

EDUCATION

CHAPTER 185

HOUSE BILL NO. 1464
(Representatives Gerntholz, V. Olson)
(Senator Robinson)

LAND SALE TO VALLEY CITY

AN ACT to authorize the state board of higher education to convey certain state-owned land to the city of Valley City, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Transfer of land by state board of higher education.

1. The state board of higher education may convey to the city of Valley City, North Dakota, land owned by the state under the jurisdiction of the state board of higher education which is located in Barnes County and described as follows:

A tract of land in block 8 of Andrus and Siftons Addition to Valley City, North Dakota, more particularly described as follows: beginning at the southeast corner of said block, thence north along the east line of said block 105 feet; thence north $89^{\circ}29'$ west 297.9 feet; thence south $58^{\circ}35'$ west 198.5 feet to a point on the south line of said block; thence south $89^{\circ}29'$ east along said south line 466.4 feet to the point of beginning. Said tract of land contains 0.92 acres more or less. A strip of land lying in that tract of land owned by the state of North Dakota in the south half of the northeast quarter of section twenty-eight, township one hundred forty north, range fifty-eight west of the fifth principal meridian; said strip of land being 160 feet wide, 80 feet on either side of a center line more particularly described as follows: beginning at a point which is the intersection of the east line of the said northeast quarter and the center line of Seventh Street southeast in the city of Valley City, North Dakota; thence north $89^{\circ}29'$ west along said center line extended 1.5 feet; thence by a 6° curve to the left 532.2 feet; thence south $58^{\circ}35'$ west 173.9 feet; thence by a 4° curve to the right 780.8 feet; thence south $89^{\circ}49'$ west parallel with and with a width of 80 feet more or less on the left from the south line of the above described tract 575.1 feet; thence by a 14° curve to the left 258.8 feet to a point on said south line, excepting therefrom all that part lying within that part of block 8 of Andrus and Siftons Addition to Valley City, North Dakota, described as follows: beginning at the southeast corner of said block 8, thence north along the east line of said block 105 feet; thence north $89^{\circ}29'$ west 297.9 feet; thence south $58^{\circ}35'$ west 198.5 feet to a point on the south line of said block; thence south $89^{\circ}29'$ east along said south line 466.4

feet to the point of beginning. The above strip of land contains 7.60 acres more or less.

2. The conveyance authorized by this Act is exempt from the provisions of sections 54-01-05.2 and 54-01-05.5.
3. All legal documents, papers, and instruments required by the conveyance authorized by this Act must be reviewed and approved as to form and legality by the attorney general.
4. If the property is subsequently vacated for road purposes by the city of Valley City, title thereto, notwithstanding the provisions of section 40-39-08, remains with the city and the property may be subsequently transferred or exchanged by the city.
5. As a condition of this conveyance, the state is not subject to or responsible for any special assessments hereinafter levied for the construction or surfacing of any road that replaces the roadway vacated.

Approved March 14, 1989

Filed March 15, 1989

CHAPTER 186

SENATE BILL NO. 2124
(Committee on Education)

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

VALLEY CITY HIGHER EDUCATION LAND SALE

AN ACT authorizing the state board of higher education to sell certain real property in Valley City, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Notwithstanding the provisions of sections 54-01-05.2 and 54-01-05.5, the state board of higher education is authorized to sell the following described real property to the parties, for the price, and on the terms as determined by the state board of higher education. The property, known as Lions Court, is more fully described as lots 17, 18, and 19, block 2, Tracy's second addition to the city of Valley City, Barnes County, state of North Dakota.

SECTION 2. Income from the sale of the property described in section 1 of this Act must be deposited in the auxiliary funds account of Valley City state university.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 187

SENATE BILL NO. 2532
(Senator Robinson)
(Representatives Gerntholz, V. Olson)
(Approved by the Committee on Delayed Bills)

LAND TRANSFER TO BARNES COUNTY

AN ACT to authorize the state board of higher education to convey certain state-owned land; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Transfer of land by state board of higher education. The state board of higher education may convey to the parties and on the terms as the board directs the following described property located in Barnes County:

The southwest quarter of section two, township one hundred forty-one north, range sixty-one west of the fifth principal meridian, consisting of one hundred sixty acres more or less.

The conveyance authorized by this Act is not subject to North Dakota Century Code sections 54-01-05.2 and 54-01-05.5. All legal documents, papers, and instruments required by the conveyance authorized by this Act must be reviewed and approved as to form and legality by the attorney general.

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

Approved April 6, 1989
Filed April 7, 1989

CHAPTER 188

HOUSE BILL NO. 1556
(W. Williams)

BOARD OF UNIVERSITY AND SCHOOL LANDS REFUNDS

AN ACT to create and enact subsection 5 of section 15-01-02 of the North Dakota Century Code, relating to the authority of the board of university and school lands to issue refunds; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 5 of section 15-01-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. Authority to expend moneys for the purpose of making refunds in cases in which an error has been made by the board, or a person dealing with the board, with regard to any of the lands, minerals, funds, proceeds, or any other kind of property managed by the board. Moneys expended to make refunds must come from the same fund or account into which the money to be refunded was originally placed.

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

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 189

SENATE BILL NO. 2181
(Committee on State and Federal Government)
(At the request of the Board of University and School Lands)

BOARD OF UNIVERSITY AND SCHOOL LANDS MEETINGS

AN ACT to amend and reenact section 15-01-03 of the North Dakota Century Code, relating to meetings of the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-01-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-03. Meetings of board - Quorum. The board shall meet ~~at the office of the commissioner~~ on the last Thursday of each month. If it appears a quorum will not be present for any meeting of the board, the meeting may be rescheduled by the commissioner upon reasonable notice to all members. Special meetings of the board may be held at any time at the written call of the chairman, the commissioner, or ~~of~~ any two members of the board. Three members of the board shall constitute a quorum.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 190

SENATE BILL NO. 2493
(Senators Lips, Satrom, Heinrich)
(Representative R. Berg)

UNIVERSITY AND SCHOOL LANDS INVESTMENTS

AN ACT to create and enact two new sections to chapter 15-03 of the North Dakota Century Code; and to amend and reenact section 15-03-04 of the North Dakota Century Code, relating to investments and calculation and distribution of investment income of the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-03-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. First mortgages on farmlands and improvements thereon in this state to the extent such mortgages are guaranteed or insured by the United States or any instrumentality thereof; or if not so guaranteed or insured, not exceeding in amount eighty percent of the actual value of the property on which the same may be loaned; such value to be determined by competent appraisal.
2. Securities which are a direct obligation of the treasury of the United States or of an instrumentality thereof.
3. Bonds or certificates of indebtedness of this state.
4. General obligation bonds of any other state.
5. Bonds, certificates of indebtedness, or warrants of any political subdivision of this state which constitute the general or contingent general obligations of the issuing tax authority; or revenue bonds of a political subdivision issued for public utility purposes or under the authority of chapter 40-57.
6. Loans and mortgage investments, insured or guaranteed in any manner, wholly or in part, or for which a commitment to so insure or guarantee has been issued by the United States or any instrumentality or agency thereof; or other investments that are issued by or fully insured or guaranteed by the United States or any instrumentality or agency thereof or this state or any instrumentality or agency thereof.

* NOTE: Section 15-03-04 was also amended by section 1 of House Bill No. 1291, chapter 191.

7. Bank of North Dakota certificates of deposit.
8. North Dakota savings and loan association and commercial bank certificates of deposit to the extent that such certificates are fully insured or guaranteed by the United States or an instrumentality or agency thereof.
9. Short-term commercial and finance company paper traded on a national basis and issued by a corporation having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.
10. Bonds, notes, or debentures of any corporation duly incorporated under the laws of any state of the United States rated as "A" or higher by a nationally recognized rating service approved by the board.
11. Nonrated bonds, notes, or debentures of any corporation duly incorporated under the laws of any state and whose principal business operations are carried on within this state, having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.
12. Evidence of indebtedness issued by instrumentalities of this state, including evidence of indebtedness issued by the North Dakota housing finance agency.
13. Mortgage loans purchased from lenders or certificates of indebtedness representing pools of mortgage loans purchased from lenders if the mortgages are made to persons to finance the purchase or substantial rehabilitation of owner-occupied, single family residential dwellings, including mobile homes and manufactured housing. The loans purchased must be secured by mortgages on real property located in this state. "Lender" means any bank or trust company chartered in this state, any national banking association located in this state, any state or federal savings and loan association located in this state, and any federal housing administration approved mortgagee or other mortgage lending institution engaged in home mortgage lending in this state.
14. Common or preferred stocks of any corporation organized under the laws of any state, including nonvoting preferred stock of Myron G. Nelson Fund, incorporated, issued pursuant to section 10-30.2-04 but not more than twenty percent of the assets of each fund may be invested in common and preferred stocks.

As used in this section, the term "net income" means income after deducting operating and maintenance expenses, all taxes, depreciation and

depletion; but excluding extraordinary nonrecurring items of income and expense.

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

SECTION 2. Two new sections to chapter 15-03 of the North Dakota Century Code are hereby created and enacted to read as follows:

Calculation of investment income. At the end of each fiscal year, the board shall calculate the investment income earned by the permanent funds. The investment income earned by the funds shall equal the amount of interest on debt securities and dividends on equity securities. If the sale of securities results in a net gain or loss during a fiscal year, the net gain or loss shall be amortized to investment income in equal annual installments over a ten-year period. In lieu of amortizing any fiscal year net loss on the sale of securities, the board may recover such loss, in whole or in part, from past unamortized capital gains and future net realized capital gains.

Distribution of investment income. The board shall distribute only that portion of the investment income that is consistent with the long-term goals of preserving the purchasing power of the funds and maintaining income stability to the fund beneficiaries. The investment income that is retained to preserve the purchasing power of the principal shall be added to the principal and remain inviolate. No investment income may be retained and added to the principal if it would result in a decrease in distributions to the common schools or other fund beneficiaries from the amount distributed during the preceding year.

Approved March 31, 1989
Filed March 31, 1989

CHAPTER 191

HOUSE BILL NO. 1291
(Graba, Starke)

**BOARD OF UNIVERSITY AND SCHOOL LANDS
INVESTMENTS**

AN ACT to amend and reenact subsection 8 of section 15-03-04 of the North Dakota Century Code, relating to types of legal investments by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 8 of section 15-03-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. ~~North Dakota savings and loan association and commercial bank certificates~~ Certificates of deposit issued by financial institutions as defined in section 21-04-01 to the extent that such certificates are fully insured or guaranteed by the United States or an instrumentality or agency thereof.

Approved March 14, 1989
Filed March 15, 1989

* NOTE: Section 15-03-04 was also amended by section 1 of Senate Bill No. 2493, chapter 190.

CHAPTER 192

SENATE BILL NO. 2211
(Committee on State and Federal Government)
(At the request of the Board of University and School Lands)

STATE LAND LEASES OR SALES

AN ACT to amend and reenact sections 15-04-10, 15-07-04, 15-07-20, 38-09-15, 38-11-04, 44-08-12, and 44-08-13 of the North Dakota Century Code, relating to the requirements governing the leasing and sale of state lands and the use of facsimile signatures on leases issued by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-04-10 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-10. Leasing to be by auction - Requirements governing. The commissioner of university and school lands, or such other person as may be appointed by the board of university and school lands, shall conduct the leasing of the lands. The leasing must be at public auction, to the highest bidder, and must be held at the courthouse or the place where terms of the district court are held. The auction must commence on the day and time specified in the advertisement for the leasing and must be held between the hours of ten a.m. and five p.m., and must continue from day to day until all tracts or parcels of land advertised for lease have been leased or offered for lease. Auctions for leasing lands may not exceed ten days in any county, except that an adjournment may be made over Sunday or any legal holiday. 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 2. AMENDMENT. Section 15-07-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-04. Sale requirements. Any land sold under the provisions of this chapter must be by public auction or sealed bids, except purchases under the provisions of section 15-07-10. ~~If the land was acquired through the cancellation of a contract for deed, the price shall be not less than the amount due at the time of cancellation. If the land was acquired through foreclosure, the price shall be not less than the amount due at the time of the foreclosure sale.~~

SECTION 3. AMENDMENT. Section 15-07-20 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-07-20. Leasing of nongrant lands. The board of university and school lands may lease nongrant lands under such reasonable rules and regulations as it may establish. Such rules and regulations may provide for leasing with or without advertisement or competitive bidding. Leases made under the provisions of this section shall be for cash only, and the rental shall be collected in advance except that the board may collect a share of a conservation reserve program payment paid by the federal government. No lease of nongrant lands shall extend for a period of more than ~~three~~ four years, except pasture lands may be leased for a period of five years and any land accepted into the conservation reserve program may have a lease term that coincides with the term of the conservation reserve program contract if so provided in the lease. Leases may be renewed at the discretion of the board. When nongrant lands are leased without advertisement or competitive bidding, the board shall determine the rental by taking into consideration the nature and adaptability of the lands and the improvements thereon.

SECTION 4. AMENDMENT. Section 38-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-09-15. Public offering of leases - State. Before leasing any land or interest therein or any mineral rights reserved therein, the state of North Dakota or any of its departments or agencies shall first ~~advertise the lands offered for lease in the official newspaper of the county in which the lands are situated, and in a newspaper of general circulation published in the city of Bismarck give notice in accordance with the rules of the board of university and school lands. The advertisement must be made by publication in the official newspaper of the county once each week for at least two weeks, the last publication to be at least ten days before the day of the leasing.~~ The leasing must be held at the office of the department or agency owning or controlling the lands at the time and place specified in the notice, and the notice ~~as published~~ must contain a statement showing the legal description of the lands to be leased, the time and place where the leasing will be held, the information required by the rules of the board of university and school lands and such other information as may be deemed by the state or department or agency thereof to be applicable. Should publication of any notice of the leasing of mineral rights be inadvertently omitted by any newspaper or should the notice ~~as published~~ contain typographical errors, the state or department or agency may, in its discretion, proceed with the scheduled leasing where it appears that the omission or error is not prejudicial to the state's interest.

SECTION 5. AMENDMENT. Section 38-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-11-04. Offering of mineral leases to be public. Prior to the execution of a mineral lease by any agency of the state of North Dakota, that

agency owning or controlling the mineral interest shall first advertise the minerals offered for lease in the official newspaper of the county or counties in which the lands are located; and in a newspaper of general circulation published in the city of Bismarck give notice in accordance with the rules of the board of university and school lands. The advertisement must be published once a week for at least two weeks; the last publication to be at least ten days prior to the day of the leasing. The notice as published must contain a statement showing the legal description of the lands to be leased; the time and place where the leasing will be held; the information required by the rules of the board of university and school lands and such other information as may be deemed by the leasing agency to be applicable. The leasing must be by public auction held at the offices of the agency owning or controlling state-owned minerals time and place specified in the notice.

SECTION 6. AMENDMENT. Section 44-08-12 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-12. Definitions. As used in sections 44-08-12 through 44-08-14:

1. "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, public bodies, or other instrumentalities or by any of its political subdivisions.
2. "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.
3. "Authorized officer" means any official of this state or any of its departments, agencies, public bodies, or other instrumentalities or any of its political subdivisions whose signature to a lease issued by the board of university and school lands, public security or instrument of payment is required or permitted.
4. "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

SECTION 7. AMENDMENT. Section 44-08-13 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-13. Facsimile signature. Any authorized officer, after filing with the secretary of state or, in the case of officers of any city, county, school district, or other political subdivision, with the clerk or business manager of such subdivision, the officer's manual signature certified to under oath, may execute or cause to be executed with a facsimile signature in lieu of a manual signature:

1. Any public security, provided that at least one signature required or permitted to be placed thereon, or the signature of an authenticating agent or agents designated in writing by the issuer of the security or by the person whose signature is required or permitted to be placed thereon, shall be manually subscribed, but no such manual subscription shall be required as to interest coupons attached to such security.
2. Any instrument of payment.
3. Any lease issued by the board of university and school lands.

Upon compliance with sections 44-08-12 through 44-08-14 by the authorized officer, a facsimile signature has the same legal effect as a manual signature.

CHAPTER 193

HOUSE BILL NO. 1618
(Representatives R. Berg, Gates)
(Senator Peterson)

HIGHER EDUCATION SEVEN-YEAR PLAN

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code to provide for a seven-year plan for the system of higher education in this state and for procedures for review and implementation of that plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Higher education system review - Special committee - Seven-year plan - Report to legislative assembly.

1. On or before August first of each odd-numbered year, the state board of higher education shall meet with a special committee of the legislative council consisting of the majority and minority leaders and their assistant leaders from the house and senate, the speaker of the house, and the governor, or their designees, to solicit ideas and issues the committee members believe are priority issues regarding the future of the system of higher education in this state.
2. On or before February first of each even-numbered year, the state board of higher education shall present to the committee 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.
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.

Approved April 3, 1989
Filed April 3, 1989

CHAPTER 194

SENATE BILL NO. 2165
(Committee on State and Federal Government)
(At the request of the Board of Higher Education)

ALTERNATE HIGHER EDUCATION RETIREMENT ANNUITIES

AN ACT to amend and reenact subdivision e of subsection 13 of section 15-10-17 of the North Dakota Century Code, and section 2 of chapter 199 of the 1987 Session Laws of North Dakota, relating to annuity purchases in the alternate retirement program by employees of institutions under the control of the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision e of subsection 13 of section 15-10-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Employees of institutions under the control of the state board of higher education who are members of the public employees retirement system, and who become entitled to participate in the alternate retirement program, ~~and who transfer the employee's contribution to that program,~~ are entitled to a transfer of contributions special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, transferred used by the retirement board of trustees of the public employees retirement system to purchase for that employee's account employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system prior to March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapter 54-52.

SECTION 2. AMENDMENT. Section 2 of chapter 199 of the 1987 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 2. ~~LIMITED~~ RETROACTIVE EFFECT OF ACT. This Act is retroactive for employees who became eligible for membership in the alternate retirement program ~~after June 30, 1984, but before the effective date of this Act, and who transferred their employee's contribution to the alternate retirement program before the effective date of this Act~~ prior to March 30, 1987.

Approved March 17, 1989
Filed March 17, 1989

CHAPTER 195

SENATE BILL NO. 2040
(Legislative Council)
(Interim Jobs Development Commission)

**HIGHER EDUCATION – PRIVATE ENTERPRISE
AGREEMENTS**

AN ACT to create and enact a new subsection to section 15-10-17 of the North Dakota Century Code, relating to the powers and duties of the board of higher education with respect to relationships between institutions of higher education and private business and industry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 15-10-17 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To authorize and encourage institutions of higher education under its control to enter into partnerships, joint ventures, or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 196

SENATE BILL NO. 2180
(Committee on Appropriations)
(At the request of the Board of Higher Education)

HIGHER EDUCATION INSTITUTION CLAIM PAYMENT

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to payment of claims against institutions of higher education; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Claims against institutions of higher education - Continuing appropriation. Any individual injured by an employee of a public institution of higher education may submit a claim to the president of the institution. As used in this section, "claim" means a monetary demand upon the state for physical injury or property damage arising from activities of an employee of a public institution of higher education. The institution, upon approval of the state board of higher education, may approve and pay a claim for less than one thousand dollars. If the claim is approved, and if there are funds available for payment, the funds are hereby appropriated for that purpose. This section is not a waiver of any sovereign immunity of the state.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 197

SENATE BILL NO. 2354
(Senators Lashkowitz, Satrom, Nelson)
(Representative Ulmer)

ECONOMIC FEASIBILITY INSTITUTE

AN ACT to establish an economic feasibility institute and to specify the purpose, powers, and duties of the institute.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Economic feasibility institute - Establishment - Director.

1. An economic feasibility institute is established to be administered in conjunction with North Dakota state university of agriculture and applied science.
2. The university shall appoint a director of the economic feasibility institute. However, the university shall appoint as the institute's first director the functioning professor in charge of the existing economic feasibility unit within the agricultural economics department of North Dakota state university of agriculture and applied science. The director shall manage the institute, hire and compensate necessary personnel within the limits of legislative appropriations and other funding sources, and prepare a biennial budget. The university shall fix the salary of the director, within the limits of legislative appropriations, and may remove the director for cause.

SECTION 2. Purpose of the institute. The purpose of the economic feasibility institute is to initiate, encourage, and enhance the commercial development of both agricultural and nonagricultural products, processes, commodities, and services in North Dakota through the supervision and performance of economic feasibility research.

SECTION 3. Powers and duties of the institute. The institute shall render services and exercise powers consistent with its purpose which include, but are not limited to:

1. Providing prefeasibility analyses and reports, including:
 - a. Initial consultations;
 - b. The establishment of levels of funding participation, the level of analysis, and the duration of services to be provided under this Act; and
 - c. Information dissemination activities.

2. Conducting short-turnaround economic feasibility studies and business and market plan analyses.
3. Conducting complete feasibility studies directed at analyzing the technical and economic feasibility of approved projects.
4. Developing and maintaining data bases and making projections to aid state and local planning and policy development.
5. Evaluating alternatives for providing and financing public services, including community leadership training.
6. Collaborating for expertise and analysis with other components of North Dakota state university of agriculture and applied science, other universities and colleges, and other public entities and the private sector. The institute may not duplicate services or capabilities available through or provided by other public entities.
7. Contracting for professional and other services necessary to carry out the purpose of this Act.

SECTION 4. Grants and contributions - Continuing appropriation. The economic feasibility institute may contract for, accept, and receive grants, gifts, and contributions of money, property, services, or other things of value from individuals, the federal government, private and public corporations, political subdivisions of the state, and other sources. All revenue received from gifts, grants, and contributions is hereby appropriated for use by the economic feasibility institute in carrying out the provisions of this Act. Any state funding for the institute may be provided through legislative appropriation to the economic development commission for that purpose.

SECTION 5. Access to institute records. Materials and data submitted to, or made or received by, the economic feasibility institute, to the extent that the materials or data consist of trade secrets, or commercial, financial, or proprietary information of individuals and entities contracting with the institute or receiving institute services under this chapter, are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

Approved April 13, 1989
Filed April 13, 1989

CHAPTER 198

HOUSE BILL NO. 1421
(Representatives Ulmer, R. Anderson)
(Senators Olson, Dotzenrod, O'Connell)

HOME-BASED SCHOOL INSTRUCTION

AN ACT to create and enact four new sections to chapter 15-34.1 of the North Dakota Century Code, relating to home-based instruction, quality assurance, state aid for students in home-based schools, and supervision or administration by state-approved private or parochial schools; to amend and reenact sections 15-19-01, 15-34.1-03, and 15-34.1-04 of the North Dakota Century Code, relating to correspondence study by students receiving home-based instruction, exceptions from the compulsory school attendance laws, and prosecution for violation of compulsory school attendance laws; to repeal section 15-34.1-05 of the North Dakota Century Code, relating to penalties for violating the compulsory school attendance provisions; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A complete high school curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, ~~shall~~ must be maintained upon the campus of one of the state institutions of higher education by the state board of public school education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, or as provided in subsection 5 of this section all pupils under the age of sixteen taking advantage of the provisions of this chapter ~~shall~~ 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 such a place as may be designated by the state director in accordance with the rules of the state board of public school education. If in attendance at a local school pupils ~~shall~~ must be supplied with desk space in their respective school without charge, and they shall attend school regularly, and ~~shall~~ be under the same

- disciplinary supervision of the teachers as the other school pupils.
3. The high school correspondence work ~~shall~~ must be completed in accordance with the rules ~~and regulations~~ established by the state board of public school education.
 4. Correspondence pupils shall pay for books and materials used by them, postage required to mail reports to the division, and ~~such~~ other fees as may be prescribed by the board of public school education.
 5. Pupils exempt from the compulsory school attendance laws pursuant to subsection 5 of section 15-34.1-03 may enroll in correspondence courses offered through the division of independent study. These students may study their correspondence lessons in their learning environment under the supervision of a parent. The tests for the correspondence study must be administered by a certified teacher employed either by the public school district in which the parent resides or a state-approved private or parochial school.

SECTION 2. AMENDMENT. Section 15-34.1-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.1-03. Compulsory attendance - Exceptions. The parent, guardian, or other person having control of a child required to attend school by the provisions of this chapter shall be excused by the school board from causing the child to attend school whenever it shall be shown to the satisfaction of the board, subject to appeal as provided by law, that one of the following reasons exists:

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 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.
2. That the child has acquired the branches of learning taught in the public schools and has completed high school.
3. That the child actually is necessary to the support of his family, which shall be a question of fact to be determined by the governing board of the district with the approval of the county superintendent of schools, and such determination shall be subject to review by the superintendent of public instruction on appeal.
4. That the child is in such physical or mental condition as to render attendance or participation in the regular or special education program inexpedient or impracticable. Such condition shall be shown by a declaration of a multidisciplinary team which includes the director of special education of the special education unit of which the school district of residence is a member, the school

superintendent of the child's district of residence, the child's classroom teacher, the child's physician, and the child's parent or guardian.

5. That the child, not including a child with developmental disabilities as defined by subsection 1 of section 25-01.2-01, is receiving home-based instruction in accordance with the provisions of this chapter.

SECTION 3. AMENDMENT. Section 15-34.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.1-04. Prosecution for violation of compulsory attendance law - Officers charged with enforcement. Every school board member, school superintendent, principal, truant officer, and teacher in any school system in this state, and every county superintendent of schools shall be charged with the enforcement of the provisions of this chapter relating to compulsory school attendance. Such enforcement shall extend to all children who are offered school facilities by the district, regardless of whether or not they actually reside within the district. Such persons shall inquire into all cases of alleged violation of such provisions and shall obtain from any parent, guardian, or other person having custody of any child of school age not attending school in accordance with the requirements of this chapter the reason, if any, for such absence. In school districts not having a school superintendent, the county superintendent of schools shall be notified of any violation of the compulsory school attendance law, and such county superintendent shall report the fact of the violation to the state's attorney of the county. In school districts which have a school superintendent, the school superintendent or principal shall report to the state's attorney of the county the facts in connection with any violation of the compulsory attendance law. ~~The state's attorney shall prosecute any person who violates the compulsory school attendance provisions of this chapter~~ may petition a court, pursuant to chapter 27-20, for a determination as to whether a child is educationally deprived. The school board of any school district having more than five hundred inhabitants may employ a truant officer to assist in the enforcement of the compulsory school attendance provisions.

SECTION 4. A new section to chapter 15-34.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

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 is qualified to supervise a program of home-based instruction if the parent is certified or certifiable to teach in North Dakota; has a high school education or has received a general educational development certificate and is supervised by a certificated teacher employed either by the public school district in which the parent resides or, if requested by the parent, by a state-approved private or parochial school; or has passed the national teacher exam given in North Dakota, or in any other state if North Dakota does not offer such a test. 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; and
6. An oath or affirmation that the parent will comply with all provisions of this chapter.

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

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

1. A standardized achievement test used by the school district in which the child resides or, if requested by the parent, a standardized achievement test used by a state-approved private or parochial school must be given annually to each child receiving home-based instruction. The test must be given in the child's learning environment and must be administered by a certified teacher employed by the public school district in which the parent resides or, if requested by the parent, employed by a state-approved private or parochial school. The cost of such testing must be borne by the local school district in which the child resides if the test is administered by a certified teacher employed by a public school district or by the parent of the child if the test is administered by a certified teacher employed by a state-approved private or parochial school. Results of such testing must be provided to the local public school superintendent. If the child resides in a school district which does not employ a local school superintendent, the results must be filed with the county superintendent of schools for the county of the child's residence.

2. If the child's basic composite score on a standardized achievement test falls below the thirtieth percentile nationally, the child must be professionally evaluated for a potential learning problem. If the multidisciplinary assessment team evaluation determines that the child is not handicapped according to the eligibility criteria of the department of public instruction and the child does not require specially-designed instruction according to rules adopted by the department of public instruction, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction a statement, from an appropriately licensed professional, that the child is currently making reasonable academic progress when the learning abilities of the child are taken into consideration. If such statement is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03. If the evaluation of the multidisciplinary assessment team determines that the child is handicapped, but not developmentally disabled, according to the eligibility criteria of the department of public instruction, and the student requires specially-designed instruction due to the handicap and that this instruction cannot be provided without special education and related services, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction an individualized education program plan, formulated within rules adopted by the department of public instruction, indicating that the child's needs for special education are being appropriately addressed by persons qualified to provide special education or related services. If such a plan is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03.
3. Any certificated teacher supervising home-based instruction shall spend a minimum average each month of one hour per week in contact with each student under the teacher's supervision who is receiving home-based instruction. The teacher shall evaluate the student's progress and report the student's progress at least twice annually to the local public school superintendent. If the school district does not employ a local school superintendent, the report must be filed with the county superintendent of schools for the county of the child's residence.
4. If the local superintendent of public schools or the county superintendent of schools in those school districts that do not employ a local superintendent determines that the child is not making reasonable academic progress consistent with the child's age or stage of development, the parent of the child must be notified of the conclusion reached and the basis for the conclusion. Upon receipt of that notice, the parent shall make a good faith effort to remedy any deficiency. The appropriate official shall report the failure on the part of a parent to make a good faith effort to the state's attorney pursuant to section 15-34.1-04 as a violation of this chapter. The superintendent of public instruction shall adopt rules to assist local superintendents of schools, county superintendents of schools, and the licensed professionals referred to in subsection 2, in determining whether a child is making reasonable academic progress.

SECTION 6. A new section to chapter 15-34.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

State aid. For purposes of allocating foundation aid and other state assistance to local school districts, students receiving home-based instruction shall be deemed enrolled in the school district in which they reside if the student is supervised by a certificated teacher employed by the public school district in which the parent resides.

SECTION 7. A new section to chapter 15-34.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Supervision or administration by a state-approved private or parochial school. Any certified teacher employed by a state-approved private or parochial school who supervises home-based instruction or who administers a standardized achievement test to children receiving home-based instruction must notify the child's public school district of residence that the teacher is providing such supervision or administration. The parent of any student receiving home-based instruction that is supervised by or taking a test administered by a certified teacher employed by a state-approved private or parochial school is responsible for any costs charged by the state-approved private or parochial school for such supervision or administration.

SECTION 8. REPEAL. Section 15-34.1-05 of the North Dakota Century Code is hereby repealed.

SECTION 9. EXPIRATION DATE. This Act is effective through June 30, 1993, and after that date is ineffective.

Approved April 7, 1989
Filed April 7, 1989

CHAPTER 199

HOUSE BILL NO. 1559
(Hoffner)

DIVISION OF INDEPENDENT STUDY

AN ACT to amend and reenact section 15-19-02, subsection 2 of section 15-19-06, and section 15-19-08 of the North Dakota Century Code, relating to requiring the superintendent of public instruction to appoint the director of the division of independent study and the administrative operational fund; and to repeal subsection 4 of section 15-19-06 of the North Dakota Century Code, relating to the budget of the division of independent study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-19-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-02. Administration - Director of division of independent study - Appointment and duties. The program of and all activities related to the division of independent study ~~shall be~~ are the responsibility of and under the supervision of the ~~state board of public school education acting through the~~ superintendent of public instruction. The state director of the division of independent study ~~shall~~ must be appointed by the ~~state board of public school education acting through the office of the~~ superintendent of public instruction. The director, under the supervision of the superintendent of public instruction shall carry out ~~his~~ the director's responsibilities in the administration of the division of independent study in the manner approved by the state board of public school education. The board shall determine the director's qualifications and fix his compensation within limits of legislative appropriations. ~~The director may be discharged at the will of a majority of the state board of public school education.~~ The director ~~shall be~~ is responsible to and must carry out all policies and directives of the state board of public school education in the administration of the program of the division of independent study.

SECTION 2. AMENDMENT. Subsection 2 of section 15-19-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The ~~state board of public school education~~ superintendent of public instruction may, ~~if it deems advisable,~~ establish an administrative operational fund, of not to exceed ten thousand dollars, out of the special operating fund for the division of independent study. The administrative operational fund ~~so established shall~~ must be deposited in the Bank of North Dakota and may be drawn upon by the state director of the division of independent study for the payment of necessary expenses in the administration and operation of the division of independent study within the limits and ~~regulations~~ rules prescribed by the ~~board of public school education~~

superintendent of public instruction. The director shall submit a full, minute, and itemized statement of every expenditure made during the month to the board superintendent of public instruction in accordance with such the rules and regulations as adopted by the board may prescribe superintendent of public instruction, and thereafter the board superintendent of public instruction may, in its discretion, periodically authorize additional transfers to the administrative operational fund, but the balance in such fund shall may never exceed ten thousand dollars, and any unencumbered balance therein at the end of any biennium shall must revert to the state treasury. The administrative operational fund may not be used to pay salaries or expenses of the director. The board superintendent of public instruction shall determine the amount of the bond to be posted by the director.

SECTION 3. AMENDMENT. Section 15-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 4. REPEAL. Subsection 4 of section 15-19-06 of the 1987 Supplement to the North Dakota Century Code is hereby repealed.

Approved April 10, 1989
Filed April 11, 1989

CHAPTER 200

SENATE BILL NO. 2195
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

DEPARTMENT OF PUBLIC INSTRUCTION

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, relating to 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 hereby created and enacted to read as follows:

Establish office of department of public instruction. The office of the superintendent of public instruction, a nonprofit education agency, shall be known as the department of public instruction. The chief administrative officer is the superintendent of public instruction as provided by section 13 of article V of the Constitution of North Dakota.

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

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 201

SENATE BILL NO. 2280
(Senator Nalewaja)
(Representative Hoffner)

GED TEST RESULT CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, relating to the confidentiality of the results of general educational development tests.

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 hereby created and enacted to read as follows:

General educational development test results - Confidentiality. The results of general educational development tests maintained by the superintendent of public instruction are confidential and are not open for public inspection. This section does not prohibit the superintendent of public instruction from making an individual's test results available at the request of the individual.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 202

HOUSE BILL NO. 1504
(Representatives Rydell, Schindler, Hoffner)
(Senators Heinrich, O'Connell)

CAREER GUIDANCE PROGRAMS

AN ACT to provide for the development of career guidance and development programs for children and adults.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act:

1. "Career guidance and development programs" means those programs which provide a comprehensive competency-based curriculum that identifies specific client outcomes, personnel competencies, and institutional capabilities; which pertain to the subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, state, and national occupational, educational, and labor market needs, trends, and opportunities; and which assist individuals in making and implementing informed educational and occupational choices.
2. "Local educational agency" means any public elementary, secondary, or postsecondary agency in the state.
3. "Superintendent" means the superintendent of public instruction.

SECTION 2. Statement of purpose. The purpose of this Act is to provide support to local communities, through local educational agencies, for implementation of career guidance and development programs to prepare children and adults to make career choices based on and resulting from knowledge of the world of work, occupational, and labor market information, career exploration, self-assessment, and decisionmaking techniques.

SECTION 3. Guidelines for implementing career guidance and development programs. The superintendent may adopt rules under chapter 28-32 for the implementation of career guidance and development programs by local educational agencies. In adopting the rules, the superintendent shall review and consider guidelines formulated by the North Dakota occupational information coordinating committee established pursuant to the Carl D. Perkins Vocational Education Act [Pub. L. 98-524; 98 Stat. 2435; 20 U.S.C. 2301 et seq.]. The rules adopted by the superintendent shall require the:

1. Involvement of the community through an advisory committee.

2. Assessment of the extent to which existing career guidance and development programs and services available in the community meet current anticipated needs.
3. Coordination of career guidance and development programs, services, and related activities provided by local educational institutions with local-level and state-level public and nonpublic agencies and organizations.
4. Evaluation of career guidance and development programs.
5. Formulation of monetary budgets for support of career guidance and development programs.

SECTION 4. Program coordinator and support staff. The superintendent may employ one full-time professional staff person for the purpose of coordinating the career guidance and development programs implemented pursuant to this Act. The superintendent may employ support staff as may be required to assist the program coordinator. The superintendent may:

1. Review and revise periodically the rules adopted pursuant to section 3 of this Act.
2. Provide technical assistance to local educational agencies in preparing program proposals, and implementing career guidance and development programs.
3. Collect and evaluate information to determine the effectiveness of career guidance and development programs.
4. Provide periodic written evaluations of career guidance and development programs.
5. Serve as a resource specialist to local educational agencies in the area of career guidance and development policies and instruction.
6. Identify career guidance and development programs implemented by local educational agencies which may serve as model programs.

Approved April 14, 1989

Filed April 17, 1989

CHAPTER 203

HOUSE BILL NO. 1604
(Representatives Kelly, L. Hanson, Rydell)
(Senators Mathern, Krebsbach)

COMPREHENSIVE HEALTH EDUCATION PROGRAMS

AN ACT to provide for a program of comprehensive health education to promote public health and public health awareness in the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act, unless the context otherwise requires:

1. "Advisory committee" means the health education advisory committee.
2. "Comprehensive health education program" means a sequential course of instruction:
 - a. Provided in each school year in grades kindergarten through twelve and designed to aid and influence the making of decisions concerning personal, family, and community health;
 - b. That includes:
 - (1) Mental and emotional health.
 - (2) Personal health and hygiene.
 - (3) Prevention and control of sexually transmitted diseases and other communicable diseases, with emphasis on abstinence.
 - (4) Dental health.
 - (5) Nutrition.
 - (6) Chemical health, including alcohol, other drugs, and tobacco.
 - (7) Consumer health.
 - (8) Emergency care.
 - (9) Environmental and community health.
 - (10) Family health education.
 - c. That supplements, and is not a substitute for, physical education requirements.

3. "Local school district" means the entity that is responsible for administration of and has authority to establish policy for a school or a number of schools within its jurisdiction.
4. "Superintendent" means the superintendent of public instruction.

SECTION 2. Health education advisory committee - Membership - Duties.

1. The governor shall appoint the advisory committee as follows:
 - a. One physician from a list of three names submitted by the North Dakota medical association;
 - b. Three educators, one from each level of kindergarten through grade six, grades seven through nine, and grades ten through twelve, from a list of six names submitted by the North Dakota education association;
 - c. One citizen who is not a health care provider or educator;
 - d. One member of a local school board in the state from a list of three names submitted by the North Dakota school boards association;
 - e. One public health nurse from a list of three names submitted by the North Dakota nurses association;
 - f. One school administrator from a list of three submitted by the North Dakota council of school administrators;
 - g. One member from the state department of health and consolidated laboratories, who serves without a vote; and
 - h. One member from the state department of public instruction, who serves without a vote.
2. Members of the advisory committee must be appointed for a term of three years, except that in the case of initial appointments to the advisory committee the physician member, one educator, and the citizen must be appointed for a term of one year, and one educator, the local school board member, and the nurse member must be appointed for a term of two years. Thereafter, each succeeding term must be for a period of three years. Members may be reappointed for a maximum of nine years of service. Vacancies must be filled in the same manner as original appointments for the balance of the unexpired term.
3. The advisory committee shall advise and assist the superintendent in the implementation and administration of this Act by:
 - a. Recommending guidelines for the preparation of comprehensive health education programs;
 - b. Providing assistance upon request to local school districts in the preparation and implementation of comprehensive health education programs;

- c. Providing assistance to the superintendent in administering this Act; and
 - d. Providing advice and any other assistance as requested by the superintendent for purposes of this Act.
4. Members of the advisory committee shall serve without compensation. The superintendent, however, shall reimburse members of the advisory committee for travel and other expenses incurred in the performance of their duties as members of the advisory committee.

SECTION 3. Comprehensive health education programs.

1. Each local school district shall formulate and implement a comprehensive health education program developed pursuant to guidelines adopted by the superintendent. In the formulation and implementation of the program, the local public school district, through meetings open to the general public, shall seek input and participation in the development and implementation of the program from local health officials, health care providers, parents, educators, and other members of the community.
2. Upon request, the superintendent shall provide technical assistance to local school districts in the formulation and implementation of comprehensive health education programs.
3. Two or more local school districts may implement a cooperative comprehensive health education program.

SECTION 4. Program guidelines. Within one hundred eighty days after the effective date of this Act, the advisory committee shall recommend guidelines for the preparation of comprehensive health education programs. Within one year after the effective date of this Act, the superintendent shall adopt rules for this Act. The superintendent and advisory committee shall, through meetings open to the general public, seek input and participation in the preparation of the guidelines from health officials, health care providers, parents, educators, and other members of the general public. Rules must include:

1. Minimum amounts of instruction time for comprehensive health education at each level of elementary and secondary education.
2. Suggested curricula at the various levels of education.
3. Minimum qualification requirements for teachers participating in the program.

SECTION 5. Staff. The superintendent may employ a full-time employee solely for the purpose of assisting the superintendent and advisory committee in the implementation of this Act.

SECTION 6. Review of programs. Each local school district shall submit to the superintendent a proposed comprehensive health education program for review. The superintendent shall review each proposed program submitted and may make specific recommendations to the local school district to improve the program. Upon review by the superintendent and consideration by the local school board of any recommendations made by the superintendent,

the superintendent shall authorize distribution of funds to the local school district.

SECTION 7. Exemption from program participation. A public school principal, upon receipt of a statement signed by a student's parent or guardian stating that participation by the student in the comprehensive health education program conflicts with the student's religious beliefs, shall exempt that student from any part of the program in which the conflict occurs. A student may not be penalized in any manner as a result of the exemption.

SECTION 8. Limitations. This Act does not authorize, accommodate, facilitate, or promote linked or school-based sex clinics.

Approved April 28, 1989
Filed April 28, 1989

CHAPTER 204

HOUSE BILL NO. 1304
(Representatives Tollefson, J. DeMers, Myrdal)
(Senators Holmberg, Schoenwald, Dotzenrod)

MILITARY INSTALLATION SCHOOL DISTRICTS

AN ACT to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to establishing school districts on military installations; to amend and reenact sections 15-27.1-02 and 15-27.1-11 of the North Dakota Century Code, relating to the application of the laws relating to annexation, reorganization, and dissolution of school districts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.1-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27.1-02. Reorganization not to include annexation or dissolution - Boundary changes application of chapters 15-27.1 through 15-27.4. Chapter 15-27.3 does not apply to chapter 15-27.2 or to chapter 15-27.4 except where specifically referenced in chapters 15-27.2 and 15-27.4. Chapters 15-27.2 and 15-27.4 are separate and additional methods for changing school district boundaries. ~~The~~ Except as provided in section 3 of this Act, the boundaries of school districts may be changed or altered only by annexation, reorganization, or dissolution as provided for in chapters 15-27.2, 15-27.3, and 15-27.4. This chapter and chapters 15-27.2, 15-27.3, and 15-27.4 apply to all school districts in the state, except school districts established pursuant to section 3 of this Act, including the board of education of the city of Fargo and the district under its jurisdiction for school purposes.

SECTION 2. AMENDMENT. Section 15-27.1-11 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27.1-11. Reorganization, annexation, or dissolution of school district not operating a school - Transportation. Any school district in this state which is not operating either an approved elementary or high school within its boundaries on July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, and any school district that may cease to operate either an approved elementary or high school within its boundaries after July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall become, through the process of reorganization, annexation, or dissolution as provided by law, a part of a school district operating an approved elementary or high school. Any school district not operating either an approved elementary or high school within its boundaries on July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall complete reorganization with or annexation to an operating school district by July 1,

1989. Any school district that ceases to operate either an approved elementary or high school within its boundaries after July 1, 1987, unless it begins operating an approved elementary or high school prior to July 1, 1989, shall complete reorganization or annexation within two years from the date the school district ceased to operate either an approved elementary or high school. Any student who resides within a school district which is annexed to or reorganized with another district or districts pursuant to sections 15-27.1-11 and 15-27.4-01, and which has been sending students to a school district in a bordering state, county, or district, because of proximity or terrain, shall be permitted to attend or continue to attend school in the district in the bordering state, county, or district. The students in any district that is attached by annexation, reorganization, or dissolution pursuant to sections 15-27.1-11 and 15-27.4-01 must be provided transportation in the same manner transportation is provided to students in the school district the nonoperating district is attached to.

The county committee of the county encompassing the major portion of any school district affected by sections 15-27.1-11 and 15-27.4-01 which does not reorganize or annex itself to an operating school district within the time limit prescribed in sections 15-27.1-11 and 15-27.4-01 shall dissolve and attach the nonoperating school district to an operating school district in accordance with chapter 15-27.4. This section does not apply to school districts established pursuant to section 3 of this Act.

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

Military installation - School district formation. The state board of public school education may, at the request of the base commander of a military installation, form the boundaries of a school district on that military installation. The school district boundaries must be coterminous with all lands over which the military installation exercises exclusive concurrent or proprietary jurisdiction. Prior to forming such a school district, the state board shall hold a public hearing. The state board shall publish notice of the public hearing in the official newspaper in the county or counties in which the proposed school district is to be located at least fourteen days prior to the date of the hearing.

School board members - Terms of office - Qualifications - Vacancies. The school board of a school district formed pursuant to this Act consists of five members. The superintendent of public instruction shall adopt rules under chapter 28-32 providing appointment procedures. The superintendent, after consultation with the base commander, and with the approval of the state board of public school education, shall appoint the board members in April of each year, except that the initial appointments shall be made within fifteen days after the effective date of this Act. The board members must reside on the military installation. The school board members shall serve three-year terms except that the superintendent of public instruction shall designate two of the members initially appointed to serve two-year terms and two of the members initially appointed to serve one-year terms. If a vacancy occurs, the superintendent of public instruction, after consultation with the base commander, and with the approval of the state board of public school education, shall appoint a member to serve for the remainder of the term.

Organization of school board - Meetings - Appointment of business manager. A majority of the board is a quorum and the agreement of a majority of the members present is necessary for the transaction of any business. The

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

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

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

Application of chapter 15-29 to school districts established under this chapter. The presidents of school boards established under this chapter shall have the duties provided in section 15-29-04. The school boards of school districts established under this chapter shall have the powers and duties provided in section 15-29-08 if applicable or unless pre-established agreements prevail. The business manager of school districts established under this chapter shall have the duties provided in section 15-29-09. School board members are entitled to compensation and expenses in the amounts provided in section 15-29-05. Sections 15-29-07, 15-29-10, 15-29-11, 15-29-13, and 15-29-14 apply to school districts established under this chapter.

School district agreements.

1. This Act does not affect any agreement entered into prior to the effective date of this Act between the Emerado elementary public school district and the Grand Forks public school district. Any agreement entered into between those school districts shall continue under the terms provided in the agreement or for as long as both school districts continue to operate and the Grand Forks air force base contracts for full educational services from the Grand Forks public school district.
2. Before the state board of public school education requests that a school district be established pursuant to this Act on the Minot air force base, the Glenburn public school district and the Minot public school district must enter into an agreement regarding the provision of education to the students residing on the air force base. The agreement must be approved by the state board of public

school education. The Minot public school district and the Glenburn public school district, in entering into an agreement, must take into consideration current and potential revenues, including current and potential revenues from property taxes, in lieu of property taxes, and federal and state funds that are distributed to school districts based on census, and losses that may occur as a result of the agreement. The state board of public school education must receive approval from the United States secretary of education prior to the formation of the proposed school district.

3. Before the state board of public school education requests that a school district be established on a military installation other than the Grand Forks air force base and the Minot air force base, pursuant to this Act:
 - a. The school districts providing education to students residing on a military installation must enter into an agreement regarding the provision of education to those students. The agreement must be approved by the state board of public school education. School districts entering into the agreement must take into consideration current and potential revenues and losses that may occur as the result of the agreement; and
 - b. The state board of public school education must receive approval from the United States secretary of education regarding the formation of the proposed school district.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 205

SENATE BILL NO. 2208
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

COUNTY REORGANIZATION COMMITTEE COMPENSATION

AN ACT to amend and reenact subsection 1 of section 15-27.1-03 of the North Dakota Century Code, relating to the compensation of county reorganization committee members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-27.1-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Each county in this state shall have a county committee formed by the selection of one resident from each of the county commissioner districts within the county. Each member is entitled to receive the actual and necessary expenses incurred in the performance of official duties in the amounts provided by law for state officers and employees. Each member is entitled to receive ~~ten~~ twenty-five dollars as compensation for each meeting of the committee actually attended by the member. The office of management and budget shall pay by warrant the compensation and expenses as directed by the superintendent of public instruction from moneys appropriated for that purpose.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 206

HOUSE BILL NO. 1470
(Stofferahn, Aarsvold)

SCHOOL DISTRICT PROPERTY EXCHANGES

AN ACT to amend and reenact section 15-27.2-02 of the North Dakota Century Code, relating to exchanges of school district property by school boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.2-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27.2-02. Restricted changes in boundaries - Petition - Requirements. A resident or residents of a school district may request annexation of the property upon which his or their residence is situated to an adjacent school district by a petition for an exchange of property between the district of residence and the adjacent district under the following conditions:

1. The signer of the petition must reside upon the property which is requested to be annexed to the adjacent district.
2. There is an agreement for the exchange of property between the petitioners and the owner of the property in the adjacent district which property is to be exchanged for the property of the petitioner and the owner of the property in the adjoining district need not reside on the property exchanged in order to enter into the agreement.
3. The school boards of the districts involved approve the exchange of property.
4. The difference in taxable valuation of the property involved in the exchange does not exceed one thousand dollars.

Except as provided in this section, the proceedings in this section are subject to the other provisions of this chapter applicable to annexation proceedings generally. Approval of the annexation petition by the county committee and the state board must contain a finding that the requirements in this section have been met. Any school board aggrieved by the decision of another school board not to approve the exchange of property may appeal the decision to the county committee and, if aggrieved by the decision of the county committee, may appeal the decision of the county committee to the state board.

Approved March 21, 1989
Filed March 23, 1989

CHAPTER 207

SENATE BILL NO. 2266
(Senators Yockim, Hanson)
(Representatives Nelson, Gerhardt)

SCHOOL DISTRICT ANNEXATION DATE

AN ACT to amend and reenact section 15-27.2-05 of the North Dakota Century Code, relating to the effective date of annexations of school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-27.2-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27.2-05. Effective date of attachment or detachment - Equalization - Voting places. If territory is annexed to a school district or detached from it, under this chapter, the change in boundaries becomes effective the next July first after the final approval by the state board ~~unless another effective date is provided for by the county committee or in the petition~~, and all the assets and liabilities of the district involved shall be equalized at the time the annexation petition is approved by the county reorganization committee. If territory is attached to an existing school district, the electors in the attached territory shall vote on school matters at the nearest polling place in the district to which it is attached. Prior to the completion of the annexation of any school district under this chapter, the existing school board of any school district may not contract or place the district under any obligation, except upon the recommendation of the county committee.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 208

SENATE BILL NO. 2311
(Holmberg)

CITY AND SCHOOLS COMBINED ELECTIONS

AN ACT to amend and reenact subsection 2 of section 15-28-03 of the North Dakota Century Code, relating to combined city and school district elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 15-28-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 city commission or the city council 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 which holds its elections in conjunction with a city, are deemed to mean or to refer to the date of the applicable city election. Such a school board has the further option to 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 such a conversion. Thereafter, following the expiration of the three-year term of each incumbent in office as of the date of the passage of the resolution, the term of office for that position on the board shall be four years, except that as to any seat where such an extension of the term would result in the four-year term of office ending in an odd-numbered year, for which seat one additional and transitional term of three years shall 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 ~~chapter~~ 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.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 209

HOUSE BILL NO. 1477
(Myrdal, Wilkie, Brokaw)

SCHOOL DISTRICT NEWSPAPERS

AN ACT to create and enact a new subsection to section 15-29-08 of the North Dakota Century Code, relating to the powers of a school board to designate an official school district newspaper; to amend and reenact sections 15-28-06, 15-28-11, subsection 17 of section 15-29-08, sections 15-34.2-07, 15-34.2-07.1, 15-47-15, and subsection 7 of section 21-03-07 of the North Dakota Century Code, relating to official newspapers of school districts; and to repeal section 15-22-23 of the North Dakota Century Code, relating to publication of notice of school elections by county superintendents of schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-06. Annual and special elections - Notice. Notice of the annual school district election ~~shall be given by the county superintendent of schools in accordance with the provisions of section 15-22-23. Notice and notice~~ of special school elections shall be given by the school board. At least fourteen days before the date the ~~special~~ election is to be held the school board shall cause to be published, in the official newspaper of the ~~county school district~~, notice of the ~~special~~ election. ~~If no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in the state.~~ Such notice shall be signed by the ~~clerk business manager~~ of the school district, or in ~~his~~ the ~~business manager's~~ absence by the president of the school board, and shall state the time and place of holding the election, and the matter to be voted upon.

SECTION 2. AMENDMENT. Section 15-28-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-11. Publication of school board proceedings - Electorate to decide biennially. Biennially, ~~commencing in the year 1967~~ at the annual election of school board members held in each school district, the question of whether a record of the proceedings of the school board shall be published in ~~a the~~ official newspaper of ~~general circulation in such the~~ school district shall be submitted to the electors of ~~such the~~ district. If the publication of such proceedings is approved by a majority of the electors voting thereon, the records of ~~such the~~ school board, including an itemized list of obligations approved for payment, shall be published in ~~a the~~ official newspaper of ~~general circulation in such the~~ school district. When applicable, these proceedings shall be identified in the newspaper as being published subject to review and revision by the school board. These proceedings shall be given to the newspaper by the ~~board's clerk~~ school district's business manager within a reasonable time after each school board

meeting for the succeeding two years, or until disapproved at a succeeding school board election.

SECTION 3. AMENDMENT. Subsection 17 of section 15-29-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

17. To make a report on July first of each year, or as soon thereafter as practicable, of the progress and financial and educational condition of all the schools under its charge. A copy of such report, together with such further information as shall be required by the superintendent of public instruction, shall be forwarded to the county superintendent of schools. The report of financial condition and such other portions as the school board shall consider advantageous to the public, shall be published in a the official newspaper published in of the school district or, if there is none, then in the official county newspaper.

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

To designate, at the annual meeting, a newspaper of general circulation in the school district as the official newspaper of the school district.

SECTION 5. AMENDMENT. Section 15-34.2-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-07. Vehicular transportation - Bids, contracts, bonds. The school board of any school district which furnishes vehicular transportation to any of its schools, prior to the opening of school each year, shall enter into written contracts for the furnishing of such transportation for the ensuing school year. If the vehicle furnished is privately owned, the owner or lessee of the vehicle and the school board may enter into a contract, which shall not exceed seven years' time. Except as otherwise provided in section 15-34.2-07.1, the board shall give at least ten days' notice of the time and place of the letting of such contracts and shall call for sealed bids therefor by publication in a the official newspaper of general circulation within such the school district. The notices shall describe the route to be covered by each contract and shall state that the board reserves the right to reject any and all bids, that a bond submitted in a separate envelope will be required of each successful bidder in the sum of five hundred dollars or such greater sum as may be set by the board, conditioned for the faithful performance of the duties prescribed by the contract, and that the bids submitted must name the person or persons who will operate the vehicle and describe the nature of the vehicle.

* SECTION 6. AMENDMENT. Section 15-34.2-07.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-07.1. School transportation and fuel contracts - Direct negotiation. Notwithstanding sections 15-34.2-07 and 15-34.2-08, a contract for the transportation of schoolchildren, or a contract for the purchase of fuel for vehicles which was originally bid by and let to a contractor may be renewed by direct negotiation with that contractor provided that two or more

* NOTE: Section 15-34.2-07.1 was also amended by section 1 of Senate Bill No. 2275, chapter 214.

written quotations are obtained for the service or fuel when possible, or upon sealed bids. At least thirty days before awarding a directly negotiated contract, the school district shall, by published notice, request quotations for the service or fuel to be provided. All quotations obtained must be kept on file for a period of at least one year after their receipt. If a contract is made by direct negotiation, all quotations must be maintained as public information. If a contract is made upon sealed bids, the procedure for advertising and awarding bids must conform to the provisions of section 15-34.2-07 except as otherwise provided in this section. A directly negotiated contract may only be entered into at a public meeting of the school district board during which meeting the patrons of the school district are given an opportunity to appear and comment. Notice of the school board meeting must be published at least one week prior to the meeting in ~~a legal the official newspaper of wide circulation within~~ the school district.

SECTION 7. AMENDMENT. Section 15-47-15 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-15. School contracts - Advertisement for bids - Publication - Exceptions - Penalty. No contract involving the expenditure of an aggregate amount greater than eight thousand dollars, except as hereinafter set forth, shall be entered into by any school district of any kind or class except upon sealed proposals and to the lowest responsible bidder after ten days' notice by at least one publication in ~~a legal the official newspaper published in the county in which of the school district, or a portion thereof, is located. If no newspaper is published in such county, the publication shall be made in a newspaper published in an adjacent county.~~ The provisions of this section shall not apply to any of the following classes of contracts:

1. For personal services of employees of the district.
2. For school text or reference books.
3. For any article which is not for sale on the open market.
4. For any patented, copyrighted, or exclusively sold device or feature required to match articles already in use.
5. For any patented, copyrighted, or exclusively sold article of so distinctive a nature that only one make of the article can be purchased.
6. Any building contract.
7. For school transportation services or fuel for vehicles the purchase of which is made by direct negotiation with a contractor in accordance with section 15-34.2-07.1.
8. For heating fuel which is purchased under a directly negotiated contract provided the procedure described in section 15-34.2-07.1 for transportation and vehicle fuel is followed.

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

* SECTION 8. AMENDMENT. Subsection 7 of section 21-03-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The governing body of any public school district may also by resolution adopted by a two-thirds vote dedicate the tax levies as authorized by section 57-15-16 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public school buildings; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper of the school district, and any owner of taxable property within the school district may within sixty days after publication file with the business manager of the school district a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the school district, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

SECTION 9. REPEAL. Section 15-22-23 of the 1987 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 21, 1989
Filed March 23, 1989

- * NOTE: Subsection 7 of section 21-03-07 was also amended by section 1 of House Bill No. 1457, chapter 290.

CHAPTER 210

SENATE BILL NO. 2330
(Senators Holmberg, Krebsbach, Maxson)
(Representatives Gates, Wentz, Jensen)

SCHOOL BOARD CANDIDATE FILING DEADLINE

AN ACT to amend and reenact subsection 1 of section 15-28-09 of the North Dakota Century Code, relating to the election of members of a school board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-28-09 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise provided in subsection 2, 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 ~~twenty five~~ thirty-three days before the election and before four p.m. on the ~~twenty fifth~~ thirty-third 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 ~~shall~~ must be in the business manager's physical possession before four p.m. on the ~~twenty fifth~~ thirty-third day before the election. At least twenty days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all persons who have filed as herein provided. The arrangement of the names of the candidates upon the ballot ~~shall~~ must be determined by lot by such business manager in the presence of the candidates or their representatives. The ballot ~~shall~~ must be headed "official ballot", ~~shall~~ must be nonpartisan in form, and ~~shall~~ must contain the following:
 - a. The name of the district.
 - b. The date of the election.
 - c. The number of persons to be elected to each office.
 - d. Blank spaces below the names listed as candidates for each office in which names not stated on the ballot may be written.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 211

SENATE BILL NO. 2213
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT BUDGET AND LEVY CHANGES

AN ACT to amend and reenact subsection 15 of section 15-29-08 and section 57-15-13 of the North Dakota Century Code, relating to the certification of school district budgets and tax levies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 15 of section 15-29-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. To levy a tax upon the property in the district for school purposes, and to amend and certify budgets and tax levies as provided in title 57.

SECTION 2. AMENDMENT. Section 57-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-13. School district tax levies. School district taxes shall be levied by the governing body of each school district on or before the last day of July of each year. The governing body of the school district may amend its tax levy and budget for the current fiscal year on or before the tenth day of October of each year but the certification must be filed with the county auditor within the time limitations under section 57-15-31.1. Taxes for school district purposes shall be based upon an itemized budget statement which shall show the complete expenditure program of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The school board of each public school district, in levying taxes, shall be limited by the amount necessary to be raised for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as an interim fund, together with a tax sufficient in amount to pay the interest on the bonded debt of the district and to provide a sinking fund to pay and discharge the principal thereof at maturity.

Approved April 13, 1989
Filed April 13, 1989

CHAPTER 212

SENATE BILL NO. 2038
(Legislative Council)
(Interim Education Finance Committee)

HANDICAPPED STUDENT SCHOOL ATTENDANCE

AN ACT to amend and reenact subsection 4 of section 15-34.1-03 and subsection 3 of section 15-59-01 of the North Dakota Century Code, relating to an exception from compulsory school attendance for handicapped students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 15-34.1-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. That the child ~~is in such physical or mental condition as to render~~ has been identified as handicapped pursuant to the procedure used by the superintendent of public instruction to identify a student as handicapped under subsection 3 of section 15-59-01 and that the handicap renders attendance or participation in the regular or special education program inexpedient or impracticable. ~~Such condition shall~~ The determination that the handicap renders attendance or participation inexpedient or impracticable must be shown by a declaration of a multidisciplinary team which includes the director of special education of the special education unit of which the school district of residence is a member, the school superintendent of the child's district of residence, the child's classroom teacher, the child's physician, and the child's parent or guardian.

SECTION 2. AMENDMENT. Subsection 3 of section 15-59-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 213

HOUSE BILL NO. 1637
(Gates, Kloubec)

FOUNDATION AID PROGRAM

AN ACT to amend and reenact section 15-34.2-03, subsections 2 and 3 of section 15-40.1-06, sections 15-40.1-07, 15-40.1-08, 15-40.1-16, and subsection 1 of section 15-40.2-03 of the North Dakota Century Code, relating to the foundation aid weighting factors, the per-pupil payment, the equalization factor, and transportation aid to schools; to provide for transition; and to provide for contingent additional per-pupil foundation aid payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-34.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-03. Transportation - Payment optional with school board - Schedule. The school board of any school district in the state may pay, ~~in its discretion,~~ 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 sum per day for each day's attendance of a student or students of such family, when transported by a 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, at the rate of ~~ten~~ twenty cents per day for each one-half mile [.80 kilometer] over two miles [3.22 kilometers]. Such distance shall be measured by the route from the front door of the nearest operating school to the front door of the family's residence according to the most convenient public course of travel. Payments for transportation shall not be limited to the amount set forth in this section where the student or students are required to be transported to another school because the school which they had been attending is closed.

* SECTION 2. AMENDMENT. Subsections 2 and 3 of section 15-40.1-06 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. a. The educational support per pupil during the first year of the ~~1987-89~~ 1989-91 biennium shall be one thousand ~~four~~ five hundred ~~twenty-five~~ dollars and for the second year of the biennium the educational support per pupil shall be one thousand ~~four~~ five hundred ~~twelve~~ forty-five dollars and shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08.
- 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 shall be supported in the

* NOTE: Subsection 2 of section 15-40.1-06 was also amended by section 1 of House Bill No. 1472, chapter 230, and subsection 3 of section 15-40.1-06 was also amended by section 1 of House Bill No. 1614, chapter 231.

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

3. In determining the amount of payment due school districts for per-pupil aid under this section, the product of ~~twenty~~ twenty-one mills for the 1989-90 school year and ~~twenty-two~~ twenty-one mills for each year thereafter times the latest available net assessed and equalized valuation of property of the school district ~~shall~~ must be subtracted from the amount of such aid.

* SECTION 3. AMENDMENT. Section 15-40.1-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. For each high ~~schools~~ school district having under seventy-five pupils in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.70~~ 1.635 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.625 times the number of high school pupils in grades nine through twelve registered in that school district, times the educational support per pupil as provided in section 15-40.1-06 ~~for each high school pupil registered in the schools each year.~~
2. For each high ~~schools~~ school district having seventy-five or more, but less than one hundred fifty pupils in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.40~~ 1.35 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.335 times the number of high school pupils in grades nine through twelve registered in that school district times the educational support per pupil as provided in section 15-40.1-06 ~~for each high school pupil registered in the schools each year.~~
3. For each high ~~schools~~ school district having one hundred fifty or more, but less than five hundred fifty pupils in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.32~~ 1.28 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.24 times the number of high school pupils in grades nine through twelve registered in that school district times the educational support per pupil as provided in section 15-40.1-06 ~~for each high school pupil registered in the schools each year.~~
4. For each high ~~schools~~ school district having a total high school enrollment of five hundred fifty or more pupils in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.20~~ 1.17 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.14 times the number of high school pupils in grades nine through twelve

* NOTE: Section 15-40.1-07 was also amended by section 1 of House Bill No. 1232, chapter 232, and section 2 of House Bill No. 1614, chapter 231.

registered in that school district times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

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 pupils registered in the alternative education program times the educational support per pupil as provided in section 15-40.1-06 if the alternative education program has less than seventy-five pupils in average daily membership.
 - b. Subsection 2 times the number of pupils registered in the alternative education program times the educational support per pupil as provided in section 15-40.1-06 if the alternative education program has seventy-five or more, but less than one hundred fifty pupils in average daily membership.
 - c. Subsection 3 times the number of pupils registered in the alternative education program times the educational support per pupil as provided in section 15-40.1-06 if the alternative education program has one hundred fifty or more, but less than five hundred fifty pupils in average daily membership.
 - d. Subsection 4 times the number of pupils registered in the alternative education program times the educational support per pupil as provided in section 15-40.1-06 if the alternative education program has five hundred fifty or more pupils in average daily membership.

Every high school district shall must receive at least as much in total payments as it would have received if it had the highest number of pupils in the next lower category. However, no payment shall may be made for those pupils for whom federal agencies provide education. Such payments shall 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 shall 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 shall be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation or students enrolled in less than four units of standard high school work who are in their fourth year of high school coursework and who are enrolled in approved alternative high school curriculum programs, proportionate payments shall must be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs shall be are eligible for proportionate payments provided each course offered in such programs 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 such summer education programs.

Districts that did not maintain high schools during the year of 1964-1965 ~~shall~~ are not be eligible for payments unless they have a minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. Payments pursuant to this chapter to school districts in bordering states ~~shall~~ must be made after subtracting the amount realized from a ~~twenty mill~~ the mill levy in subsection 3 of section 15-40.1-06 in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

SECTION 4. AMENDMENT. Section 15-40.1-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. Elementary per-pupil payments - Amount. ~~There~~ Payments must be paid from state funds to each school districts of the county district operating an elementary ~~schools~~ school and to each school districts district contracting to educate elementary pupils in a federal school, employing teachers holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36, payments based on the number of registered students at the beginning of each school year, adjusted as provided in section 15-40.1-09, as follows:

1. For each one-room rural schools there must be paid that school, the amount of money resulting from multiplying the factor ~~1.36~~ 1.29 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.28 times the number of pupils in that school in grades one through eight in average daily membership, up to a maximum of sixteen pupils, times the educational support per pupil as provided in section 15-40.1-06 for each of the first sixteen pupils in grades one through eight in average daily membership, and for. There must be paid .9 times each additional pupil in its school in grades one through eight in average daily membership ~~there shall be paid~~ .9 times the educational support per pupil as provided in section 15-40.1-06, except that no payment may be made for more than twenty pupils 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 pupils 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 pupils in grade seven or eight, the weighting factor for the pupils in grades seven and eight must be the same as that provided for in subsection 5.
2. For each elementary ~~schools~~ school in school districts having under one hundred pupils in average daily membership ~~there must be paid that~~ in grades one through six, the amount of money resulting from multiplying the factor ~~1.0~~ 1.045 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.09 times the number of pupils 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 pupils per classroom or per teacher, times the educational support per pupil as provided in section 15-40.1-06 ~~for~~

- each of the first twenty pupils in grades one through six in average daily membership in each classroom or for each teacher and for. There must be paid .9 times each additional pupil in that school in grades one through six in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational support per pupil as provided in section 15-40.1-06, except that no payment may be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher.
3. For each elementary schools school in school districts having one hundred or more pupils 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 pupils, there must be paid that in grades one through six, the amount of money resulting from multiplying the factor ~~.9~~ .9025 for the 1989-90 school year and, beginning July 1, 1990, the factor .905 times the number of pupils in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment may be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
 4. For each elementary schools school in school districts having an average daily membership of one thousand or more elementary pupils, there must be paid that in grades one through six, the amount of money resulting from multiplying the factor .95 times the number of pupils in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment may be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
 5. For each of the above classes of elementary schools, except for one-room rural schools that are not located in a district with another school that has pupils in grade seven or eight, there must be paid that to each school the amount of money resulting from multiplying the factor ~~1.0~~ 1.005 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.01 times the number of pupils in that school in grades seven and eight in average daily membership in each classroom or for each teacher times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades seven and eight in average daily membership in each classroom or for each teacher, except that no payment may be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
 6. For each elementary schools school having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there must be paid that the amount of money resulting from multiplying the factor ~~.49~~ .75 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.01 times the

educational support per pupil as provided in section 15-40.1-06 for each number of special education pupil pupils 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 pupil as provided in section 15-40.1-06.

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

Every school district ~~shall~~ must receive at least as much in total payments for elementary pupils as it would have received if it had the highest number of pupils in the next lower category. Payments pursuant to this chapter to school districts in bordering states ~~shall~~ must be made after subtracting the amount realized from a ~~twenty mill~~ the mill levy in subsection 3 of section 15-40.1-06 in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

SECTION 5. AMENDMENT. Section 15-40.1-16 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. For schoolbuses and school vehicles transporting pupils who live outside the incorporated limits of the city in which the school the pupil is enrolled is located, a sum equal to ~~thirty five and one half~~ thirty five and one half twenty-five cents during each year of the ~~1987-89~~ 1989-91 biennium for vehicles having a capacity of nine or fewer pupils and ~~seventy two~~ sixty-eight cents per mile [1.61 kilometers] for each year of the ~~1987-89~~ 1989-91 biennium for schoolbuses having a capacity of ten or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of ten or more pupils ~~shall be~~ are entitled to an amount equal to ~~nineteen~~ twenty-five cents per day for each public school pupil living outside the city limits who is transported in such buses.

2. For pupils who ride schoolbuses or commercial buses to or from school and who live within the incorporated limits of the city in which the school the pupil is enrolled is located, a sum equal to ~~nine~~ twelve and one-half cents per pupil per one-way trip. However, no payment shall be made under this subsection for a student who rode on a vehicle for which payments are claimed under subsection 1.

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

* SECTION 6. AMENDMENT. Subsection 1 of section 15-40.2-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Such payments as are received for ~~him~~ that pupil from state payments received by the admitting district, less the average amount per North Dakota resident pupil enrolled in the school district realized from ~~a twenty mill~~ the school district levy in subsection 3 of section 15-40.1-06; and

SECTION 7. TRANSITION. Notwithstanding the factors in section 15-40.1-07 and 15-40.1-08, the per-pupil payment in subsection 2 of section 15-40.1-06, and the mill levy in subsection 3 of section 15-40.1-06, every school district must receive at least as much in total payments for each year of the 1989-91 biennium as it would have received had it received the amount of money resulting from multiplying the average daily membership for the previous year or the current year's fall enrollment, whichever is greater, times the appropriate factor in sections 15-40.1-07 and 15-40.1-08 in effect during the 1988-89 school year, times the educational support per pupil in the amount of one thousand three hundred sixty dollars, less the product of twenty mills times the latest available net assessed and equalized valuation of property of the school district. The enrollments must be adjusted as provided in section 15-40.1-09.

SECTION 8. CONTINGENT SEPARATE AND ADDITIONAL PER-PUPIL PAYMENT. The superintendent of public instruction shall distribute a separate and additional per-pupil payment from any unspent amount appropriated to the grants - foundation aid program for the biennium beginning July 1, 1989, and ending June 30, 1991, in the May 1, 1991, foundation aid payment to schools. Any payment made under this section must be on a weighted basis to be determined according to chapter 15-40.1.

Approved April 28, 1989
Filed April 28, 1989

- * NOTE: Section 15-40.2-03 was also amended by section 1 of House Bill No. 1400, chapter 234, and section 4 of House Bill No. 1614, chapter 231.

CHAPTER 214

SENATE BILL NO. 2275
(Moore)

SCHOOL DISTRICT FUEL PURCHASES

AN ACT to create and enact a new section to chapter 15-34.2 of the North Dakota Century Code, relating to school district fuel purchases from registered vendors; and to amend and reenact section 15-34.2-07.1 of the North Dakota Century Code, relating to school district fuel purchases by negotiation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-34.2-07.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-07.1. School transportation ~~and fuel~~ contracts - Direct negotiation. Notwithstanding sections 15-34.2-07 and 15-34.2-08, a contract for the transportation of schoolchildren, ~~or a contract for the purchase of fuel for vehicles~~ which was originally bid by and let to a contractor may be renewed by direct negotiation with that contractor provided that two or more written quotations are obtained for the service ~~or fuel~~ when possible, or upon sealed bids. At least thirty days before awarding a directly negotiated contract, the school district shall, by published notice, request quotations for the service ~~or fuel~~ to be provided. All quotations obtained must be kept on file for a period of at least one year after their receipt. If a contract is made by direct negotiation, all quotations must be maintained as public information. If a contract is made upon sealed bids, the procedure for advertising and awarding bids must conform to the provisions of section 15-34.2-07 except as otherwise provided in this section. A directly negotiated contract may only be entered into at a public meeting of the school district board during which meeting the patrons of the school district are given an opportunity to appear and comment. Notice of the school board meeting must be published at least one week prior to the meeting in a legal newspaper of wide circulation within the school district.

SECTION 2. A new section to chapter 15-34.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

School fuel contracts. A school board may purchase transportation fuel or heating fuel as needed by obtaining written quotes from all vendors who have registered with the school district for that school year. School districts must publish registration information at least once each year and may register interested vendors throughout the year.

Approved March 28, 1989
Filed March 28, 1989

* NOTE: Section 15-34.2-07.1 was also amended by section 6 of House Bill No. 1477, chapter 209.

CHAPTER 215

HOUSE BILL NO. 1048
 (Legislative Council)
 (Interim Education Finance Committee)

SCHOOLBUS DRIVER AGE

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-34.2-14 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 9, 1989
 Filed March 9, 1989

CHAPTER 216

HOUSE BILL NO. 1240
(Hoffner)

TEACHER'S TRANSCRIPT

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Teachers' certificates - Issuance by superintendent of public instruction. A student who has met all the criteria necessary to receive a teacher's certificate, but who has not graduated from a college or university, may request a copy of the student's completed transcript from the college or university the student attended. Within ten days of the request by the student, the college or university must mail a copy of the transcript to the superintendent of public instruction showing that the student has met all the criteria necessary to receive a teacher's certificate except graduation. The transcript must indicate areas in which the student has a major or minor.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 217

HOUSE BILL NO. 1098
 (Committee on Education)
 (At the request of the Teachers' Fund for Retirement)

TFFR BOARD, DISABILITY, AND WITHDRAWAL

AN ACT to amend and reenact sections 15-39.1-04, 15-39.1-06, subdivision b of subsection 1 of section 15-39.1-10.3, subsection 3 of section 15-39.1-18, and section 15-39.1-20 of the North Dakota Century Code, relating to definitions, board organization, multiple plan membership, disability retirement, and withdrawal under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-39.1-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

* NOTE: Section 15-39.1-04 was also amended by section 1 of House Bill No. 1507, chapter 218.

7. "Retirement" means cessation of covered employment and acceptance of a benefit under former chapter 15-39, or chapter 15-39.1 or 15-39.2.
8. "Retirement annuity" means the payments made by the fund to a member after retirement, these payments beginning on the first or fifteenth day of the month following eligibility for a benefit.
9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, and administrative services during a school year as reported on the member's federal income tax withholding statements plus the value of any fringe benefits selected at the member's option in lieu of monetary remuneration. "Salary" does not include fringe benefits such as payments for unused sick leave or vacation leave, housing allowances, transportation expenses, early retirement incentive pay, severance pay, or medical insurance premiums paid by the employer in addition to salary.
10. "State institution" includes all state colleges and universities, the school of forestry, the school of science, the school for the blind, the school for the deaf, the Grafton state school, and the North Dakota industrial school.
11. "Teacher" includes:
- a. Includes:
- ↔ All persons who are certified to teach in this state who are contractually employed in teaching in any state institution or by any school board or other governing body of any school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers employed in any state institution or in the school system of any school district in this state, except that the superintendent and assistant superintendent of the Grafton state school may be brought within this definition at their option.
- ↔ b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, state school supervisors and inspectors, ~~every person engaged as president, dean, school librarian, or registrar of any state institution,~~ the secretary executive director and professional staff of the North Dakota education association, all assistant secretaries and professional staff of such association, the commissioner of higher education, and the professional staff of the North Dakota high school activities association.
- ↔ 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, and certified staff of teachers centers, but only if the person was previously a member of and has credits in the fund.

- b- ~~Does not include persons connected with any professional school or college of any state institution as lecturers who are engaged in the practice of their respective professions and with whom teaching is merely an avocation.~~
- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on the effective date of this Act.

SECTION 2. AMENDMENT. If Senate Bill No. 2030 is not approved by the fifty-first legislative assembly or does not become effective, section 15-39.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-06. Organization of board. The board may hold meetings as 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. The board may employ an administrator and a deputy administrator, who need not be ~~a member~~ members of the board and who shall perform duties as the board prescribes. The deputy administrator may serve and vote, on behalf of the administrator, on the state investment board pursuant to section 21-10-01. 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. If Senate Bill No. 2030, as approved by the fifty-first legislative assembly, becomes effective, section 15-39.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-06. Organization of board. The board may hold meetings as 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. ~~The board may employ an administrator, who need not be a member of the board and who shall perform duties as the board prescribes.~~ 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 4. AMENDMENT. If Senate Bill No. 2030, as approved by the fifty-first legislative assembly, becomes effective and subsequently terminates by its own provisions, section 15-39.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-06. Organization of board. The board may hold meetings as 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. The board may employ an

administrator and a deputy administrator, who need not be a member members of the board and who shall perform duties as the board prescribes. The deputy administrator may serve and vote, on behalf of the administrator, on the state investment board pursuant to section 21-10-01. 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 5. AMENDMENT. Subdivision b of subsection 1 of section 15-39.1-10.3 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member assessments, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of assessments. ~~The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later.~~ The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.

SECTION 6. AMENDMENT. Subsection 3 of section 15-39.1-18 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The disability annuity continues until the death or prior recovery of the disabled annuitant. The board shall ascertain by periodic medical examinations annually, or more often if necessary in the opinion of the board, the continued disability status of a disabled annuitant.

SECTION 7. AMENDMENT. Section 15-39.1-20 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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 ~~shall be~~ 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 ~~shall be~~ 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 ~~ten~~ five years of service credit ~~shall must~~ be automatically refunded. The assessments plus interest earned, if not claimed by the member, ~~shall must~~ be returned during the month of January next following the date of termination. The automatic refund ~~shall 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.

Approved April 14, 1989
Filed April 17, 1989

* NOTE: Section 15-39.1-10.3 was also amended by section 1 of House Bill No. 1586, chapter 223.

CHAPTER 218

HOUSE BILL NO. 1507
(Representatives Kingsbury, Gates)
(Senators Kelsh, Tallackson)

SCHOOL DISTRICT REORGANIZATION

AN ACT to create and enact seven new sections to title 15 of the North Dakota Century Code, relating to the establishment of planning grants and supplemental pupil payments for the restructuring of school district boundaries; to amend and reenact paragraph 2 of subdivision a of subsection 11 of section 15-39.1-04 of the North Dakota Century Code, relating to membership in the teachers' fund for retirement; to provide an appropriation; to provide for distribution of unspent funds; to provide for a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Paragraph 2 of subdivision a of subsection 11 of section 15-39.1-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (2) The superintendents of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, state school supervisors and inspectors, every person engaged as president, dean, school librarian, or registrar of any state institution, the secretary of the North Dakota education association, all assistant secretaries and professional staff of such association, the commissioner of higher education, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association.

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

School district restructuring - Rules. The superintendent of public instruction, with assistance from the state board of public school education, shall adopt rules under chapter 28-32 for the purpose of administering planning grants and supplemental payments to contiguous school districts or parts of school districts for the purposes of planning and implementing the restructuring of school district boundaries for the purpose of increasing the educational opportunities of students and the sharing of school administrators. The superintendent of public instruction, if requested, shall provide assistance to school districts in the development and implementation of a plan for the restructuring of contiguous school districts. The superintendent of public instruction may provide other services if requested by the school districts. The plan and any subsequent

* NOTE: Section 15-39.1-04 was also amended by section 1 of House Bill No. 1098, chapter 217.

amendments must be adopted by a majority vote of the membership of each of the participating school boards and the state board of public school education prior to becoming eligible to receive supplemental pupil payments.

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

School district restructuring - Planning grant - Final report.

1. Upon receipt of a request for a planning grant from a consortium of school districts whose school boards have by majority vote approved participation in a planning grant to study the restructuring of school boundaries and upon approval of the state board of public school education, the superintendent of public instruction shall provide financial assistance and, if requested, technical assistance.
2. The planning grant must include the study and analysis of:
 - a. Past and projected enrollment trends and other student demographic characteristics and special service needs.
 - b. School facilities.
 - c. Student transportation systems.
 - d. Financial resources available from local, state, and federal sources.
 - e. Personnel characteristics, capabilities, and assignments.
 - f. Other factors as deemed important.
3. The final report must include:
 - a. An analysis of data studied, the findings, and recommendations.
 - b. A plan for the restructuring of the participating school districts.
 - c. A time line for the implementation of the plan.
 - d. Plans for the establishment of an interim district board to oversee the implementation of the plan.
4. Upon approval of the preliminary plan for the restructuring of the participating school districts by a majority vote of the school board members and the state board of public school education, the superintendent of public instruction shall make available supplemental payments as provided in section 6 of this Act.

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

Interim district board. The interim district board is composed of at least one school board member appointed by the school board of each participating school district. Each representative must be a member of the

school board of the school district of the appointing school board. The representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing board. Each board member's term expires at the end of that member's term on the local school board. The board shall adopt bylaws for the conduct of its business and is governed, unless specifically provided otherwise, by the laws applicable to school districts.

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

Interim district board - Powers and duties.

1. The interim district board shall:

- a. Coordinate the programs and services according to the terms of the approved plan for school district restructuring.
- b. Implement the plan for delivering education services.
- c. Implement methods for sharing administrative and management services. For the purposes of this subdivision an administrator includes:
 - (1) Executive administrators, which include the superintendent and such assistants as deputy, associate, and assistant superintendents who perform activities with respect to the general direction and management of the affairs of the local school district.
 - (2) Business administrators, which includes personnel associated with activities concerned with purchasing, paying for, transporting, exchanging, and maintaining goods and services for the school district.
- d. Develop a process for school districts or parts of school districts to join or withdraw from the projected restructured school district.
- e. Develop procedures for a pupil who is a resident of a member district to enroll in programs or courses offered by another member district and the sharing of costs.
- f. Establish methods for involving parents and other constituents of the participating school districts.
- g. Review the plan annually and propose necessary amendments to the member school districts and to the state board of public school education for adoption by a majority vote of each body.
- h. Submit an annual report to the participating school boards of the participating school districts at their annual meetings in July of each year and to the superintendent of public instruction on the same date.

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

State aid - Planning grants - Supplemental pupil payments.

1. Payments for approved planning grants must be made quarterly for a period not to exceed one year.
2. Each participating school district is entitled to receive state aid for a period not to exceed three years in the amount of from one hundred twenty-five to one hundred sixty-five dollars per full-time equivalent pupil in average daily membership the previous year in the participating school districts. The superintendent of public instruction shall distribute the payments pursuant to section 15-40.1-05. Prior to being entitled to the maximum payment under this subsection, a participating school district must have one or more administrators jointly assigned and the participating districts' plan must be attempting to improve the quality of instruction as determined by the superintendent of public instruction.
3. Upon adoption of the restructuring plan by the voters of the participating school districts pursuant to chapter 15-27.3, the newly formed school district is eligible to receive the supplemental pupil payment for an additional period of two years following the effective date of the reorganization based on the number of full-time equivalent students in average daily membership during the year prior to the effective date of the reorganization.

SECTION 7. A new section to title 15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Assistance from superintendent of public instruction. The superintendent of public instruction may hire a state school district restructuring coordinator and assistants as may be necessary to assist school districts in the planning, organizing, and implementation of the plan to restructure school districts.

SECTION 8. A new section to title 15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Report to the legislative council and legislative assembly. The superintendent of public instruction shall report to the legislative council interim committee on education regarding the status of the planning grants and the known number of interim school districts and to the legislative assembly at the organizational session in 1990 regarding the status of planning grants for the biennium and the number of school districts that are implementing the plans developed under the planning grants during the second year of the 1989-91 biennium.

SECTION 9. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$180,000, or so much as may be necessary, to the superintendent of public instruction for the purpose of defraying the salary and expenses of the state school district restructuring coordinator, the sum of \$200,000, or so much thereof as may be necessary, for the purpose of making planning grants to the projected restructured districts, and the sum of \$874,500, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of making payments of from \$125 up to \$165 per pupil to the projected restructured districts, with an approved plan, for the

biennium beginning July 1, 1989, and ending June 30, 1991. For the budget year 1990-91, if the state aid required to meet section 6 of this Act exceeds the amount available, the superintendent of public instruction shall reduce the supplemental pupil payments proportionally so that the state aid to be paid during the 1989-91 biennium does not exceed \$1,074,500.

SECTION 10. If House Bill No. 1637 is approved by the fifty-first legislative assembly, becomes effective, and contains a provision authorizing the superintendent of public instruction to distribute any unspent amount appropriated to the grants - foundation aid program, then a new section is hereby created and enacted to read as follows:

DISTRIBUTION OF UNSPENT FUNDS. If the amount appropriated pursuant to section 9 of this Act exceeds the amount necessary to make the payments as required in section 6 of this Act, the unspent amount must be made available to the superintendent of public instruction to distribute pursuant to the superintendent's authority to distribute any unspent amount appropriated to the grants - foundation aid program under the provisions of House Bill No. 1637.

SECTION 11. LEGISLATIVE INTENT. If school districts to the east and west of North Dakota highway 83 qualify for the pilot project, it is the intent of the legislative assembly that at least one pilot project be located on the east side of North Dakota highway 83 and at least one pilot project be located on the west side of North Dakota highway 83.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 28, 1989

Filed April 28, 1989

CHAPTER 219

HOUSE BILL NO. 1371
(Representatives L. Hanson, Rydell, Gates)
(Senator Wogsland)

TFFR BOARD MEMBERSHIP

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

SECTION 2. APPLICATION OF ACT. The qualifications for appointment provided under section 1 of this Act apply only to appointees whose terms commence on or after the effective date of this Act.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 31, 1989.

Approved March 29, 1989
Filed March 30, 1989

* NOTE: Section 15-39.1-05 was also amended by section 2 of Senate Bill No. 2410, chapter 635.

CHAPTER 220

HOUSE BILL NO. 1102
(Committee on Education)
(At the request of the Teachers' Fund for Retirement)

TFFR PAYMENTS

AN ACT to amend and reenact subsection 1 of section 15-39.1-09 of the North Dakota Century Code, relating to assessment and contributions under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 15-39.1-09 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in subsection 2 of section 15-39.1-10.3, every teacher is a member of the fund and must be assessed upon the teacher's salary six and twenty-five hundredths percent per annum, which must be deducted ~~monthly~~, certified, and paid ~~monthly~~ to the fund by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the fund six and twenty-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official of the governmental body shall certify the ~~sums governmental body payments and pay the sums quarterly~~ remit the payments monthly to the fund.

Approved March 9, 1989
Filed March 9, 1989

* NOTE: Subsection 1 of section 15-39.1-09 was also amended by section 1 of House Bill No. 1233, chapter 221.

CHAPTER 221

HOUSE BILL NO. 1233
(Representatives L. Hanson, Martinson, Rydell)
(Senator Kelsh)

TFFR ASSESSMENTS AND BENEFIT ELIGIBILITY

AN ACT to amend and reenact subsection 1 of section 15-39.1-09 and subsection 1 of section 15-39.1-10 of the North Dakota Century Code, relating to assessments and eligibility for retirement benefits under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 15-39.1-09 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in subsection 2 of section 15-39.1-10.3, every teacher is a member of the fund and must be assessed upon the teacher's salary six and ~~twenty-five~~ seventy-five hundredths percent per annum, which must be deducted monthly and paid to the fund by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the fund six and ~~twenty-five~~ seventy-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official shall certify the sums and pay the sums quarterly to the fund.

SECTION 2. AMENDMENT. Subsection 1 of section 15-39.1-10 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 a combined total of years of service credit, of which one year was completed after July 1, 1979, and years of age which equals ~~ninety~~ eighty-five.

Approved March 21, 1989
Filed March 23, 1989

* NOTE: Subsection 1 of section 15-39.1-09 was also amended by section 1 of House Bill No. 1102, chapter 220.

CHAPTER 222

HOUSE BILL NO. 1094
 (Committee on Education)
 (At the request of the Teachers' Fund for Retirement)

TFFR BENEFITS AND OPTIONS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to postretirement benefit adjustments under the teachers' fund for retirement; to amend and reenact subsection 2 of section 15-39.1-10 and section 15-39.1-16 of the North Dakota Century Code, relating to computation and optional forms of retirement benefits under the teachers' fund for retirement; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 15-39.1-10 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

Postretirement adjustments. An individual who on June 30, 1989, is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive an increase in benefits equal to five cents times the individual's number of years of service credit under the fund times the number of years the individual has drawn benefits from the fund.

* SECTION 3. AMENDMENT. Section 15-39.1-16 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-16. Option of teachers eligible to receive annuities. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:

Option one. Upon the death of the teacher, the reduced retirement allowance ~~shall~~ must be continued throughout the life of, and paid to, the person as the teacher has nominated by written

* NOTE: Section 15-39.1-16 was also amended by section 1 of Senate Bill No. 2156, chapter 226.

designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the person designated dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option two. Upon the death of the teacher, one-half of the reduced retirement allowance ~~shall~~ must be continued throughout the life of, and paid to, the person as the teacher has nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the person designated dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option three. Upon the death of the teacher within five years of the commencement of annuity payments, the payments ~~shall~~ must be continued for the remainder of the five-year period to the person as the teacher has nominated by written designation filed with the board at the time of retirement.

Option four. Upon the death of the teacher within ten years of the commencement of annuity payments, the payments ~~shall~~ must be continued for the remainder of the ten-year period to the person as the teacher has nominated by written designation filed with the board at the time of retirement.

Option five. Level retirement income with social security option, which is available to teachers retiring before social security is payable.

The amount of the reduced retirement allowance payable upon the exercise of any of these options ~~shall~~ must be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and the teacher's designated beneficiary.

SECTION 4. EFFECTIVE DATE. Section 2 of this Act applies to benefits payable after June 30, 1989.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 223

HOUSE BILL NO. 1586
(Mertens, R. Hausauer)

LEGISLATORS UNDER PERS

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by members of the legislative assembly in the public employees retirement system; to amend and reenact sections 15-39.1-10.3, 39-03.1-14.1, 54-52-01, 54-52-02, 54-52-17, and 54-52-17.2 of the North Dakota Century Code, relating to retirement plan provisions under the public employees retirement system and the teachers' fund for retirement; and to repeal sections 18-11-15.1, 39-03.1-08.1, 40-45-10.1, 40-46-09.2, and 54-52-17.3 of the North Dakota Century Code, relating to purchase of legislative service credit under the alternate firemen's relief association retirement plan, the highway patrolmen's system, city police pension plans, city employee pension plans, and the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-39.1-10.3 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-10.3. Multiple plan membership - Eligibility for benefits - Amount of benefits.

1. a. For the purpose of determining vesting of rights under this chapter, a teacher's years of service credit is the total of the years of service credit earned in the fund and the years, with twelve months of compensation equal to a year, of service employment~~s~~ earned in any number of the following:

- (1) The public employees retirement system and service earned as a member of the legislative assembly.
- (2) The highway patrolmen's retirement system.

- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member assessments, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of assessments. The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later. The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.

* NOTE: Section 15-39.1-10.3 was also amended by section 5 of House Bill No. 1098, chapter 217.

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

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

39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of benefits.

1. a. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following:
 - (1) The public employees retirement system and service earned as a member of the legislative assembly.
 - (2) The teachers' fund for retirement.

- b. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later. The board shall terminate the inactive status of a member under this subdivision if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
 - c. A member who has service credit in the system and in any number of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter, calculated by using the certified salaries of the retirement plan of last membership. The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.
2. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

* SECTION 3. AMENDMENT. Section 54-52-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-01. Definition of terms. As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and ~~shall include~~ includes appointive and elective officials, including members of the legislative assembly, at their sole election; provided, that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials eligible under section 54-52-02.5 ~~shall be~~ are eligible employees and shall participate in the public employees retirement system.
4. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the

* NOTE: Section 54-52-01 was also amended by section 1 of Senate Bill No. 2461, chapter 663; section 1 of House Bill No. 1143, chapter 662; and section 1 of Senate Bill No. 2149, chapter 664.

federal government through any of its executive or administrative officials; certified employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

5. "Employer" means a governmental unit.
6. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
7. "Governmental unit" means the state of North Dakota or a county or city thereof, a school district, including the Fargo school district, or any combination thereof, a district health unit, and the Garrison Diversion Conservancy District.
8. "Member of the legislative assembly" means a member of the house of representatives or the senate of the state of North Dakota who has taken and subscribed to the oath of office.
9. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- ~~9-~~ 10. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and more than five months each year.
- ~~10-~~ 11. "Prior service" means service or employment prior to July 1, 1966, or, in the case of members of the legislative assembly, service as a member of the legislative assembly prior to July 1, 1989.
- ~~11-~~ 12. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
- ~~12-~~ 13. "Public employees retirement system" means the retirement plan and program established by this chapter.
- ~~13-~~ 14. "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.
- ~~14-~~ 15. "Retirement board" or "board" means the five persons designated by this chapter as the governing authority for the retirement system created.
- ~~15-~~ 16. "Service" means employment on or after July 1, 1966, or, in the case of members of the legislative assembly, service as a member of the legislative assembly on or after July 1, 1989.
- ~~16-~~ 17. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.

~~17-~~ 18. "Wages" and "salaries" means the actual dollar compensation excluding overtime paid to or for an employee for ~~his~~ the employee's services. For a member of the legislative assembly who is a participating member, "salary" means compensation received by that member of the legislative assembly, exclusive of expense allowances for lodging, travel, and meals, as follows:

- a. Per diem compensation for services received under section 54-03-20, including expense reimbursement for meals received pursuant to an election made under section 54-03-20 to receive that reimbursement in lieu of per diem compensation for services;
- b. Monthly compensation for the execution of public duties received under section 54-03-20, including reimbursement for uncompensated expenses received pursuant to an election made under section 54-03-20 to receive that reimbursement in lieu of monthly compensation; and
- c. Per diem compensation for time spent in attendance at sessions and committees of the legislative council pursuant to section 54-35-10.

* SECTION 4. AMENDMENT. Section 54-52-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02. Formulation of plan - Exclusion of employees covered by plans in existence. All departments, boards, institutions, commissions, or agencies of the state of North Dakota, the Garrison Diversion Conservancy District, district health units, the legislative assembly, the supreme court, and the district courts, hereinafter referred to as agency, shall participate in a retirement system which will provide for the payment of benefits to state employees and officials, or to their beneficiaries, thereby enabling ~~the~~ those employees and officials to care for themselves and their dependents and which by its provisions will improve and reward state employment and service, reduce excessive personnel turnover, and offer career employment to high-grade men and women. ~~Employees~~ All employees, except members of the legislative assembly, presently covered by a pension plan or retirement plan to which the state is contributing, except social security, ~~shall~~ are not be eligible for duplicate coverage.

SECTION 5. A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Members of the legislative assembly.

1. Any member of the legislative assembly may, at the member's option, be a participating member of the public employees retirement system, notwithstanding that the member of the legislative assembly is or has been an employee covered by the teachers' fund for retirement or other retirement plan to which the state is contributing or has contributed.
2. Each member of the legislative assembly electing to participate in the public employees retirement system under this section must be assessed both the employee contributions required by subsection 2 of section 54-52-05 and the employer contributions required by

* NOTE: Section 54-52-02 was also amended by section 1 of House Bill No. 1321, chapter 665.

section 54-52-06, based on that legislator's salary as defined by subsection 18 of section 54-52-01. The assessment must be deducted and retained out of the legislator's salary.

3. Any member of the legislative assembly who has been an employee covered by the public employees retirement system or other retirement plan to which the state is contributing is entitled, when qualified, to receive a retirement allowance from each fund provided that no portion of the allowable service credit upon which the retirement allowance from one retirement plan is based is again used in the computation for benefits from another retirement plan. If any member of the legislative assembly has also been an employee covered by the public employees retirement system, that member's service benefit for prior service and service as a member of the legislative assembly must be accounted for separately from the service benefit based on other covered employment.

* SECTION 6. AMENDMENT. Section 54-52-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17. Formulation of plan. Participating members shall receive benefits according to this section and according to ~~the rules and regulations promulgated adopted~~ by the board, not inconsistent with this chapter. No person ~~shall~~, except a member of the legislative assembly, is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members ~~shall~~ are entitled to receive credit for full-time employment or its equivalent, including service and prior service as a member of the legislative assembly, from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.
2. ~~Retirement~~ Except for normal retirement benefits based on service or prior service of members of the legislative assembly, retirement benefits ~~shall be~~ are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any sixty consecutive months employed during the last one hundred twenty months of employment. Months not employed or months where employment was not full time ~~shall be~~ are excluded in arriving at the sixty months to be used for the purpose of computing an average. If the participating member has worked for less than sixty months at the normal retirement date, the final average salary ~~shall be~~ is the average salary for the total months of employment.
3. Retirement dates shall be defined as follows:
 - a. Normal retirement date is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or

* NOTE: Section 54-52-17 was also amended by sections 2, 3, and 4 of House Bill No. 1092, chapter 666; sections 1 and 2 of House Bill No. 1227, chapter 668; section 62 of Senate Bill No. 2056, chapter 69; section 1 of Senate Bill No. 2112, chapter 669; and section 1 of Senate Bill No. 2135, chapter 670.

- (2) When the member has a combined total of years of service credit and years of age equal to ninety and has not received a retirement benefit under this chapter.
- b. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed ~~his~~ the member's employment after attaining the age of sixty-five years.
- c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed eight years of eligible employment.
- d. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules ~~and regulations~~ of the board, and has completed at least one hundred eighty days of eligible employment. ~~No~~ A member shall be is not eligible for benefits resulting from a disability unless ~~he~~ he shall the member is also ~~be~~ determined eligible for benefits under the Social Security Act as amended.
4. Retirement benefits ~~shall~~ must be calculated by the board as follows:
- a. Normal retirement benefits for all retirees, except supreme and district court judges and members of the legislative assembly, reaching normal retirement date ~~shall be~~ is an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which ~~shall be~~ is determined as follows:
- (1) Service benefit equals one and one-half percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and one-half percent of final average salary multiplied by the number of years of prior service employment.
 - (3) All participants who retired before July 1, 1987, are entitled to benefits calculated at one and one-half percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning July 1, 1987.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date ~~shall be~~ is an annual amount, payable monthly, comprised of a benefit as defined in this chapter, which ~~shall be~~ is determined as follows:
- (1) Benefits ~~shall be~~ are calculated from the time of appointment or election to the bench and shall equal three percent of final average salary multiplied by the first ten years of judicial service, two percent of final

average salary multiplied by the second ten years of judicial service, and one percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.

- (2) Service benefits shall include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Normal retirement benefits for members of the legislative assembly under the public employees retirement system reaching normal retirement date is a monthly amount equal to twenty-five dollars multiplied by the number of years of the member's service and prior service credit, prorated for fractions of a year.
- d. Postponed retirement benefits shall be are calculated as for normal retirement benefits for those members who retired on or after July 1, 1977.
- d- e. Early retirement benefits shall be are calculated as for normal retirement benefits accrued to the date of termination of employment, but shall must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree is eligible for early retirement benefits only after having completed eight years of eligible employment.
- e- f. Disability retirement benefits shall be are calculated at sixty percent of the member's final average salary, reduced by the member's primary benefits under the Social Security Act as amended, and by any workmen's workers' compensation benefits paid. However, disability retirement benefits for members of the legislative assembly are calculated as for normal retirement benefits accrued to the disability retirement date.
5. Upon termination of employment after completing eight years of eligible employment but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date equal to one hundred percent of the member's accrued normal retirement benefits.
6. If before retiring a member dies after completing eight years of eligible employment, the board shall pay the member's account balance to any beneficiary designated by the member with the written consent of the member's spouse, if any. If the member has not designated any beneficiary under this section, the surviving spouse of the member may select one of the following optional forms of payment:
- a. A lump sum payment of the member's retirement account as of the date of death.
- b. Payments for sixty months as calculated for the deceased member as if the member was age sixty-five at the date of death.

- c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, ~~he the member or his the member's~~ designated beneficiary ~~shall be~~ is entitled to the member's account balance at termination.
8. If a member who is receiving retirement benefits or ~~his the member's~~ surviving spouse who is receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference ~~shall~~ must be paid to such spouse, the member's surviving beneficiary, if any, or the member's estate.
9. The board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
- a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.
 - c. Life with five-year or ten-year certain options.

Unless a member requests that ~~he the member~~ receive benefits according to one of these options at the time of applying for retirement, all retirement benefits ~~shall~~ must be in the form of a lifetime monthly pension.

* SECTION 7. AMENDMENT. Section 54-52-17.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17.2. Multiple plan membership - Eligibility for benefits - Amount of benefits.

1. a. For the purpose of determining eligibility for benefits under this chapter, except when determining eligibility for benefits for members of the legislative assembly, an employee's years of service employment is the total of the years of service employment earned in the public employees retirement system and the years of service credit earned in any number of the following:
 - (1) The teachers' fund for retirement.
 - (2) The highway patrolmen's retirement system.
- b. If an employee, except a member of the legislative assembly, terminates eligible employment under the system, if that employee has not received a refund of the employee's account balance, and if the employee begins eligible employment in a

* NOTE: Section 54-52-17.2 was also amended by section 1 of Senate Bill No. 2127, chapter 671.

- plan described in paragraph 1 or 2 of subdivision a, that employee may elect to remain an inactive member of the system without refund of the employee's account balance. The election must be made within ninety days after beginning the eligible employment ~~or by October 1, 1987, whichever is later~~. The board shall terminate the inactive status of an employee under this subdivision if the employee gains eligible employment under this chapter or if the employee terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
- c. An employee, except a member of the legislative assembly, who has service credit in the system and in any number of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter calculated by using the certified salaries of the retirement plan of last membership. The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.
2. If an employee, who is a participating member, except a member of the legislative assembly, is also employed in any position where membership in the teachers' fund for retirement is required, then for purposes of current employment the employee is a member of the retirement system in which the employee has the most years of service employment. If the employee has an equal amount of service in both the public employees retirement system and the teachers' fund for retirement, the employee is a member of the public employees retirement system. The board of trustees of the teachers' fund for retirement and the state retirement board shall jointly certify to the appropriate employers of the employee the fact of the beginning and termination of eligibility for dual membership in the respective retirement systems and the retirement system to which the employee is required to be a member under this subsection. The employers upon receipt of this certification shall pay over to that retirement system the member assessments and employer contributions at the rates currently existing for that retirement system. If the employee is required to be a member of the teachers' fund for retirement, the board, at the employee's election, shall designate the employee an inactive member of the public employees retirement system until the employee ceases the employment which requires membership in both the public employees retirement system and the teachers' fund for retirement.
3. Under rules adopted by the board, an individual, except a member of the legislative assembly, whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

SECTION 8. REPEAL. Section 39-03.1-08.1 of the North Dakota Century Code, and sections 18-11-15.1, 40-45-10.1, 40-46-09.2, and 54-52-17.3 of the 1987 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 224

HOUSE BILL NO. 1096
(Committee on Education)
(At the request of the Teachers' Fund for Retirement)

TFFR BENEFITS IN DOMESTIC RELATIONS ORDERS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to the payment of retirement benefits in accordance with domestic relations orders under the teachers' fund for retirement; and to amend and reenact sections 28-22-03.1 and 28-22-19 of the North Dakota Century Code, relating to property exempt from judicial process.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Benefit payments to alternate payee under domestic relations order.

1. The board shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The board shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the board for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the board shall notify the teacher and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of the teacher, which is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the teacher. A qualified domestic relations order may not require the board to provide any type or form of benefit, or any option, not otherwise provided under the fund, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the teacher has not terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and last known mailing address of the teacher and the name and mailing address of each alternate payee covered by the order;
- b. The amount or percentage of the teacher's benefits to be paid by the board to each alternate payee;
- c. The number of payments or period to which the order applies; and
- d. Each retirement plan to which the order applies.

* SECTION 2. AMENDMENT. Section 28-22-03.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-03.1. Additional absolute exemptions for residents. In addition to the exemptions from all attachment or process, levy and sale upon execution, and any other final process issued from any court, otherwise provided by law, a resident of the state may select:

1. In lieu of the homestead exemption, up to seven thousand five hundred dollars.
2. A motor vehicle exemption not to exceed one thousand two hundred dollars.
3. Pensions; annuity policies or plans; life insurance policies which, upon the death of the insured, would be payable to the spouse, children, or any relative of the insured dependent, or likely to be dependent, upon the insured for support and which have been in effect for a period of at least one year; individual retirement accounts; Keogh plans and simplified employee pension plans; and all other plans qualified under section 401 of the Internal Revenue Code [Pub. L. 83-591; 68A Stat. 134; 26 U.S.C. 401] and section 408 of the Internal Revenue Code [Pub. L. 93-406; 88 Stat. 959; 26 U.S.C. 408], and proceeds, surrender values, payments, and withdrawals from such pensions, policies, plans, and accounts, up to one hundred thousand dollars for each pension, policy, plan, and account with an aggregate limitation of two hundred thousand dollars for all pensions, policies, plans, and accounts. The dollar limit does not apply to the extent this property is reasonably necessary for the support of the resident and that resident's dependents, except that the pensions, policies, plans, and accounts or proceeds, surrender values, payments, and withdrawals are not exempt from enforcement of any order to pay spousal support or child support, or a qualified domestic relations order under section 1 of this Act. As used in this subsection, "reasonably necessary for the support" means required to meet present and future needs, as determined by the court after consideration of the resident's responsibilities and all the present and anticipated property and income of the resident, including that which is exempt.

4. The debtor's right to receive, or property that is traceable to:

* NOTE: Section 28-22-03.1 was also amended by section 1 of Senate Bill No. 2228, chapter 392.

- a. A payment, not to exceed seven thousand five hundred dollars, on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
- b. A payment, not to exceed seven thousand five hundred dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.
- c. A social security benefit, except that the benefit is not exempt for enforcement of any order for the support of a dependent child.
- d. Veteran's disability pension benefits, not including military retirement pay, except that the benefits are not exempt from process levy or sale for enforcement of any order for the support of a dependent child.

* SECTION 3. AMENDMENT. Section 28-22-19 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-19. Exemptions from legal process - Public pensions, assistance, and awards. The following amounts are exempt from liability for debts of the person to or on account of whom the amounts are paid, and are not subject to seizure upon execution or other process:

1. All pensions or annuities or retirement, disability, death, or other benefits paid or payable by, or amounts received as a return of contributions and interest from, a retirement system established pursuant to state law by the state except as provided by section 1 of this Act, a state agency, a political subdivision of the state, or a firemen's relief association for retirement, annuity, pension, disability benefit, or death benefit purposes.
2. All awards made pursuant to chapter 65-13 as reparations for victims of crimes.
3. All payments of assistance as aid to dependent children pursuant to chapter 50-09.

Approved March 9, 1989
Filed March 9, 1989

* NOTE: Section 28-22-19 was also amended by section 2 of Senate Bill No. 2228, chapter 392.

CHAPTER 225

SENATE BILL NO. 2278
(Senators Holmberg, Heinrich)
(Representatives Gates, L. Hanson)

TFFR WITHDRAWAL AND RETURN

AN ACT to amend and reenact section 15-39.1-15 of the North Dakota Century Code, relating to withdrawal from the teachers' fund for retirement and return to teaching by a previously withdrawn teacher.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-39.1-15. Withdrawal from fund - Return to teaching. Any teacher who has withdrawn from the fund as set forth in this chapter may, by returning to teach one full school year in a public school or state institution of this state, regain credit for prior teaching by repaying to the fund, with interest, the amount which was returned to him on withdrawal within five years of initial eligibility or by July 1, 1986, whichever is later making the required payment. The required payment, if made within five years of initial eligibility, is the amount that was returned to the teacher on withdrawal with interest. In all other cases, the purchase cost must be on an actuarial equivalent basis.

Approved April 13, 1989
Filed April 13, 1989

CHAPTER 226

SENATE BILL NO. 2156
(Senators Nelson, Lodoen, Satrom)
(Representative Belter)

TFFR OPTIONAL BENEFITS

AN ACT to amend and reenact section 15-39.1-16 of the North Dakota Century Code, relating to optional forms of retirement benefits under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-39.1-16 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-16. Option of teachers eligible to receive annuities. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:

Option one. Upon the death of the teacher, the reduced retirement allowance ~~shall~~ must be continued throughout the life of, and paid to, the person as the teacher has nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the person designated dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option two. Upon the death of the teacher, one-half of the reduced retirement allowance ~~shall~~ must be continued throughout the life of, and paid to, the person as the teacher has nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the designated beneficiary dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option three. Upon the death of the teacher within five years of the commencement of annuity payments, the payments ~~shall~~ must be continued for the remainder of the five-year period to the

* NOTE: Section 15-39.1-16 was also amended by section 3 of House Bill No. 1094, chapter 222.

person as the teacher has nominated by written designation filed with the board at the time of retirement.

Option four. Upon the death of the teacher within ten years of the commencement of annuity payments, the payments ~~shall~~ must be continued for the remainder of the ten-year period to the person as the teacher has nominated by written designation filed with the board at the time of retirement.

Option five. Level retirement income with social security option, which is available to teachers retiring before social security is payable.

The amount of the reduced retirement allowance payable upon the exercise of any of these options ~~shall~~ must be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and the teacher's designated beneficiary.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 227

HOUSE BILL NO. 1095
(Committee on Education)
(At the request of the Teachers' Fund for Retirement)

TFFR OUT-OF-STATE CREDIT

AN ACT to amend and reenact subsection 1 of section 15-39.1-24 of the North Dakota Century Code, relating to the purchase of service credit for out-of-state teaching under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-39.1-24 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any teacher ~~who comes from a~~ 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 and who becomes a teacher within the meaning of this chapter, by teaching one full school year in North Dakota following the out-of-state teaching, may elect to have no more than ten years of out-of-state teaching credited hereunder, except that any such. 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 ~~shall not be eligible~~ service do not qualify for credit in North Dakota this state if the years claimed also qualify for retirement benefits from a an out-of-state retirement system out of state.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 228

HOUSE BILL NO. 1103
(Committee on Education)

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

TFFR LEGISLATORS' SERVICE CREDIT

AN ACT to amend and reenact subsection 5 of section 15-39.1-24 of the North Dakota Century Code, relating to the purchase of additional service credit under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 15-39.1-24 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. A teacher may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. Service credit for 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.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 229

SENATE BILL NO. 2277
(Senators Holmberg, Heinrich)
(Representatives Gates, L. Hanson)

TFFR SERVICE CREDIT ACQUISITION

AN ACT to amend and reenact subsection 7 of section 15-39.1-24 of the North Dakota Century Code, relating to purchase of service credit under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 15-39.1-24 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Except as provided in subsection 5, the amount of additional service eligible to be purchased under this section must be credited to the teacher when the teacher has made the required payment ~~within five years of initial eligibility~~. In all cases, the purchase cost must be on an actuarial equivalent basis.

Approved March 14, 1989

Filed March 15, 1989

CHAPTER 230

HOUSE BILL NO. 1472
(Representatives Dalrymple, Gates, Solberg)
(Senators Dotzenrod, Peterson, D. Meyer)

FOUNDATION AID FOR NONACCREDITED SCHOOLS

AN ACT to amend and reenact subsection 2 of section 15-40.1-06 of the North Dakota Century Code, relating to deductions in foundation aid payments for schools that are not accredited.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 2 of section 15-40.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. a. The educational support per pupil during the first year of the 1987-89 biennium shall be one thousand four hundred dollars and for the second year of the biennium the educational support per pupil shall be one thousand four hundred twelve dollars and shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08.
- 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 shall be supported in the amount of two hundred twenty dollars, which shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07.
- 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 pupil established in subdivision a, which is the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of pupils in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per pupil in the unaccredited school for each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per-pupil payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.

Approved March 29, 1989
Filed March 30, 1989

* NOTE: Subsection 2 of section 15-40.1-06 was also amended by section 2 of House Bill No. 1637, chapter 213.

CHAPTER 231

HOUSE BILL NO. 1614
(Stofferahn, B. Anderson)

SCHOOL DISTRICT INTERIM FUNDS AND FOUNDATION AID

AN ACT to amend and reenact subsection 3 of section 15-40.1-06, sections 15-40.1-07, 15-40.1-08, subsection 1 of section 15-40.2-03, and section 57-15-27 of the North Dakota Century Code, relating to school district interim funds and deductions from foundation aid payments; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 3 of section 15-40.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. In determining the amount of payment due school districts for per-pupil aid under this section, the following amounts must be subtracted from the amount of such aid:
 - a. The product of twenty mills times the latest available net assessed and equalized valuation of property of the school district shall be subtracted from the amount of such aid.
 - b. The amount that the unobligated balance of a school district's interim fund on the preceding June thirtieth is in excess of the amount authorized by section 57-15-27.

** SECTION 2. AMENDMENT. Section 15-40.1-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

* NOTE: Subsection 3 of section 15-40.1-06 was also amended by section 2 of House Bill No. 1637, chapter 213.

** NOTE: Section 15-40.1-07 was also amended by section 1 of House Bill No. 1232, chapter 232, and section 3 of House Bill No. 1637, chapter 213.

3. For high schools having one hundred fifty or more, but less than five hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.32 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
4. For high schools having a total high school enrollment of five hundred fifty or more pupils in average daily membership, the amount of money resulting from multiplying the factor 1.20 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

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

Districts that did not maintain high schools during the year of 1964-1965 shall not be eligible for payments unless they have a minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. Payments pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy amounts provided for in subsection 3 of section 15-40.1-06 in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

SECTION 3. AMENDMENT. Section 15-40.1-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. Elementary per-pupil payments - Amount. There must be paid from state funds to school districts of the county operating elementary

schools and to school districts contracting to educate elementary pupils in a federal school, employing teachers holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36, payments based on the number of registered students at the beginning of each school year, adjusted as provided in section 15-40.1-09, as follows:

1. For one-room rural schools there must be paid that amount of money resulting from multiplying the factor 1.30 times the educational support per pupil as provided in section 15-40.1-06 for each of the first sixteen pupils in grades one through eight in average daily membership, and for each additional pupil in grades one through eight in average daily membership there shall be paid .9 times the educational support per pupil as provided in section 15-40.1-06, except that no payment may be made for more than twenty pupils in average daily membership.
2. For elementary schools having under one hundred pupils in average daily membership there must be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first twenty pupils in grades one through six in average daily membership in each classroom or for each teacher and for each additional pupil in grades one through six in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational support per pupil as provided in section 15-40.1-06, except that no payment may be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher.
3. For elementary schools having one hundred or more pupils in average daily membership, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary pupils, there must be paid that amount of money resulting from multiplying the factor .9 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment may be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
4. For elementary schools in school districts having an average daily membership of one thousand or more elementary pupils, there must be paid that amount of money resulting from multiplying the factor .95 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment may be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
5. For each of the above classes of elementary schools, except for one-room rural schools, there must be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades seven and eight in average daily membership in each classroom or for each teacher, except that no payment may be made for more than thirty pupils in average daily membership in each classroom or for each teacher.

6. For elementary schools having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there must be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each special education pupil under the compulsory age for school attendance in average daily membership in each classroom or for each teacher.
7. For elementary schools providing kindergartens which are established according to provisions of section 15-45-01, and for out-of-state kindergarten programs, approved by the state superintendent and utilized by North Dakota school districts bordering other states, there must be paid that amount of money resulting from multiplying the factor .50 times the educational support per-pupil payment for that elementary school as determined under this section for each of the first twenty-five pupils in average daily membership in each classroom or for each teacher, except that no payment may be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher. The full per-pupil payment shall be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period shall receive a proportionately smaller per-pupil payment.

Every school district shall receive at least as much in total payments for elementary pupils as it would have received if it had the highest number of pupils in the next lower category. Payments pursuant to this chapter to school districts in bordering states shall be made after subtracting the ~~amount realized from a twenty-mill levy~~ amounts provided for in subsection 3 of section 15-40.1-06 in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

* SECTION 4. AMENDMENT. Subsection 1 of section 15-40.2-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Such payments as are received for ~~him~~ the pupil from state payments received by the admitting district, less the average amount per North Dakota resident pupil enrolled in the school district realized from ~~a twenty-mill school district levy~~ the amounts provided for in subsection 3 of section 15-40.1-06; and

SECTION 5. AMENDMENT. Section 57-15-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-27. Interim fund. The governing body of any county, city, school district, park district, or other municipality authorized to levy taxes, may include in its budget an item to be known as the "interim fund" which shall be carried over to the next ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the municipality may be legally extended, for that portion of such fiscal year prior to the receipt of taxes therein. In no case shall such interim fund be in excess of the amount reasonably required to finance the municipality for the first nine months of the next ensuing fiscal year. Such interim fund shall not be in

* NOTE: Section 15-40.2-03 was also amended by section 1 of House Bill No. 1400, chapter 234, and section 6 of House Bill No. 1637, chapter 213.

excess of three-fourths of the current annual appropriation for all purposes other than debt retirement purposes and appropriations financed from bond sources and, for school districts, an additional twenty thousand dollars.

SECTION 6. EFFECTIVE DATE. This Act becomes effective on June 30, 1991.

Approved April 14, 1989
Filed April 17, 1989

CHAPTER 232

HOUSE BILL NO. 1232
(Representatives Wilkie, P. DeMers, O'Shea)
(Senators Richard, Freborg, Krauter)

FOUNDATION AID FOR FEDERAL AGENCY STUDENTS

AN ACT to amend and reenact section 15-40.1-07 of the North Dakota Century Code, relating to foundation aid payments for pupils educated by federal agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-40.1-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. For high schools having under seventy-five pupils in average daily membership, the amount of money resulting from multiplying the factor 1.70 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
2. For high schools having seventy-five or more, but less than one hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.40 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
3. For high schools having one hundred fifty or more, but less than five hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.32 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
4. For high schools having a total high school enrollment of five hundred fifty or more pupils in average daily membership, the amount of money resulting from multiplying the factor 1.20 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

Every high school district ~~shall~~ must receive at least as much in total payments as it would have received if it had the highest number of pupils in the next lower category. ~~However, no payment shall be made for those pupils for whom federal agencies provide education.~~ Such payments ~~shall~~ may not be

* NOTE: Section 15-40.1-07 was also amended by section 2 of House Bill No. 1614, chapter 231, and section 3 of House Bill No. 1637, chapter 213.

made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, and the other standards prescribed by this chapter have been met. Payments ~~shall~~ 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 ~~shall~~ 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 shall be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs ~~shall~~ must be eligible for proportionate payments provided each course offered in such programs 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 such summer education programs.

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

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 233

SENATE BILL NO. 2037
(Legislative Council)
(Interim Education Finance Committee)

SPECIAL EDUCATION COST SHARING

AN ACT to create and enact a new section to chapter 15-59 and a new subsection to section 15-59.2-05 of the North Dakota Century Code, relating to school district liability for the cost of special education and coordination of special education transportation; to amend and reenact sections 15-40.1-16.1, 15-40.2-08.1, 15-59-02.1, and 15-59-06 of the North Dakota Century Code, relating to state aid for special education; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

School districts entitled to transportation aid pursuant to this section shall receive such aid for all miles [kilometers] traveled and for all pupils transported, regardless of whether or not such pupils live within the incorporated limits of cities in which the schools in which they are enrolled are located. Provided, however, that no school district shall receive more than one per-pupil payment for transportation regardless of the number of times any pupil is transported in any one day.

SECTION 2. AMENDMENT. Section 15-40.2-08.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. The payment of tuition in cases of handicapped children placed outside their school districts of residence pursuant to subdivisions a through c for purposes other than education must be made by the school district of residence and by the state in the proportions set forth in ~~subsection~~ subsections 2 and 3. For purposes of applying this section, the school district in which a child resides must be construed to be the district of residence of such child:
 - a. When the placement is made for any prescribed period of time by a county or state social service agency or a regional human service center at a state-licensed child care home or agency;
 - b. When the placement is made from a state-operated institution; or
 - c. When the placement is made pursuant to an order of any state court, tribal court, or a juvenile supervisor which requires a child to stay for any prescribed period of time at a state-licensed child care home or agency.
2. For the biennium beginning July 1, 1987, and ending June 30, 1989, the school district of residence is liable to pay the admitting district as part of the cost of educating the student an amount for the school year equal to two and one-half times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department; provided, that such payment may not exceed the actual per-pupil cost incurred by the admitting district. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid from funds provided to the department of public instruction by the legislative assembly for special education.
3. For succeeding bienniums the school district of residence is liable to pay the admitting district as part of the cost of educating the student an amount for the school year equal to the state average per-pupil elementary or high school cost, depending on whether the enrollment is in a grade or high school department, provided that the payment may not exceed the actual per-pupil cost incurred by the admitting district. The remainder of the actual cost of educating the handicapped student not covered by other payments or credits must be made as follows:
 - a. For the biennium beginning July 1, 1989, and ending June 30, 1991, the school district of residence is liable for sixty twenty percent of the cost and the state is liable for ~~forty~~ eighty percent of the cost.
 - b. ~~For the biennium beginning July 1, 1991, and ending June 30, 1993, the school district of residence is liable for forty~~

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

SECTION 3. AMENDMENT. Section 15-59-02.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

program plan for the handicapped student, and make recommendations for required special education and related services.

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

The legislative assembly 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 service provided by the district, the district's special education program costs, and the district's special education program needs. However, no program may be reimbursed at a lesser rate than that of the prior year, notwithstanding locally initiated program changes, within the limits of legislative appropriations.

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

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

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

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

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

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

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

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

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

SECTION 4. AMENDMENT. Section 15-59-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-06. State cooperation in special education. Exceptional children who are enrolled in approved programs of special education shall be deemed to be regularly enrolled in the school district of residence and shall 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 regularly attending school in the school or school district receiving such payments. A prorated state foundation aid payment for a student to attend a public school program for handicapped students, approved by the superintendent of public instruction, may be made provided that the individualized education program for the child is written during the last quarter of the school term and specifically requires that the child attend a summer special education program. In the case of a student who is enrolled in a nonpublic school but who is attending a public school special education program, payments shall be made to the appropriate public school district in relation to the proportion of a normal schoolday as such student participates in such special education program. For the purposes of this section, a normal schoolday shall be deemed to consist of six hours. Upon the determination by the director of special education that the school district has made expenditures for each exceptional child 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 in an amount not exceeding three times the state average per-pupil cost of education computed by the

department of public instruction for the previous school year for such child per year for instruction and four times the state average per-pupil cost of education computed by the department of public instruction for the previous year for such child per year for the cost of related services. The amount the school district is required to expend must be reduced proportionately if a child attends the school for less than an entire year. If any school district within a special education unit has any handicapped elementary or high school student who, in the opinion of a qualified psychologist, a medical doctor, district superintendent, and the district or multidistrict director of special education, is unable to attend the public schools in the special education unit because of a handicapping condition, such school district shall contract with an in-state public school outside the special education unit in which the student is a legal resident which will accept such student and has proper facilities for the education. No school district shall may enter into a contract with any in-state public school for the education of any student because of a handicapping condition, unless the curriculum provided by such school and the contract has been approved in advance by the superintendent of public instruction. The contract shall must provide that such school district agrees to pay to the in-state public school as part of the cost of educating such student an amount for the school year equal to two and one-half times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department; provided, that such payment shall may not exceed the actual per-pupil cost incurred by such 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 shall must be furnished as provided by rules and regulations of the department of public instruction. The remainder of the actual cost of educating the handicapped student not covered by other payments or credits shall must be paid from funds provided by the legislative assembly for such purpose. The department of public instruction may provide reimbursement to such school or school district in an amount not exceeding three times the state average per-pupil cost of education computed by the department of public instruction for the previous school year for such child per year for instruction and four times the state average per-pupil cost of education computed by the department of public instruction for the previous year for such child per year for the cost of related services.

SECTION 5. A new section to chapter 15-59 of the North Dakota Century Code is hereby created and enacted to read as follows:

Cost of special education - Liability of school district. If allowable costs for special education and related services for an exceptional child in a special education program, as determined by the superintendent of public instruction, exceed the reimbursement provided by the state, the school district is liable to pay for each such student an amount over the state reimbursement up to a maximum each school year of two and one-half times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department. The two and one-half times amount includes the amount the school district is required to pay in section 15-59-06. The state is liable for one hundred percent of the remainder of the cost of education and related services for each such handicapped student.

SECTION 6. A new subsection to section 15-59.2-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

To plan and coordinate the transportation of pupils for special education programs within the school districts participating in the multidistrict special education program.

SECTION 7. EFFECTIVE DATE. Section 3 of this Act becomes effective on July 1, 1990.

SECTION 8. EXPIRATION DATE. Section 3 of this Act is effective through June 30, 1991, and after that date is ineffective.

Approved April 28, 1989
Filed April 28, 1989

CHAPTER 234

HOUSE BILL NO. 1400
(Hoffner)

ALTERNATIVE EDUCATION PROGRAM TUITION WAIVER

AN ACT to amend and reenact sections 15-40.2-03 and 15-40.2-04 of the North Dakota Century Code, relating to an exemption from tuition payments for students enrolled in approved alternative education programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-40.2-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-03. Tuition payments. ~~School~~ Except as provided in section 15-40.2-04, school districts educating pupils in other school districts shall pay the full cost of education. Such costs must be determined on the basis of average daily membership and shall include annual expenditures from the general fund and annual educational expenditures from all special funds; provided, that only those expenditures permitted in determining the educational cost per pupil in section 15-40.1-06 shall be included in determining average current operating expenses. To such average current operating expense in the county for kindergarten, elementary, or high school students, as the case may be, except special education students where a fair rental charge for each student for capital outlay must be determined by the department of public instruction, must be added the statewide total of all school districts' annual expenditures from sinking and interest funds, plus the statewide total of all school districts' annual tax receipts to the building funds, including any amounts expended from school districts' general funds for capital outlay, divided by the average daily membership of the state. From this amount, the following must be deducted for each individual pupil:

1. Such payments as are received for him from state payments received by the admitting district, less the average amount per North Dakota resident pupil enrolled in the school district realized from a twenty-mill school district levy; and
2. A credit applied for any school taxes paid to the admitting district by the parent or guardian of the admitted pupil.

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

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

If the district of residence and the parent or guardian are both paying tuition, the credit allowed under this section for taxes paid to the

* NOTE: Subsection 1 of section 15-40.2-03 was also amended by section 4 of House Bill No. 1614, chapter 231, and section 6 of House Bill No. 1637, chapter 213.

admitting district by the parent or guardian must be credited to the district of residence and the parent or guardian in proportion to the amount of tuition paid by each.

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

SECTION 2. AMENDMENT. Section 15-40.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-04. Nonresident tuition payments mandatory - Payments are exclusive. Any school district that admits nonresident pupils to its schools, as provided by this chapter, shall charge tuition for such pupils except that school districts have the option of charging tuition for nonresident pupils enrolled in an approved alternative education program. The whole amount of such the tuition ~~shall~~ must be paid by the district from which the pupil is admitted, in accordance with section 15-40.2-03, or by ~~his~~ the pupil's parent or guardian, in accordance with section 15-40.2-06.

Any Except as otherwise provided, any school district that fails to sign a tuition agreement and fails to charge and collect tuition for nonresident students shall forfeit foundation payments for those nonresident students for whom tuition is not paid. Be it further provided that a A school district may accept a nonresident student or students 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.

No school district ~~shall~~ may charge or collect from any nonresident pupil, ~~his~~ parent or guardian of a nonresident pupil, or the district of ~~his~~ the pupil's residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident pupils.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 235

HOUSE BILL NO. 1596
(Gerhardt)

CRIMINAL FINE REPORTING

AN ACT to amend and reenact section 15-44-02 of the North Dakota Century Code, relating to reporting of criminal fines proceeds by the county treasurer to the state treasurer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-44-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-44-02. Reports of county treasurer. The county treasurer shall receive from the proper officers the net proceeds of fines for violation of state laws, and all moneys arising from leasing of school lands within the county, and shall forward a detailed statement of moneys so collected, specifying the amount received from each source, to the ~~office of management and budget, at the time of making reports of other moneys to the office of management and budget~~ state treasurer by the fifteenth of each month.

Approved March 30, 1989
Filed March 31, 1989

CHAPTER 236

HOUSE BILL NO. 1389
(Myrdal, Goetz)

SCHOOL DISTRICT ELECTION RECOUNTS

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-47-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved April 10, 1989
Filed April 11, 1989

CHAPTER 237

HOUSE BILL NO. 1455
(D. Olsen, R. Berg, Wilkie, Skjerven, Myrdal)

TEACHER CONTRACT NONRENEWAL

AN ACT to amend and reenact section 15-47-26 of the North Dakota Century Code, relating to the definition of teacher for purposes of nonrenewal of contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-47-26 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-26. "Teacher" defined. The term "teacher", as used in sections 15-47-27 and 15-47-28, shall be construed to include all teachers, principals, and superintendents in all public school districts within this state, and all persons employed in teaching in any state institution, except institutions of higher education. The term "teacher", as used in section 15-47-38, shall be construed to include all teachers and principals in all public school districts within this state, and all persons employed in teaching in any state institution, except institutions of higher education. For purposes of the sections above referenced, the term "teacher" shall 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.

Approved April 13, 1989
Filed April 13, 1989

CHAPTER 238

HOUSE BILL NO. 1347
(Gates)

TEACHER PERFORMANCE EVALUATIONS

AN ACT to amend and reenact section 15-47-27 and subsection 5 of section 15-47-38 of the North Dakota Century Code, relating to performance evaluations of teachers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-47-27 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-27. Time for renewal of teachers' contracts. Any teacher who has been employed by any school district or the director of institutions in this state during any school year, shall be notified in writing by the school board or the director of institutions, as the case may be, not earlier than March first and not later than May first in the school year in which ~~he or she~~ the teacher has been employed to teach, of the determination not to renew the teacher's contract for the ensuing school year, if such determination has been made; and failure to give such written notice on or before said date shall constitute 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 shall be notified of a date, which shall not be less than thirty days after the date of such notice, upon which they will be required to accept or reject proffered reemployment, and failure on the part of the teacher to accept said offer within such time shall be deemed to be a rejection of the offer. Any teacher who shall have accepted the offer of reemployment, either by the action or nonaction of the school board or the director of institutions, on or before May first, as herein provided, shall be entitled to the usual written contract for the ensuing school year, as provided by law and shall notify the school board or the director of institutions in writing of ~~his or her~~ the teacher's acceptance or rejection on or before the date specified or before June first, whichever is earlier. Failure on the part of the teacher to provide such notification shall relieve the school board or the director of institutions of the continuing contract provision of sections 15-47-26 through 15-47-28. Nothing in this section shall be construed as in any manner repealing or limiting 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 during for each of the first three school year years the teachers are employed by the school district. These written performance reviews shall 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

* NOTE: Section 15-47-27 was also amended by section 1 of House Bill No. 1229, chapter 239.

must be completed and made available to the teacher no later than March fifteenth.

SECTION 2. AMENDMENT. Subsection 5 of section 15-47-38 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The school board of any school district contemplating not renewing a teacher's contract, as provided in section 15-47-27, shall notify the teacher in writing of such contemplated nonrenewal no later than April fifteenth. The teacher shall be informed in writing of the time, which shall not be later than April twenty-first, and place of a special school board meeting for the purpose of discussing and acting upon such contemplated nonrenewal. The teacher shall also be informed in writing of the reasons for nonrenewal. The reasons given by the school board for its decision not to renew a teacher's contract must be drawn from specific and documented findings arising from formal reviews conducted by the board with respect to the teacher's overall performance. Each district shall have an established system through which ~~two~~ written evaluations are prepared for every teacher employed by the district ~~during each school year. These written performance reviews shall 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 as provided in section 15-47-27.~~ The reasons given by the board for not renewing a teacher's contract must be sufficient to justify the contemplated action of the board and may not be frivolous or arbitrary but must be related to the ability, competence, or qualifications of the teacher as a teacher, or the necessities of the district such as lack of funds calling for a reduction in the teaching staff. At the meeting with the board the teacher may then produce such evidence as may be necessary to evaluate the reasons for nonrenewal, and either party may produce witnesses to confirm or refute the reasons. The administrator shall substantiate the reasons with written or oral evidence presented at the meeting. All witnesses are subject to questioning for the purposes of clarification. At the meeting, the board shall discuss the reasons and determine whether or not the administrator has, in fact, substantiated the reasons. If the board finds that the reasons have not been substantiated, the nonrenewal proceedings will be dismissed. The meeting must be an executive session of the board unless both the school board and the teacher agree that it is to be open to other persons or the public. The teacher may be represented at the meeting by any two representatives of his own choosing; and the teacher's spouse, or one other family member of the teacher's choice, may also attend the meeting if the teacher so desires. In addition to board members, the business manager of the school district, and the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. At the meeting, if the teacher so requests, he shall be granted a continuance of not to exceed seven days. No claim for relief for libel or slander lies for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section. The determination not to renew a contract if made in good faith is final and binding on all parties. Final notice of the determination not to renew a contract shall be given in writing by May first as provided in section 15-47-27.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 239

HOUSE BILL NO. 1229
(Representative Ulmer)
(Senator Mushik)

STATE INSTITUTIONS ADMINISTRATION

AN ACT to create and enact a new section to chapter 25-06 and a new section to chapter 25-07 of the North Dakota Century Code, relating to the appointment of the superintendents, budgets, staff, and reporting structure of the school for the blind and the school for the deaf; to amend and reenact sections 15-47-27, 15-47-27.1, and 15-47-34 of the North Dakota Century Code, section 25-04-01 of the North Dakota Century Code as amended by section 1 of chapter 310 of the 1985 Session Laws of North Dakota and section 25-04-01 of the North Dakota Century Code as amended by section 1 of chapter 311 of the 1985 Session Laws of North Dakota, sections 25-06-03, 25-06-04, 25-06-05, 25-07-04, 25-07-05, 54-23-01, 54-24-01, and 54-24-03 of the North Dakota Century Code, relating to the transfer of control of the school for the blind, school for the deaf, and the state library from the director of institutions to the superintendent of public instruction and institutions under the control of the director of institutions and to change the name of the state developmental center at Grafton; to require the governor to develop a plan for the transfer of the powers and duties of the director of institutions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-47-27 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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 director of institutions superintendent of public instruction in this state during any school year, shall must be notified in writing by the school board, the department of corrections and rehabilitation, or the director of institutions 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 he or she that teacher has been employed to teach, of the determination not to renew the teacher's contract for the ensuing school year, if such the determination has been made; and failure to give such written notice on or before said that date shall constitute 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 shall must be notified of a date, which shall must not be less than thirty days after the date of such the notice, upon which they will be required to shall accept or reject proffered reemployment, and failure on the part of by the teacher to accept said the offer within such that time shall be deemed to be is a rejection of the offer. Any teacher who shall have accepted accepting the offer of reemployment, either by the action or

* NOTE: Section 15-47-27 was also amended by section 1 of House Bill No. 1347, chapter 238.

nonaction of the school board, the department of corrections and rehabilitation, or the director of institutions superintendent of public instruction, on or before May first, as herein provided, shall be is entitled to the usual written contract for the ensuing school year, as provided by under law and shall notify the school board, the department of corrections and rehabilitation, or the director of institutions superintendent of public instruction in writing of his or her acceptance or rejection on or before the date specified or before June first, whichever is earlier. Failure on the part of by the teacher to provide such that notification shall relieve relieves the school board, the department of corrections and rehabilitation, or the director of institutions superintendent of public instruction of the continuing contract provision of sections 15-47-26 through 15-47-28. Nothing in this This section shall be construed as in any manner repealing or limiting 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 during each school year. These written performance reviews shall 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.

* SECTION 2. AMENDMENT. Section 15-47-27.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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 director of institutions 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 who is 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 made 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. If a school board, the department of corrections and rehabilitation, or the director of institutions 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 director of institutions 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. Such The notification of nonrenewal given to a first-year teacher must contain a detailed description of the reason or reasons for the nonrenewal.

SECTION 3. AMENDMENT. Section 15-47-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-34. Education of deaf-blind children. The state director of institutions superintendent of public instruction, after consulting with the superintendents of the school for the blind, the school for the deaf, and the Grafton state school developmental center, shall determine whether those children under the age of twenty-one, who are deaf as well as and blind, should be sent to the school for the blind, the school for the deaf, or the

* NOTE: Section 15-47-27.1 was also amended by section 1 of House Bill No. 1424, chapter 240.

Grafton state school developmental center. If, in his the judgment of the superintendent of public instruction, there are not adequate facilities for the education of such deaf-blind children in this state, the director of institutions is authorized to superintendent of public instruction may determine whether such the deaf-blind children should be sent to any school or institution outside the state of North Dakota providing a qualified program of education for such deaf-blind children.

The director of institutions superintendent of public instruction may pay for the education of such those children in out-of-state institutions within the limitations of legislative appropriations for such that purpose. Such The funds may be spent for room, board, tuition, transportation, and other items which are necessarily relevant to the education of such the children.

In interpreting and carrying out the provisions of this section, the words "deaf-blind child" wherever used, will be construed to include includes any child whose combination of handicaps of deafness and blindness will prevent him the child from profiting satisfactorily from educational programs provided for the blind child or the deaf child.

The director of institutions is hereby authorized to promulgate such superintendent of public instruction may make rules and regulations as he deems necessary and proper for carrying out the purposes and intents of this section.

* SECTION 4. AMENDMENT. Section 25-04-01 of the North Dakota Century Code as amended by section 1 of chapter 310 of the 1985 Session Laws is hereby amended and reenacted to read as follows:

25-04-01. State developmental Developmental center - Maintained— Name - Administration and control. An institution for the mentally deficient shall A facility for developmentally disabled persons must be maintained at or near the city of Grafton in the county of Walsh County. Such institution shall The facility must be known and designated as the state developmental center at Grafton. There shall be maintained near Dunseith, in the county of Rolette, a division of the state developmental center at Grafton which shall be known as San Haven. The department of human services has administrative authority and control of the developmental center at Grafton.

* SECTION 5. AMENDMENT. Section 25-04-01 of the North Dakota Century Code as amended by section 1 of chapter 311 of the 1985 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

25-04-01. State school Developmental center - Name - Administration and control. An institution for the developmentally disabled shall A facility for developmentally disabled persons must be maintained at or near the city of Grafton in the county of Walsh County. The institution shall facility must be known and designated as Grafton state school the developmental center at Grafton. There shall be maintained near Dunseith, in the county of Rolette, a division of the Grafton state school which shall be known as San Haven. The department of human services shall have has administrative authority and control of Grafton state school and San Haven the developmental center at Grafton.

SECTION 6. A new section to chapter 25-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

* NOTE: Section 25-04-01 was also amended by sections 1 and 2 of House Bill No. 1127, chapter 338.

School for the blind - Appointment of superintendent, budget, staff, and reporting structure. The superintendent of the school for the blind is appointed by and reports to the superintendent of public instruction. The school for the blind must have a separate budget and separate staff from the department of public instruction.

* SECTION 7. AMENDMENT. Section 25-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-06-03. Superintendent to possess certain qualifications. The superintendent of the school for the blind ~~shall~~ must possess ~~such those~~ qualifications, educational and otherwise, as in the opinion of the ~~director of institutions will fit him~~ superintendent of public instruction may qualify that person to instruct and minister to the needs of blind persons.

SECTION 8. AMENDMENT. Section 25-06-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-06-04. Qualifications for admission to school for the blind - Residents of state entitled to free education. Applicants for admission to the school for the blind must be blind or partially blind and unable to make suitable progress in the public schools of the state. The superintendent, with the approval of the ~~director~~ superintendent of public instruction, may determine the age required for admission. The superintendent shall furnish application blanks upon request, and no person may be admitted to the institution until the application giving such information as the ~~director may require~~ superintendent of public instruction requires has been returned to and approved by the superintendent of the school for the blind. An applicant admitted to the school for the blind must be furnished transportation by the school as provided in the student's individualized education program at the most economical rate possible, and yet meet the student's needs. Each such applicant who is a resident of this state and who, because of ~~his handicap,~~ blindness and other handicaps is unable to receive an education in the public schools, is entitled to receive an education in the school for the blind at the expense of the state.

SECTION 9. AMENDMENT. Section 25-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-06-05. Admission of nonresidents. Blind children of suitable age who are not residents of this state ~~shall be entitled to an education may enroll~~ in the school for the blind upon payment in advance of the cost of ~~such the~~ education as ~~shall be~~ determined by the ~~director of institutions from time to time~~ superintendent of public instruction. Nonresident children, however, ~~shall~~ may not be received to the exclusion of children who are residents of this state.

SECTION 10. AMENDMENT. Section 25-07-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-04. Qualifications for admission to school for deaf - Residents of state entitled to free education. ~~In order to~~ To be admitted as a pupil in the school for the deaf, an applicant's hearing must be impaired to such extent that ~~he the applicant~~ cannot make suitable progress in the public schools of the state. The superintendent, with the approval of the ~~director~~ superintendent of public instruction, may determine the age required for admission. The superintendent shall furnish application blanks upon request,

* NOTE: Section 25-06-03 was also amended by section 1 of House Bill No. 1198, chapter 339.

and no person may be admitted to the institution until the application giving such that information as that the director of institutions may require superintendent of public instruction requires has been returned to and approved by the superintendent. An applicant admitted to the school must be furnished transportation by the school as provided in the student's individualized education program at the most economical rate possible, and yet meet the student's needs. Each such applicant who is a resident of this state and who, because of his handicap hearing impairment, is unable to receive an education in the public schools, is entitled to receive an education in the school for the deaf at the expense of the state.

SECTION 11. AMENDMENT. Section 25-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-05. Admission of nonresidents. Deaf children of suitable age who are not residents of this state shall be entitled to an education may enroll in the school for the deaf upon payment in advance of the cost of such the education as shall be determined by the director from time to time superintendent of public instruction. Nonresident children, however, shall may not be received to the exclusion of children who are residents of this state.

SECTION 12. A new section to chapter 25-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

School for the deaf - Appointment of superintendent, budget, staff, and reporting structure. The superintendent of the school for the deaf is appointed by and reports to the superintendent of public instruction. The school for the deaf must have a separate budget and separate staff from the department of public instruction.

* SECTION 13. AMENDMENT. Section 54-23-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-01. Institutions under control of director of institutions. The director of institutions shall have full power to manage, control, and govern, subject only to the limitations contained in this chapter and in title 25, the penitentiary, the school for the blind, the school for the deaf, the Grafton state school, the North Dakota industrial school, and San Haven department of corrections and rehabilitation and state radio communications. The director does not have the power to manage, control, and govern the veterans' home.

SECTION 14. AMENDMENT. Section 54-24-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-01. State library - State librarian appointed by director of institutions the superintendent of public instruction. The director of institutions superintendent of public instruction shall appoint an executive officer to be known as the state librarian, who shall report to the superintendent and must receive a salary within the amount appropriated for salaries by the legislative assembly. The state librarian shall have control of the work and shall be is the director of the state library. The state library is an autonomous agency and retains a budget and staff separate from that of the superintendent of public instruction.

* NOTE: Section 54-23-01 was also amended by section 49 of Senate Bill No. 2212, chapter 156.

SECTION 15. AMENDMENT. Section 54-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-03. Powers and duties of state librarian. The state librarian shall:

1. Make ~~rules and regulations according to which the business for the operation~~ of the state library ~~shall be done~~.
2. Provide and care for all books and library materials in all collections of the state library, general, reference, and special, and make all rules regarding the loaning and returning of library materials.
3. Employ qualified library personnel to care for all library procedures.
4. Make library materials available to libraries throughout the state, to individuals connected with departments of state, and to citizens of North Dakota who do not have adequate library facilities, under the rules ~~and regulations~~ of the state library.
5. Promote and assist by counsel and encouragement the formation of libraries and the improvement of those already established, in keeping with state and national standards, and be available to librarians and trustees of libraries in the state for assistance in organization, maintenance, or administration of the libraries.
6. Coordinate the efforts of librarianship throughout the state, advising and assisting the extension of qualified public libraries into centers of county or regional (multicounty) libraries.
7. Compile statistics of the free public libraries of North Dakota and their larger counterparts of county and regional libraries, and of the work done at the state library, and make a full biennial report to the ~~state director of institutions~~ superintendent of public instruction and the governor.
8. Collect, maintain, and make available a reference and reading collection of books, slides, films, and other graphic materials ~~such as will~~ that supplement and support the needs of all libraries in the state, either by direct loan or by consultation, and ~~such as will~~ that form a reference source for the officers of the state in ~~the performance of performing~~ their duties.
9. Collect and maintain a collection of the publications of the departments and agencies of state government, including the enacted laws of this state, current session laws and journals.
10. Conduct, or ~~arrange to~~ have conducted, research into the conditions of library service in the state, and produce written plans for the development and betterment of ~~such that~~ service.
11. Compile, or ~~arrange to~~ have compiled, union lists of resources of libraries throughout the state, and make ~~such those~~ lists available for consultation.

12. Establish levels of certification for librarians of the state ~~such as will~~ that meet the standards recommended by the American library association.

SECTION 16. GOVERNOR TO DEVELOP PLAN FOR TRANSFER OF POWERS AND DUTIES OF DIRECTOR OF INSTITUTIONS. The governor shall develop a plan for the transfer of the powers and duties of the director of institutions to other state agencies and departments and submit the plan to the fifty-second legislative assembly.

SECTION 17. EFFECTIVE DATE. This Act becomes effective on January 1, 1991.

Approved April 11, 1989
Filed April 12, 1989

CHAPTER 240

HOUSE BILL NO. 1424
(Representative Gates)
(Senator Holmberg)

NONRENEWAL OF FIRST-YEAR TEACHERS

AN ACT to amend and reenact section 15-47-27.1 of the North Dakota Century Code, relating to the nonrenewal of contracts of first-year teachers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-47-27.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-27.1. First-year teachers - Evaluation - Renewal and nonrenewal of contracts. Each school district and the director of institutions in this state shall have an established system through which two written evaluations are prepared during each school year for every teacher who is 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 made 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 or the director of institutions 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 or the director of institutions 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. Such notification of nonrenewal given to a first-year teacher must contain a detailed description of the reason or reasons for the nonrenewal.

Approved April 10, 1989
Filed April 11, 1989

* NOTE: Section 15-47-27.1 was also amended by section 2 of House Bill No. 1229, chapter 239.

CHAPTER 241

HOUSE BILL NO. 1041
(Legislative Council)
(Interim Education Committee)

EDUCATIONAL TELECOMMUNICATIONS COUNCIL

AN ACT to amend and reenact sections 15-47-36, 15-65-01, 15-65-02, and 15-65-03, subdivision h of subsection 1 of section 28-32-01, and subdivision l of subsection 1 of section 54-07-01.2 of the North Dakota Century Code, relating to the membership and name of the educational broadcasting council and the terms educational television services or facilities and radio facilities; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-47-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-36. Contracts authorized for educational television. The superintendent of public instruction may contract, for a period of not to exceed two years, with provisions for its renewal for like periods, ~~with a nonprofit corporation~~ for the purpose of providing the people of the state with educational ~~television services~~ telecommunication programs and systems in the fields of elementary, secondary, and higher education, adult education, and other fields tending to promote cultural development.

SECTION 2. AMENDMENT. Section 15-65-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-65-01. North Dakota educational ~~broadcasting telecommunications council~~ - Creation - Purpose. ~~The North Dakota legislative assembly hereby creates the North Dakota educational broadcasting telecommunications council for the purpose of encouraging and directing shall encourage and direct the creation of educational radio and television facilities telecommunication programs and systems within the state of North Dakota.~~

SECTION 3. AMENDMENT. Section 15-65-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-65-02. Membership - Appointment - Term - No compensation - Expenses - Organization. The North Dakota educational ~~broadcasting telecommunications council shall be composed~~ consists of ~~twelve members as follows: two ex officio members, one appointed by the board;~~

1. The commissioner of higher education, one appointed by the or the commissioner's designee.
2. The superintendent of public instruction, and eight or the superintendent's designee.

3. One citizen member appointed by the governor giving preference to users of a telecommunications system.
 4. The director of the central data processing division of the office of management and budget.
 5. A representative of prairie public broadcasting, appointed by the governor.
 6. A representative of the telephone industry, appointed by the governor.
 7. A representative of the North Dakota association of telephone cooperatives, appointed by the governor.
 8. A representative of the North Dakota cable television association, appointed by the governor.
 9. A school board member, appointed by the governor.
 10. A school administrator, appointed by the governor.
 11. A schoolteacher, appointed by the governor.
- ~~1. The ex officio members shall be:~~
- a. ~~The state superintendent of public instruction or his designated representative from that office.~~
 - b. ~~The commissioner of higher education or his designated representative from that office.~~
2. The appointed members shall be drawn from the public at large with no fewer than four from the western half of the state and no fewer than four from the eastern half of the state. The term of office shall be seven of the appointed members is three years, except that of the original appointees, two three shall serve one year, two three shall serve three two years, and two shall serve five three years, and two shall serve seven years, which appointees to be determined by lot. At all times either the school board member or the school administrator must be from a school with an enrollment of less than five hundred students.
3. No member shall receive any compensation but shall The two citizen members, the school board member, the school administrator, and the schoolteacher appointed by the governor must be reimbursed for reasonable and actual necessary expenses incurred in connection with service on the performance of their duties as members of the council at the same rates as provided by law for other state officers and employees. The costs incurred in reimbursing the two citizen members of the council for their actual necessary expenses must be paid by the superintendent of public instruction. The other members of the council are not entitled to any compensation or reimbursement for expenses incurred in performing their duties. The governor superintendent of public instruction shall call the initial meeting of the council at which time the council shall

elect its chairman and other officers and take such other action as it deems appropriate.

SECTION 4. AMENDMENT. Section 15-65-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-65-03. Powers and duties. The council ~~is directed~~ shall:

1. Direct the implementation of telecommunication systems that are compatible and that can be connected with each other.
2. Develop a comprehensive written plan for the development of telecommunications in this state.
3. ~~To be~~ Be concerned with the development and use of statewide educational ~~television and radio facilities~~ telecommunication programs and systems.
- 2- ~~4.~~ 4. ~~To hold~~ Hold coordinating authority for the development of such statewide educational ~~radio and television facilities~~ telecommunication programs and systems as may be required to serve the entire state.
- 3- ~~5.~~ 5. ~~To assist~~ Assist any organization, state agencies, or both in the preparation, filing, and prosecution before ~~the federal communications commission agencies~~ such applications, reports, or other documents or requests ~~for authorization~~ of any kind ~~as~~ that may be necessary or appropriate to achieve the purposes of this chapter.
- 4- ~~6.~~ 6. ~~To receive~~ Receive gifts and contributions from public and private sources to be expended ~~through the stations~~ to provide educational ~~broadcasting facilities and telecommunication programs; provided before accepting any tax-producing facilities the commission must first be given the approval by the budget section of the legislative council~~ and systems.
- 5- ~~7.~~ 7. ~~To be~~ Be concerned with the activation of educational broadcasting channels presently assigned to North Dakota, or the reallocation or addition of ~~such~~ the channels, or both, as are determined to be in the best interests of the people of the state.
- 6- ~~8.~~ 8. ~~To actively~~ Actively cooperate with the state department of public instruction and the state board of higher education and other agencies and private organizations for the purpose of developing statewide educational ~~broadcasting telecommunication~~ projects.
- 7- ~~9.~~ 9. ~~To adopt~~ Adopt bylaws for the conduct of its affairs.
- 8- ~~10.~~ 10. ~~To publish such~~ Publish the informational material ~~as~~ it deems necessary.
- 9- ~~11.~~ 11. ~~To carry~~ Carry on a continuing study relating to the needs, resources, and facilities which are available or may be required to establish educational ~~radio and television facilities~~ telecommunication programs and systems throughout the entire state.

~~10-~~ 12. ~~To contract~~ Contract with eligible applicants to build and operate public television stations in this state. Eligible applicants are those licensed by the federal communications commission to operate noncommercial public television stations. Operational contracts shall not exceed the amount raised within the preceding fiscal year by the applicant from nontax sources in this state.

SECTION 5. AMENDMENT. Subdivision h of subsection 1 of section 28-32-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

h. The educational ~~broadcasting~~ telecommunications council.

* SECTION 6. AMENDMENT. Subdivision 1 of subsection 1 of section 54-07-01.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The educational ~~broadcasting~~ telecommunications council.

SECTION 7. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of reimbursing the necessary expenses of certain members of the North Dakota educational telecommunications council, for the biennium beginning July 1, 1989, and ending June 30, 1991.

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

Approved April 13, 1989
Filed April 13, 1989

* NOTE: Section 54-07-01.2 was also amended by section 70 of Senate Bill No. 2257, chapter 80, and section 3 of Senate Bill No. 2324, chapter 295.

CHAPTER 242

SENATE BILL NO. 2470
(Heinrich)

TEACHER DISCHARGE IN ABUSE OR NEGLECT CASES

AN ACT to create and enact a new subsection to section 15-47-38 of the North Dakota Century Code, relating to the reasons for the nonrenewal and discharge of a teacher.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 15-47-38 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

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

Approved April 19, 1989
Filed April 19, 1989

CHAPTER 243

SENATE BILL NO. 2473
(Olson)

NAMES

AN ACT to require the use of a pupil's legal surname in schools; and to amend and reenact section 32-28-02 of the North Dakota Century Code, relating to petitions for change of name in district court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Use of pupils' legal surnames. Each pupil enrolled in a public, private, or parochial school or a day care center, child care facility, head start program, or nursery school must be registered in that pupil's legal surname, and all records maintained by the school, center, facility, or program with regard to a pupil must be maintained in that pupil's legal surname. All officials, teachers, administrators, and other employees of a school, center, facility, or program shall use the legal surname in all communications in which a surname of a pupil is used.

SECTION 2. AMENDMENT. Section 32-28-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-28-02. Change of name of person - Petition. Any person desiring to change his or her name may file a petition in the district court of the county in which the person is a resident, setting forth:

1. That the petitioner has been a bona fide resident of the county for at least six months prior to the filing of the petition.
2. The cause for which the change of the petitioner's name is sought.
3. The name asked for.

The judge of the district court, upon being duly satisfied by affidavit or proof in open court of the truth of the allegations set forth in the petition, that there exists proper and reasonable cause for changing the name of the petitioner, and that thirty days' previous notice of the intended application has been given in some newspaper printed in the district, shall order a change of the name of the petitioner. The court may waive publication of the notice when the proposed change relates only to a first or given name as distinguished from a surname.

Approved March 31, 1989
Filed March 31, 1989

CHAPTER 244

SENATE BILL NO. 2215
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

CHILD NUTRITION AND FOOD DISTRIBUTION PROGRAMS

AN ACT to amend and reenact sections 15-54-01, 15-54-02, 15-54-03, 15-54-04, 15-54-05, and 15-54-06 of the North Dakota Century Code, relating to the child nutrition and food distribution programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-54-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-01. Definitions. In this chapter unless the context otherwise clearly requires:

1. "Child nutrition program" means any program that provides federal assistance for the provision of nutritious meals for children.
2. "Food distribution program" means any program that provides federally donated agricultural commodities, products, and other foods, or cash payments in lieu of foods, to eligible participants.
3. "School" shall mean means a public or private nonprofit school operated by a school district as provided for in this title.
- ~~2.~~ 4. "School board" shall mean means publicly elected officials as provided for in this title.
- ~~3.~~ "School lunch program" means a program under which lunches are served by any school in the state on a nonprofit basis to children in attendance; including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.
- ~~4.~~ 5. "State educational agency" shall mean means the state department of public instruction.

SECTION 2. AMENDMENT. Section 15-54-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-02. Expenditure of federal funds. The state educational agency shall establish a fund known as the North Dakota school lunch fund. All moneys received by the state educational agency, from the federal government or any other source, for the North Dakota school lunch program, shall be placed in such a fund. All disbursements from such funds shall be made only by checks or warrants drawn on the school lunch fund. Such checks and warrants shall be drawn only by persons who are duly authorized to do so by

resolution of the state educational agency administer federal funds designed to provide nonprofit child nutrition programs and food distribution programs for eligible participants. The state educational agency may enter into a contract with any agency of the federal government so that the available federal funds may be used to the fullest extent possible by the state. The state educational agency shall receive, deposit, and disburse the funds in accordance with state and federal law, regulations, and policies.

SECTION 3. AMENDMENT. Section 15-54-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-03. Administration of program. The state educational agency may enter into such agreements with any agency of the federal government, with any ~~school board, or with any other agency or~~ person, public or nonprofit private agency, school, institution, organization, corporation, firm, foundation, or entity and prescribe such regulations, employ such personnel, and take such other action, as it may deem necessary to provide for the establishment, maintenance, operation, and expansion of any ~~school lunch child nutrition and food distribution program, and to direct the disbursement of federal and state funds, in accordance with any applicable provisions of federal or state law. The state educational agency may give technical advice and assistance to any school board person, public or nonprofit private agency, school, institution, organization, corporation, firm, foundation, or entity in connection with the establishment and operation of any school lunch child nutrition and food distribution program and may assist in training personnel engaged in the operation of such program programs. The state educational agency and any school board person, public or nonprofit private agency, school, institution, organization, corporation, firm, foundation, or entity may accept any gift for use in connection with any school lunch child nutrition and food distribution program.~~

SECTION 4. AMENDMENT. Section 15-54-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-04. School boards. Pursuant to any power of school boards to operate or provide for the operation of ~~school lunch child nutrition and food distribution~~ programs in schools under their jurisdiction, school boards may use therefor funds disbursed to them under the provisions of this chapter, gifts, and other funds received from the sale of ~~school lunches meals~~ under such programs.

SECTION 5. AMENDMENT. Section 15-54-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-05. Accounts, records, reports, and operations. The state educational agency shall prescribe regulations for the keeping of accounts, and records and the making of reports by or under the supervision of ~~school boards any person, public or nonprofit private agency, school, institution, organization, corporation, firm, foundation, or entity participating in a child nutrition or food distribution program. Such accounts and records at all times shall be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five years, as the state educational agency lawfully may prescribe. The state educational agency shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school lunch child nutrition and food distribution programs as may be necessary to determine whether its agreements with school boards~~

entered into and regulations made pursuant to rules adopted under this chapter are being complied with, and to ensure that school lunch child nutrition and food distribution programs are effectively administered.

SECTION 6. AMENDMENT. Section 15-54-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-06. Studies, appraisals, and reports to governor. The state educational agency to the extent that funds are available for that purpose, and in cooperation with other appropriate agencies and organizations, may conduct studies of methods of improving and expanding school lunch child nutrition and food distribution programs and promoting nutritional education in the schools, may conduct appraisals of the nutritive benefits of school lunch child nutrition and food distribution programs, and may report its findings and recommendations from time to time, to the governor.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 245

SENATE BILL NO. 2039
 (Legislative Council)
 (Interim Education Finance Committee)

SPECIAL EDUCATION BOARDING HOME CARE

AN ACT to amend and reenact sections 15-59.3-01, 15-59.3-02, 15-59.3-03, 15-59.3-04, 15-59.3-05, 15-59.3-06, 15-59.3-07, 15-59.3-08, and 15-59.3-10 of the North Dakota Century Code, relating to boarding home care for special education students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-59.3-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-01. Definitions. As used in this chapter:

1. "Boarding home care for special education students" means the provision of boarding home care for those students described in subsection 1 of section 15-59-01 and includes the provision of food, shelter, security, and safety, on a twenty-four-hour basis to one or more students.
2. "Department" means the department of human services.
3. "Family boarding home" means an occupied private residence at which boarding home care for special education students is regularly provided by the owner or lessee thereof to no more than four children, unless all students provided boarding home care are related to each other by blood or marriage, in which case this limitation shall not apply.
4. ~~"Group boarding home" means an occupied private residence in which boarding care for special education students is regularly provided for more than four, but less than ten, unrelated students.~~
5. ~~"Registrant" means the holder of a registration certificate issued by the department in accordance with the provisions of this chapter.~~
6. 5. "Registration" means the process whereby the department maintains a record of all family boarding ~~or residential care facilities~~ homes, prescribes standards and ~~promulgates regulations~~ adopts rules under section 15-59.3-06, and requires the operator of such home ~~or facility~~ to certify that ~~he~~ the operator has complied with the prescribed standards and ~~promulgated regulations~~ adopted rules.
7. 6. "Registration certificate" is a written instrument issued by the department to publicly document that the certificate holder ~~has~~

~~certified his is in~~ compliance with this chapter and the applicable regulations rules and standards as prescribed by the department.

~~8-~~ 7. "Relative" means any person having the following relationship to the student by marriage, blood, or adoption: grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt.

9. ~~"Residential boarding care facility" means a facility other than an occupied private residence providing boarding home care for more than eight special education students, except as may be otherwise provided by rule or regulation.~~

SECTION 2. AMENDMENT. Section 15-59.3-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-02. Boarding home care for special education students - Registration required. No person, partnership, voluntary organization, or corporation ~~shall~~ may establish or operate a family boarding home, ~~group boarding home, or residential boarding care facility~~ without first obtaining a registration certificate. The mandatory provisions of this section requiring registration ~~shall~~ do not apply when the boarding home care is provided in:

1. The home of a relative.
2. A home or institution under the management and control of the state or the public school board.
3. A home ~~or facility~~ furnishing "foster care for children" as defined in subsection 1 of section 50-11-00.1.

SECTION 3. AMENDMENT. Section 15-59.3-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-03. Public agency purchase of boarding home care for special education students. No agency of state or local government ~~shall~~ may purchase or provide boarding home care for special education students unless the family boarding home, ~~group boarding home, or residential boarding care facility~~:

1. Has obtained a registration certificate; or
2. If exempted from registration by ~~subsections~~ subsection 1 or 2 of section 15-59.3-02, complies with all applicable standards, ~~and rules, and regulations as may be issued or promulgated~~ adopted by the department.

SECTION 4. AMENDMENT. Section 15-59.3-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-04. Registration certificate granted. Applications for a registration certificate for the operation of a home ~~or facility~~ receiving special education students for boarding home care shall be made on the forms provided, and in the manner prescribed, by the department. The department may investigate the applicant's activities and make an inspection of the proposed home ~~or facility~~. A registration certificate for the operation of

the home ~~or facility~~ shall be granted by the department within ten working days of receipt of the proper forms upon a determination that:

1. The premises to be used are in sanitary condition and properly equipped to provide for the health and safety of all students who may be received;
2. The persons in charge of such home ~~or facility~~ and their assistants are qualified to fulfill the duties required of them according to the provisions of this chapter and the rules, ~~regulations~~, and standards prescribed by the department; and
3. The home ~~or facility~~ will be maintained according to the standards prescribed for its conduct by the rules ~~and regulations~~ of the department. The registration certificate shall be in ~~force and effect~~ for a period of not more than two years.

SECTION 5. AMENDMENT. Section 15-59.3-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-05. Conviction not bar to registration - Exceptions. Conviction of an offense ~~shall~~ ~~does~~ not disqualify a person from registration under this chapter unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or proprietor of a boarding home ~~or facility~~ for special education students, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 6. AMENDMENT. Section 15-59.3-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-06. Minimum standards - Rules ~~and regulations~~ - Inspection by a governmental unit. The department may:

1. Establish reasonable minimum standards for the operation of boarding homes ~~and facilities~~ and the registration of such homes ~~and facilities~~. In appropriate circumstances and upon good cause shown, specific minimum standards may be substituted by alternate, equivalent standards, approved by the department.
2. Take such action and make such reasonable rules ~~and regulations~~ for the regulation of boarding home care for special education students as may be necessary to carry out the purposes of this chapter and entitle the state to receive aid from the federal government.
3. Authorize a governmental unit to:
 - a. Inspect any home ~~or facility~~ for which a registration certificate is applied for or issued under this chapter; and
 - b. Certify to the department that the home ~~or facility~~ meets the requirements of this chapter and the minimum standards prescribed by the department.

SECTION 7. AMENDMENT. Section 15-59.3-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-07. Investigation of applicants and registrants - Maintenance of records - Confidentiality of records.

1. The department and its authorized agents at any time may investigate and inspect the conditions of the home ~~or facility~~ and the qualifications of the owner or operator thereof. Upon request of the department, the state department of health and consolidated laboratories or the state fire marshal, or his designee, shall inspect any home ~~or facility~~ for which a registration certificate is applied for or issued and shall report its findings to the department.
2. All holders of registration certificates shall:
 - a. Maintain such records as the department may prescribe regarding each student in their care and control, and shall report to the department, when requested, such facts as the department may require with reference to the students upon forms furnished by the department; and
 - b. Admit for inspection authorized agents of the department and open for examination all records, books, and reports of the home ~~or facility~~.
3. All records and information maintained with respect to students receiving ~~departmenting~~ home care for special education students ~~shall be deemed~~ are confidential and, must be properly safeguarded, and ~~shall~~ must not be disclosed except:
 - a. In a judicial proceeding;
 - b. To officers of the law or other legally constituted departments or agencies; or
 - c. To parents and persons having a definite interest in the well-being of the student or students concerned and who, in the judgment of the department, are in a position to serve their interests should that be necessary.

SECTION 8. AMENDMENT. Section 15-59.3-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-08. Revocation of registration certificate. The department may revoke the registration certificate of any family boarding home, ~~group boarding home, or residential boarding care facility~~ upon a proper showing of any of the following:

1. Any of the applicable conditions set forth in section 15-59.3-04 as prerequisites for the issuance of the registration certificate no longer exist.
2. The registrant is no longer in compliance with the minimum standards prescribed by the department.
3. The registration certificate was issued by fraudulent or untrue representation.

4. The registrant has violated any rules **and regulations** of the department.
5. The registrant has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as a registrant.
6. The registrant has been convicted of any offense and the department, pursuant to section 12.1-33-02.1, has determined that ~~he~~ the registrant has not been sufficiently rehabilitated.

SECTION 9. AMENDMENT. Section 15-59.3-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.3-10. Contents of registration certificate. The registration certificate shall show the name of the owner or operator of the boarding home **or facility**, its location, and the maximum number of students who may be received and kept there at any one time.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 246

HOUSE BILL NO. 1087
(Committee on Education)
(At the request of the State Auditor)

BIENNIAL SCHOOL FUND AUDITS

AN ACT to amend and reenact section 15-60-07 of the North Dakota Century Code, relating to examination of records and accounts of the state board of public school education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 15-60-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-07. Moneys of the fund. The custodian of the building fund of any school district for which a building or an addition to an existing building has been constructed shall pay annually to the state treasurer all moneys due as rental or rentals together with two and one-half percent interest as herein provided, which money shall be credited to the state school construction fund. The moneys in said account shall be paid out on the warrant or other order by the chairman and secretary of the board. The state auditor or his legally authorized representatives are hereby authorized and directed to audit the accounts and books of the board, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its finances, operation, and affairs **annually at least once every two years.**

Approved March 9, 1989
Filed March 9, 1989

* NOTE: Section 15-60-07 was also amended by section 13 of House Bill No. 1002, chapter 2.

CHAPTER 247

SENATE BILL NO. 2171
 (Committee on Education)
 (At the request of the Board of Higher Education)

SCHOLARS PROGRAM

AN ACT to amend and reenact sections 15-62.2-00.1, 15-62.2-01, 15-62.2-02, 15-62.2-03.1, 15-62.2-03.2, 15-62.2-03.3, 15-62.2-03.4, 15-62.2-03.5, and 15-62.2-04 of the North Dakota Century Code, relating to the name of the North Dakota merit scholarship program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-62.2-00.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-00.1. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Eligible candidate" means a graduate of a high school in this state or a resident of this state for tuition purposes whose assessment composite scores on the test of academic achievement administered by the American college testing program place the student in at least the ninety-fifth percentile of all students taking the test for the year preceding January first of the year in which the student is applying for a scholarship, and who ranks in the upper twentieth percentile of the student's high school class.
2. "Eligible institution" means an accredited public or nonprofit private postsecondary institution in this state.
3. "Full-time resident student" means a person who is a graduate of a high school in this state or who is a resident of this state for tuition purposes and who is enrolled at an eligible institution carrying a course of study which is "full time" as defined by the eligible institution.
4. "High school class rank" means the position a merit scholarship candidate holds in the candidate's graduating class as of the seventh semester of the candidate's high school program.
5. "~~Merit scholar~~" "Scholar" means a full-time resident student who is awarded a ~~merit~~ scholarship or who has previously received a ~~merit~~ scholarship.
6. "~~Merit scholarship~~" "Scholarship" means a financial award granted to a state scholar as determined by this chapter.

SECTION 2. AMENDMENT. Section 15-62.2-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Resident undergraduate students pursuant to section 15-10-19.
2. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to section 15-40.2-10, who are attending qualified institutions of postsecondary education within North Dakota.
3. North Dakota resident students who, because of physical or mental handicap as certified by a physician, are attending postsecondary institutions out of state due to the lack of special services or facilities, or both, necessary to meet the postsecondary educational needs of the handicapped students within North Dakota.
4. Merit scholars Scholars who qualify and are selected for merit scholarships pursuant to sections 15-62.2-00.1 and 15-62.2-03.1 through 15-62.2-03.5.

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

* SECTION 3. AMENDMENT. Section 15-62.2-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-02. Board of higher education - Powers and duties. The board of higher education shall:

1. Administer the North Dakota student financial assistance program and the North Dakota merit scholarship scholars program and adopt functional rules regarding the eligibility and selection of grant and merit scholarship recipients.
2. Determine the amount of individual grants, but not to exceed five hundred dollars per recipient per academic year under the North Dakota student financial assistance program.
3. Adopt for the North Dakota student financial assistance program, criteria for substantial need based upon the ability of the parents or guardian to contribute toward the applicant's educational expenses.
4. Establish the appropriate procedures for fiscal control, fund accounting, and necessary reports.

* NOTE: Section 15-62.2-02 was also amended by section 1 of Senate Bill No. 2344, chapter 248.

5. Apply for, receive, expend, and administer granted moneys from federal or private sources.

SECTION 4. AMENDMENT. Section 15-62.2-03.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03.1. Administration of merit scholarship scholars program. The board of higher education shall administer the merit scholarship scholars program and shall adopt procedures and guidelines necessary to carry out the purposes of this chapter. The board of higher education shall establish appropriate procedures for fiscal control, fund accounting, and necessary reports.

SECTION 5. AMENDMENT. Section 15-62.2-03.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03.2. Reapplication eligibility - Amount of scholarships - Duration. Merit scholars Scholars are eligible to reapply for merit scholarships for subsequent academic years provided they maintain a 3.6 grade point average based upon a 4.0 grading system. The amount of the merit scholarship must equal the tuition charged at the merit scholar's eligible institution but may not exceed the amount charged for tuition at the state universities. A state scholar may receive a merit scholarship for not more than eight semesters or twelve quarters of undergraduate study, or until the attainment of the student's baccalaureate degree, whichever comes first.

SECTION 6. AMENDMENT. Section 15-62.2-03.3 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03.3. Selection of merit scholars. All eligible candidates must be ranked by their composite scores on the test of academic achievement administered by the American college testing program. If two or more eligible students have the same scores, they must be ranked by their high school class rank calculated on a percentile basis. Merit scholarships Scholarships must be offered to students in descending order according to this ranking until available funds have been expended, or until the pool of eligible applicants has been exhausted. Merit scholarships Scholarships must be awarded in April of each year for the following academic year, or as soon thereafter as practical.

SECTION 7. AMENDMENT. Section 15-62.2-03.4 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03.4. Payment of merit scholarships. One-half of the annual merit scholarship must be paid to each merit scholar at the beginning of the fall semester and one-half at the beginning of the spring semester for students attending institutions on the semester system. One-third of the merit scholarship must be paid to each merit scholar at the beginning of each quarter for merit scholars attending institutions on the quarter system. Payments must not be made until the merit scholar's enrollment and full-time resident student status has been certified by the eligible institution the student is attending. Merit scholarship Scholarship funds must be paid by

warrant-check prepared by the office of management and budget upon vouchers prepared for this purpose.

SECTION 8. AMENDMENT. Section 15-62.2-03.5 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03.5. Use of funds - Refund policy. Merit scholarships Scholarships may be used to defray costs of tuition, fees, room, board, books, supplies, and other expenses incidental to attending an eligible institution. If a merit scholar discontinues attendance before the completion of any semester or quarter for which a merit scholarship has been received, any refund is governed by the published refund or repayment policy of the eligible institution.

SECTION 9. AMENDMENT. Section 15-62.2-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 248

SENATE BILL NO. 2344
(O'Connell, Mathern, Krebsbach, Kinnoin, Heinrich)

HIGHER EDUCATION STUDENT GRANTS

AN ACT to amend and reenact subsection 2 of section 15-62.2-02 of the North Dakota Century Code, relating to grants to students by the board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 2 of section 15-62.2-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Determine the amount of individual grants, but not to exceed ~~five~~ six hundred dollars per recipient per academic year under the North Dakota student financial assistance program.

Approved April 12, 1989
Filed April 13, 1989

* NOTE: Section 15-62.2-02 was also amended by section 3 of Senate Bill No. 2171, chapter 247.

CHAPTER 249

SENATE BILL NO. 2162
(Committee on Education)
(At the request of the Board of Higher Education)

INDIAN SCHOLARSHIP BOARD MEMBERS

AN ACT to amend and reenact section 15-63-01 of the North Dakota Century Code, relating to membership on the state board for Indian scholarships.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-63-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-01. State board for Indian scholarships. There is hereby established a state board for Indian scholarships consisting of an Indian appointed by the governor, the executive director of the state Indian affairs commission, and the commissioner of higher education or the commissioner's designee. The commissioner of higher education or the commissioner's designee shall serve as chairman and the executive director of the state Indian affairs commission shall serve as secretary of the board for Indian scholarships.

Approved March 14, 1989
Filed March 15, 1989