not employ a local school superintendent, the statement must be filed with the county superintendent of schools for the county of the child's residence. The statement must be filed at least thirty days prior to the beginning of the school semester for which the parent requests an exemption except when residency of the child is not established by that date. If residency has not been established, the statement must be filed within thirty days of the establishment of residency within the district. The statement must include:

1. The names and addresses of the parent who will supervise and the child who will receive home-based instruction;
2. The date of birth and grade level of each child;

3. The intention of the parent to supervise home-based instruction;
4. The qualifications of the parent who will supervise the home-based instruction;
5. A list of courses or extracurricular activities in which the child intends to participate in the public school district;
6. Proof of an immunization record as it relates to section 23-07-16;
7. Proof of identity as it relates to section 54-23.2-04.2; and
8. An oath or affirmation that the parent will comply with all provisions of this chapter.

SECTION 2. AMENDMENT. Section 15-34.1-07 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-07. Students receiving home-based instruction - Quality assurance. In order to meet the state's compelling interest in assuring that citizens of the state receive a quality education, the following minimum indices of quality education are established:

1. A standardized achievement test used by the public school in the school district in which the parent resides or, if requested by the parent, a nationally normed standardized achievement test used by a state-approved nonpublic school must be given ~~annually~~ to each child receiving home-based instruction ~~starting with grade three and annually thereafter in grades three, four, six, eight, and eleven.~~ The test must be given in the child's learning environment or the public school and must be administered by a certified teacher. The cost of such testing must be borne by the local school district in which the parent resides if the test is administered by a certified teacher employed by a public school district or by the parent of the child if the test is ~~administered by a certified teacher not employed by a public school~~ a nationally normed standardized achievement test requested by the parent. Results of such testing must be filed with the local public school superintendent. If the parent resides in a school district which does not employ a local school superintendent, the results must be filed with the county superintendent of schools for the county of the parent's residence.
2. If the child's basic composite score on a standardized achievement test falls below the thirtieth percentile nationally, the child must be professionally evaluated for a potential learning problem. If the multidisciplinary assessment team evaluation determines that the child is not handicapped according to the eligibility criteria of the department of public instruction and the child does not require specially designed instruction according to rules adopted by the department of public instruction, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction a statement, from an appropriately licensed professional, that the child is currently making reasonable academic progress when the learning abilities of the child are taken into consideration. If such statement is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03. If the evaluation of the multidisciplinary assessment team determines that the child is

handicapped, but not developmentally disabled, according to the eligibility criteria of the department of public instruction, and the student requires specially designed instruction due to the handicap and that this instruction cannot be provided without special education and related services, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction an individualized education program plan, formulated within rules adopted by the department of public instruction, indicating that the child's needs for special education are being appropriately addressed by persons qualified to provide special education or related services. If such a plan is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03.

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

Approved April 11, 1995
Filed April 12, 1995

CHAPTER 189**SENATE BILL NO. 2187**

(Education Committee)

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

**EDUCATION STANDARDS AND PRACTICES BOARD
ADMINISTRATION**

AN ACT to amend and reenact section 15-36-08 of the North Dakota Century Code, as amended by section 4 of chapter 171 of the 1993 Session Laws, and section 15-38-17 of the North Dakota Century Code, relating to fees and expenses of the education standards and practices board; to provide for temporary fiscal management of the education standards and practices board by the superintendent of public instruction; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-36-08 of the North Dakota Century Code, as amended by section 4 of chapter 171 of the 1993 Session Laws, is amended and reenacted as follows:

15-36-08. Fees for certificates. The education standards and practices board shall determine a fee for each certificate issued by this state, and no certificate shall be issued for a period of less than one school year. The fees shall be deposited in the state treasury to the credit of the general fund of the state and disbursed in accordance with section 54-44-12.

SECTION 2. AMENDMENT. Section 15-38-17 of the North Dakota Century Code is amended and reenacted as follows:

15-38-17. Education standards and practices board and administrator's professional practices board. The education standards and practices board consists of nine members. The governor shall appoint four classroom teachers from public schools, one classroom teacher from a private school, one school board member, two school administrators, and one dean of a college of education. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member. The administrator's professional practices board consists of five members from the education standards and practices board. The administrator's professional practices board includes the two school administrators who are members of the education standards and practices board, the one school board member who is a member of the education standards and practices board, and two teacher members who are members of and are selected by the education standards and practices board. The term of office of members of the education standards and practices board and the administrator's professional practices board shall be three years commencing on January first of the year of the appointment. Vacancies shall be filled for an unexpired term in the same manner as original appointments. No person may serve for more than two consecutive terms as a member of either board. Members of the current teachers' professional practices commission may serve out their remaining terms.

The education standards and practices board and the administrator's professional practices board shall each annually select a chairman and vice

chairman, and the executive director of the education standards and practices board or the executive director's designee shall serve as secretary. Meetings of either board must be held after ten days' notice to all members at the call of the chairman or upon request in writing of a majority of either board. A majority shall constitute a quorum and a majority of the quorum shall have authority to act upon any matter properly before either board. Each board shall adopt its own rules of order and procedure not inconsistent with sections 15-38-16 through 15-38-19 and shall hold meetings pursuant to the provisions of sections 15-38-16 through 15-38-19.

The members of each board shall receive twenty-five dollars for each day actually engaged in the service of the appropriate board and shall be paid actual and necessary traveling and other expenses at the same rate as for employees of the state. No member of either board shall lose the member's regular salary or the above compensation while serving on official business of the appropriate board. ~~The office of management and budget shall approve proper vouchers for expenses.~~

SECTION 3. INTENT - DEPARTMENT OF PUBLIC INSTRUCTION TEMPORARY FISCAL MANAGEMENT OF EDUCATION STANDARDS AND PRACTICES BOARD. Notwithstanding any other provision of law, during the biennium beginning July 1, 1995, and ending June 30, 1997, the superintendent of public instruction shall supervise the fiscal management of all funds appropriated to the education standards and practices board or to the superintendent of public instruction for the purposes of education standards and practices board functions. Notwithstanding section 1 of this Act, during the biennium beginning July 1, 1995, and ending June 30, 1997, certificate fees and other charges made and received by the education standards and practices board must be deposited in the department of public instruction operating fund. On July 1, 1997, any unexpended balance of funds in the department of public instruction operating fund attributable to certificate fees and other charges of the education standards and practices board must be calculated and transferred by the superintendent of public instruction to the education standards and practices board for deposit according to section 54-44-12.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 1995.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 29, 1995
Filed March 29, 1995

CHAPTER 190**HOUSE BILL NO. 1036**
(Legislative Council)
(Interim Education Finance Committee)
(Senator C. Nelson)**TEACHER CITIZENSHIP REQUIREMENT REPEALED**

AN ACT to amend and reenact section 15-36-11 of the North Dakota Century Code, relating to teacher certification; to repeal section 15-36-07 of the North Dakota Century Code, relating to citizenship requirements for teacher certification; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-36-11 of the North Dakota Century Code, as amended by section 6 of chapter 171 of the 1993 Session Laws, is amended and reenacted as follows:

15-36-11. Certificate required. ~~No A person who is not the holder of must hold a valid North Dakota teacher's certificate may in order to be permitted or employed to teach in any of the public schools of the school in this state; except that teachers unable to be certificated because they are not citizens of the United States or because they have not declared their intention to become citizens of the United States, but are otherwise qualified to teach in North Dakota, may be employed on a temporary basis if they are approved annually by the education standards and practices board. The employment of teachers in accordance with this section may not cause any foundation aid payments to be withheld from the school districts by whom they are employed.~~

SECTION 2. REPEAL. Section 15-36-07 of the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 1997.

Approved March 31, 1995
Filed March 31, 1995

CHAPTER 191

SENATE BILL NO. 2170

(Government and Veterans Affairs Committee)
(At the request of the Teachers' Fund for Retirement)

TFFR TECHNICAL CHANGES

AN ACT to amend and reenact subsections 9 and 11 of section 15-39.1-04, sections 15-39.1-06, 15-39.1-10, 15-39.1-18, 15-39.1-20, and 15-39.1-24 of the North Dakota Century Code, relating to definitions, organization of the board, distribution of benefits, disability retirement, withdrawal from the fund, and the purchase of additional credit under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹³ SECTION 1. AMENDMENT. Subsections 9 and 11 of section 15-39.1-04 of the North Dakota Century Code are amended and reenacted as follows:

9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a school year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" with respect to a member who begins participation in the plan under former chapter 15-39 or chapter 15-39.1 or 15-39.2 after June 30, 1996, may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B), as amended by the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103-66; 107 Stat. 312]. The annual compensation limit is one hundred fifty thousand dollars, as adjusted by the commissioner of the internal revenue service for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B). "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, referee pay, busdriver pay, janitorial pay, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer entered into within sixty months before retirement.
11. "Teacher" includes:
 - a. 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

⁹³ Section 15-39.1-04 was also amended by section 5 of Senate Bill No. 2491, chapter 186; section 10 of Senate Bill No. 2012, chapter 34; and section 25 of House Bill No. 1027, chapter 120.

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 developmental center at Grafton may be brought within this definition at their option.~~

- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, ~~developmental center at Grafton supervisors and inspectors~~, the executive director and professional staff of the North Dakota education association who are members of the fund on July 1, 1995, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association who are members of the fund on July 1, 1995.
- c. The executive director ~~of the North Dakota school boards association, the executive secretary of the fund, the executive director~~ and professional staff of the North Dakota council of school administrators who are members of the fund on July 1, 1995, and certified staff of teachers centers, but only if the person was previously a member of and has credits in the fund.
- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

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

15-39.1-06. Organization of board. The board may hold meetings as 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 must be elected at the first meeting following July first of each year. ~~Except for disbursing money for the payment of claims and actuarial consultant and auditor fees, the board shall expend money for administrative purposes, as limited by the appropriation first made by the legislative assembly, by preparing an appropriate voucher and submitting the voucher to the office of management and budget.~~

SECTION 3. AMENDMENT. Section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10. Eligibility for benefits.

1. The following members are eligible to receive monthly lifetime retirement benefits under this section:
 - a. All members who have completed five years of teaching credit and who have attained the age of sixty-five years.
 - b. All members who have completed five years of teaching credit and who have a combined total of years of service credit and years of age which equals eighty-five.
2. The amount of retirement benefits is one and fifty-five hundredths percent of the final average monthly salary of the member multiplied by

the number of years of credited service. For the purposes of this subsection, final average monthly salary means one thirty-sixth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any three years of service under the fund.

3. Notwithstanding any other provision of this section, no member who retired on July 1, 1993, or after and is eligible to receive benefits under former chapter 15-39, chapter 15-39.1, or section 15-39.2-02, may receive benefits which are less than:
 - a. Ten dollars per month per year of teaching to twenty-five years.
 - b. Fifteen dollars per month per year of teaching over twenty-five years.
4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later.

SECTION 4. AMENDMENT. Section 15-39.1-18 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-18. Disability retirements.

1. Any member may also retire and receive a disability annuity if, after a period 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 is the greater of the amount computed by the retirement formula in section 15-39.1-10 without consideration of age or the amount computed by that formula without consideration of age but assuming the member had twenty years of credited service. A member determined eligible for a disability annuity under this section may elect to receive an annuity under any of the options allowed in section 15-39.1-16.
3. The disability annuity continues until the death or prior recovery of the disabled annuitant. The board shall ascertain by periodic medical examinations the continued disability status of a disabled annuitant.
4. If a disabled annuitant recovers and returns to active teaching, that annuitant is entitled to the retirement benefit credits which the annuitant earned prior to the time of disablement, and the credits which the annuitant earned after returning to active teaching must be added to those earned prior to 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 5. AMENDMENT. Section 15-39.1-20 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-20. Withdrawal from fund. When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may, after a period of one hundred twenty days, withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter. The accumulated assessments of a member who ceases to be eligible to participate in the fund before accumulating five years of service credit must be automatically refunded. The assessments plus interest earned, if not claimed by the member, must be returned during the month of January next following the date of termination. The automatic refund must be waived provided the member presents the board with a statement of intent to return to teach in North Dakota within thirty-six months after eligibility to participate in the fund ceases. The board may waive the automatic refund for members who present to the board a statement of intent to return to teach in North Dakota within a period exceeding thirty-six months after eligibility to participate in the fund ceases. For distributions made after January 1, 1993, notwithstanding any provision of the plan to the contrary that would otherwise limit a member's refund election under this chapter, a member may elect, at the time and under rules established by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member.

SECTION 6. AMENDMENT. Section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-24. 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 may purchase service credit for years of teaching service at an out-of-state school or educational institution supported by public taxation out of North Dakota. However, a teacher must complete five years of creditable service in this state before the teacher is eligible to purchase the first five years of service credit for out-of-state teaching under this subsection. The teacher may purchase any part of the remaining years of service credit for out-of-state teaching with each year of service credit conditional upon the teacher completing one additional year of creditable service in this state following the out-of-state teaching. The years of out-of-state teaching service do not qualify for credit in this state if the years claimed also qualify for retirement benefits from an out-of-state retirement system.
2. Any teacher who has received an honorable discharge from military service of the United States of America may receive credit for no more than four years of active service, upon filing application and proof with the board and subject to the terms of this chapter upon teaching one year in North Dakota subsequent to military service. Members qualified to receive military credit under the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.] shall only pay member assessments plus interest pursuant to rules adopted by the board. For those individuals becoming eligible to receive military credit under the Veterans' Reemployment Rights Act after June 30, 1991, the employer shall pay the required employer contribution for military service.

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 the teacher's qualifications in the teaching profession is entitled to have such periods while in attendance at that college, university, or school credited, not to exceed three years of teaching service, under this chapter. To be eligible for purchasing credit under this subsection, the teacher must have taught at least one full school year in North Dakota immediately preceding entrance into the college, university, or school, or, immediately following such training, the teacher must have taught not less than one full school year in a public school or state institution of this state.
4. 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 a legislative session must be purchased within one year after the adjournment of that legislative session. As an alternative to a teacher purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement by which payment for service credit for time spent during each legislative session by the teacher serving as a member of the legislative assembly is made pursuant to section 15-39.1-09. The agreement must provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary without reduction for a leave of absence taken by the teacher during the legislative session.
5. 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.
6. An active teacher who is elected president of a professional educational organization recognized by the board and who serves in a full-time capacity in lieu of teaching may purchase service credit for the time spent serving as president. The service credit must be purchased within one year after the teacher leaves the position. As an alternative to purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement under which payment for service credit for the time spent as president of the professional educational organization is made pursuant to section 15-39.1-09. The agreement must provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary as president.
7. Except as provided in subsections 2 ~~and~~, 4, and 6, the amount of additional service eligible to be purchased under this section must be credited to the teacher when the teacher has made the required payment. In all cases, the purchase cost must be on an actuarial equivalent basis.

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 192

SENATE BILL NO. 2054

(Legislative Council)
(Interim Education Finance Committee)
(Senators Yockim, C. Nelson, Kelsh)
(Representative Kaldor)

SCHOOL DISTRICT PAYMENT DISTRIBUTION

AN ACT to amend and reenact section 15-40.1-05 of the North Dakota Century Code, relating to the distribution of payments to school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-40.1-05 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-05. Distribution of payments to school districts - Duty of office of management and budget. The superintendent of public instruction shall certify to the office of management and budget a list of all school districts in the state, together with a statement of ~~payments equal to thirty percent of the total payments made to each respective school district during the previous fiscal year; and the~~ The office of management and budget shall pay each school district ~~half~~ ten percent of the amount certified, within the limits of legislative appropriation, on or before July fifteenth, August first, September first, and the other half on October first of each year. The superintendent of public instruction shall determine what amounts in addition to ~~the September first and October first~~ those payments are necessary to constitute ~~forty percent the remainder~~ of the payments due to each school district for the current school year, and shall certify to the office of management and budget a list of all school districts in the state, together with a statement of the payments due them. On or before November first, the office of management and budget shall pay to each school district, within limits of legislative appropriation, the amounts needed in addition to the ~~above payments of September first and October first in order to constitute forty~~ fifty percent of the sum found to be due under ~~the provisions of this chapter. On or before the first day of December, January, February, March, and April, and May,~~ payments equal to ~~ten percent~~ one-fifth of the total remaining payments must be made to each respective school district. If funds appropriated for distribution to school districts for per ~~pupil~~ student and transportation aid become available after ~~May~~ April first, the superintendent shall distribute the payments no later than June thirtieth.

Approved March 21, 1995

Filed March 23, 1995

CHAPTER 193**SENATE BILL NO. 2519**

(Senators Freborg, G. Nelson)

PER STUDENT PAYMENTS AND EQUALIZATION FACTORS

AN ACT to create and enact three new sections to chapter 15-40.1 of the North Dakota Century Code, relating to additional payments for small but necessary schools, supplemental payments, and increased weighting factors for students attending school out of state; to amend and reenact sections 15-40.1-06, 15-40.1-07, 15-40.1-08, 15-40.1-09, and 57-15-14 of the North Dakota Century Code, relating to per student payments and the school district equalization factor, high school weighting factors, elementary weighting factors, the computation of foundation aid, and tax levy limitations in school districts; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Per student payments for small but necessary schools. Per student payments made in accordance with sections 15-40.1-07 and 15-40.1-08 must be adjusted as follows:

1. For each elementary school that has less than fifty students and in which fifteen percent or more of the elementary students enrolled would have to travel beyond a fifteen-mile [24.15-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15-40.1-08 must be increased by twenty percent for the first fifteen students. If the school has fewer than fifteen students, the payment received must be for fifteen students.
2. For each high school that has less than thirty-five students and in which fifteen percent or more of the high school students enrolled would have to travel beyond a twenty-mile [32.2-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15-40.1-07 must be increased by twenty percent for the first twenty students. If the school has fewer than twenty students, the payment received must be for twenty students.

SECTION 2. A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Per student payments for students attending school out of state. For each student attending school out of state in accordance with section 15-40.2-09, the weighting factors provided in sections 15-40.1-07 and 15-40.1-08 must be increased by twenty percent.

⁹⁴ SECTION 3. AMENDMENT. Section 15-40.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. It is the intent of the legislative assembly, not considering any separate and supplemental payments as may be provided by law, to support elementary and secondary education in this state from state funds based on the educational cost per student. In determining the educational cost per student, the following criteria may not be used:
 - a. Expenditures for capital outlay for buildings and sites, or debt service.
 - b. Expenditures from school activities and school lunch programs.
 - c. Expenditures for the cost of transportation, including the cost of schoolbuses.
2.
 - a. The educational support per student during the first year of the ~~1993-95~~ 1995-97 biennium must be one thousand ~~five~~ seven hundred ~~seventy~~ fifty-seven dollars and for the second year of the biennium the educational support per student must be one thousand ~~six~~ eight hundred ~~thirty-six~~ sixty-two dollars and is the basis for calculating grants-in-aid on a per student basis as provided in sections 15-40.1-07 and 15-40.1-08.
 - b. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07.
 - c. School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be supported for the 1991-92 school year or for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of students in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per student in the unaccredited school for each

⁹⁴ Section 15-40.1-06 was also amended by section 2 of Senate Bill No. 2063, chapter 194.

additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.

- d. School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the 1992-93 school year or for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of students in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.
3. In determining the amount of payments due school districts for tuition apportionment provided in section 15-44-03, and per student and transportation aid under this section, the amount of tuition apportionment, per student aid, and transportation aid for which a school district is eligible must be added together, and from that total, the following amounts must be subtracted:
 - a. The product of ~~twenty-three~~ twenty-eight mills for the ~~1993-94~~ 1995-96 school year and ~~twenty-four~~ thirty-two mills for ~~each year thereafter~~ the 1996-97 school year times the latest available net assessed and equalized valuation of property of the school district. For succeeding school years, the number of mills to be used in the computation must be determined as follows:
 - (1) The superintendent of public instruction shall determine the percentage resulting from dividing the number of mills used in the computation the previous year by the state average school district general fund mill levy.
 - (2) The superintendent of public instruction shall determine the amount of foundation aid estimated to be distributed during the current year and subtract from that the amount of foundation aid that was distributed during the prior year, and divide the result by the amount of foundation aid distributed during the prior year.
 - (3) The superintendent of public instruction shall multiply the quotient determined under paragraph 2 by forty percent and shall add this product to the percentage obtained in paragraph 1. This sum shall be multiplied times the state average school district general fund mill levy to determine the number of mills to be used in the computation provided in subdivision a. However, the number of mills used may not

fall below thirty-two mills, nor rise above twenty-five percent of the state average school district general fund mill levy.

- b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of three-fourths of the actual expenditures, plus an additional twenty thousand dollars.
4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:
 - a. Annual average daily membership report.
 - b. Annual school district financial report.
 - c. The September tenth fall enrollment report.
 - d. The personnel report forms for certified and noncertified employees.
5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

SECTION 4. AMENDMENT. Section 15-40.1-07 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-07. High school per student payments - Amount - Proportionate payments. Payments must be made each year from state funds to each school district operating a high school and to each school district contracting to educate high school students in a federal school, subject to adjustment as provided in section 15-40.1-09, as follows:

1. For each high school district having under seventy-five students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.625 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student as provided in section 15-40.1-06. Beginning July 1, ~~1994~~ 1996, the factor is 1.625 adjusted by ~~five~~ sixty-five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
2. For each high school district having seventy-five or more, but less than one hundred fifty students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.335 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06.

Beginning July 1, ~~1994~~ 1996, the factor is 1.335 adjusted by ~~forty~~ fifty ~~sixty-five~~ percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

3. For each high school district having one hundred fifty or more, but less than five hundred fifty students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.24 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. Beginning July 1, ~~1994~~ 1996, the factor is 1.24 adjusted by ~~forty~~ fifty ~~sixty-five~~ percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
4. For each high school district having a total high school enrollment of five hundred fifty or more students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.14 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. Beginning July 1, ~~1994~~ 1996, the factor is 1.14 adjusted by ~~forty~~ fifty ~~sixty-five~~ percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
5. For high schools having an approved alternative education program, the amount of money resulting from multiplying the factor in:
 - a. Subsection 1 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has less than seventy-five students in average daily membership.
 - b. Subsection 2 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has seventy-five or more, but less than one hundred fifty students in average daily membership.
 - c. Subsection 3 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has one hundred fifty or more, but less than five hundred fifty students in average daily membership.
 - d. Subsection 4 times the number of students registered in the alternative education program times the educational support per

student as provided in section 15-40.1-06 if the alternative education program has five hundred fifty or more students in average daily membership.

Every high school district must receive at least as much in total payments as it would have received if it had the highest number of students in the next lower category. Payments may 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 must 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 must 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 must be made to the public school district in which the student is enrolled for specific courses. School districts offering high school summer school programs are eligible for proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, 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 summer education programs. The proportionate payment made under this section during the biennium for high school summer school programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for foundation aid and transportation aid during the biennium.

SECTION 5. AMENDMENT. Section 15-40.1-08 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-08. Elementary per student payments - Amount. Payments must be made from state funds to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, employing teachers holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36, adjusted as provided in section 15-40.1-09, as follows:

1. For each one-room rural school, the amount of money resulting from multiplying the factor 1.28 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through eight in average daily membership, up to a maximum of sixteen students, times the educational support per student provided in section 15-40.1-06. There must be paid .9 times each additional student in its school in grades one through eight in average daily membership times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty students in average daily membership. If the one-room rural school is located in a school district with another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six as provided in subsections 2 through 4. If the one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or

- eight must be the same as that provided for in subsection 5. Beginning July 1, ~~1994~~ 1996, the factor is 1.28 adjusted by ~~twenty-five~~ fifty sixty-five percent of the difference between 1.28 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
2. For each elementary school in school districts having under one hundred students in average daily membership in grades one through six, the amount of money resulting from multiplying the factor 1.09 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher, ~~up to a maximum of twenty students per classroom or per teacher, times the educational support per student provided in section 15-40.1-06. There must be paid .9 times each additional student in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06,~~ except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. Beginning July 1, ~~1994~~ 1996, the factor is 1.09 adjusted by ~~twenty-five~~ fifty sixty-five percent of the difference between 1.09 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
 3. For each elementary school in school districts having one hundred or more students in average daily membership in grades one through six, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary students in grades one through six, the amount of money resulting from multiplying the factor .905 adjusted by ~~twenty-five~~ fifty percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. Beginning July 1, ~~1994~~ 1996, the factor is .905 adjusted by ~~twenty-five~~ fifty sixty-five percent of the difference between .905 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
 4. For each elementary school in school districts having an average daily membership of one thousand or more elementary students in grades one through six, the amount of money resulting from multiplying the factor .95 adjusted by ~~twenty-five~~ fifty percent of the difference between .95 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. Beginning July 1, ~~1994~~ 1996, the factor is .95 adjusted by ~~twenty-five~~ fifty

- ~~sixty-five~~ percent of the difference between .95 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction. ~~Beginning July 1, 1995, the factor is .95 adjusted by seventy-five percent of the difference between .95 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction. Beginning July 1, 1996, the superintendent of public instruction shall establish the factor that reflects the five-year average cost of education per student for this category.~~
5. For each of the above classes of elementary schools, except for one-room rural schools that are not located in a district with another school having students in grade seven or eight, there must be paid to each school the amount of money resulting from multiplying the factor 1.01 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades seven and eight in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. Beginning July 1, ~~1994~~ 1996, the factor is 1.01 adjusted by ~~fifty~~ sixty-five percent of the difference between 1.01 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
 6. For each elementary school having students 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, the amount of money resulting from multiplying the factor 1.01 adjusted by ~~twenty-five~~ fifty percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of special education students in that school under the compulsory age for school attendance in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06. Beginning July 1, ~~1994~~ 1996, the factor is 1.01 adjusted by ~~fifty~~ sixty-five percent of the difference between 1.01 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
 7. For each elementary school providing a kindergarten that is established according to provisions of section 15-45-01, the amount of money resulting from multiplying the factor .50 adjusted by ~~twenty-five~~ fifty percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in average daily membership in each classroom or for each teacher times the educational support per student, as provided under section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. The full per student payment may 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 must receive a proportionately smaller per student payment. Beginning July 1, ~~1994~~ 1996, the factor is .50 adjusted by ~~fifty~~ sixty-five percent of the difference between .50 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

The superintendent of public instruction shall make proportionate payments to each public school district educating students who are also enrolled in nonpublic schools.

Every school district must receive at least as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.

SECTION 6. A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Supplemental payment to high school districts.

1. The superintendent of public instruction shall calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the district's latest available net assessed and equalized taxable valuation of property. If the quotient is less than the latest available statewide average taxable valuation per student and if the district's educational cost per student is below the most recent available statewide average cost of education per student, the superintendent of public instruction shall:
 - a. Determine the difference between the latest available statewide average taxable valuation per student and the average valuation per student in the high school district;
 - b. Multiply the result determined under subsection 1 by the number of students in average daily membership in grades one through twelve in the high school district;
 - c. Multiply the result determined under subsection 2 by the number of general fund mills levied by the district in excess of one hundred thirty-five, provided that any mills levied by the district which are in excess of two hundred may not be used in this calculation; and
 - d. Multiply the result determined at under subsection 3 by twenty-five percent. The result is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15-40.1.
2. The supplemental payment contained in subsection 1 is effective through June 30, 1997. If such a plan is to be continued after June 30, 1997, it must be reviewed by an interim committee under the direction of the legislative council. The legislative council shall report its findings and recommendations, including whether or not the plan should be continued and if continued, whether or not the plan should be modified, together with any legislation required to implement the recommendations, to the fifty-fifth legislative assembly.

SECTION 7. AMENDMENT. Section 15-40.1-09 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-09. Application for payments - Verification and determination of payments for high school students - Report of county superintendent of schools - Appeal. Immediately upon the completion of the registration of students at the beginning of each school term and in no event later than September tenth of each year, the business manager of each school district within or without this state which is claiming payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a claim on a form prescribed by the superintendent of public instruction stating the number of students registered in high school and elementary grades for which payments are claimed, and such other information as may be reasonably requested by the superintendent of public instruction. Not later than December first, the superintendent of public instruction shall certify to the office of management and budget a list of the school districts and schools not operated by school districts entitled to payments from state funds, together with the amounts to which the several districts and schools are entitled. Per student aid as provided under sections 15-40.1-06, 15-40.1-07, and 15-40.1-08 must be computed on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever is ~~greater~~ provides the greatest payment, for all current grade levels. Adjustments must be made in the subsequent year according to a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's foundation aid payments. For purposes of this chapter, "average daily membership" shall mean the total days all students in a given school are in attendance, including days set aside for the North Dakota education association convention, plus any three holidays selected from those listed in subsections 2 through 10 of section 15-38-04.1 which have been decided upon after consultation with the teachers, the total days all students are absent, and the two parent-teacher conference days authorized in section 15-47-33, divided by one hundred eighty days. School districts educating children of agricultural migratory workers or offering high school summer school programs during the months of June, July, and August shall not be restricted to payments for a one hundred eighty-day school term.

Immediately upon the termination of the school term and in no event later than July fifteenth of each year, the business manager of each school district within or without this state which has received payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a verified statement of the name, residence, and membership of elementary and high school students as provided for in this section, and number of units of high school work taken by each high school student enrolled during the previous school year. The statement shall be attested to by the county superintendent of schools. The county superintendent shall investigate the validity of the statement and shall determine the residence and other qualifications of each student named in the statement. The county superintendent shall certify to the superintendent of public instruction on or before September first of each year the number of enrolled students in each district in the county for the previous school year upon which any adjustment may be based as provided in this section. If any statement is disallowed in whole or in part, notice of the disallowance and the names of students who are disallowed shall be reported to the superintendent of public instruction and to the district filing the statement. Any district may appeal to the superintendent of public

instruction from the determination of the county superintendent of schools on or before September fifteenth in the year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

SECTION 8. AMENDMENT. Section 57-15-14 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14. Tax levy limitations in school districts. The aggregate amount levied each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo school district, may 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 one hundred ~~eighty~~ eighty-five 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 is 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 one hundred ~~eighty~~ eighty-five 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 must 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 is required. However, not fewer than twenty-five signatures are 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 number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority does not affect the tax levy in the calendar year in which the election is held. The election must 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 9. LEGISLATIVE COUNCIL STUDY OF EDUCATION FINANCE. The legislative council shall appoint a committee to study the financing of elementary and secondary schools and the availability of state support for school construction. The legislative council shall ensure that the committee contains a balanced representation. During the 1995-96 interim, the committee shall review the formulas used to equalize state aid including formulas for student transportation and special education, funding sources that would be alternatives to property tax, and any other issues related to the financing of elementary and secondary schools. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-fifth legislative assembly.

Approved April 18, 1995

Filed April 18, 1995

CHAPTER 194

SENATE BILL NO. 2063

(Legislative Council)
 (Interim Education Services Committee)
 (Senators Scherber, St. Aubyn)
 (Representatives Oban, Holm, Aarsvold)

PER STUDENT SPECIAL EDUCATION PAYMENTS

AN ACT to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to per student payments for special education; to amend and reenact subsection 3 of section 15-40.1-06, subsection 6 of section 15-40.2-08, sections 15-59-02.1, 15-59-06, and 15-59-07 of the North Dakota Century Code, relating to school district liability for special needs students; to provide legislative intent; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Per student payments - Special education. Each biennium, the superintendent of public instruction shall distribute moneys appropriated by the legislative assembly for per student special education payments to each school district in the state on the basis of students in average daily membership. The superintendent of public instruction shall forward the payments, as calculated under subsection 3 of section 15-40.1-06, to eligible school districts in the same manner and at the same time that the superintendent distributes foundation aid payments. For purposes of this section, "special education" means the provision of special services to students who have special needs, including students who are gifted and talented. Expenditures under this section may not conflict with nonsupplanting and maintenance of effort provisions under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

⁹⁵ **SECTION 2. AMENDMENT.** Subsection 3 of section 15-40.1-06 of the North Dakota Century Code is amended and reenacted as follows:

3. In determining the amount of payments due school districts for per student ~~and transportation~~ aid under this section, the amount of ~~per student~~ foundation aid, special education aid, and transportation aid for which a school district is eligible must be added together, and from that total, the following amounts must be subtracted:
 - a. The product of twenty-three mills for the 1993-94 school year and twenty-four mills for each year thereafter times the latest available net assessed and equalized valuation of property of the school district.

⁹⁵ Section 15-40.1-06 was also amended by section 3 of Senate Bill No. 2519, chapter 193.

- b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of three-fourths of the actual expenditures, plus an additional twenty thousand dollars.

⁹⁶ **SECTION 3. AMENDMENT.** Subsection 6 of section 15-40.2-08 of the North Dakota Century Code is amended and reenacted as follows:

6. An amount equal to the state average ~~per pupil~~ per student elementary or high school costs, depending on the educational level of the student, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual ~~per pupil~~ per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state from funds appropriated for special education in the case of a student with disabilities, or from funds appropriated for foundation aid in all other cases within the limits of legislative appropriations.

⁹⁷ **SECTION 4. AMENDMENT.** Section 15-59-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15-59-02.1. Legislative intent - Special education. This statement of legislative intent is provided to define more clearly the relationship between the state, school districts, and parents of ~~children~~ students with disabilities 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 ~~child~~ student with disabilities to benefit from special education.

The school administrator or the administrator's appointed representative or director of special education other than the ~~child's~~ student'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 student with disabilities, 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 student with disabilities placed in a private school program or in programs outside the student's original special education unit.

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

⁹⁶ Section 15-40.2-08 was also amended by section 6 of Senate Bill No. 2159, chapter 173.

⁹⁷ Section 15-59-02.1 was also amended by section 1 of House Bill No. 1047, chapter 202, and section 2 of House Bill No. 1058, chapter 243.

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

"All children students with disabilities have the right to a free appropriate education" means that all students with disabilities 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 children students who are nondisabled. Parents will assume such costs for a child student with disabilities as they would if the child student was nondisabled. Personal items, including hearing aids, eyeglasses, routine medical expenses, physical exams, medications, and all items necessary for a child student who is nondisabled, 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 student or the child's student's parent, for determining a child's student's medically related disability or other required related services which results in the child's student's need for special education. It is the school district's responsibility to assume costs not covered by the insurer or similar third party in the above situation.

The school district in which a student with disabilities 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 a regularly scheduled schoolbus, public or commercial transportation where appropriate, charter or specially contracted transportation, or transportation provided by the parent of a child student with disabilities or other responsible party at school district expense.

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

As the department of human services has authority under chapter 25-16 to provide early intervention services to meet the needs of children with disabilities ages

zero through two years, the legislative assembly recognizes this provision and requires the department of public instruction, the state department of health and consolidated laboratories, and the department of human services to cooperate in planning and coordinating programs for these children.

SECTION 5. AMENDMENT. Section 15-59-06 of the North Dakota Century Code is amended and reenacted as follows:

15-59-06. State cooperation in special education. ~~Children~~ Students with disabilities who are enrolled in approved programs of receiving special education services must be deemed to be regularly enrolled in the school district of residence and must be included in the determination of elementary and high school per-pupil payments from the state foundation aid program whether or not such pupils are the students regularly attending attend school in the school or school district receiving such the payments. A prorated state foundation aid payment for a student to attend a public school program for students with disabilities, approved by the superintendent of public instruction, may be made provided that if the individualized education program for the child student is written during the last quarter of the school term and specifically requires that the child student attend a summer special education program. In the case of a student who is enrolled in a nonpublic school but who is attending attends a public school special education program, payments must be made to the appropriate public school district in relation to for the proportion portion of a normal schoolday as such the student participates in such special education program. For the purposes of this section, a normal schoolday must be deemed to consist consists of six hours. Upon the determination by the director of special education that the school district has made expenditures for each child with a disability or child who is gifted in such program equal to the average expenditures made in such district for elementary or high school students, as the case may be, the director by vouchers drawn upon funds provided by the legislative assembly for such purpose may provide reimbursement to such school or school district. The amount the school district is required to expend must be reduced proportionately if a child student attends the school for less than an entire year. If any school district within a special education unit has any elementary or high school a student with disabilities who, in the opinion of a qualified psychologist, a medical doctor, district superintendent, and the district or multidistrict director of special education the student's multidisciplinary team, is unable to attend the public schools in the special education unit because of a disability, such the school district shall contract with an in-state public school located outside the special education unit in which the student is a legal resident which, if the school will accept such the student and has proper facilities services for the student's education. No school district may enter into a contract with any in-state public school for the education of any student because of a disability, unless the curriculum services provided by such the school and the contract has have been approved in advance by the superintendent of public instruction. The contract must provide that such the school district agrees to pay to the in-state public school as part of the cost of educating such the student an amount for the school year equal to two and one-half times the state average per-pupil per student elementary or high school cost, depending on whether upon the student's level of enrollment would be in a grade or high school department; provided, that such. The payment may not exceed the actual per-pupil per student cost incurred by such the in-state public school. The school district's liability must be reduced proportionately if the student attends the in-state public school for less than an entire year. The superintendent of public instruction, upon notification by the admitting district and upon verification by the superintendent that tuition payments are due the admitting district and are unpaid, shall withhold all payments from the state for foundation aid to the district of residence until the tuition due has been paid. The transportation must be furnished as provided by rules of the department

superintendent of public instruction. The remainder of the actual cost of educating the student with disabilities not covered by other payments or credits must be paid from funds provided by the within the limits of legislative assembly appropriations for such that purpose.

SECTION 6. AMENDMENT. Section 15-59-07 of the North Dakota Century Code is amended and reenacted as follows:

15-59-07. ~~Contracts for children students with disabilities to attend private or out-of-state public schools. If any school district in this state has any elementary or high school a student with disabilities who in the opinion of a qualified psychologist, a medical doctor, and the district superintendent the student's multidisciplinary team is unable to attend the public schools in the district because of a physical or mental disability or because of a learning disability, such the school district shall contract with any accredited private nonsectarian nonprofit corporation within or without outside the state or an out-of-state public school which has proper facilities for the education of such the student, if there are is no public schools school in the state with which has the necessary facilities services and which will accept such the student. No school district shall may enter into a contract with any private nonsectarian nonprofit corporation or out-of-state public school for the education of any student having a physical or learning disability, unless the curriculum services provided by such the school and the contract has have been approved in advance by the superintendent of public instruction. The contract must provide that such the school district agrees to pay to the private nonsectarian nonprofit corporation or the out-of-state public school as part of the cost of educating such the student an amount for the school year equal to two and one-half times the state average per-pupil per student elementary or high school cost, depending on whether upon the student's level of enrollment would be in a grade or high school department; provided, that such. The payment may not exceed the actual per-pupil per student cost incurred by such the private nonsectarian nonprofit corporation or out-of-state public school. The transportation must be furnished and reimbursed as provided by rules of the department superintendent of public instruction. The rules of the department of public instruction have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident must be reimbursed by the state special education fund for not more than the number of round trips home per year provided for in the individualized education program at a rate not to exceed that paid state officials. The remainder of the actual cost of educating the student with disabilities not covered by other payments or credits must be paid from funds appropriated by the legislative assembly for special education notwithstanding limitations cited in section 15-59-06. The district of residence is entitled to the per-pupil per student foundation payment. The reimbursement herein provided to the contracting district from the state special education funds is in lieu of any other foundation aid to which the district might otherwise be entitled.~~

SECTION 7. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the amount included in the grants - special education line item in subdivision 1 of section 1 of Senate Bill No. 2013 be distributed as follows:

1. Ten million dollars must be used to reimburse school districts for excess costs incurred on contracts for students with disabilities as required in section 15-40.2-08 and for low incidence or severely disabled students as required in sections 15-59-06 and 15-59-07, and for boarding care reimbursements as required in section 15-59-07.2;

2. Four hundred thousand dollars must be used to reimburse school districts for gifted and talented programs upon the submission of an application that is approved in accordance with guidelines adopted by the superintendent of public instruction;
3. Five hundred thousand dollars must be used to reimburse school districts with above-average incidence of moderately or severely disabled students upon the submission of an application that is approved in accordance with guidelines adopted by the superintendent of public instruction;
4. Any amount remaining in the line item must be distributed on a per student basis as required by law, except that during the 1995-96 school year a school district or special education unit may not receive less than ninety-five percent of the amount received during the 1993-94 school year from state special education funds, excluding reimbursements for student contracts, boarding care, and gifted and talented programs.

During the 1996-97 school year a district or special education unit may not receive less than ninety percent of the amount received during the 1993-94 school year from state special education funds, excluding reimbursements for student contracts, boarding care, and gifted and talented programs.

SECTION 8. LEGISLATIVE COUNCIL STUDY. During the 1995-96 interim, the legislative council shall consider studying the equitable provision of services to students who are gifted and talented, the equitable funding of such programs, and whether those services should be funded independently of or together with services provided to students who are disabled. If this study is conducted, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-fifth legislative assembly.

Approved April 13, 1995
Filed April 18, 1995

CHAPTER 195**SENATE BILL NO. 2248**

(Senators Freborg, O'Connell)
(Representative Delzer)

SCHOOL DISTRICT TRANSPORTATION PAYMENTS

AN ACT to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to the distribution of school district transportation payments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

School district closure - Distribution of transportation payments.

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of transportation payments to which the former school district would have been entitled for providing transportation services during its final year of operation and shall certify the amount of transportation payments to the office of management and budget. The office of management and budget shall pay a percentage of the total amount certified to each North Dakota school district that enrolls students who attended the former school district during the prior school year. Each of the school districts eligible for a payment under this section is entitled to receive that percentage of the total amount certified which is the same as the percentage that the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.
2. Except as provided in subsection 3, the office of management and budget shall pay the amount certified to the school district in the manner and at the time provided for other state payments in section 15-40.1-05.
3. The total transportation payments to which a school district that ceased to exist between the completion of the 1993-94 school year and the commencement of the 1994-95 school year is entitled must be distributed as provided in subsection 1 on or before June 30, 1995.

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

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 196**HOUSE BILL NO. 1044**

(Legislative Council)
(Interim Education Finance Committee)
(Representative Kaldor)
(Senator Kelsh)

**TRANSPORTATION OF STUDENTS BETWEEN
DISTRICTS**

AN ACT to amend and reenact sections 15-40.2-04, 15-40.2-05, and 15-40.3-05 of the North Dakota Century Code, relating to the transportation of students participating in open enrollment and other nonresident students; and to repeal section 15-34.2-02 of the North Dakota Century Code, relating to agreements for transportation of nonresident students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁸ **SECTION 1. AMENDMENT.** Section 15-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15-40.2-04. Nonresident tuition payments mandatory - Payments are exclusive.

1. a. Except as provided in this subsection, any school district that admits nonresident students to its schools, as provided by this chapter, shall charge tuition for those students. School districts have the option of charging tuition for nonresident students enrolled in an approved alternative education program. The whole amount of the tuition must be paid by the district from which the student is admitted, in accordance with section 15-40.2-03, or by the student's parent or guardian, in accordance with section 15-40.2-06.
- b. Except as otherwise provided, any school district that fails to charge and collect tuition for nonresident students as provided for in section 15-40.2-03 and this section shall forfeit foundation payments for those nonresident students for whom tuition is not paid. A school district may accept a nonresident student from another school district in this state which offers the same grade level as that in which the student is enrolled, without a charge and collection of tuition if a written agreement is made between the sending and receiving districts. The written agreement must specify whether transportation is to be provided and if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student. No written agreement is necessary if

⁹⁸ Section 15-40.2-04 was also amended by section 16 of Senate Bill No. 2209, chapter 177.

the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.

- c. No school district may charge or collect from any nonresident student, parent or guardian of a nonresident student, or the district of the student's residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident students.
2. For purposes of subsection 1 and all statutory provisions relating to open enrollment, the member districts of a consortium must be treated as a single school district.

99 SECTION 2. AMENDMENT. Section 15-40.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-40.2-05. Application of parent or guardian for payment of tuition by district. The parent or guardian of any pupil student who is a resident of a district may apply in writing to the school board of the student's 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 student in another school district. The school board shall, within sixty days of its receipt of such the application, meet with the student's parent or guardian of the pupil concerned and render a decision in regard to the payment of tuition charges. If the school board has not rendered a decision within sixty days of receipt of the application, the application ~~must be~~ is deemed approved. If the school board of the district of residence approves ~~such the~~ the application, it shall pay the tuition charges. ~~In the event such~~ If the application is disapproved, the student's parent or guardian of the pupil may file an appeal with the county superintendent of schools; ~~and a.~~ A three-member committee consisting of 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 student's parent or guardian of the pupil concerned, hold a hearing; after giving advance notice to the parties directly involved, and render a decision in regard to the 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 its decision, the committee shall determine whether the pupil student is a high school pupil student, which, for purposes of this section, must be defined to mean grades nine through twelve, ~~or~~ whether the pupil student is an elementary school pupil student, which, for purposes of this section, must be defined to mean grades one through eight, or whether the pupil student is a kindergarten pupil student, which, for purposes of this section, must 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 student is a high school pupil student and the committee finds that the attendance of ~~such pupil the student~~ the student is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular pupil student, or ~~in cases of~~ extreme family or pupil

⁹⁹ Section 15-40.2-05 was also amended by section 5 of Senate Bill No. 2159, chapter 173.

student hardship, the committee may approve ~~or disapprove~~ the application. Upon approval, the committee shall approve the payment of tuition by the student's district of residence ~~of the pupil~~, obligating ~~such the~~ 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~~ student'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 is final.

2. Elementary. If the pupil student is an elementary pupil student and the committee finds that the attendance of ~~such pupil the student~~ is necessitated by shorter distances or ~~in cases of~~ extreme family or pupil student hardship, the committee may approve ~~or disapprove~~ the application. Upon approval, the committee shall approve the payment of tuition by the student's district of residence ~~of the pupil~~, obligating ~~such and obligate the~~ district of residence to pay the same. The committee's approval for the payment of tuition is limited to one school term, and subsequent applications for the payment of tuition may be made annually. The decision of the committee is final.
3. Kindergarten. If the pupil student is a kindergarten pupil student, the school board of the student's district of ~~the pupil's~~ residence may pay tuition to the receiving district. The committee may 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 student's 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~~ must consist of 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~~. The concurrence of a majority of the quorum of the joint committee must be necessary to render a decision regarding the payment of the tuition. In the event that If the student's 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 student's residence and the state superintendent of public instruction ~~of such fact, and upon~~. 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 student's district of residence ~~of the pupil~~, must be withheld until the tuition due has been fully paid.

This section may not be construed to require the A school district of residence to may provide pupil transportation or payments in lieu thereof, for pupils for whom the payment of tuition has been approved to a student for whom tuition is being paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

SECTION 3. AMENDMENT. Section 15-40.3-05 of the North Dakota Century Code is amended and reenacted as follows:

15-40.3-05. Open enrollment - Transportation. ~~The A school district of residence of may provide transportation to a student participating in open enrollment under this chapter has no obligation to provide transportation. However, the If a school district of residence may enter into a transportation arrangement with does not provide transportation to a student participating in open enrollment, transportation may be provided by the admitting district as provided in section 15-34.2-02, and the admitting district is then entitled to state payments for the transportation of that student.~~

SECTION 4. REPEAL. Section 15-34.2-02 of the North Dakota Century Code is repealed.

Approved March 7, 1995
Filed March 8, 1995

CHAPTER 197**HOUSE BILL NO. 1351**

(Representatives Aarsvold, Kaldor, Kempenich)
(Senators Freborg, Redlin, Robinson)

OPEN ENROLLMENT APPLICATION PROCEDURES

AN ACT to amend and reenact section 15-40.3-01 of the North Dakota Century Code, relating to open enrollment application procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

15-40.3-01. Open enrollment - Procedure. A student's parent or legal guardian who wishes to enroll the student in a North Dakota school district other than the student's district of residence shall, not later than ~~January~~ **February** first of the school year preceding the year of enrollment, apply to the school board of the student's district of residence, on forms provided by the superintendent of public instruction, for approval to enroll the student in a district other than the student's district of residence. By ~~February~~ **March** first of the school year preceding the year of enrollment, the school board of the district of residence shall act on the application, notify the parent or legal guardian of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district. By ~~March~~ **April** first, the board of the admitting district shall approve or disapprove the application. The board of the admitting district shall notify the board of the district of residence and the student's parent or legal guardian within five days regarding its decision. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year, unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district, or the student's parents or guardians change residence to another district. All applications must be reviewed in the order that they are received. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. A child placed at a group or residential care facility or a residential treatment center in accordance with section 15-40.2-08 is not eligible for open enrollment under this section. The school board of a school district of residence and of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent or legal guardian, moves from the student's school district of residence to another school district after February first and who wishes to enroll in a school district, other than the district to which the student moved, for the following year.

Approved March 9, 1995

Filed March 13, 1995

CHAPTER 198**SENATE BILL NO. 2458**

(Senators Grindberg, Heinrich, Holmberg, Scherber)
(Representatives Jacobs, Rennerfeldt)

SCHOOL PROPERTY DESTRUCTION

AN ACT to amend and reenact section 15-47-25 of the North Dakota Century Code, relating to the destruction of school property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-47-25 of the North Dakota Century Code is amended and reenacted as follows:

15-47-25. Reward - Destruction of school property. ~~The A school boards of the school districts in this state are hereby authorized and empowered to board~~ may offer and pay a reward not to exceed ~~one hundred~~ three thousand dollars to any person ~~furnishing~~ who furnishes information for the apprehension and conviction of any person ~~or persons~~ appropriating or destroying property or equipment belonging to ~~the a school districts of district in~~ this state.

Approved March 17, 1995
Filed March 20, 1995

CHAPTER 199

SENATE BILL NO. 2211

(Education Committee)

(At the request of the Superintendent of Public Instruction)

INDUSTRIAL, DEAF, AND BLIND SCHOOLTEACHERS

AN ACT to create and enact a new section to chapter 15-47 and a new subsection to section 54-44.3-20 of the North Dakota Century Code, relating to teachers employed by the state industrial school, school for the deaf, and school for the blind; and to amend and reenact sections 15-47-26, 15-47-27, and 15-47-27.1 of the North Dakota Century Code, relating to the definitions of teacher, renewal of teacher contracts, evaluation of first-year teachers, and nonrenewal of teacher contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

SECTION 2. AMENDMENT. Section 15-47-27 of the North Dakota Century Code is amended and reenacted as follows:

15-47-27. Time for renewal of teachers' contracts. Any teacher who has been employed by any school district; ~~the department of corrections and rehabilitation; or the superintendent of public instruction~~ in this state during any school year, must be notified in writing by the school board; ~~the department of corrections and rehabilitation; or the superintendent of public instruction; as the case may be;~~ not earlier than March first and not later than May first in the school year in which that teacher has been employed to teach, of the determination not to renew the teacher's contract for the ensuing school year, if the determination has been made; and failure to give written notice on or before that date constitutes an offer to renew the contract for the ensuing school year under the same terms and conditions as the contract for the then current year. On or before May first in any year and not earlier than March first, all teachers must be notified of a date, which must not be less than thirty days after the date of the notice, upon which they shall accept or reject proffered reemployment, and failure by the teacher to accept the offer within that time is a rejection of the offer. Any teacher accepting the offer of

reemployment, either by the action or nonaction of the school board; ~~the department of corrections and rehabilitation; or the superintendent of public instruction,~~ on or before May first, as herein provided, is entitled to the usual written contract for the ensuing school year, under law and shall notify the school board; ~~the department of corrections and rehabilitation; or the superintendent of public instruction~~ in writing of the teacher's acceptance or rejection on or before the date specified or before June first, whichever is earlier. Failure by the teacher to provide that notification relieves the school board; ~~the department of corrections and rehabilitation; or the superintendent of public instruction~~ of the continuing contract provision of sections 15-47-26 through 15-47-28. This section does not repeal or limit the operation of any existing law with reference to the dismissal of teachers for cause. Each district shall have an established system through which two written evaluations are prepared for every teacher employed by the district for each of the first three school years the teachers are employed by the school district. These written performance reviews must be completed and made available to the teacher no later than December fifteenth for the first review and March fifteenth for the second review each year. After three years of employment by a school district, each teacher must be evaluated at least once every school year, and the written performance review must be completed and made available to the teacher no later than March fifteenth.

SECTION 3. AMENDMENT. Section 15-47-27.1 of the North Dakota Century Code is amended and reenacted as follows:

15-47-27.1. First-year teachers - Evaluation - Renewal and nonrenewal of contracts. Each school district; ~~the department of corrections and rehabilitation; and the superintendent of public instruction~~ in this state shall have an established system through which two written evaluations are prepared during each school year for every teacher in his or her first year of teaching. The evaluation must be in the form of written performance reviews, and the first review must be completed and available to first-year teachers no later than December fifteenth and the second review must be completed and made available no later than March fifteenth of each year. A school board contemplating not renewing the contract of a first-year teacher shall, after reviewing the evaluations, meet in an executive session with the teacher to discuss the reasons for the proposed nonrenewal. The teacher may be represented at the meeting by two representatives of the teacher's own choosing and the teacher's spouse or one other family member of the teacher's choice. No claim for relief for libel or slander may be brought for any statement expressed either orally or in writing at any executive session of the school board held pursuant to this section. If a school board; ~~the department of corrections and rehabilitation; or the superintendent of public instruction~~ determines not to renew the contract of a first-year teacher, written notification of the decision of nonrenewal must be given to the teacher no earlier than April fifteenth nor later than May first. Failure by a school board; ~~the department of corrections and rehabilitation; or the superintendent of public instruction~~ to provide written notification of nonrenewal to a first-year teacher by May first constitutes an offer to renew the contract of the teacher for the ensuing school year under the same terms and conditions as the contract for the current year. The notification of nonrenewal given to a first-year teacher must contain a detailed description of the reason or reasons for the nonrenewal.

SECTION 4. A new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

Teachers employed by the state industrial school, school for the deaf, and school for the blind.

1. The term "teacher", as used in this section, means a contracted state employee holding a professional certificate and certified by the superintendent of public instruction to teach in this state, whose primary task is to provide direct instruction in a classroom, or on an individualized basis, and whose work schedule must be in accordance with the school calendar, guidance counselors, school librarians, itinerant outreach teachers, and vocational and other technological resource personnel who are required to meet the same teaching and certification requirements. Superintendents, assistant superintendents, principals, supervisory personnel, substitutes, and all paraprofessionals are not included in this definition.

2. The superintendent of public instruction for the school for the blind and the school for the deaf, and the director of the division of juvenile services with the approval of the director of the department of corrections and rehabilitation for the state industrial school in administering the schools under their authority shall develop contracts for employment of teachers in their departments and establish teacher personnel policies needed for administration of the schools. The contracts may include assignment of job duties, teacher salaries, hours, and job titles, a school calendar, and a salary schedule. The personnel policies adopted under this section must include job descriptions and nonrenewal, discipline, and dismissal procedures, and must seek to harmonize the rights of teachers with law governing state employees. The superintendent of public instruction and the director of the division of juvenile services with the approval of the director of the department of corrections and rehabilitation shall work together in the development of personnel policies for teachers employed by their respective departments. Each teacher is entitled to receive a printed copy of a master agreement, which consists of a policy manual and an individualized contract specifying the annual school calendar and each teacher's contracted hours, rate of pay, job title, salary schedule, applicable benefits, and other details pertinent to a teacher's employment.

¹⁰⁰ SECTION 5. A new subsection to section 54-44.3-20 of the North Dakota Century Code is created and enacted as follows:

Certificated teachers engaged in teaching at the state industrial school, the school for the blind, and the school for the deaf.

Approved April 13, 1995
Filed April 18, 1995

¹⁰⁰ Section 54-44.3-20 was also amended by section 9 of Senate Bill No. 2181, chapter 458; section 4 of House Bill No. 1501, chapter 524; and section 1 of House Bill No. 1250, chapter 525.

CHAPTER 200**SENATE BILL NO. 2290**

(Senators W. Stenehjem, Grindberg, St. Aubyn)

(Representatives Delmore, Kliniske, Poolman)

SCHOOL SAFETY PATROL IMMUNITY

AN ACT relating to the establishment of school safety patrols and immunity from liability; and to repeal sections 15-47-44 and 15-47-45 of the North Dakota Century Code, relating to the authorization and appointment of school safety patrols.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. School safety patrols - Establishment - Adoption of standards. The board of a public school district or the governing body of a nonpublic school may authorize school principals or administrators to establish safety patrols at schools under their control and to appoint students to the safety patrols. Any student age eleven or older is eligible for appointment to a safety patrol, provided the student's parent or legal guardian has filed written permission with the school principal or administrator. The superintendent of public instruction shall adopt standards to guide safety patrol members in the conduct of their duties and shall specify the identification to be worn and the signals to be used by safety patrol members while on duty.

SECTION 2. School safety patrols - Immunity from liability. The superintendent of public instruction, schools, school boards and individual school board members, governing boards and individual governing board members, administrators, principals, teachers, safety patrol members whether students or adults, and parents or legal guardians of safety patrol student members are immune from any liability that might otherwise be incurred as a result of an injury to a safety patrol member or as a result of an injury caused by an act or omission on the part of a safety patrol member while on duty, provided that such persons substantially complied with the standards to guide safety patrol members, as adopted by the superintendent of public instruction.

SECTION 3. REPEAL. Sections 15-47-44 and 15-47-45 of the North Dakota Century Code are repealed.

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 201**HOUSE BILL NO. 1496**

(Representatives Rydell, Kelsch)
(Senators Freborg, Wanzek)

SCHOOL REPORTS

AN ACT to create and enact a new section to chapter 15-47 of the North Dakota Century Code, relating to school reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

School reports - Contents.

1. Each year the chief administrative officer of each public school having students in any grades between kindergarten and grade twelve in the state shall complete a school report on forms provided by the department of public instruction.
2. Each year the governor may convene an ad hoc committee to establish and review the information obtained from the school reports and to make any necessary changes in any information requirements. The governor or a designee of the governor shall serve as the chairman. The members of the ad hoc committee must include:
 - a. Two individuals selected by the governor from a list of five nominees recommended by the North Dakota council of school administrators.
 - b. Two individuals selected by the governor from a list of five nominees recommended by the North Dakota education association.
 - c. Two individuals selected by the governor from a list of five nominees recommended by the North Dakota school boards association.
 - d. Two individuals selected by the governor from a list of five nominees recommended by the North Dakota parent-teachers association.
 - e. Two parents of school-age children, appointed by the governor.
 - f. Two high school students, appointed by the governor.
 - g. The superintendent of public instruction or a designee of the superintendent.

Approved March 27, 1995
Filed March 28, 1995

CHAPTER 202**HOUSE BILL NO. 1047**

(Legislative Council)
(Interim Education Services Committee)
(Representative Oban)
(Senators Scherber, St. Aubyn)

EDUCATION OF CHILDREN IN LEAST RESTRICTIVE ENVIRONMENT

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰¹ **SECTION 1. AMENDMENT.** Section 15-59-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15-59-02.1. Legislative intent - Special education. This statement of legislative intent is provided to define more clearly the relationship between the state, school districts, and parents of children with disabilities 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 child with disabilities to benefit from special education.

The school administrator or the administrator's 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 student with disabilities, and make recommendations for required special education and related services.

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

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

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

¹⁰¹ Section 15-59-02.1 was also amended by section 2 of House Bill No. 1058, chapter 243, and section 4 of Senate Bill No. 2063, chapter 194.

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

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

"All children with disabilities have the right to a free appropriate public education" means that all students with disabilities have the right to special education and related services which must be provided at public expense, under public supervision and direction and at no cost to parents. "At no cost" means specifically designed instruction and related services as described in the student's individualized education program plan provided without charge but does not preclude expenses incidental fees that are normally incurred or charged to nondisabled students or their parents of children who are nondisabled as a part of the regular education program. Parents will assume such costs for a child with disabilities as they would if the child was nondisabled. Personal items, including hearing aids, eyeglasses, routine medical expenses, physical exams, medications, and all items necessary for a child who is nondisabled, 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 disability or other required related services which results in the child's need for special education. It is the school district's responsibility to assume costs not covered by the insurer or similar third party in the above situation.

The school district in which a student with disabilities 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 superintendent 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 a regularly scheduled schoolbus, public or commercial transportation where appropriate, charter or specially contracted transportation, or transportation provided by the parent of a child with disabilities or other responsible party at school district expense.

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

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

Approved March 10, 1995
Filed March 10, 1995

CHAPTER 203**HOUSE BILL NO. 1178**

(Representatives Carlisle, Skarphol, Austin)
(Senators Kinnoin, O'Connell)

**STUDENT EXPULSION FOR FIREARM POSSESSION
ON SCHOOL PROPERTY**

AN ACT relating to the implementation of weapons policies and the expulsion of a student for possessing a firearm on school property; and to amend and reenact subsection 13 of section 15-29-08 of the North Dakota Century Code, relating to the suspension or expulsion of a student from school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 and 2 of this Act:

1. "Firearm" has the meaning given in 18 U.S.C. 921 [Pub. L. 90-351; 82 Stat. 197].
2. "School property" includes all school land, buildings, structures, facilities, and school vehicles whether owned or leased by a school district, and the site of any school-sponsored event or activity.

SECTION 2. Weapons policies - Possession of a firearm - Prohibitions - Exceptions.

1. Each school board shall by resolution implement a policy governing the possession of weapons on school property and at school functions and provide for the punishment of any student found to be in violation.
2. The weapons policy must prohibit the possession of a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion for at least one year. The policy must authorize the school district superintendent or the school principal if the school district does not have a superintendent to modify an expulsion under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board shall, within ten days of the student's suspension, provide the student with a hearing before the school board at which time the school board must take testimony and consider evidence, including the existence of mitigating circumstances. A school board that expels a student under this subsection may provide educational services to the student in an alternative setting.
3. Actions taken under this section must be in accordance with chapter 15-59 and the Individuals with Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
4. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all

requirements set by the principal regarding the safe handling and storage of the firearm.

¹⁰² SECTION 3. AMENDMENT. Subsection 13 of section 15-29-08 of the North Dakota Century Code is amended and reenacted as follows:

13. To adopt, alter, and repeal, when it deems it expedient, rules and regulations for the reception, organization, grading, government, and instruction of ~~pupils~~ students, and for their suspension, expulsion, or transfer from one school to another. ~~No pupil shall~~ Students may be suspended or expelled ~~except~~ for insubordination, habitual indolence, ~~or~~ disorderly conduct, ~~and~~ or under section 2 of this Act. Except as provided in section 2 of this Act and section 15-38-13.1, a suspension shall not be for a longer ~~period~~ than ten days ~~except as provided in section 15-38-13.1,~~ nor shall an expulsion be in effect beyond the end of the current ~~term~~ of school year.

Approved April 17, 1995

Filed April 18, 1995

¹⁰² Section 15-29-08 was also amended by section 1 of Senate Bill No. 2491, chapter 186.

CHAPTER 204**HOUSE BILL NO. 1216**
(Representative Dalrymple)**SCHOOL CONSTRUCTION LOANS**

AN ACT to amend and reenact section 15-60-10 of the North Dakota Century Code, relating to school construction loans; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰³ **SECTION 1. AMENDMENT.** Section 15-60-10 of the North Dakota Century Code is amended and reenacted as follows:

15-60-10. Loans.

1. The board may make loans for purposes described in this chapter to school districts from moneys deposited in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02. The board shall consider an application for a loan in the order of its approval by the superintendent under subsection 2 of section 15-35-01.1. The outstanding principal balance of loans made from the fund under this chapter may not exceed twenty-five million dollars.
2. An application for a loan A project must be approved by the superintendent pursuant to section 15-35-01.1 before the application a loan may be issued under this section. An application for a loan must be submitted to the board superintendent. The application may be submitted before or after authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously, but no later than one hundred eighty days from the date it is received by the superintendent. The application must contain information deemed necessary by the superintendent, including a discussion of alternative sources or methods for financing the construction or improvement, and must be considered in the order of its approval under subsection 1 of section 15-35-01.1. If the superintendent approves the loan, the superintendent may also determine the loan amount and a percent of interest to be paid on the loan. In determining the amount of a loan, the superintendent shall take into account the cost of the project and the fiscal capacity of the school district. To be eligible for a loan, the school district must have an existing indebtedness equal to at least fifteen percent of the school district's taxable valuation. In determining a school district's existing indebtedness, the superintendent shall include outstanding indebtedness authorized by an election under section 21-03-07 but not issued, and indebtedness authorized to be paid

¹⁰³ Section 15-60-10 was also amended by section 4 of Senate Bill No. 2124, chapter 163.

with dedicated tax levies under subsection 7 of section 21-03-07 but not issued. The interest on a loan may not exceed the rate of two percent below the net interest rate on comparable tax-exempt obligations as determined on the date the application is approved by the superintendent pursuant to section 15-35-01.1, provided the interest rate may not exceed six percent.

3. Loan applications approved by the board must be forwarded to the Bank. The Bank shall assist the board by preparing and approving the loan documents, handling the loan closing, and servicing the loan. The Bank shall receive payments of principal and interest from the school districts, and shall remit payments of principal to the board for redeposit in the fund. The interest must be used and deposited in accordance with section 21 of article X of the Constitution of North Dakota.

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

Approved March 24, 1995
Filed March 27, 1995

CHAPTER 205**HOUSE BILL NO. 1112**

(Education Committee)

(At the request of the Bank of North Dakota)

GUARANTEE STUDENT LOAN PROGRAM

AN ACT to amend and reenact section 15-62.1-01, subsection 1 of section 15-62.1-02, sections 15-62.1-03 and 15-62.1-05 of the North Dakota Century Code, relating to a state guarantee student loan program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-62.1-01. Guarantee student loan programs - Administration - Advisory board. The Bank of North Dakota, hereinafter called the "agency", is the state agency designated to administer state guarantee loan programs, as provided in this chapter. The advisory board of directors to the Bank of North Dakota ~~appointed pursuant to chapter 6-09~~ shall act in an advisory capacity concerning the programs. The agency, upon recommendation of the advisory board and subject to approval of the industrial commission, shall expend moneys received and from the interest earned on the principal balance in the reserve funds established pursuant to this chapter as may be necessary to implement and administer the programs. The term "student" includes a parent borrower under this chapter and the term "coinsurance" includes reinsurance.

SECTION 2. AMENDMENT. Subsection 1 of section 15-62.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. To guarantee all loans which satisfy the requirements set forth in title IV, part B, of the Higher Education Act of 1965, as amended, upon terms, conditions, and application procedures commensurate with the federal Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], as amended, if federal coinsurance of student loans guaranteed by the agency is available. If at any time the agency determines that student loans made under the terms and conditions of federal coinsurance programs are no longer adequately serving the needs of North Dakota students attending postsecondary institutions, or if federal coinsurance is no longer available, the agency shall notify the industrial commission or its designee. Upon approval of the industrial commission or its designee, the agency shall guarantee student loans without federal coinsurance pursuant to rules made by the agency relating to terms for applicant eligibility in accordance with the provisions of this chapter. If loans are guaranteed without federal coinsurance, the agency may not adopt eligibility requirements or loan limits for student loans to qualify for guarantee by the agency which are more restrictive than those eligibility requirements or loan limits existent as of the date the industrial commission approves the guarantee of loans without federal coinsurance or the date of the termination of programs providing for federal coinsurance of loans guaranteed by the agency. Students whose loans are guaranteed by the agency must be students who have been accepted

for enrollment or are attending eligible postsecondary institutions located within or without this state, and whose loans are for the purpose of assisting them in meeting their expenses of postsecondary education. Students who are accepted for enrollment or are attending eligible proprietary or postsecondary institutions of higher education on at least a half-time basis, as determined by the ~~postsecondary~~ institutions, are eligible to have loans guaranteed by the agency. The agency shall, by rule, establish minimum qualifications for a person to be deemed a part-time student for purposes of this chapter.

SECTION 3. AMENDMENT. Section 15-62.1-03 of the North Dakota Century Code is amended and reenacted as follows:

15-62.1-03. Rates of interest permissible for guaranteed loans. All loans guaranteed by the agency and coinsured by the federal government must bear interest at rates which are no greater than those provided under the federally coinsured loan programs. In the event that the agency guarantees student loans without federal coinsurance pursuant to section 15-62.1-02, such loans must bear interest at rates which are no greater than the base participation rate as established by the Bank of North Dakota, plus no more than two percentage points, in effect on the date the loan is made.

SECTION 4. AMENDMENT. Section 15-62.1-05 of the North Dakota Century Code is amended and reenacted as follows:

15-62.1-05. Establishment and maintenance of adequate guarantee funds - Appropriation. The agency shall establish and at all times maintain from funds appropriated under this chapter adequate guarantee reserve funds in special accounts in the Bank of North Dakota. The fund for loans which are coinsured by the federal government must be maintained at a minimum amount equal to two percent of the unpaid principal amount of the loans. The fund for loans which are not coinsured by the federal government may not be less than one-tenth of the dollar value of the total portion of such loans. Funds appropriated under this chapter and designated as guarantee agency reserve funds for loans that are not coinsured by the federal government must be administered separately and segregated from reserve funds for loans that are coinsured by the federal government. The agency is authorized to enter into an agreement with the federal government for the coinsurance of loans guaranteed under this program. The securities in which the moneys in the reserve funds may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the respective guarantee loan programs and income in excess of that required to pay the cost of administering the programs must be deposited in the respective reserve funds fund that corresponds to the source of the initial invested funds. The proceeds of such reserve funds received from federal, state, or private sources for the purpose of guaranteeing loans made to students as provided in this chapter are hereby appropriated as a continuing appropriation for the payment of defaulted loans guaranteed by each respective fund.

Approved March 10, 1995
Filed March 10, 1995