

# EDUCATION

## CHAPTER 203

HOUSE BILL NO. 1629  
(Unhjem, Backes, Stenehjem, Strinden)

### JUDICIAL WING AND OFFICE BUILDING ADD-ALTERNATES

AN ACT authorizing the board of university and school lands to invest permanent funds of the common schools in add-alternates for the judicial wing and state office building; and declaring an emergency.

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

SECTION 1. INVESTMENT OF COMMON SCHOOL FUND.) The board of university and school lands may invest an amount not to exceed two million five hundred thousand dollars from the permanent fund of the common schools in additional square feet of floor space, and other fixtures, equipment, and improvements for the judicial wing and state office building.

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

Approved March 13, 1979

## CHAPTER 204

SENATE BILL NO. 2464  
(Redlin)

### LOAN POOL ACCOUNT INSTRUMENTS

AN ACT to create and enact a new section to chapter 15-03 of the North Dakota Century Code, relating to the execution of instruments under the board of university and school lands loan pool account.

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

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

LOAN POOL ACCOUNT - EXECUTION OF INSTRUMENTS.) The Bank of North Dakota shall, in accordance with standard banking practices, execute all instruments on behalf of the board of university and school lands that pertain to real estate mortgages in the loan pool account, including satisfactions and partial releases. The Bank of North Dakota shall also act as agent for the board and shall execute all instruments, including satisfactions and partial releases, that pertain to mortgages previously issued by the board. All instruments shall be executed in the same manner as specified in section 6-09-26.1. This section is self-executing and no assignment, power of attorney, or other instrument of transfer is necessary to establish the authority of the Bank of North Dakota to act on behalf of the board of university and school lands under this section.

Approved March 15, 1979

## CHAPTER 205

HOUSE BILL NO. 1204  
 (Committee on State and Federal Government)  
 (At the request of the Land Department)

## LAND DEPARTMENT RECEIPT ISSUANCE

AN ACT to amend and reenact sections 15-04-13, 15-04-15, 15-04-16, and 15-08-11 of the North Dakota Century Code, relating to the issuance of receipts by the state land department.

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

SECTION 1. AMENDMENT.) Section 15-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-13. APPROVAL OF LEASES BY BOARD - EXECUTION OF ~~DUPLICATE~~ LEASE CONTRACTS.) Immediately upon the receipt of the reports of the county auditor as required by section 15-04-10, the board of university and school lands shall approve and confirm such leases as in its judgment should be made and shall certify at once to the commissioner a list of the approved leases. The commissioner, without delay, shall execute ~~duplicate~~ contracts of lease in the form prescribed by the board and shall forward ~~the duplicate--copy~~ same to the lessee ~~and file the original in the office of the commissioner.~~ The commissioner shall certify forthwith, to the auditor of the proper county, a list of the leases that have been approved by the board.

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

15-04-15. COLLECTION OF RENTALS ~~--RECEIPTS.~~) The lessee of any land leased under the provisions of this chapter, or his heirs, executors, administrators, or assigns shall pay to the state land commissioner at his office in Bismarck, North Dakota, or to his duly appointed agent any amounts that may become due from time to time upon the lease. ~~For the amount paid, the state land commissioner shall give to the person making the payment a duplicate receipt, specifying the amount paid, the date of payment, the number of the lease, the description of the land for which the payment is made, the name of the person making the payment, the nature of the payment, whether for rent, interest, or penalty, and for what year.~~

~~A separate receipt shall be given for each lease and a separate receipt for each year's payment.~~

SECTION 3. AMENDMENT.) Section 15-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-16. REPORT BY COUNTY TREASURER OF RENTALS COLLECTED - REGULATIONS--GOVERNING.) All moneys received by each county treasurer under--the-provisions-of-this-chapter following the lease auction shall be held subject to the order and direction of the state treasurer and the board of university and school lands. ~~On or before the fifteenth day of each month, Within five days following the lease auction the county treasurer of each county shall make a report to the commissioner of university and school lands of--all moneys--collected--by--him--during--the--preceding--calendar--month--such report--to--be--in--such--form--and--on--such--blanks--as--may--be--prescribed and on such forms as are furnished by the commissioner of all moneys collected at the auction. The report shall include a--briefly described--list--of--all--receipts--for--the--month--the--amount--of--each receipt--and--the--total--amount--collected--for--the--month--from--each source--and--shall--be--accompanied--by--a--triplicate a copy of each receipt shown thereon issued. The county treasurer shall make a similar report to the state auditor showing the total amount collected from leases for the month and corresponding with the amount reported to the commissioner. After he has received the reports from the several county treasurers, the commissioner shall check and verify the reports from the records of his office and apportion the several amounts to the funds to which the same are applicable. The apportionment as made by the commissioner shall be certified to the state auditor who shall proceed to make drafts on the respective county treasurers in the same manner as drafts are made for state taxes. The drafts of the state auditor shall be placed to the credit of the proper funds certified to him by the commissioner.~~

SECTION 4. AMENDMENT.) Section 15-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-11. CONTRACT PAYMENTS MADE TO COMMISSIONER - REPORT TO STATE TREASURER.) The purchaser of any land sold by the board of university and school lands, his heirs, executors, administrators, or assigns, shall pay to the commissioner of university and school lands any amounts that may become due from time to time upon the contract for principal, interest, and penalties. The commissioner shall report and pay to the state treasurer daily all collections of principal, interest, and penalty payments, and shall receipt therefor to the person making such payment. At the time of such payment to the state treasurer, the commissioner shall apportion the amounts paid to the funds to which the same are applicable and shall certify such apportionment to the state auditor.

Approved March 3, 1979

## CHAPTER 206

HOUSE BILL NO. 1378  
(G. Larson, I. Jacobson, Knudson)

## HIGHER EDUCATION RETIREMENT PROGRAM

AN ACT to amend and reenact subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to a retirement program for employees of institutions of higher education as an alternative to chapter 15-39.1.

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

SECTION 1. AMENDMENT.) Subsection 13 of section 15-10-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. To establish a retirement program as an alternative to chapter 15-39.1 for employees of institutions under its control ~~who are not vested members of the teachers' fund for retirement~~ subject to the following guidelines:
  - a. Benefits under the program shall be provided through annuity contracts purchased by the board but which shall become the property of the participants;
  - b. The cost of the annuity contracts shall be defrayed by equal contributions of the participant and employer institution; and
  - c. Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, ~~he may withdraw~~ the employee's assessments and employer's contributions together with interest therefrom as contemplated by section 15-39-1-20 to deposit for his credited at the current rate for one-year certificates then being paid by the Bank of North Dakota shall be transferred to the employee's account in the alternate program. Such election shall be made prior to July 1, 1980, and shall relinquish all rights the eligible employee or

the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2.

The board shall provide for the administration of the alternate retirement program and establish rules and regulations therefor consistent with the foregoing guidelines. Nothing in this subsection shall be construed in derogation of any existing retirement programs approved by the board.

Approved March 19, 1979

## CHAPTER 207

HOUSE BILL NO. 1542  
(Representative R. Hausauer)  
(Senator Melland)

## HIGHER EDUCATION LIABILITY INSURANCE

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 state board of higher education.

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

SECTION 1.) A new subsection to section 15-10-17 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To insure itself and its employees and the officers, employees, and students, and any building or other property, real or personal, of any institution under its control against any loss or liability it deems advisable. If the board or any institution under its control purchases insurance pursuant to this subsection, the purchaser shall waive immunity to suit for liability only to the types of insurance coverage purchased and only to the extent of the policy limits of such coverage. For the public buildings, fixtures, and permanent contents therein described in chapter 26-24, insurance secured under this subsection shall be supplemental to and not in lieu of the provisions of chapter 26-24. If a premium savings will result, policies purchased hereunder may be taken out for more than one year, but in no event beyond a period of five years. Policies may be secured in individual or master policy form.

Approved March 13, 1979

## CHAPTER 208

SENATE BILL NO. 2327  
(Senators Olin, Jacobson, Krauter)  
(Representatives Christensen, Murphy, Thompson)

### DICKINSON EXPERIMENT STATION LAND TRANSFERS

AN ACT to require the state board of higher education to purchase a working ranch unit for the Dickinson experiment station; to create a committee to select the working ranch unit; to authorize the state board of higher education to sell certain land presently used by the Dickinson experiment station; to authorize the board of university and school lands to invest permanent funds of the common schools in the working ranch unit; to provide an appropriation; and to declare an emergency.

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

SECTION 1.) The state board of higher education, in order to adequately fulfill those research needs which cannot be accomplished at any presently existing or planned experimental facility and to establish an improved Dickinson livestock experiment facility, shall purchase a working ranch unit in southwestern North Dakota, within a thirty-mile radius of the Dickinson experiment station headquarters, capable of supporting a three-hundred unit cow-calf ranching operation. The unit shall consist of at least three thousand acres but not more than three thousand five hundred acres, with at least fifty percent of the acreage to be western short grass native rangeland. The unit shall include suitable physical facilities for the improved operation of the Dickinson experimental livestock research program.

SECTION 2.) A committee is created, composed of the following membership:

1. The vice president for agriculture at North Dakota state university.
2. The director of the main experiment station.
3. The chairman of the department of botany at North Dakota state university.

4. The chairman of the department of animal science at North Dakota state university.
5. The superintendent of the Dickinson branch of the North Dakota agricultural experiment station.
6. The chairman of the state board of higher education, or a board member designated by the chairman.
7. A bona fide operating livestock producer chosen by the board of directors of each of the following associations:
  - a. The North Dakota stockmen's association.
  - b. The North Dakota hereford association.
  - c. The North Dakota polled hereford association.
  - d. The North Dakota angus association.
  - e. The North Dakota shorthorn and polled shorthorn association.
  - f. The North Dakota charolais association.
  - g. The North Dakota simmental association.
  - h. The North Dakota pork producers.
  - i. The North Dakota dairy producers association.
  - j. The North Dakota livestock feeders association.

The representative of the state board of higher education is chairman of the committee and shall call an organizational meeting of the committee as soon as practicable following the effective date of this Act. The chairman is responsible for directing the committee in accomplishing the purposes of this Act. The committee shall perform such acts as are reasonable and necessary in locating and selecting the working ranch unit described in section 1. The committee is responsible to and shall report its findings to the state board of higher education. Committee members shall be paid for expenses incurred in attending committee meetings and in the performance of their official duties in the amounts provided by law for other state officers.

SECTION 3.) The state board of higher education shall purchase the working ranch unit described in section 1 upon selection of the unit by the committee.

SECTION 4.) The board of university and school lands may invest an amount not to exceed two million two hundred sixty-five thousand dollars from the permanent fund of the common schools as a loan to the board of higher education for the section 1 unit

purchase, section 2 committee implementation, and section 6 land sale. The board of higher education is authorized to borrow from the board of university and school lands the sum of two million two hundred sixty-five thousand dollars, or so much thereof as may be necessary, for the purpose of the section 1 unit purchase, section 2 committee implementation, and section 6 land sale. The loan from the board of university and school lands shall be for a term not to exceed ten years, but the amount of the loan, interest rate, and method of repayment are to be negotiated by the board of university and school lands and the board of higher education. The board of higher education is authorized to grant a security interest to the permanent fund of the common schools in the property to be acquired. The members of the state board of higher education shall not be held personally liable for repayment of any loan obtained under this section, and the board shall be liable for repayment only in the manner provided pursuant to this section.

SECTION 5.) Upon full transfer of the Dickinson experimental livestock research program to the working ranch unit, the state board of higher education shall transfer custody and control of that portion of land owned by the board in the west half of section four, township one hundred thirty-nine north, range ninety-six west, comprising approximately forty-two acres, to the use of Dickinson state college. The full appraised value of the land transferred to the use of Dickinson state college shall be reflected in the purchase of the working ranch unit under section 1.

SECTION 6.) Upon full transfer of the Dickinson experimental livestock research program to the working ranch unit, the state board of higher education shall sell the following property used by the Dickinson experiment station and comprising approximately five hundred forty-four acres:

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

The land shall be conveyed for the terms and under the conditions necessary to obtain the best possible return to the state of North Dakota in accordance with section 54-01-05.2. The state board of higher education may not convey any land described in this section for agricultural purposes. Notwithstanding other provisions of state law and local ordinances, the board, after consultation with the Dickinson planning and zoning commission and Stark County planning and zoning commission, may subdivide the land, and dedicate

streets, alleys, and other lands for public use, install water, sewer, curb, gutter, other utilities, and streets for the purpose of achieving the best possible return to the state of North Dakota.

SECTION 7.) Any rents or profits or proceeds from the sale or other disposition of the property described in section 6 shall be used to make principal and interest payments on such amounts as may be borrowed by the board of higher education pursuant to section 4. Upon payment of the total principal and interest on moneys borrowed by the board, any additional rents, profits, or proceeds as may be received shall be deposited in the general fund in the state treasury.

SECTION 8. APPROPRIATION.) There is hereby appropriated the loan proceeds from any loan under section 4 to the state board of higher education for the following purposes:

Section 1 unit purchase	\$1,750,000
Section 2 committee implementation	15,000
* Section 5 land sale	<u>500,000</u>
Total loan proceeds	<u>\$2,265,000</u>

Section 54-44.1-11 does not apply to the funds appropriated by this section.

SECTION 9. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 21, 1979

\* NOTE: Reference should be to section 6.

## CHAPTER 209

HOUSE BILL NO. 1305  
(Knudson)

### HETTINGER EXPERIMENT STATION LAND EXCHANGE

AN ACT to authorize the state board of higher education to exchange land presently used by Hettinger experiment station for land presently owned by Hettinger public school district no. 13.

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

SECTION 1.) The state board of higher education is authorized to exchange the following property, comprising approximately 4.92 acres, presently used by the Hettinger experiment station, for the property described in section 2 owned by Hettinger public school district no. 13:

That tract of land located in the southeast quarter of section 11, township 129, range 96, more particularly described as follows: beginning at a point 1,086 feet north and 33 feet west of the southeast corner of section 11, thence west and parallel to the south line of section 11, a distance of 400 feet, thence north and parallel to the east line of section 11, a distance of 535.78 feet, thence east a distance of 400 feet, thence south a distance of 535.78 feet to the point of beginning.

SECTION 2.) The land described in section 1 is to be exchanged by the board of higher education for the following land owned by Hettinger public school district no. 13, comprising approximately 4.92 acres:

That tract of land located in the Clement subdivision in the south half of the southwest quarter of section 11, township 129, range 96, more particularly described as follows: beginning at a point at the northwest corner of lot 7, thence southeasterly a distance of 200 feet to a point on the east boundary of lot 8, that point being 97 feet south of the northeast corner of lot 8, thence southeasterly to a point on the east boundary of lot 12, that point being 66 feet north of the southeast corner of lot 12, thence easterly to a point on the east boundary of lot 13, that point being 106 feet north

of the southeast corner of lot 13, thence north a distance of 640.7 feet to the northeast corner of the Clement subdivision, thence west 623.15 feet to the point of beginning.

SECTION 3.) The state board of higher education is authorized to deed to Adams County the following described real property, comprising approximately 1.05 acres, presently used by the Hettinger experiment station:

That tract of land located in the southeast quarter of section 11, township 129, range 96, more particularly described as follows: beginning at a point 33 feet north of the southwest corner of the southeast quarter of section 11, thence east and parallel to the south line of section 11 a distance of 430.5 feet more or less to a point on the southerly right-of-way of the CMSPP railway company line, thence in a northwesterly direction on a bearing of north 64 degrees, 8 minutes west a distance of 480.14 feet more or less to a point on the west line of the southeast quarter of section 11, thence in a southerly direction 212.61 feet more or less to the point of beginning.

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

Approved March 15, 1979

## CHAPTER 210

HOUSE BILL NO. 1405  
(Representatives Wessman, Black, Kuchera)  
(Senators Fritzell, Goodman)

## EXCHANGE OF LAND IN GRAND FORKS

AN ACT to authorize the state board of higher education to exchange lands.

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

SECTION 1.) The state board of higher education is hereby authorized to exchange lots twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two, block seven, and lots ten and eleven, block eight, dacotah place addition to the city of Grand Forks, Grand Forks County, North Dakota, now owned by the state of North Dakota for the use and benefit of the university of North Dakota, for lots one, two, three and those parts of lots four and five, block ten, university place addition to the city of Grand Forks, Grand Forks County, North Dakota, beginning at the northeast corner of lot four, thence west along the north lot line to the northwest corner of lot four, thence south along the west line of lot four a distance of 66.1 feet, thence south 53 degrees and 5 minutes east, a distance of 172.61 feet, thence east a distance of 292.98 feet to the east lot line of lot five, thence north along the easternly lot lines a distance of 166.0 feet to the point of beginning, now owned by The Fellows of the University, Inc., a nonprofit, North Dakota corporation.

Approved April 3, 1979

## CHAPTER 211

HOUSE BILL NO. 1590  
(Representative Kermott)  
(Senator Holmberg)

### LAND TRANSFERS TO FOUNDATIONS

AN ACT to authorize the state board of higher education to transfer to the medical center rehabilitation hospital foundation land bequeathed to the university of North Dakota medical center rehabilitation hospital, and to transfer to the North Dakota state university development foundation land bequeathed to North Dakota state university.

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

SECTION 1.) The state board of higher education is authorized to transfer to the medical center rehabilitation hospital foundation the following land bequeathed to the university of North Dakota medical center rehabilitation hospital for unrestricted use at the direction of the hospital: an undivided one-half interest in the northeast quarter of section nine, township one hundred fifty-one north, range forty-nine west of the fifth principal meridian. The land is located in Huntsville Township, Polk County, Minnesota.

SECTION 2.) The state board of higher education is authorized to transfer to the North Dakota state university development foundation the following land bequeathed to North Dakota state university of agriculture and applied science for unrestricted use at the direction of the university: the northwest quarter of section ten, township one hundred fifty-one north, range forty-nine west of the fifth principal meridian. The land is located in Huntsville Township, Polk County, Minnesota.

SECTION 3.) Notwithstanding section 54-01-05.2, the land described in sections 1 and 2 shall be transferred to the medical center rehabilitation hospital foundation and the North Dakota state university development foundation for the sum of one dollar and other valuable consideration.

Approved March 15, 1979

## CHAPTER 212

HOUSE BILL NO. 1404  
(Representatives Wessman, Black, Kuchera)  
(Senators Fritzell, Goodman)

### DEED OF LAND TO UNITED STATES

AN ACT to authorize the state board of higher education to deed property owned by the state of North Dakota for the use and benefit of the university of North Dakota to the United States; and declaring an emergency.

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

SECTION 1. AUTHORITY TO CONVEY.) The university of North Dakota, through the state board of higher education, is hereby authorized to deed to the United States for use by the United States department of agriculture human nutrition laboratory the real property, owned by the state of North Dakota for the use and benefit of the university of North Dakota, described as lot twenty and lot twenty-one, block one, of the university park addition to the city of Grand Forks, Grand Forks County, North Dakota.

SECTION 2. USE OF PROPERTY - NO COMPENSATION - QUITCLAIM DEED.) The deed shall contain a provision that the United States shall use the property for the United States department of agriculture human nutrition laboratory and, if the property ceases to be used for such purposes, it shall revert to the state of North Dakota. The conveyance authorized herein shall be without compensation to the state of North Dakota from the United States. The real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 27, 1979

## CHAPTER 213

SENATE BILL NO. 2222  
(Committee on Education)  
(At the request of the Board of Higher Education)

### LEASE OF LAND IN VALLEY CITY

AN ACT to provide for the leasing of certain lands managed and controlled by the state board of higher education.

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

SECTION 1.) The board of higher education is hereby authorized to lease certain lands under the control and management of the board of higher education, described as follows:

All of the east six hundred feet of block eight, Andrus and Siftons Addition to the city of Valley City less street right of way previously acquired. Said tract contains 5.89 acres more or less.

SECTION 2.) It is the intent that the leasing of this land will be utilized for an outdoor riding arena.

Approved March 13, 1979

## CHAPTER 214

SENATE BILL NO. 2227  
(Committee on Education)  
(At the request of the Board of Higher Education)

### SALE OF LAND IN BARNES COUNTY

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

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

SECTION 1.) Authorization is hereby granted to the state board of higher education for the conveyance of the title of certain land owned by the state of North Dakota, and that the state board of higher education shall negotiate such sale, which land is described and located as follows:

A tract of land located in the south one-half of the northeast quarter of section twenty-eight, township one hundred forty north, range fifty-eight west of the fifth meridian, Barnes County, North Dakota and more particularly described as follows: Commencing at the northeast corner of the south one-half (1/2) of northeast quarter (1/4) of section 28-140-58 to the city of Valley City; thence south along east line of south one-half of northeast one-fourth of said section twenty-eight a distance of fifty-five feet to the point of beginning; then continuing south along the same line a distance of four hundred forty feet to a point; then north eighty-nine degrees twenty-nine minutes west, a distance of nine hundred forty feet to a point; then north a distance of seventy-two feet to a point on the street right-of-way line; then along the right-of-way line along a forty degree curve to the left, a distance of three hundred fourteen feet to a point; then north fifty-eight degrees thirty-five feet, east a distance of one hundred seventy-three point nine feet; then along a six degree curve to the right a distance of five hundred thirty-two point two feet, to a point; then north eighty-nine degrees twenty-nine minutes east a distance of one point five minutes to the point of beginning. Said tract of land contains five point six acres more or less.

In negotiating the sale of this land, the board shall advertise for bids and shall designate a time and place for the opening of such bids. At that time the board shall allow the top five bidders to orally raise their bids.

SECTION 2.) Upon such sale of such land the proceeds shall be deposited in the general fund of the state treasury.

SECTION 3.) The documents necessary to carry out the provisions of this Act shall be executed by the governor and attested by the secretary of state.

Approved April 7, 1979

## CHAPTER 215

SENATE BILL NO. 2390  
(Orange, Sandness)

## VETERANS AND DEPENDENTS' BENEFITS

AN ACT to amend and reenact sections 15-10-18.2, 15-10-18.3, and 37-01-40 of the North Dakota Century Code; and to repeal chapter 37-20 of the North Dakota Century Code, relating to benefits for veterans and dependents.

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

SECTION 1. AMENDMENT.) Section 15-10-18.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18.2. DEFINITIONS.)

1. ~~"Prisoner--of-war" and "persons missing in action" for the purposes of section 15-10-18.3 shall mean any person who was a resident of the state of North Dakota as defined in subdivisions a, b, and c of subsection 8 of section 37-25-02 at the time he or she entered service of the United States armed forces, has been declared to be a prisoner of war or to be a person missing in action as established by the secretary of defense after August 5, 1964, and did not return to active duty with the armed forces within ninety days.~~ "Resident veteran" means a person who:

- a. Was born in and lived in the state of North Dakota until entrance into the armed forces of the United States;
- b. Was born in, but was temporarily living outside the state of North Dakota, not having abandoned residence therein prior to entrance into the armed forces of the United States; or
- c. Was born elsewhere but had resided within the state of North Dakota for at least six months prior to entrance

into military service and had prior to or during such six-month period:

- (1) Registered for voting, or voted in the state of North Dakota;
  - (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; or
  - (3) If not registered for voting in the state of North Dakota, not registered for voting in another state.
2. "Dependent" for purposes of section 15-10-18.3 shall mean any child born before or during the period of time his or her father served as a prisoner of war or was declared a person missing in action, or any child legally adopted or in the legal custody of the father prior to and during the time the father served as a prisoner of war or was declared to be a person missing in action of a resident veteran who was, during any conflict identified in section 37-01-40, killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.

SECTION 2. AMENDMENT.) Section 15-10-18.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18.3. FREE TUITION IN NORTH DAKOTA INSTITUTIONS OF HIGHER EDUCATION.) Any dependent of a prisoner of war or a person missing in action, as defined in section 15-10-18.2 upon being duly accepted for enrollment into any North Dakota state-supported institution of higher education or state-supported technical or vocational school, shall be allowed to obtain a bachelor's degree, or certificate of completion, for so long as he is eligible, free of any tuition and fee charges, except those charged to retire outstanding bonds; provided, however, that such bachelor's degree or certificate of completion is earned within a thirty-six month or eight-semester period or its equivalent. Once a person qualifies as a dependent under sections 15-10-18.2 and 15-10-18.3, there shall be no removal from the benefits of this section due to such an occurrence as the return of the prisoner of war or person missing in action.

SECTION 3. AMENDMENT.) Section 37-01-40 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-40. UNIFORM SERVICE DATES FOR VETERANS - DEFINITIONS.) In order to provide for the uniformity of period of service dates for veterans, the following dates and terms shall be applicable to all acts of the state relative to veterans where not otherwise specifically prescribed by statute:

1. The term "veteran" means a person, including women, who served in the active military forces, during a period of war or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released therefrom under honorable conditions. The term "veteran" also includes a person who died in active military forces.
2. The term "Spanish-American War" (a) means the period beginning on April 21, 1898, and ending on July 4, 1902, (b) includes the Philippine insurrection and the Boxer rebellion, and (c) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro province, means the period beginning on April 21, 1898, and ending on July 15, 1903.
3. The term "World War I" (a) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (b) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.
4. The term "World War II" means the period beginning December 7, 1941, and ending December 31, 1946, both dates inclusive.
5. The term "Korean conflict" means the period between June 27, 1950, to January 31, 1955.
6. Civil war and confederate veterans who served between April 12, 1861, and May 26, 1865.
7. Indian wars. Since the Indian wars were fought intermittently over a period of years, the determination as to whether a person shall be considered as having rendered military service during these wars will be carefully considered by the state veterans' affairs commission. January 1, 1817, through December 31, 1898, is considered Indian war period.
8. Mexican wars. Since there were several skirmishes involving the Mexican border, such as Mexican border troubles 1911-1916; Veracruz expedition April 21, 1914, to November 26, 1914; punitive expedition into Mexico, March 15, 1916, to February 5, 1917; therefore the persons rendering military service in any of these skirmishes shall be considered veterans of the Mexican wars between 1911 and February 5, 1917.

9. The "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975.
10. Future dates. The period beginning on the date of any future declaration of war by the Congress or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the Congress.

~~10.--The--"Vietnam--era"--means--the--period--beginning--August--5--1964--and--ending--on--August--15--1973--~~

\* SECTION 4. REPEAL.) Chapter 37-20 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1979

\* NOTE: Section 37-20-03 was amended by section 71 of House Bill No. 1073, chapter 187.

## CHAPTER 216

HOUSE BILL NO. 1254  
(Representatives Langley, Knudson, Larson)  
(Senators Shablow, Iszler, Wright)

## REGIONAL VETERINARY MEDICAL EDUCATION PROGRAM

AN ACT to authorize the state board of higher education to enter into agreements providing for a regional veterinary medical education program.

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

SECTION 1. REGIONAL VETERINARY MEDICAL EDUCATION PROGRAM -  
AUTHORITY TO ENTER AGREEMENTS - LIMITATIONS.)

1. The state board of higher education may enter into agreements with the university of Nebraska board of regents and with the appropriate governing boards or institutions of higher education in other states to provide a program of regional veterinary medical education and services.
2. Any agreements entered pursuant to subsection 1 may provide for the following:
  - a. Service by the university of Nebraska as the degree-granting institution.
  - b. Assumption by the university of Nebraska of final responsibility for the overall governance and administration of the educational aspects of the program.
  - c. Cooperation by North Dakota state university in providing input in the establishment of policies relating to curriculum, academic standards, student admissions, and other matters.
3. Within the limits of legislative appropriations, any agreements entered pursuant to subsection 1 may provide for the payment by the state board of higher education of North Dakota's share of the cost of facility construction in Nebraska based upon the proportion of North Dakota

students in the program, provided any such payment is based upon a per student annual facilities use charge.

4. Within the limits of legislative appropriations, any agreements entered pursuant to subsection 1 may provide for the payment by the state board of higher education of North Dakota's share of the operating costs during the planning, start-up, and full operational phases, based upon the proportion of North Dakota students in the program.

Approved March 18, 1979

## CHAPTER 217

SENATE BILL NO. 2465  
(Smykowski, Strinden, Thane)

## JUNIOR COLLEGE AND EDUCATIONAL CENTER MILL LEVIES

AN ACT to amend and reenact sections 15-18-03 and 15-18-04.2 of the North Dakota Century Code, relating to mill levies for junior colleges and off-campus educational centers.

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

SECTION 1. AMENDMENT.) Section 15-18-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-03. TUITION AND FEES IN JUNIOR COLLEGE - USE OF TUITION AND FEE REVENUE - DUTY OF SCHOOL BOARD - TAX LEVY AUTHORIZED ON VOTE OF PEOPLE - MAINTENANCE OF DEPARTMENT.) On or before August fifteenth in each year, the school board of a public school district which maintains a junior college shall determine the rate of tuition and fees required to be paid by all students attending the department, and these tuition and fee charges may be at a different rate for the students nonresident in the district than for students resident in the district. The school board shall have the authority to adopt rules and regulations for classifying students as residents or nonresidents of the district for tuition purposes. Tuition and fee revenue may be used to retire bonds issued in accordance with section 15-55-18. Every public school district maintaining a junior college under the provisions of this chapter may levy a tax of not to exceed ~~eight~~ sixteen mills, the proceeds of which shall be used for the maintenance and operation of the junior college. Of the sixteen mills which may be levied pursuant to this section, the first eight mills shall be levied upon the resolution of the local school board. Any mills to be levied above the initial eight mills must first be approved by the voters of the district. When submitting the question at the election, the board may specify a levy of less than the additional eight-mill limit authorized, and if such a limited levy is approved by the voters, subsequent levies shall not exceed the limited levy without another election authorizing a greater levy, but no election shall ever authorize a greater ~~total~~ aggregate levy under this section than ~~eight~~ sixteen mills. The tax levy for the support of a junior college shall be in

addition to all other levies authorized by law for such school districts, and the proceeds of the levy shall be used exclusively for the support, operation, and maintenance of a junior college.

SECTION 2. AMENDMENT.) Section 15-18-04.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-04.2. MILL LEVY FOR OFF-CAMPUS EDUCATIONAL FACILITIES - ELECTION.) For the purpose of maintaining and operating such off-campus educational center the school board may levy, upon their own resolution, eight mills. If it is found, after the board by resolution has levied its maximum eight mills, that additional funds are needed, the board may submit the question of a an additional mill levy ~~specified-by-the-board~~, not to exceed eight mills, to the electors of the district at any regular or special school election within the district. If approved by sixty percent of the electors voting, the school board may proceed with the levy and collection of the tax. In no case shall the total mills levied under this section exceed sixteen. Such levy shall be in addition to all other mill levy limitations provided by law, and the proceeds shall be placed in a separate fund, accounted for separately, and used exclusively for the support, operation, and maintenance of such off-campus educational center. Expenditures may be made by the school board without going through the institution of higher education with whom an agreement has been entered.

Approved March 21, 1979

## CHAPTER 218

SENATE BILL NO. 2452  
(Senators Wenstrom, Jones, Lips)  
(Representative Mertens)

## JUNIOR COLLEGE OR EDUCATIONAL CENTER STATE AID

AN ACT to amend and reenact section 15-18-07 of the North Dakota Century Code, relating to state aid for junior colleges or educational centers.

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

SECTION 1. AMENDMENT.) Section 15-18-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-07. STATE AID FOR JUNIOR COLLEGES OR EDUCATIONAL CENTERS.) There shall be paid to each school district maintaining a junior college or educational center operated by a state-supported institution of higher education meeting the standards and eligibility requirements prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of eighteen twenty-four dollars ~~and fifty-nine cents~~ per calendar week, which shall be paid for every full-time student in attendance, provided the school district, city, or county shall levy taxes of not less than ~~four~~ eight mills for the support of such junior college or educational center in accordance with the provisions of sections 15-18-03, 15-18-04.2, or 15-18-05. For the purpose of this section, a "full-time student" ~~shall-mean~~ means a person enrolled and in attendance, exclusive of temporary absences, in a junior college or educational center operated by a state-supported institution of higher education carrying a course of study of not less than twelve class hours during each calendar week in academic courses meeting standards prescribed by the state board of higher education, or in vocational courses meeting standards prescribed by the state board for vocational education. In addition, an amount equal to the weekly payment made for each full-time student shall be made for each full-time equivalent student enrolled for each calendar week of attendance in an approved academic or vocational program meeting the standards prescribed by the respective boards. The number of full-time equivalent students enrolled in each junior college or educational center for each calendar week shall be computed as follows: the total class hours of all students in attendance,

exclusive of temporary absences, who are enrolled in less than twelve class hours, shall be divided by twelve. A class hour ~~shall~~ mean means not less than fifty minutes of instruction or supervised laboratory training. Payments shall be made on a fiscal year basis, which shall mean the period from July first of one calendar year through June thirtieth of the following calendar year.

If the funds appropriated for the purpose of carrying out the provisions of this section should prove to be insufficient based on the number of students in attendance at a junior college or educational center as provided in this section, the amounts to be paid to such junior colleges or educational centers shall be reduced in such a manner so that the payments for each student in attendance at a junior college or educational center will be made on a pro rata basis.

Approved March 27, 1979

## CHAPTER 219

HOUSE BILL NO. 1170  
(Freborg)

## VOCATIONAL EDUCATION MILL LEVY

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

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

SECTION 1. AMENDMENT.) Section 15-20.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.1-08. MILL LEVY FOR ~~PARTICIPATING--IN--COOPERATIVE~~  
VOCATIONAL EDUCATION PROGRAMS.)

1. Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed ten mills upon all taxable property within such school district for the purpose of participating in cooperative vocational education programs approved by the state board. Such levy shall be in addition to any other mill levies authorized by law.
2. Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed five mills upon all taxable property within such school district for the purpose of maintaining a vocational education program only for that school district and approved by the state board. The levy shall be in addition to any other mill levies authorized by law.

Approved March 8, 1979

## CHAPTER 220

HOUSE BILL NO. 1056  
(Legislative Council)  
(Interim Committee on Education)

## FOUNDATION PAYMENTS FOR KINDERGARTEN AND EDUCATION PROGRAMS

AN ACT to amend and reenact sections 15-20.1-10, 15-40.1-03, 15-40.1-04, 15-40.1-05, 15-40.1-07, 15-40.1-08, 15-40.1-09, 15-40.1-10, 15-40.1-11, 15-40.1-16, 15-40.1-16.1, 15-40.1-18, 15-40.2-05, 15-40.2-10, 15-45-01, 15-45-02, 15-47-16, and 15-59-06 of the North Dakota Century Code, relating to state support for public kindergarten programs; to the payment of state foundation aid payments directly to school districts; and to the establishment, length, and funding of kindergarten programs.

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

SECTION 1. AMENDMENT.) Section 15-20.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.1-10. SPECIFIC POWERS - TUITION PAYMENTS - BOND ISSUES.) The school board of a vocational school district is specifically authorized to accept on behalf of the district any real or personal property available for distribution by the United States or any of its departments or agencies, and also, to accept any federal grants which may be made available in the field of vocational education. It may accept enrollments and set the amount of tuition for students residing outside of the district, provided that the amount of tuition so set shall not exceed the difference between the average cost per student for educating a student in the district and the ~~payment~~ payments, if any, received by the district from a county equalization fund and from state payments on behalf of such student. Payments from the county equalization fund of the student's county of residence and from state payments on behalf of each student attending a vocational school shall be made to the vocational school of attendance at the same rate as paid for high school students. A vocational school district shall be deemed a municipality within the meaning of section 21-03-01.

\* SECTION 2. AMENDMENT.) Section 15-40.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-03. COUNTY EQUALIZATION FUND - HOW CONSTITUTED.) There shall be in each county a county equalization fund which shall consist of the taxes collected by virtue of the mill levy made as provided by section 57-15-24 ~~and payments from the state under the provisions of this chapter after the deductions are made as provided in section 15-39-23\*~~. The distribution of moneys in county equalization funds shall only be made pursuant to the provisions of this chapter. If an apportionment of a county equalization fund is withheld from any district, it shall be retained in the fund and disbursed in the same manner as other moneys in the fund. ~~Grants from the state under the provisions of this chapter shall be converted into and become a part of the county equalization fund of each county.~~

SECTION 3. AMENDMENT.) Section 15-40.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-04. DETERMINATION OF SUMS DUE ~~COUNTY~~ SCHOOL DISTRICTS.) For purposes of this section:

1. "County average" means the countywide average percentage of market value at which taxable property in a county has been assessed after final equalization.
2. "State average" means the statewide average percentage of market value at which all taxable property in the state has been assessed after final equalization.

Immediately following the final meeting of the state board of equalization, the state tax commissioner shall certify to the superintendent of public instruction the countywide average percentage of market value at which all taxable property in each county has been assessed after final equalization and the statewide average percentage of market value at which all taxable property in the state has been assessed after final equalization. The superintendent of public instruction shall then determine the amount of the grants-in-aid to which each county school district is entitled. ~~Any~~ The school districts of any county which, according to the certificate of the tax commissioner, has a county average that is equal to the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by twenty and five-tenths mills, and the balance will be the amount of aid to which the school districts of the county ~~is~~ are entitled.

~~Any~~ The school districts of any county which, according to the certificate of the tax commissioner, has a county average that is less than the state average, shall be entitled to a sum determined

\* NOTE: Section 15-40.1-03 was also amended by section 4 of House Bill No. 1073, chapter 187.

by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county after adjusting such valuation upwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the school districts of the county ~~is~~ are entitled ~~for-such-fund~~.

~~Any~~ The school districts of any county which, according to the certificate of the tax commissioner, has a county average that is more than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county the product of the taxable assessed valuation of the property in the county after adjusting such valuation downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the school districts of the county ~~is~~ are entitled ~~for-such-fund~~.

The superintendent of public instruction shall determine the product of the taxable valuation of property in the county, after adjusting such valuation upwards or downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty-one mills. The superintendent of public instruction shall certify such amount to the county auditor of each county that has a county average that is less than or more than the state average, which shall be converted to mills and levied by the county auditor upon all taxable property in the county in lieu of the twenty-one mill levy specified in section 57-15-24.

\* SECTION 4. AMENDMENT.) Section 15-40.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-05. DISTRIBUTION OF PAYMENTS TO ~~COUNTY-EQUALIZATION FUNDS~~ SCHOOL DISTRICTS - DUTY OF DEPARTMENT OF ACCOUNTS AND PURCHASES.) The superintendent of public instruction shall certify to the department of accounts and purchases a list of all ~~county equalization--funds~~ school districts in the state, together with a statement of payments equal to one-fourth of the total payments made to each respective ~~equalization--fund~~ school district during the previous fiscal year, and the department of accounts and purchases shall pay each ~~county-equalization-fund~~ school district such amounts due, within the limits of legislative appropriation, on or before September first of each year. The superintendent of public instruction, after certifying to the respective county auditors the amount that shall be levied on all taxable property in accordance with section 15-40.1-04, shall determine what amounts in addition to the September first payments are necessary to constitute one-half of the payments due to each ~~county-equalization--fund~~ school district for the current school year, and shall certify to the department of

\* NOTE: Section 15-40.1-05 was also amended by section 1 of Senate Bill No. 2046, chapter 244.

accounts and purchases a list of all county--equalization--funds school districts in the state, together with a statement of the payments due such-funds them. On or before November first, the department of accounts and purchases shall pay to each county equalization-fund school district, within limits of legislative appropriation, the amounts needed in addition to the September first payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter. On or before January first, payments equal to one-fourth of the total payments shall be made to each respective equalization-fund,--and-the-balance-shall-be paid school district; on or before March first, payments equal to one-eighth of the total payments shall be made to each respective school district; and the balance shall be paid on or before May first.

\* SECTION 5. AMENDMENT.) Section 15-40.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-07. HIGH SCHOOL PER-PUPIL PAYMENTS - AMOUNT - PROPORTIONATE PAYMENTS.) There shall be paid each year from state funds and from the county equalization fund to all school districts of the county operating high schools, 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.

\* NOTE: Section 15-40.1-07 was also amended by section 8 of Senate Bill No. 2439, chapter 243.

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. No school district shall receive less in foundation program per-pupil payments for any year than such district would have received in such payments based upon the enrollment in such district in the previous school year. 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, proportionate payments shall be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs shall be eligible for proportionate payments provided each course offered in such programs satisfies requirements for graduation and comprises at least as many clock hours as courses offered during the regular school term.

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 ~~from the county equalization fund~~ pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

\* SECTION 6. AMENDMENT.) Section 15-40.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. ELEMENTARY PER-PUPIL PAYMENTS - AMOUNT.) There shall be paid from state funds and out of the county equalization fund 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, 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:

\* NOTE: Section 15-40.1-08 was also amended by section 9 of Senate Bill No. 2439, chapter 243.

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

grades seven and eight in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.

6. For elementary schools having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each special education pupil under the compulsory age for school attendance in average daily membership in each classroom or for each teacher.
7. For elementary schools providing kindergartens after June 30, 1980, which are established according to provisions of section 15-45-01, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each of the first twenty-five pupils in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher. The full per-pupil payment shall be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period shall receive a proportionately smaller per-pupil payment.

No school district shall receive less in foundation program per-pupil payments for any year than such district would have received in such payments based upon the enrollment in such district in the previous school year. ~~Payments from the county--equalization fund pursuant to this chapter~~ to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

SECTION 7. AMENDMENT.) Section 15-40.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-09. APPLICATION FOR PAYMENTS - VERIFICATION AND DETERMINATION OF PAYMENTS FOR HIGH SCHOOL STUDENTS - REPORT OF COUNTY SUPERINTENDENT OF SCHOOLS - APPEAL.) Immediately upon the completion of the registration of students at the beginning of each school term and in no event later than September tenth of each year, the clerk of each school district within or without this state which is claiming payments from a county equalization fund or from state

funds under the provisions of this chapter shall file with the county superintendent of schools a claim on a form prescribed by the superintendent of public instruction stating the number of students registered in high school and elementary grades for which payments are claimed, and such other information as may be reasonably requested by the superintendent of public instruction. Not later than December first, the superintendent of public instruction shall certify to the department of accounts and purchases a list of the school districts and schools not operated by school districts entitled to payments from the county equalization fund or from state funds, together with the amounts to which the several districts and schools are entitled. Such certification shall include an adjustment in the amounts to which the districts and schools are entitled, based upon the difference between payments made under this chapter to such districts and schools for the previous school year as compared to the amount calculated, as provided in sections 15-40.1-07 and 15-40.1-08, upon the average daily membership during the previous school year. For purposes of this chapter, "average daily membership" shall mean the total days all students in a given school are in attendance, including days set aside for the North Dakota education association convention, plus any three holidays selected from those listed in subsections 2 through 10 of section 15-38-04.1 which have been decided upon after consultation with the teachers, and the total days all students are absent, divided by one hundred eighty days. School districts educating children of agricultural migratory workers or offering high school summer school programs during the months of June, July, and August shall not be restricted to payments for a one-hundred-eighty-day school term.

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

determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

SECTION 8. AMENDMENT.) Section 15-40.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-10. PAYMENTS OF COUNTY EQUALIZATION FUNDS TO SCHOOLS AND SCHOOL DISTRICTS.) ~~County equalization funds shall be paid to schools and school districts as follows:~~

1. ~~State per pupil payments, as seen as possible after receiving per pupil payments from the state as provided for in section 15-40.1-05, and in any event no later than September twenty-fifth, December fifteenth, February fifteenth, and April fifteenth, the county superintendent of schools shall certify to the county auditor a list of the schools or school districts within or without the state that are entitled to per pupil payments from the county equalization fund and the amounts thereof. The county auditor shall pay to each district or school the amount certified upon receiving the certificate. Payments shall be made by auditor's warrants and shall be deposited in the general fund of the district or school.~~

2. ~~County twenty-one mill levy per pupil payments.~~ All moneys accumulated in the county equalization fund from the twenty-one mill county levy and from all other sources except the state per-pupil payments referred to in subsection 1 of this section, shall be paid by the county auditor, after certification by the county superintendent of schools, to the schools and school districts operating schools within the county entitled thereto, on or before March thirty-first and May fifteenth of each year. Payments shall be made by auditor's warrants and shall be deposited in the general fund of the district or school.

~~If a school district embraces land in more than one county, the county superintendent of schools of the county in which the largest portion of the area of the school district is located shall determine the county equalization fund payments for such district and shall certify to the auditor of each county the amount to be paid by such county which shall be in the same ratio as the number of pupils of the school district residing in such county bears to the total number of pupils of the district. At the time the county equalization fund payment is paid to the county in which the largest portion of the area of the school district is located, a duplicate copy of the remittance advice accompanying the payment shall be forwarded to the county superintendent of schools of the county in which the largest portion of the area of the school district is located.~~

SECTION 9. AMENDMENT.) Section 15-40.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-11. FRACTIONAL PAYMENTS.) Should the moneys in the county equalization fund or in the state general fund be insufficient to make all payments, the payments to the various school districts or schools shall be prorated by the county superintendent of schools and the superintendent of public instruction on a fractional basis. When fractional payments are made, additional payments may be made from time to time as sufficient moneys come into ~~such each~~ fund, so as to make full payments under this chapter, ~~provided that if~~. If the appropriation made by the legislative assembly is inadequate to meet all claims against such appropriation and is thus the cause of the insufficiency ~~in the county equalization fund~~, such prorated fractional payments made pursuant to this section shall constitute payment in full.

\* SECTION 10. AMENDMENT.) Section 15-40.1-16 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund and from state funds to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to ~~seventeen~~ twenty cents per mile [1.61 kilometers] for school buses having a capacity of sixteen or fewer pupils and ~~thirty-four~~ forty cents per mile [1.61 kilometers] for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each public school pupil who is transported in such buses, provided that no such payment shall be made for any pupil who lives within the incorporated limits of a city with a population in excess of two hundred fifty and an area in excess of two square miles [518.00 hectares] in which the school in which he is enrolled is located except as provided in section 15-40.1-16.1. The mileage payments provided for in this section shall be made to each school district for transporting pupils to and from school. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

\*\* SECTION 11. AMENDMENT.) Section 15-40.1-16.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* NOTE: Section 15-40.1-16 was also amended by section 10 of Senate Bill No. 2439, chapter 243.

\*\* NOTE: Section 15-40.1-16.1 was also amended by section 6 of Senate Bill No. 2056, chapter 262.

15-40.1-16.1. TRANSPORTATION AID FOR COOPERATIVE CERTAIN VOCATIONAL EDUCATION AND SPECIAL EDUCATION PROGRAMS.) There shall be paid from the county equalization fund and 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 section 15-40.1-16, except that 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 12. AMENDMENT.) Section 15-40.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-18. STATE TRANSPORTATION PAYMENTS TO COUNTY EQUALIZATION--FUND SCHOOL DISTRICTS - COUNTY EQUALIZATION FUND TRANSPORTATION PAYMENTS TO SCHOOL DISTRICTS.) State payments to ~~county-equalization-funds-and-the-distribution-of-such-payments-from county---equalization---funds---to~~ school districts, as aid for transportation, shall be as follows:

1. State transportation payments to ~~county-equalization-funds school districts.~~ The superintendent of public instruction shall determine the total amount of payments to be made to the ~~county-equalization-fund-of-each--county school districts~~ for transportation aid. The department of accounts and purchases shall pay the sum certified by the superintendent of public instruction to each ~~county, where-it-shall-be-credited-to-the-county-equalization-fund school district.~~ Such payments shall be made in the same manner and at the same time as other payments from the state to ~~county--equalization-funds~~ school districts are made, as provided in section 15-40.1-05.
2. County equalization fund payments to school districts. Payments from the county equalization fund to the respective school districts entitled to payment therefrom shall be upon warrant of the county auditor at the same time and in the same manner as ~~state-and~~ county per-pupil payments from the county equalization fund to the respective school districts are made, as provided in section 15-40.1-10.

SECTION 13. AMENDMENT.) Section 15-40.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-05. APPLICATION OF PARENT OR GUARDIAN FOR PAYMENT OF TUITION BY DISTRICT.) The parent or guardian of any pupil who is a resident of a district may apply in writing to the school board of the school district of residence of the pupil for approval of the payment of tuition charges to another school district for attendance of the pupil in such other school district. The school board shall, within sixty days of its receipt of such application, meet with the parent or guardian of the pupil concerned and render a decision in regard to payment of tuition charges. If the school board has not rendered a decision within sixty days of receipt of the application, the application shall be deemed approved. If the school board of the district of residence shall approve such application, it shall pay the tuition charges. In the event such application shall be disapproved, the parent or guardian of the pupil may file an appeal with the county superintendent of schools, and a three-member committee consisting of the county judge, state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the pupil concerned and render a decision in regard to payment of the tuition charges. In making such decision, the committee shall determine whether the pupil is a high school pupil, which, for purposes of this section, shall be defined to mean grades nine to twelve, inclusive, or whether the pupil is an elementary school pupil, which, for purposes of this section, shall be defined to mean grades one through eight, inclusive, and then proceed in accordance with the following:

1. High School. If the pupil is a high school pupil and the committee finds that the attendance of such pupil is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular pupil, or other reasons of convenience, it the committee may approve or disapprove the application. Upon approval, the committee shall approve the payment of tuition by the district of residence of the pupil, obligating such district of residence to pay the same. The committee's approval for the payment of tuition may be for any fixed number of school terms, up to the completion of the pupil's high school education. The decision of the committee may be appealed to the state board of public school education and the decision of the board shall be final.
2. Elementary. If the pupil is an elementary pupil and the committee finds that the attendance of such pupil is necessitated by shorter distances or other reasons of convenience, it the committee may approve or disapprove the application. Upon approval, the committee shall approve the payment of tuition by the district of residence of the pupil, obligating such district of

residence to pay the same. The committee's approval for the payment of tuition shall be limited to one school term, and subsequent applications for the payment of tuition may be made annually. The decision of the committee shall be final.

If any portion of the school district lies in more than one county, the committee shall consist of the county judge, state's attorney, and county superintendent of schools from each county lying within the district, and the concurrence of at least two members from each county shall be necessary for a majority of the committee. In the event that the district of residence of the pupil does not comply with the decision requiring that the tuition charges be paid, the admitting district shall notify the county superintendent of schools of the county of the pupil's residence and the state superintendent of public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are in fact due the admitting district and are unpaid, all county equalization fund payments ~~including~~ and payments from the state for foundation aid to the district of residence of the pupil, shall be withheld until the tuition due has been fully paid.

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

SECTION 14. AMENDMENT.) Section 15-40.2-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-10. RECIPROCAL MASTER AGREEMENTS FOR PUPIL ATTENDANCE IN OTHER STATES.) The superintendent of public instruction may shall enter into reciprocal master agreements with the appropriate state educational agencies or officers of bordering states in regard to the cost of educating elementary and high school pupils in the public schools or institutions in such bordering states. Such reciprocal agreements may shall provide for payment on a per-pupil basis from ~~the county equalization fund~~ the state foundation aid program for pupils from this state attending schools in bordering states in a sum equal to payments received by the district of the pupil's residence from the county equalization fund and the state foundation aid program. The superintendent of public instruction, by certificate to the department of accounts and purchases, shall authorize payments from the appropriation for state payments to ~~the county equalization fund~~ school districts pursuant to chapter 15-40.1 for the attendance of pupils in bordering states, and the department of accounts and purchases, within the limits of legislative appropriations, shall make such payments. The balance of the tuition payment by the pupil's district of residence shall not exceed the amount established by reciprocal agreement less the amount paid from the county equalization fund and the state foundation aid program to the school district or institution in the bordering state.

SECTION 15. AMENDMENT.) Section 15-45-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-01. ESTABLISHING KINDERGARTENS - ELECTION ON MILL LEVY.) The school board of any school district may, upon its own motion, establish free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term. A school board which establishes free kindergartens may submit the question of providing for an annual levy sufficient to finance such kindergartens to the electors of the school district at the next annual or special school election. If a majority of the votes cast on the proposal favor the mill levy, the board shall levy such tax until the kindergartens are discontinued as provided in this chapter or until the board determines a levy is no longer necessary. Such levy shall be over and above any mill levy limitations provided by law. On a petition signed by electors of the school district comprising at least five percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, but in no case less than twenty-five electors, the school board must submit the question of establishing a kindergarten program at the next annual or special school election. Whenever the question of establishing a kindergarten program is placed upon the ballot by petition, the board shall also place on that same ballot the question of providing for an annual levy sufficient to finance such program. Both proposals must be approved by a majority of the votes cast on each before either may take effect. After the kindergarten program is established, the board shall levy such tax until the program is discontinued as provided in this chapter or until the board determines a levy is no longer necessary. Such levy shall be over and above any mill levy limitations provided by law.

SECTION 16. AMENDMENT.) Section 15-45-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-02. KINDERGARTEN CURRICULUM - RULES AND REGULATIONS - LENGTH OF KINDERGARTEN TERM.) The school board shall establish a curriculum for kindergarten and such other rules and regulations governing the kindergartens as it may deem best, and shall govern them, so far as practicable, in the manner and by the officers provided by law for the government of other public schools. All kindergartens shall provide at least ~~one-hundred-eighty-half-days~~ six weeks of classroom instruction ~~or but not more than the equivalent of ninety full days of classroom instruction during each school-year~~ any twelve-month period. The school board shall determine whether kindergarten shall be provided on a half-day or a full-day basis.

SECTION 17. AMENDMENT.) Section 15-47-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-16. PAYMENTS FROM STATE TUITION AND, COUNTY EQUALIZATION FUNDS, AND STATE FOUNDATION AID MAY BE PAID TO UNITED STATES.) Whenever the educational responsibility of a school district within an Indian reservation in this state shall be completely taken over by the government of the United States, payments from the state tuition fund and, the county equalization fund, and the state foundation aid program which otherwise would be paid to such school district shall be paid to the United States if the compulsory school attendance laws of this state are enforced in such district and government school.

\* SECTION 18. AMENDMENT.) Section 15-59-06 of the 1977 Supplement to 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 and school districts providing such program and shall be included in determination of elementary and high school per-pupil payments from the county equalization fund and state foundation aid program whether or not such pupils are regularly attending school in the school or school district receiving such payments. 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 school day as such student participates in such special education program. For the purposes of this section, a normal school day 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, and that the parents of a child receiving special education under such program, or the legally responsible person, have made adequate efforts to provide needed education or that adequate reasons otherwise exist for the provision of special education to such child, 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 ~~one-and-one-half~~ 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 ~~two~~ 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 transportation, equipment, and residential care.

Approved April 5, 1979

\* NOTE: Section 15-59-06 was also amended by section 9 of Senate Bill No. 2056, chapter 262.

## CHAPTER 221

SENATE BILL NO. 2242  
(Committee on Education)

(At the request of the Board of Vocational Education)

## VOCATIONAL EDUCATION CENTER BOARDS

AN ACT to amend and reenact section 15-20.2-04 of the North Dakota Century Code, relating to multidistrict center boards, appointment of members, terms, compensation and vacancies.

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

SECTION 1. AMENDMENT.) Section 15-20.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.2-04. CENTER BOARDS - APPOINTMENT OF MEMBERS - TERMS - COMPENSATION - VACANCIES.) A multidistrict vocational education center shall be operated by a center board of not less than five members nor more than a total of one member for each participating district, provided, however, that each participating school district with three hundred or more high school students shall be allowed one member for each three hundred high school students or fraction thereof with a limitation of not more than three members from any one school district. Center board members shall be members of the school boards. The terms of office of the members of center boards shall be for three years at least one year and shall terminate upon the expiration of their terms on their respective school boards. Members shall be eligible for reappointment to center boards. ~~At the initial organizational meeting of a center board, the initial terms of office of each member shall be determined by lot in a manner which shall result in approximately one-third of the membership serving for one year, one-third of the membership serving for two years, and the balance of the membership serving for three years.~~ Center board members shall receive the same compensation and expenses for attending center board meetings or for otherwise engaging in official business for the center as provided in section 15-29-05 for members of school boards, ~~but center board meetings shall not be counted in determining the number of board meetings for which school board members may be compensated in any one year.~~ Compensation and expenses of center board members shall be paid out of center funds.

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

Approved March 10, 1979

## CHAPTER 222

SENATE BILL NO. 2065  
(Legislative Council)  
(Interim Committee on Higher Education)

### VOCATIONAL EDUCATION CENTER MOBILE UNITS

AN ACT to amend and reenact section 15-20.2-08 of the North Dakota Century Code, relating to assessment of participating districts for expenses of multidistrict vocational education centers using mobile units.

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

SECTION 1. AMENDMENT.) Section 15-20.2-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.2-08. ASSESSMENT OF PARTICIPATING DISTRICTS FOR PROPORTIONATE SHARE OF CENTER EXPENSES - ALLOCATION OF STUDENTS - CIVIL PENALTY FOR FAILURE TO REMIT PAYMENT.) A center board shall, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess each participating school district its proportionate share based upon its high school enrollment as compared to the total high school enrollment of all participating school districts in the multidistrict vocational education center. A center board shall, as nearly as possible, allocate the number of students from each participating district to be served in a multidistrict vocational education center on the same proportionate basis as is used for the assessment of expenses.

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

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

Approved March 10, 1979

## CHAPTER 223

SENATE BILL NO. 2269

(Committee on Education)

(At the request of the Department of Public Instruction)

## SCHOOL ACCREDITATION STANDARDS

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, relating to accreditation standards; and to amend and reenact subsection 1 of section 15-34.1-03, and sections 15-38-07, 15-41-24, and 15-41-25 of the North Dakota Century Code, relating to the requirements for the minimum curriculum of all schools and the approval of private schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE 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:

SUPERINTENDENT MAY ADOPT ACCREDITATION STANDARDS - COMPLIANCE NOT MANDATORY.) The superintendent of public instruction shall have the authority to adopt standards for the accreditation of the public and private schools of the state. Any public or private school which complies with such standards shall be deemed to be an accredited school.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-34.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 3. AMENDMENT.) Section 15-38-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-07. ~~REQUIRED SUBJECTS IN THE-PUBLIC~~ ALL SCHOOLS.) The following subjects shall be taught in the all public and private schools to pupils who are sufficiently advanced to pursue the same: spelling, reading, writing, arithmetic, language, English grammar, ~~geography~~ geography, United States history, civil government, nature study, and elements of agriculture. Physiology and hygiene also shall be taught, and in teaching such subject, the teacher shall:

1. Give special and thorough instruction concerning the nature of alcoholic drinks and narcotics and their effect upon the human system;
2. Give simple lessons in the nature, treatment, and prevention of tuberculosis and other contagious and infectious diseases;
3. Give, to all pupils below the high school and above the third year of school work, not less than four lessons in hygiene each week for ten weeks of each school year from textbooks adapted to the grade of the pupils;
4. Give, to all pupils in the three lowest primary school years, not less than three oral lessons on hygiene each week for ten weeks of each school year, using textbooks adapted to the grade of the pupils as guides or standards for such instruction.

SECTION 4. AMENDMENT.) Section 15-41-24 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-41-24. HIGH SCHOOLS - MINIMUM CURRICULUM --ACCREDITATION.) The following units of study shall be made available to all students in each public and private high school in this state at least once during each four-year period, and each private high school shall comply with the requirements of this section if such high school is to receive any-~~accreditation~~ approval by the department of public instruction:

1. English, four units
2. Mathematics, three units
3. Science, four units
4. Social Studies, three units
5. Health and Physical Education, one unit
6. Music, one unit

7. Any combination of the following course areas: business education, economics and the free enterprise system, foreign language, industrial arts, vocational education, six units. For purposes of this subsection vocational education shall include home economics, agriculture, office education, distributive education, trade industrial, technical, and health occupations.

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

SECTION 5. AMENDMENT.) Section 15-41-25 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved April 3, 1979

## CHAPTER 224

HOUSE BILL NO. 1063  
(Legislative Council)  
(Interim Committee on Higher Education)

### ADULT EDUCATION PROGRAM COORDINATION

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, providing for coordination of adult basic and secondary education by the superintendent of public instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE 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:

COORDINATION OF ADULT BASIC AND SECONDARY EDUCATION PROGRAMS.) The superintendent of public instruction shall be responsible for coordinating adult basic and secondary education programs, including the administration of state and federal funding for such programs. The superintendent may hire a director and such assistants as may be necessary for this purpose.

Approved March 19, 1979

## CHAPTER 225

SENATE BILL NO. 2079  
(Legislative Council)  
(Interim Committee on State and Federal Government)

## BOARD OF PUBLIC SCHOOL EDUCATION

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

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

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

15-21-17. COMPOSITION OF STATE BOARD OF PUBLIC SCHOOL EDUCATION.) The state board of public school education shall consist of the superintendent of public instruction, and one qualified elector from each ~~judicial--district~~ of the following districts within the state, to be appointed by the governor subject to the consent of the senate:

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

Nominations shall be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by a committee consisting of the president of the North Dakota state's attorneys association, the president of the North Dakota school administrators association, and the president of the North Dakota school boards association. Appointive members shall serve for terms of six years, arranged so that the term of two members shall expire on June thirtieth of each even-numbered year. The governor shall fill vacancies upon the committee and all members so appointed as well as the members of the original committee shall possess all the powers of regularly appointed and confirmed members, pending confirmation by the senate or its refusal to confirm. At all times, two members of the board shall be members of the North Dakota school boards association. The superintendent of public instruction shall also serve as executive director and secretary of such board, shall call such meetings as may be required, shall supervise and carry out the policies of the board in relation to all functions of the board, and shall employ such personnel as shall be necessary to carry on such responsibilities as may be placed upon the board by law. The board shall annually elect a member of the board to serve as chairman. Appointive members shall be compensated at the rate of thirty dollars per day for each day actually and necessarily spent in the performance of their duties as board members and all members shall receive reimbursement for actual necessary expenses incurred in the performance of their duties from the biennial appropriation of the department of public instruction at the same rates as provided by law for other state officers. The board shall have authority to call upon any state office, officer, department, or agency for such advice and assistance as it may from time to time require.

Approved March 13, 1979

## CHAPTER 226

HOUSE BILL NO. 1228  
(Meiers, Brokaw, Tinjum)

## SCHOOL AND MUNICIPAL ELECTION OFFICIALS COMPENSATION

AN ACT to amend and reenact sections 15-28-05 and 40-21-05 of the North Dakota Century Code, relating to compensation of election officials in school district and municipal elections.

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

SECTION 1. AMENDMENT.) Section 15-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-05. COMPENSATION OF ELECTION OFFICIALS.) Election officials at public school district elections shall receive as compensation ~~therefor the sum of eight dollars. When the number of votes cast at such an election exceeds one hundred, each officer shall receive as additional compensation the sum of two dollars for every additional one hundred votes cast or major fraction thereof, but not more than eighteen dollars in all for such services as determined for election officials in section 16.1-05-05.~~ The amounts determined to be due election officials at public school district elections shall be paid from the funds of the public school district holding the election.

SECTION 2. AMENDMENT.) Section 40-21-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-05. COMPENSATION OF INSPECTORS, JUDGES, AND CLERKS AT MUNICIPAL ELECTIONS.) Each inspector, judge, or clerk of any regular or special municipal election, ~~for services performed at such election, shall receive as compensation therefor the sum of twelve dollars. When the number of votes cast at such election exceeds one hundred, each such officer shall receive as additional compensation the sum of two dollars for each additional one hundred votes cast, or major fraction thereof, but not more than twenty-five dollars in all for such services as determined for election officials in section 16.1-05-05.~~ The amounts determined to be due election officials at municipal elections shall be paid from the funds of the municipality holding the election. In the event a special municipal election is held on the same date as a statewide, districtwide, or countywide election, and if the same election officials perform services for both elections, the city shall not be required to pay the election officials, except for any extra officials necessary for such special municipal election.

Approved April 7, 1979

## CHAPTER 227

HOUSE BILL NO. 1559  
(Richard)

## PUBLICATION OF SCHOOL BOARD PROCEEDINGS

AN ACT to amend and reenact section 15-28-11 of the North Dakota Century Code, relating to the publication of school board proceedings.

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

SECTION 1. 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 newspaper of general circulation in such district shall be submitted to the electors of such district. If the publication of such proceedings is approved by a majority of the electors voting thereon, the records of such school board, including an itemized list of obligations approved for payment, shall be published in a newspaper of general circulation in such school district as-seen-as-available. 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 within a reasonable time after each school board meeting for the succeeding two years, or until disapproved at a succeeding school board election.

Approved March 26, 1979

## CHAPTER 228

SENATE BILL NO. 2252  
(Committee on Social Welfare and Veterans Affairs)  
(At the request of the Social Service Board and  
the Department of Public Instruction)

### BOARDING HOME CARE FOR SPECIAL EDUCATION STUDENTS

AN ACT to create and enact a new subsection to section 15-29-08 of the North Dakota Century Code, relating to the powers and duties of the school board; and to create and enact eleven new sections to the North Dakota Century Code, relating to the regulation of boarding home care for special education students; and providing a penalty.

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

SECTION 1.) A new subsection to section 15-29-08 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To recruit homes and facilities which provide boarding home care for special education students; to contract with any person, partnership, voluntary association, corporation or public or private agency for the recruitment of such homes and facilities; and to provide boarding home care for special education students in dormitories.

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

DEFINITIONS.) As used in this Act:

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. "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.

3. "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.
4. "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.
5. "Registration" shall mean the process whereby the board maintains a record of all family boarding or residential care facilities, prescribes standards and promulgates regulations under section 7 of this Act, and requires the operator of such home or facility to certify that he has complied with the prescribed standards and promulgated regulations.
6. "Registrant" shall mean the holder of a registration certificate issued by the board in accordance with the provisions of this Act.
7. "Registration certificate" is a written instrument issued by the board to publicly document that the certificate holder has certified his compliance with this Act and the applicable regulations and standards as prescribed by the board.
8. "Board" shall mean the social service board of North Dakota.
9. "Relative" shall mean any person having the following relationship to the student by marriage, blood, or adoption: grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle or aunt.

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

BOARDING HOME CARE FOR SPECIAL EDUCATION STUDENTS - REGISTRATION REQUIRED.) No person, partnership, voluntary organization or corporation shall 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 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 4.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

PUBLIC AGENCY PURCHASE OF BOARDING HOME CARE FOR SPECIAL EDUCATION STUDENTS.) No agency of state or local government shall 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 1 or 2 of section 3 of this Act, complies with all applicable standards, rules and regulations as may be issued or promulgated by the board.

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

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 board. The board 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 board 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 Act and the rules, regulations and standards prescribed by the board; and
3. The home or facility will be maintained according to the standards prescribed for its conduct by the rules and regulations of the board. The registration certificate shall be in force and effect for a period of not more than two years.

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

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this Act unless the board 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 7.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

MINIMUM STANDARDS - RULES AND REGULATIONS - INSPECTION BY A GOVERNMENTAL UNIT.) The board 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 board.
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 Act 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 Act; and
  - b. Certify to the board that the home or facility meets the requirements of this Act and the minimum standards prescribed by the board.

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

INVESTIGATION OF APPLICANTS AND REGISTRANTS - MAINTENANCE OF RECORDS - CONFIDENTIALITY OF RECORDS.)

1. The board 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 board, the state department of health 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 board.

2. All holders of registration certificates shall:

- a. Maintain such records as the board may prescribe regarding each student in their care and control, and shall report to the board, when requested, such facts as the board may require with reference to the students upon forms furnished by the board; and
  - b. Admit for inspection authorized agents of the board 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 boarding home care for special education students shall be deemed confidential and be properly safeguarded and shall not be disclosed except:
- a. In a judicial proceeding;
  - b. To officers of the law or other legally constituted boards 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 board, are in a position to serve their interests should that be necessary.

SECTION 9.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

REVOCATION OF REGISTRATION CERTIFICATE.) The board 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 5 of this Act 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 board.
3. The registration certificate was issued by fraudulent or untrue representation.
4. The registrant has violated any rules and regulations of the board.
5. The registrant has been guilty of an offense determined by the board 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 board, pursuant to section 12.1-33-02.1, has determined that he has not been sufficiently rehabilitated.

SECTION 10.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

DENIAL OR REVOCATION OF REGISTRATION CERTIFICATE - ADMINISTRATIVE HEARING.) Before any application for a registration certificate under the provisions of this Act shall be denied, or before revocation of any registration certificate shall take place, written charges as to the reasons therefor shall be served upon the applicant or registrant. The applicant or registrant shall have the right to an administrative hearing in the manner provided in chapter 28-32 if written request for the hearing is made to the board within ten days after service of the written charges.

SECTION 11.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

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.

SECTION 12.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

PENALTY.) Any person whether owner, manager, operator or representative of any owner, operator, or manager who violates any of the provisions of this Act is guilty of a class B misdemeanor.

Approved April 3, 1979

## CHAPTER 229

HOUSE BILL NO. 1444  
(Wald, Lardy)

### SCHOOL BUS TRANSPORTATION FEE

AN ACT allowing nonreorganized school districts the option of charging a fee for bus transportation which they provide.

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

SECTION 1. CHARGE FOR BUS TRANSPORTATION OPTIONAL.) The school board of any school district which has not reorganized pursuant to article III of chapter 15-53.1, may charge a fee for school bus service provided to anyone riding on buses provided by the school district. The total fees collected may not exceed an amount equal to the difference between the state transportation payment and the state average cost for transportation or the local school district's cost, whichever is the lesser amount.

Approved March 8, 1979

## CHAPTER 230

SENATE BILL NO. 2129  
(Committee on Education)  
(At the request of the Department of Public Instruction)

## TEACHER'S OATH

AN ACT to amend and reenact section 15-37-01 of the North Dakota Century Code, relating to teacher's oath.

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

SECTION 1. AMENDMENT.) Section 15-37-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-37-01. TEACHER'S OATH.) Every person who applies for a certificate to teach in any of the public schools of the state, ~~or for a renewal thereof,~~ shall subscribe to the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the state of North Dakota, and that I will faithfully discharge the duties of my position, according to the best of my ability.

The oath or affirmation shall be executed in duplicate, and one copy thereof shall be filed with the superintendent of public instruction when the application for a certificate is made, and the other copy shall be retained by the person who subscribes to such oath or affirmation. No certificate shall be issued unless such an a duly witnessed or notarized oath or affirmation shall have been filed.

Approved March 8, 1979

## CHAPTER 231

HOUSE BILL NO. 1124  
(Committee on Education)  
(At the request of the Department of Public Instruction)

### TEACHER'S OATH ADMINISTRATION REPEALED

AN ACT to repeal section 15-37-04 of the North Dakota Century Code, relating to administering teacher's oath.

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

SECTION 1. REPEAL.) Section 15-37-04 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

## CHAPTER 232

HOUSE BILL NO. 1208  
(Committee on Education)  
(At the request of the Education Factfinding Commission)

### FACTFINDING COMMISSION COMPENSATION AND PROCEDURE

AN ACT to amend and reenact sections 15-38.1-04, 15-38.1-05, and paragraphs (1) and (2) of subdivision b of subsection 2 of section 15-38.1-13 of the North Dakota Century Code, relating to the compensation, powers and procedure of the education factfinding commission.

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

SECTION 1. AMENDMENT.) Section 15-38.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38.1-04. COMPENSATION OF COMMISSION AND FACTFINDERS.) Members of the commission shall receive ~~twenty-five~~ fifty dollars per day for their attendance at regular or special meetings of the commission or in the performance of such special duties as the commission may direct. In addition to such compensation, they shall receive an allowance for actual and necessary travel and subsistence expenses while performing commission functions away from their places of residence. Factfinders, appointed by the commission, including commission members when so serving, shall be reimbursed for expense on the same basis as members of the commission and shall receive such compensation as the commission shall from time to time establish.

SECTION 2. AMENDMENT.) Section 15-38.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38.1-05. POWERS OF THE COMMISSION.) The commission shall have the power to adopt its own rules and regulations. In addition to other powers authorized by law and under this chapter, the members of the commission and any factfinder appointed by it, shall, in the performance of their duties, have the powers contained in sections 28-32-09, 28-32-10, 28-32-11, and 28-32-12 of the North Dakota Century Code.

SECTION 3. AMENDMENT.) Paragraphs (1) and (2) of subdivision b of subsection 2 of section 15-38.1-13 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (1) Upon request of either contending party, and in the event that the commission determines that an impasse exists between a school board and a representative organization, the commission shall itself act as a factfinding commission or appoint a factfinder from a list of qualified persons maintained by the commission. If a factfinder is appointed, he shall have such powers as are designated to him by the commission and he shall make his recommendation to the commission. The commission shall consider the facts and make its findings and recommendation, or it shall consider the report and recommendation of its factfinder, and, after such further investigation as it may elect to perform, it shall make its findings and recommendation. Within ~~twenty~~ forty days after the request to render assistance is received, the findings and recommendation of the commission shall be transmitted to the contending parties and if the issue is not then resolved, the commission shall between ten and twenty days thereafter be made after such transmittal make its findings and recommendations public.
- (2) In the event that facts are found or recommendations made under factfinding procedures agreed upon between the contending parties and the impasse continues, the commission may consider such findings and recommendation without instituting its own factfinding procedures and from them issue its own findings and recommendations to the contending parties, and if the issue is not then resolved the commission shall within between ten and twenty days thereafter after such transmittal make its findings and recommendations public.

Approved March 3, 1979

## CHAPTER 233

HOUSE BILL NO. 1242

(Committee on Education)

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

## TEACHERS' RETIREMENT PROVISIONS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to protecting the teachers' fund for retirement against fraud; and to amend and reenact subsection 1 of section 15-39.1-04 and sections 15-39.1-13, 15-39.1-17, and 15-39.1-20 of the North Dakota Century Code relating to the definition of a teacher, exemptions from the legal process, the final payment on a member's account, and withdrawal from the teachers' fund for retirement; and providing a penalty.

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

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

FRAUD AGAINST FUND - PENALTY.) Any person who shall knowingly make a false statement, or shall falsify or permit to be falsified any record or records of this retirement fund in any attempt to defraud such fund as a result of such act, shall be guilty of theft, and shall be punishable therefor under the laws of the state of North Dakota. Should any change or error in records result in any person receiving from the fund more or less than that person would have been entitled to receive had the records been correct, then, on the discovery of any such error, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-39.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Teacher" shall include:

- a. All persons who are certified to teach in this state who are employed either in teaching or as a teacher's

aide for more than ten days in any one school year 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 of the North Dakota education association, all assistant secretaries and professional staff of such association, and 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 teachers' fund for retirement, and the secretary of the North Dakota school administrators association, provided that such persons were previously members of and have credits in the fund.

SECTION 3. AMENDMENT.) Section 15-39.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-13. ~~ANNUITIES-EXEMPT~~ EXEMPTIONS FROM LEGAL PROCESS.) The refunds and annuities payable under the provisions of this chapter shall not be subject to attachment, garnishment, execution, or other seizure or process, nor shall they be subject to sale, assignment, pledge, mortgage, or other alienation.

SECTION 4. AMENDMENT.) Section 15-39.1-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-17. DEATH OF MEMBER.) If the death of a member who has not acquired a vested interest should occur prior to retirement, a refund of his assessments accumulated with interest shall be made to such beneficiary as he may designate, or, if no beneficiary is designated, the same shall be paid to the surviving spouse, or if no surviving spouse, to the surviving children, or if none, to his estate; provided, however, that if no probate proceedings have been instituted within thirty days of the death of the member, then to such heirs at law who file claim with the fund within one hundred

and fifty days of the death of the member. His assessments shall earn interest from the July first following the date the assessment is made with the interest credit each year determined at the current rate for one-year certificates then being paid by the Bank of North Dakota.

If the death of a member who has acquired a vested interest should occur prior to retirement, then his designated beneficiary may apply for a refund of his assessments accumulated with interest as described in the above paragraph. If there is no designated beneficiary, then the same shall be paid to the surviving spouse, or if no surviving spouse, to the surviving children, or if none, to his estate; provided, however, that if no probate proceedings have been instituted within thirty days of the death of the member, then to such heirs at law who file claim with the fund within one hundred and fifty days of the death of the member. In lieu of such refund, the designated beneficiary, if a beneficiary has been designated, may elect to receive a monthly annuity in accordance with option one as set forth in section 15-39.1-16, with the amount of such annuity being determined as though the deceased member had retired under the option on the day of the month in which his death occurred. If any applicant for an annuity under this section has not paid into the fund assessments equal to the amounts required to be paid under section 15-39.1-09, he shall pay any deficiency into the fund before receiving the annuity.

If a member who has received annuity payments other than a reduced retirement allowance as provided in section 15-39.1-16 dies prior to receiving accumulated annuity payments which exceed the assessments paid by the member to the fund plus interest as outlined in section 15-39.1-20, the member's beneficiary shall receive a final payment equal to the assessments the member paid to the fund plus interest as provided in section 15-39.1-20 less the amount of the annuity payments made prior to the member's death.

SECTION 5. AMENDMENT.) Section 15-39.1-20 of the 1977 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, he may, after a period of one hundred twenty days, withdraw from the fund and shall be then entitled to receive a refund of assessments accumulated with interest credited for each year as determined at the current rate for one-year certificates then being paid by the Bank of North Dakota. The one hundred twenty day requirement may be waived by the board of trustees when it has evidence the teacher will not be returning to teach in North Dakota. Such refund shall be in lieu of any other benefits to which the member may be entitled under the terms of this chapter.

Approved March 26, 1979

## CHAPTER 234

SENATE BILL NO. 2285  
(Senators Peterson, Strand, Smykowski)  
(Representatives Berger, Knudson)

## TEACHERS' RETIREMENT ASSESSMENTS AND BENEFITS

AN ACT to amend and reenact section 15-39.1-09, section 15-39.1-10, and section 15-39.1-11 of the North Dakota Century Code, relating to assessments for teachers, age for eligibility for benefits, calculation of benefits, and to vested rights in retirement benefits in the teachers' fund for retirement.

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

SECTION 1. AMENDMENT.) Section 15-39.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

\* SECTION 2. AMENDMENT.) Section 15-39.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-10. ELIGIBILITY FOR BENEFITS.)

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

\* NOTE: Subsection 3 of section 15-39.1-10 was also amended by section 2 of Senate Bill No. 2215, chapter 235.

- b. All teachers who have attained the age of sixty-five years and who completed their final year of teaching in 1971.
  - c. All teachers who have attained the age of sixty years and who have completed thirty-five years of teaching credit of which one year must be completed after July 1, 1979.
2. The amount of retirement benefits shall be calculated as follows:
- a. One percent of the final average monthly salary of the teacher ~~for the school year next preceding July 1, 1971,~~ multiplied by the number of years of credited service ~~prior to that date.~~ For the purposes of this subsection, monthly salary means one-twelfth of the annual salary paid the teacher. Final average monthly salary shall be the average of the teacher's highest monthly salaries received for any five years employed during the last ten years of employment.
  - b. ~~One and one-half percent of the monthly salary of the teacher for each school year subsequent to July 1, 1971.~~  
  
~~For the purposes of this subsection, monthly salary means one-twelfth of the annual salary paid the teacher. If the salary of the teacher for the school year next preceding July 1, 1971, is shown to be unrepresentative of his normal salary or if the teacher was not employed during the year next preceding July 1, 1971, the board shall use the salary received during the last full year of teaching prior to the 1970-1971 school year for making the calculations required by this subsection.~~
3. Notwithstanding any other provision of this section, no full-time teacher who retired in 1971 or after such year, eligible to receive or who is receiving benefits under former chapter 15-39, chapter 15-39.1, or section 15-39.2-02, shall receive benefits which are less than:
- a. Six dollars per month per year of teaching to twenty-five years.
  - b. Seven dollars and fifty cents per month per year of teaching over twenty-five years.
  - c. Teachers, superintendents, assistant superintendents, principals, assistant principals, special teachers, supervisors of instruction and other supervisors, presidents, deans, school librarians, and registrars employed by any state institution under the supervision and control of the board of higher

~~education and--any-person-employed-in-teaching-as-lay  
faucity-in-a-nonpublic-school shall not be eligible  
for the minimum benefits provided by this subsection.  
As-used-in-this-subsection,--the--term--"lay--faucity"  
shall--mean--any-person-who-teaches-elementary-or-high  
school-students-in-a-nonpublic-school,--and-is--neither  
a--member--of--an--ecclasiastical--order--or--religious  
house,--or--an--ordained-clergyman-~~

The greater benefit available from this chapter as it existed on July 1, 1977, and July 1, 1979, shall be available to any teacher who had rights vested in the chapter on June 30, 1979.

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

15-39.1-11. RIGHTS VESTED WHEN.) When any teacher has paid assessments for a period of ten years, he shall have a vested right to a retirement annuity but he shall receive no payments hereunder until he attains the age of sixty-five years or is sixty years of age with thirty-five years of teaching credit of which one year must be completed after July 1, 1979 ~~unless he shall elect--to--claim--an  
early-retirement-as-hereinafter-set-ferth.~~

Approved March 21, 1979

## CHAPTER 235

SENATE BILL NO. 2215  
(Committee on Education)

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

## TEACHERS' RETIREMENT PARTICIPATION

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to permitting nonpublic school teachers to participate in the teachers' fund for retirement; and to amend subsection 3 of section 15-39.1-10 of the North Dakota Century Code, relating to the eligibility of nonpublic school teachers to participate in the teachers' fund for retirement.

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

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

PARTICIPATION OF NONPUBLIC SCHOOL TEACHERS.) Any nonpublic school teacher who has participated in chapter 15-39 between July 1, 1971, and June 30, 1979, may elect to receive benefits in accordance with chapter 15-39.1 by paying into the teachers' fund for retirement the difference between the amount actually paid in accordance with chapter 15-39 by the teacher and employer during such teacher's years of participation during that period and the amount which would have been required had the teacher participated in the fund during that period under the provisions of section 15-39.1-09. Interest on this difference shall be paid by the teacher to the teachers' fund for retirement at a rate equal to that then being paid by the Bank of North Dakota for one-year certificates. All nonpublic school teachers who elect to participate for the first time in the teachers' fund for retirement after July 1, 1979, shall be required to participate as provided for by chapter 15-39.1. For the purposes of this section, "nonpublic school teachers" shall mean "lay faculty" as defined by subdivision k of subsection 1 of section 15-39-01.

Any nonpublic school teacher who exercises the election to come within the provisions of this chapter as authorized by this section shall give the teacher's employer written notice of the teacher's election and shall authorize such employing authority, as

part of said notice, to deduct from each payment of salary the teacher assessments due the fund as prescribed in section 15-39.1-09. The nonpublic school shall advise the teacher whether it assents to payment of employer contributions prescribed in section 15-39.1-09. If the nonpublic school assents, it shall pay the employer contribution and perform all other acts required of it under this chapter. If the nonpublic school declines to pay employer's contributions, it shall be paid by the teacher, in addition to the teacher's assessments deducted from the teacher's salary, and shall be forwarded to the fund as provided by this chapter. Once having assented to the payment of employer contributions for a specific teacher, the nonpublic school shall be required to continue payment of employer contributions as long as the teacher remains a member of the fund and continues teaching at that nonpublic school.

\* SECTION 2. AMENDMENT.) Subsection 3 of section 15-39.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 13, 1979

\* NOTE: Subsection 3 of section 15-39.1-10 was also amended by section 2 of Senate Bill No. 2285, chapter 234.

## CHAPTER 236

HOUSE BILL NO. 1241

(Committee on Education)

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

ANNUITIES DISCONTINUED ON RESUMPTION  
OF TEACHING

AN ACT to provide for the discontinuance of annuities from the teachers' fund for retirement on resumption of teaching, and to repeal section 15-39.1-19 of the North Dakota Century Code, relating to discontinuance of annuities from the teachers' fund for retirement on resumption of teaching.

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

SECTION 1. ANNUITIES DISCONTINUED ON RESUMPTION OF TEACHING.)  
The benefits payable to any retired person who has retired from teaching under the provisions of chapters 15-39, 15-39.1, or 15-39.2 and who again returns to teaching in a public school or state institution in this state or any other state shall be discontinued when the retired person's earnings during the fund's fiscal year exceed the maximum earnings allowed by the Federal Social Security Act. Such person shall immediately notify the office of the fund in writing when the retired person's earnings have exceeded such maximum. Failure to notify the fund shall result in the loss of one month's annuity benefits when the payment of the annuity is resumed upon further retirement, in addition to the discontinuance of benefits paid after reaching such maximum.

Any retired person who returns to teaching shall pay the required assessments on those earnings received after the maximum has been exceeded in the fiscal year and the employer shall pay the required contributions in a like manner.

Upon the teacher's subsequent retirement, the member's benefit shall be resumed as follows:

1. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund shall be refunded in accordance with section 15-39.1-20 and the teacher shall not be entitled to receive the discontinued annuity for those months of the fiscal year during which the earnings were in excess of the maximum earnings so established.

2. If the teacher subsequently retires with more than two years of additional service, the retired person's annuity shall be the sum of the discontinued annuity, plus an additional annuity computed according to the provisions of this chapter based upon years of service and average salaries earned during such period of reemployment.

SECTION 2. REPEAL.) Section 15-39.1-19 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 21, 1979

## CHAPTER 237

HOUSE BILL NO. 1532  
(Wentz)

## TEACHERS' RETIREMENT TEACHING CREDIT

AN ACT to amend and reenact subsection 2 of section 15-39.1-24 of the North Dakota Century Code, relating to receiving additional credit for teaching toward retirement.

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

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

2. Any teacher who, within ~~twenty-four~~ thirty months of entering the military service of the United States of America, was engaged in the occupation of teaching in the state of North Dakota, and who received an honorable discharge from such service, shall be entitled to have the time of such service credited under the terms of this chapter upon his return to teaching and the payment of the assessments, including the matching funds of the employing body, based upon his first annual salary on return to teaching in the state. Any teacher who has made such back payments for military service may elect prior to retirement, to receive the return of such payments, with interest at the rate being paid by the Bank of North Dakota on one-year certificates of deposit, and reject the military service credit and the board shall forthwith refund said amounts. The teacher, at retirement, may again elect to claim the benefits of this section. The same rights shall be available to a teacher who has been engaged in teaching in North Dakota prior to such time but was attending an institution of higher learning for the purpose of improving himself in such profession within ~~twenty-four~~ thirty months of the time of entry into the armed services. All payments required under this subsection shall be made with interest at the rate being paid on one-year certificates by the Bank of North Dakota.

Approved March 3, 1979

## CHAPTER 238

HOUSE BILL NO. 1377  
(I. Jacobson)

## TEACHERS' RETIREMENT MILL LEVY

AN ACT to amend and reenact section 15-39.1-28 of the North Dakota Century Code, relating to the mill levy for teachers' retirement.

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

SECTION 1. AMENDMENT.) Section 15-39.1-28 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-28. MILL LEVY FOR TEACHERS' RETIREMENT.) Any school district by a resolution of its school board may levy a tax of not to exceed ~~seven~~ forty mills on the assessed taxable valuation within the district, the proceeds to be used for the purposes of meeting the district's contribution to the fund arising under this chapter. The mill levy permitted by this section shall be in addition to any tax levy limitations now prescribed by law.

Approved March 19, 1979

## CHAPTER 239

HOUSE BILL NO. 1614  
 (Representative I. Jacobson)  
 (Senator Wenstrom)

## TIAA-CREF RETIREMENT ANNUITY

AN ACT to amend and reenact sections 15-39.2-01 and 15-39.2-05 of the North Dakota Century Code, relating to the method for calculating retirement annuity of teachers retired under the teachers' insurance and annuity association of America-college retirement equities fund.

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

SECTION 1. AMENDMENT.) Section 15-39.2-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.2-01. RETIRED TEACHERS - ELECTION OF COVERAGE - ELIGIBILITY - ~~CONTRIBUTION-TO-FUND--~~ LIMITATION.) Notwithstanding the provisions of chapter 15-39.1, any person who retired from teaching under the teachers' insurance and retirement fund prior to July 1, 1971, who had ten or more years of teaching credit under that program shall be entitled to elect to qualify for benefits under the teachers' fund for retirement by complying with the provisions of this chapter. A college teacher who retired from teaching after July 1, 1971, may, notwithstanding the provisions of section 15-39.1-25, elect to receive benefits in accordance with chapter 15-39.1 and section 15-39.2-05. ~~An annuitant who elects to come under the 1971 law shall pay into the teachers' fund for retirement the difference between the amount actually paid into the fund or the predecessor fund by the teacher and the school board during his last year of teaching and the amount which would have been required to have been paid on the salary paid the annuitant for his last year of teaching under the 1971 law.~~

The amount of monthly benefits to which an annuitant electing to come under the 1971 law shall be entitled until death shall be equal to one percent of the monthly salary of the annuitant for the last school year for each year of service of such annuitant. Monthly salary within the meaning of this provision shall be deemed to be an amount equal to one-twelfth of the annual salary of the teacher. If for any reason the earnings of the teacher for the last

year of teaching are shown to have been nonrepresentative of his typical earnings, the board shall readjust the credit to be allowed for past years of service to the last year of typical earnings. As used in this section, "college teacher" means a retired teacher who is entitled to receive an annuity through the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), ~~who contributed to TIAA-CREF while teaching at a North Dakota public institution of higher education as a result of having participated in the North Dakota state board of higher education TIAA-CREF retirement plan for North Dakota state institutions of higher education.~~

SECTION 2. AMENDMENT.) Section 15-39.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.2-05. BENEFITS PAYABLE - CALCULATION.) A retired teacher who makes the election authorized under section 15-39.2-01 shall receive ~~the difference,~~ from the teachers' fund for retirement, ~~between these payments~~ a benefit amount equal to the difference between the benefit payable under the single life annuity option to which he would otherwise be entitled under the teachers' fund for retirement and ~~the first payment received after making the election under section 15-39.2-01 to which he is entitled as a minimum annuity generated by contributions by the employer and the employee to the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF).~~ ~~The difference payable by the teachers' fund for retirement as first calculated under this section for a particular retiree shall be the maximum amount payable from the fund to that retiree. However, the amount payable pursuant to this section may be decreased if the minimum annuity payable to a retiree under TIAA-CREF should increase. However, no payment shall be made from the teachers' fund for retirement to a retired teacher affected by this section unless the board of trustees of the teachers' fund for retirement, or its agent, has received the necessary information from the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF) an income offset. The income offset is equal to the single life annuity income, as of the first day of the month coinciding with or next following a teacher's retirement date under the teachers' fund for retirement based on accumulations attributed to employee and employer contributions under the TIAA-CREF retirement plan adopted by the North Dakota state board of higher education for North Dakota institutions of higher education and assuming that all such contributions were paid to TIAA.~~

A retired teacher who made the election authorized under section 15-39.2-01 prior to May 1, 1979, shall have a TIAA-CREF income offset which will be fixed at the value of the May 1, 1979, TIAA-CREF income offset as calculated in accordance with this section prior to its being amended.

No payment shall be made from the teachers' fund for retirement to a retired teacher affected by this section unless the board of trustees of the teachers' fund for retirement, or its agent, has received notice of the amount of the teacher's income offset from TIAA-CREF.

Approved April 7, 1979

## CHAPTER 240

HOUSE BILL NO. 1199  
(G. Larson, Berger, Knudson)

## TEACHERS' POST-RETIREMENT ADJUSTMENT

AN ACT to create and enact a new section to chapter 15-39.2 of the North Dakota Century Code, relating to a post-retirement adjustment.

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

SECTION 1.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

RETIRED TEACHERS - MINIMUM BENEFITS.) Any teacher who was sixty-five years of age at retirement and who is eligible to receive or who is receiving benefits under former chapter 15-39 may receive benefits which are not less than:

1. Six dollars per month per year of teaching to twenty-five years.
2. Seven dollars and fifty cents per month per year of teaching over twenty-five years.

Teachers, superintendents, assistant superintendents, principals, assistant principals, special teachers, supervisors of instruction and other supervisors, presidents, deans, school librarians, and registrars employed by any state institution under the supervision and control of the board of higher education and any person employed in teaching as lay faculty in a nonpublic school are not eligible for the minimum benefits provided by this section. As used in this section, the term "lay faculty" means any person who teaches elementary or high school students in a nonpublic school, and is neither a member of an ecclesiastical order or religious house, nor an ordained clergyman.

A teacher who retired at any time prior to sixty-five years of age is entitled to benefits not less than the minimum benefits established by this section reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement.

Approved April 3, 1979

## CHAPTER 241

HOUSE BILL NO. 1416  
(Kuchera)

### DECEASED COLLEGE TEACHER BENEFICIARY ELECTION

AN ACT to create and enact a new section to chapter 15-39.2 of the North Dakota Century Code, relating to the election of beneficiaries of certain deceased college teachers; and declaring an emergency.

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

SECTION 1.) A new section to chapter 15-39.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

BENEFICIARIES OF DECEASED COLLEGE TEACHERS.) If a college teacher who is eligible to make the election provided by this chapter dies prior to receiving an annuity, the college teacher's designated beneficiary may elect to receive a monthly annuity computed according to the provisions of this chapter in a manner which the deceased teacher's annuity would have been computed if the deceased teacher had lived, made such an election, and selected option one as outlined in section 15-39.1-16. The designated beneficiary of a college teacher who exercised the election in section 15-10-17 shall not be eligible for benefits provided in this section.

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

Approved March 3, 1979

## CHAPTER 242

HOUSE BILL NO. 1565  
(G. Larson, Knudson)

## COLLEGE TEACHER RETIREMENT ELECTION

AN ACT to create and enact three new sections to chapter 15-39.2 of the North Dakota Century Code, relating to college teachers under the teachers' fund for retirement, alternative benefits, and methods of paying assessments; to amend and reenact section 15-39.1-25 of the North Dakota Century Code, relating to fixed rights and obligations for college teachers; and providing an appropriation.

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

SECTION 1.) Section 15-39.1-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-25. CERTAIN RIGHTS AND OBLIGATIONS FIXED.)  
~~Notwithstanding any other provisions of law~~ Except as otherwise provided in chapter 15-39.2, the laws pertaining to the teachers' fund for retirement, as contained in chapter 15-39.1, shall apply to teachers, superintendents, assistant superintendents, principals, assistant principals, special teachers, supervisors of instruction and other supervisors, presidents, deans, school librarians, and registrars employed by any state institution under the supervision and control of the board of higher education and the commissioner of higher education, only in the form and substance as chapter 15-39 existed as of July 1, 1967, and all such persons shall have only such rights, benefits, and privileges as provided in chapter 15-39 as it existed on July 1, 1967. Such persons shall be responsible or liable for only those costs or assessments provided for in chapter 15-39 as such laws and chapter existed on July 1, 1967. The board of higher education or any institution under the supervision or control of the board of higher education shall not be liable for any costs, assessments, or payments under the provisions of chapter 15-39 in excess of that provided or required under the provisions of chapter 15-39 as such laws and chapter existed on July 1, 1967. It is hereby declared to be the intent of the legislative assembly to freeze the rights, benefits, privileges, assessments, payments, and obligations of the persons, offices, and institutions specified in this section to those rights, benefits, privileges, assessments,

payments, and obligations as they existed under the provisions of chapter 15-39 as such laws and chapter existed in form and substance as of July 1, 1967, and that all legislative enactments subsequent to such date shall not affect or apply to those persons, offices, and institutions specified in this section or their rights, benefits, privileges, assessments, payments, and obligations as fixed by this section.

SECTION 2.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

COLLEGE TEACHERS - ELECTION - CONTRIBUTION TO FUND.) In lieu of the election provided for by section 15-39.2-01, a college teacher may elect prior to July 1, 1980, notwithstanding the provisions of section 15-39.1-25, to receive benefits in accordance with chapter 15-39.1 and section 4 of this Act. A teacher who elects to receive such benefits shall pay into the teachers' fund for retirement, in the manner provided for by section 3 of this Act, the difference between the amount actually paid to the fund by the teacher during the period from July 1, 1969, to such time as the teacher exercises the election authorized by this section, and the amount which would have been required had the teacher's assessment rate remained the same as that of a public school teacher during that period. The amount shall be determined by the board of trustees of the teachers' fund for retirement.

SECTION 3.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

ASSESSMENTS - METHOD OF PAYMENT.) A college teacher making the election provided for in section 2 of this Act shall make the payment of the required assessments for the period prior to the election by a single sum payment in the manner provided for by the board of trustees of the teachers' fund for retirement. Payment of the required assessments for the period after the election shall be made in the manner provided for in section 15-39.1-09.

SECTION 4.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

BENEFITS.) Any college teacher making the election provided for in section 2 of this Act and paying the assessments provided for in section 3 of this Act shall be eligible for the same benefits as a public school teacher with like average salary and years of service would receive under section 15-39.1-10.

SECTION 5. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$1,200,000.00, or so much thereof as may be necessary, to the teachers' fund for retirement for the purposes of funding any employer's contribution, with interest, and

interest on teacher assessments to the teachers' fund for retirement necessitated by chapter 15-39.1 for each teacher making the election provided for in this Act and any unfunded liability to the teachers' fund for retirement arising out of the adoption of this Act. The election authorized in section 2 shall not be available once the appropriation authorized in this section has been expended.

Approved April 7, 1979

## CHAPTER 243

SENATE BILL NO. 2439  
(Committee on Appropriations)

## FOUNDATION AND TRANSPORTATION AID

AN ACT to set forth legislative intent covering any appropriation for school textbooks, to provide that a portion of oil and gas bonus payments received by the board of university and school lands be apportioned and distributed to the public schools, to provide for the contingent transfer of unused Vietnam bonus funds for the foundation program, and to provide for adjusting foundation aid payments; to amend and reenact section 4 of chapter 476 of the 1975 Session Laws of North Dakota, relating to legislative intent concerning the Vietnam bonus sinking fund; to amend and reenact sections 15-40.1-06, 15-40.1-07, 15-40.1-08, 15-40.1-16, and 54-17.1-12 of the North Dakota Century Code, relating to the level of educational support per pupil for the 1979-81 biennium, enrollment periods used in determining per-pupil foundation program payments for school districts, aid for school bus transportation, and Vietnam bonus funds; to repeal subdivision b of subsection 3 of section 15-40.1-06 of the North Dakota Century Code, relating to the deduction for federal impact payments; to provide an appropriation for kindergarten aid and to appropriate moneys in the state tuition fund; and to declare an emergency.

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

SECTION 1. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that any funds appropriated to the department of public instruction specifically for the purpose of providing free textbooks to the public school students of North Dakota be distributed to the local school districts through the foundation aid program.

SECTION 2. OIL AND GAS BONUS PAYMENTS - APPORTIONMENT AND DISTRIBUTION.) Fifty percent of the oil and gas bonus payments on common school lands received by the board of university and school lands shall be apportioned and distributed among the common schools for their maintenance and support based upon the student population.

SECTION 3. DISTRIBUTION OF BONUS MONEYS COLLECTED AFTER DECEMBER 31, 1978.) The distribution of oil and gas bonus payments required by section 2 of this Act applies to oil and gas bonus payments received by the board of university and school lands after December 31, 1978. The oil and gas bonus payments received by the board of university and school lands for distribution pursuant to section 2 of this Act during the period beginning January 1, 1979, and ending June 30, 1979, shall be apportioned and distributed as provided by section 2 of this Act to the school districts after June 30, 1979.

SECTION 4. TRANSFER OF FUNDS IN VIETNAM CONFLICT ADJUSTED COMPENSATION BOND FUND - CONTINGENCY.) All existing funds in the sinking fund for the state of North Dakota general obligation bonds, Vietnam conflict adjusted compensation series, in excess of those funds needed to redeem all outstanding bonds and interest coupons shall be subject to transfer by the state treasurer to the superintendent of public instruction upon certification by the superintendent of public instruction that the general fund appropriation approved by the forty-sixth legislative assembly and other available funds are insufficient to make the foundation program payments to schools as authorized by the forty-sixth legislative assembly for the 1979-81 biennium. Only such funds as are necessary to make foundation program payments shall be transferred, and any funds transferred pursuant to this section shall be distributed as provided in section 15-40.1-05.

SECTION 5. ADJUSTMENT OF FOUNDATION AID PAYMENT.) Whenever the taxable valuation of property is diminished because of the reclassification of real property as personal property which results from either legislative or judicial action, the state foundation aid payment to the affected school district shall be based on the diminished valuation in the year in which it is paid to the school district.

SECTION 6. AMENDMENT.) Section 4 of chapter 476 of the 1975 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 4. LEGISLATIVE INTENT - INDUSTRIAL COMMISSION AUTHORITY - INVESTMENT BY BANK OF NORTH DAKOTA.)

1. The legislative assembly intends that the moneys appropriated by section 3 of this Act, and other moneys in the sinking fund, may be expended by the industrial commission to purchase, in the open market or by negotiation, outstanding Vietnam conflict adjusted compensation bonds, of either or both series, at such times as the commission sees fit. The industrial commission is hereby authorized to purchase and retire the aforementioned bonds whenever the commission shall judge that it is financially in the best interest of the state to do so.

2. The Bank of North Dakota, on behalf of the state treasurer, shall invest the moneys appropriated by section 3 of this Act, consistent with the provisions of section 21-10-07, at the best possible rate of interest, and all interest earned thereby shall be deposited to the credit of the sinking fund created by section 54-17.1-07 for use in meeting bond principal and interest payments as they come due, to the extent such funds are necessary to pay bond principal and interest payments.

\* SECTION 7. AMENDMENT.) Section 15-40.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-06. DECLARATION OF LEGISLATIVE INTENT - EDUCATIONAL SUPPORT PER PUPIL - SCHOOL DISTRICT EQUALIZATION FACTOR - LIMITATIONS.)

1. It is the intent of the legislative assembly to support elementary and secondary education in this state from state and county funds based on the educational cost per pupil. In determining the educational cost per pupil, the following criteria shall not be used:
  - a. Expenditures for capital outlay for buildings and sites, or debt service.
  - b. Expenditures from school activities and school lunch programs.
  - c. Expenditures for the cost of transportation, including the cost of school buses.
2. It is hereby determined that the educational support per pupil during the first year of the ~~1977-1979~~ 1979-81 biennium shall be ~~seven-hundred-seventy-five~~ nine hundred three dollars and for the second year of the biennium the educational support per pupil shall be ~~eight-hundred-fifty~~ nine hundred seventy dollars and shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 shall be supported in the amount of two hundred twenty dollars, which shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07.
3. In determining the amount of payment due school districts for per-pupil aid under this section, the following shall be subtracted from the amount of such aid:
  - \* NOTE: Subdivision b of subsection 3 of section 15-40.1-06 was repealed by section 12 of this bill, and was also amended by section 1 of House Bill No. 1126, chapter 245

- a. The product of twenty mills times the latest available net assessed and equalized valuation of property of the school district.
- b. That amount in dollars of the state group rate for Title I of Public Law 81-874 represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 81-874 payments, except that this subsection shall not include 3B students residing in tax-exempt, federally owned mobile homes. The amount of funds deducted from a school district shall not be in excess of the funds that may be taken into account under federal regulations Public Law 81-874, section 5(d).
- c. The amount of funds estimated by the superintendent of public instruction to be received by each school district for the period from May first of the current year through April thirtieth of the following year from distributions of oil and gas bonus payments pursuant to section 2 of this Act, which shall be subtracted from the school district's November first foundation program payment. The May first foundation program payment shall be adjusted to reflect a subtraction for the actual amounts received pursuant to section 2 of this Act by the school district during this period.

\* SECTION 8. AMENDMENT.) Section 15-40.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-07. HIGH SCHOOL PER-PUPIL PAYMENTS - AMOUNT - PROPORTIONATE PAYMENTS.) There shall be paid each year from state funds and from the county equalization fund to all school districts of the county operating high schools, 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

\* NOTE: Section 15-40.1-07 was also amended by section 5 of House Bill No. 1056, chapter 220.

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

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

Every high school district shall receive at least as much in total payments as it would have received if it had the highest number of pupils in the next lower category. No school district shall receive less in foundation program per-pupil payments for any the 1979-80 school year than such district would have received in such payments based upon the average enrollment in such district in for the previous three school year years, and no school district shall receive less in foundation program per-pupil payments for any year thereafter than such district would have received in such payments based upon the enrollment in such district for the previous school year. 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, proportionate payments shall be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs shall be eligible for proportionate payments provided each course offered in such programs satisfies requirements for graduation and comprises at least as many clock hours as courses offered during the regular school term.

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 from the county--equalization--fund~~ pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

\* SECTION 9. AMENDMENT.) Section 15-40.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. ELEMENTARY PER-PUPIL PAYMENTS - AMOUNT.) There shall be paid from state funds and out of the county equalization fund 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, payments based on the number of registered students at the beginning of each school year, adjusted as provided in section 15-40.1-09, as follows:

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

\* NOTE: Section 15-40.1-08 was also amended by section 6 of House Bill No. 1056, chapter 220.

teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.

4. For elementary schools in school districts having an average daily membership of one thousand or more elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .95 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
5. For each of the above classes of elementary schools, except for one-room rural schools, there shall be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades seven and eight in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.
6. For elementary schools having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each special education pupil under the compulsory age for school attendance in average daily membership in each classroom or for each teacher.

No school district shall receive less in foundation program per-pupil payments for any the 1979-80 school year than such district would have received in such payments based upon the average enrollment in such district for the previous three school year years, and no school district shall receive less in foundation program per-pupil payments for any year thereafter than such district would have received in such payments based upon the enrollment in such district for the previous school year. ~~Payments from the county equalization fund~~ pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

\* SECTION 10. AMENDMENT.) Section 15-40.1-16 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* NOTE: Section 15-40.1-16 was also amended by section 10 of House Bill No. 1056, chapter 220.

15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund and from state funds to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to seventeen twenty cents per mile [1.61 kilometers] for school buses having a capacity of sixteen or fewer pupils and ~~thirty-four~~ forty cents per mile [1.61 kilometers] for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each public school pupil who is transported in such buses, provided that no such payment shall be made for any pupil who lives within the incorporated limits of a city with a population in excess of two hundred fifty and an area in excess of two square miles [518.00 hectares] in which the school in which he is enrolled is located except as provided in section 15-40.1-16.1. The mileage payments provided for in this section shall be made to each school district for transporting pupils to and from school. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

SECTION 11. AMENDMENT.) Section 54-17.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17.1-12. APPROPRIATIONS AND TRANSFERS IRREPEALABLE.) All appropriations and transfers provided to pay bonds issued under the provisions of this chapter and interest thereon, to the extent necessary to pay such bonds and interest, shall not be repealed until such bonds and interest are fully paid.

\* SECTION 12. REPEAL.) Subdivision b of subsection 3 of section 15-40.1-06 of the 1977 Supplement to the North Dakota Century code is hereby repealed effective July 1, 1980.

SECTION 13. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000.00, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of providing aid to school districts which provide kindergartens during the 1980-81 school year and which are established pursuant to the provisions of chapter 15-45. Payments made pursuant to this section shall be made on a per-pupil basis prorated under guidelines established by the superintendent of public instruction based upon the average daily memberships for eligible kindergartens as certified by the school districts. Such certifications shall be made to the superintendent of public instruction on or before June 1, 1981, and the superintendent of

\* NOTE: Subdivision b of subsection 3 of section 15-40.1-06 was amended by section 7 of this bill, and was also amended by section 1 of House Bill No. 1126, chapter 245

public instruction shall certify to the department of accounts and purchases the amounts to be paid to the school districts on or before June 30, 1981.

SECTION 14. APPROPRIATION.) There is hereby appropriated out of any moneys in the state tuition fund in the state treasury, not otherwise appropriated, the sum of \$16,500,000.00, or so much thereof as is or may become available, to the public schools of this state as provided in section 154 of the Constitution of the state of North Dakota and chapter 15-44, for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 15. EMERGENCY.) Section 3 of this Act is hereby declared to be an emergency measure and is in effect from and after the passage and approval of this Act.

Approved April 5, 1979

## CHAPTER 244

SENATE BILL NO. 2046  
 (Legislative Council)  
 (Interim Budget Section)

## FOUNDATION PAYMENTS DISTRIBUTION

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

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

\* SECTION 1. AMENDMENT.) Section 15-40.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-05. DISTRIBUTION OF PAYMENTS TO COUNTY-EQUALIZATION FUNDS SCHOOL DISTRICTS - DUTY OF DEPARTMENT OF ACCOUNTS AND PURCHASES.) The superintendent of public instruction shall certify to the department of accounts and purchases a list of all county equalization--funds school districts in the state, together with a statement of payments equal to one-fourth of the total payments made to each respective equalization--fund school district during the previous fiscal year, and the department of accounts and purchases shall pay each county--equalization-fund-such school district the amounts due, within the limits of legislative appropriation, on or before September first of each year. The superintendent of public instruction, after certifying to the respective county auditors the amount that shall be levied on all taxable property in accordance with section 15-40.1-04, shall determine what amounts in addition to the September first payments are necessary to constitute one-half of the payments due to each county-equalization--fund school district for the current school year, and shall certify to the department of accounts and purchases a list of all county--equalization--funds school districts in the state, together with a statement of the payments due such-funds them. On or before November first, the department of accounts and purchases shall pay to each county equalization-fund school district, within limits of legislative appropriation, the amounts needed in addition to the September first payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter. On or before January first, payments equal to one-fourth of the total payments shall be made to each respective equalization-fund, and the balance shall be paid on or before March first school district; on or before March first, payments equal to one-eighth of the total payments shall be made to each respective school district; and the balance shall be paid on or before May first.

Approved March 27, 1979

\* NOTE: Section 15-40.1-05 was also amended by section 4 of House Bill No. 1056, chapter 220.

## CHAPTER 245

HOUSE BILL NO. 1126  
(Committee on Education)  
(At the request of the Department of Public Instruction)

## FOUNDATION PROGRAM PAYMENT DEDUCTIONS

AN ACT to amend and reenact subdivision b of subsection 3 of section 15-40.1-06 of the North Dakota Century Code, relating to foundation program payments; and to provide an effective date.

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

\* SECTION 1. AMENDMENT.) Subdivision b of subsection 3 of section 15-40.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. That amount in dollars of the state group rate for Title I of Public Law 81-874 represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 81-874 payments, except that this subsection shall not include 3B students residing in tax-exempt, federally owned mobile homes. The amount of funds deducted from a school district shall not be in excess of the funds that may be taken into account under federal regulations Public Law 81-874, section 5(d).

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective through June 30, 1980, and after that date shall be of no force or effect.

Approved March 15, 1979

- \* NOTE: Subdivision b of subsection 3 of section 15-40.1-06 was also amended by section 7, and repealed by section 12, of Senate Bill No. 2439, chapter 243.

## CHAPTER 246

SENATE BILL NO. 2360  
(Nelson)

## RESIDENCY DETERMINATION FOR SCHOOL TUITION

AN ACT to amend and reenact section 15-40.2-08 of the North Dakota Century Code, relating to residency determination in child placement cases for school tuition purposes.

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

SECTION 1. AMENDMENT.) Section 15-40.2-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

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

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

Approved March 15, 1979

## CHAPTER 247

HOUSE BILL NO. 1057  
(Legislative Council)  
(Interim Committee on Education)

### TEXTBOOKS AND AUTHORIZED SCHOOL FEES

AN ACT to prohibit school boards from selling textbooks to pupils or otherwise charging unauthorized fees, to allow school boards to establish authorized fees, to allow the superintendent of public instruction to withhold foundation payments if a school district has charged unauthorized fees and, after notification, refuses to discontinue such action, to exempt postsecondary instructional programs; to repeal sections 15-43-07, 15-43-08, 15-43-09, 15-43-10, and 15-43-11 of the North Dakota Century Code, relating to selling textbooks to pupils, purchase of textbooks from families moving from a school district, discretionary authority of school districts to provide free textbooks, prescribing the duty of parents or guardians of pupils to furnish textbooks, and changing of textbooks.

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

#### SECTION 1. PUBLIC POLICY - DEFINITION.)

1. It is the policy of this state that public education shall be free. No pupil shall be denied an education because of economic inability to furnish textbooks necessary for advancement in or graduation from the public school system. No school board shall sell textbooks nor otherwise charge fees to pupils except as provided by law.
2. For the purposes of this Act, "textbooks" shall include textbooks and workbooks necessary for participation in any instructional course. It shall not include personal or consumable items, such as pencils, paper, pens, erasers, notebooks, or other items of personal use or products which a student may purchase at his option, such as student publications, class rings, annuals, and similar items.

SECTION 2. AUTHORIZED FEES.) A school board is authorized to require payment of the following fees:

1. A security deposit for the return of textbooks, materials, supplies, or equipment, and may require pupils to furnish personal or consumable items. A use charge may be made when the "textbook" returned has had an undue amount of wear.
2. Admission fees or charges for extracurricular or noncurricular activities where attendance is optional.
3. Fees or premiums for any authorized student health and accident benefit plan.
4. Fees for personal physical education and athletic equipment and apparel. Any pupil may provide his own equipment or apparel if it meets reasonable health and safety standards established by the board.
5. Fees in any program where the resultant product becomes the personal property of the pupil.
6. Fees for behind-the-wheel drivers education instruction.
7. Other fees and charges permitted by statute.

This Act shall not preclude the operation of a school store where pupils may purchase school supplies and materials. A board may waive any fee if any pupil or his parent or guardian shall be unable to pay such fees. No pupil's rights or privileges, including the receipt of grades or diplomas, may be denied or abridged for nonpayment of fees. This shall not preclude the school district's right to withhold diplomas for a student's failure to pay for those costs incurred by his own negligence or choice, such as fines for damaged texts and school equipment, library fines, and materials purchased from the school at the option of the student.

SECTION 3. ADOPTION OF ADDITIONAL FEES - PENALTY.) A school board may adopt additional fees not inconsistent with the provisions of this Act. Any school district which requires the payment of fees prohibited by this Act and refuses to discontinue such action following notification by the superintendent of public instruction shall forfeit foundation payments for those students so charged.

SECTION 4. POSTSECONDARY INSTRUCTIONAL PROGRAMS.) A school board may charge reasonable fees for goods, including textbooks, and services provided in connection with any postsecondary instructional program, including vocational and technical programs, adult or continuing education programs, and similar educational programs beyond the secondary level or outside established elementary or secondary education programs.

SECTION 5. REPEAL.) Sections 15-43-07, 15-43-08, 15-43-09, 15-43-10, and 15-43-11 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

## CHAPTER 248

HOUSE BILL NO. 1127  
(Committee on Education)

(At the request of the Department of Public Instruction)

## KINDERGARTEN TEACHER CERTIFICATION

AN ACT to amend and reenact section 15-45-03 of the North Dakota Century Code, relating to kindergarten teachers.

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

SECTION 1. AMENDMENT.) Section 15-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-03. KINDERGARTEN TEACHERS - QUALIFICATIONS.) Kindergarten teachers shall hold valid certificates issued by the superintendent of public instruction entitling them to teach kindergarten in the elementary schools of this state. ~~Training must include special courses in kindergarten education at approved institutions of higher learning.~~

Approved March 3, 1979

## CHAPTER 249

HOUSE BILL NO. 1064  
 (Legislative Council)  
 (Interim Committee on Higher Education)

## ADULT EDUCATION PROGRAMS

AN ACT to amend and reenact sections 15-46-01 and 15-46-04 of the North Dakota Century Code, relating to adult education programs and funding; and to repeal sections 15-46-02, 15-46-03, and 15-46-05 of the North Dakota Century Code, relating to requirements for the establishment of evening schools, salaries of evening school teachers, and the expenditure of evening school funds.

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

SECTION 1. AMENDMENT.) Section 15-46-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-46-01. EVENING---SCHOOLS ADULT EDUCATION PROGRAMS - ESTABLISHMENT --SUPERVISION.) The school board of any public school district may establish and maintain a public evening-school adult education program as a branch of the public schools. At--the direction--of--the--superintendent--of--schools--of--the--county--or--city--in which--the--district--or--territory--is--situated,--or--at--the--direction--of the--superintendent--of--public--instruction,--the--board--shall--establish and--maintain--such--evening--school. An evening-school adult education program, when maintained, shall be available to all persons over sixteen years of age who, from any cause, are unable to attend the public schools of the district. The--branches--taught--at--evening schools--and--the--general--conduct--thereof--shall--be--subject--to--the direction--and--control--of--the--superintendent--of--public--instruction.

SECTION 2. AMENDMENT.) Section 15-46-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-46-04. COUNTY--APPROPRIATION--AND--LEVY FUNDING FOR EVENING SCHOOLS ADULT EDUCATION PROGRAMS.) The board---of---county commissioners--of--each--county--in--the--state,--when--petitioned--by--the board of a public school district,---shall---make---an---annual appropriation--of---five--hundred--dollars,--and--may--levy--a--tax--upon--all of--the--taxable--property--of--the--county--to--raise--such--amount, may use school district funds for the purpose of aiding and promoting any

evening-school adult education program established by the school board of such district, and may charge reasonable fees to persons enrolled in adult education programs. ~~The school board of any district receiving aid from the county under the provisions of this section shall contribute to the maintenance of the evening school an amount equal to the amount received from the county for that purpose.~~

SECTION 3. REPEAL.) Sections 15-46-02, 15-46-03, and 15-46-05 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

## CHAPTER 250

SENATE BILL NO. 2130  
(Committee on Education)

(At the request of the Department of Public Instruction)

## KINDERGARTEN STARTING AGE

AN ACT to amend and reenact section 15-47-01 of the North Dakota Century Code, relating to starting age for kindergarten pupils.

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

SECTION 1. AMENDMENT.) Section 15-47-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-01. SCHOOLS FREE AND ACCESSIBLE - SCHOOL AGES.) The public schools of the state shall be equally free, open, and accessible at all times to all children between the ages of six and twenty-one, except that children who do not arrive at the age of six years by midnight August 31 shall not start the first grade in an elementary school until the beginning of the following year, except children who by reason of special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district, or who have completed kindergarten in an approved kindergarten, may start school at a younger age. However, under no circumstances shall a child start ~~school~~ first grade that school year if he is not six years of age by January first. Children who do not arrive at the age of five years by midnight August 31 shall not start kindergarten until the beginning of the following school year, except children who by reason of special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district may start school at a younger age. However, under no circumstances shall a child start kindergarten that school year if he or she is not five years of age by January first.

Approved March 21, 1979

## CHAPTER 251

SENATE BILL NO. 2358  
(Senators Holmberg, Redlin, Reiten)  
(Representatives Black, Mattson, Reed)

## SCHOOL DISTRICT ELECTION QUALIFICATIONS

AN ACT to amend and reenact section 15-47-05 of the North Dakota Century Code, relating to qualifications for voting in school district elections for school officers and for eligibility for school district offices; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-47-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-05. QUALIFICATIONS OF SCHOOL ELECTORS AND OFFICERS.) Any person who is a qualified elector ~~under the general laws of the~~ of this state is qualified to vote ~~at~~ for the election of school officers in any school district ~~of the state~~ in which he is a resident, and is eligible to the office of school district clerk, or member of the school board, or may be appointed as a judge or clerk of election. The school district clerk need not be a resident of the district. For the purposes of elections held pursuant to this chapter, only, a person who resides on an air force base is a resident of a school district if the school district receives students from the air force base pursuant to contract and receives impact aid pursuant to Public Law 81-874, as amended [64 Stat. 1100, 20 U.S.C. 236 et seq.].

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

Approved March 15, 1979

## CHAPTER 252

HOUSE BILL NO. 1610  
(Wentz)

## SCHOOL CENSUS

AN ACT to amend and reenact section 15-47-13 of the North Dakota Century Code, relating to the school census; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-47-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-13. SCHOOL CENSUS - REPORT.) The school board of each public school district shall cause an enumeration to be made between the first and thirty-first days of May of each odd-numbered year, of all persons under eighteen years of age, ~~as of such thirty-first day of May,~~ having their legal residence in the district. The census shall enumerate such persons by their ages as of the thirty-first day of August. The census also shall include the ~~following information:~~

1. ~~The names and ages of such persons and the names and post-office addresses of parents or guardians having the care and custody of each;~~
2. ~~The names and ages of all deaf, blind, and mentally deficient persons between the ages of five years and twenty-five years residing in the district, including all such persons who are too deaf or mentally deficient to acquire an education in the common schools;~~
3. ~~The names and ages of all crippled persons of any age residing in the district;~~
4. ~~The names and post-office addresses of the parents or guardians of all the persons mentioned in subsections 2 and 3 of this section.~~

The enumeration shall be made upon and in accordance with forms prescribed by the superintendent of public instruction and furnished by the county superintendent of schools, and shall be approved by the school board and returned to the county superintendent prior to the fifteenth day of July in the year in which it is made, ~~and immediately upon receipt of such report the county superintendent of schools shall furnish a copy of the enumeration of deaf persons to the superintendent of the school for the deaf, a copy of the enumeration of blind persons to the superintendent of the school for the blind, and a copy of the enumeration of mentally deficient persons to the superintendent of the Grafton state school.~~ The county superintendent shall submit the enumeration to the superintendent of public instruction.

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

Approved March 15, 1979

## CHAPTER 253

SENATE BILL NO. 2139  
(Fritzell)

## INSTRUCTION CONCERNING NATIONAL ANTHEM

AN ACT to amend and reenact section 15-47-37 of the North Dakota Century Code, relating to instructing school students concerning the United States and state constitutions and the pledge of allegiance, and providing for instruction concerning the national anthem.

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

SECTION 1. AMENDMENT.) Section 15-47-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-37. INSTRUCTION ON UNITED STATES AND STATE CONSTITUTIONS - PLEDGE OF ALLEGIANCE - NATIONAL ANTHEM.) The officers of every school district shall ensure that all students from the seventh grade through the twelfth grade, inclusive, in every school within the district, shall receive the equivalent of at least a forty-five minute class period of study, each week, on the Constitution of the United States and the Constitution of North Dakota, for at least three of those six years. And that each morning the pledge of allegiance to the flag shall precede each day's study in the first grade through the sixth grade, inclusive. Students shall also receive instruction concerning the words and music of the national anthem so they are able to recite or sing the words and recognize the music by the time the students complete the sixth grade.

Approved March 21, 1979

## CHAPTER 254

SENATE BILL NO. 2321  
(Albers)

## ELEMENTARY SCHOOL CONTINUANCE

AN ACT to amend and reenact section 15-53.1-27 of the North Dakota Century Code, relating to the continuance of elementary schools in reorganized districts.

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

SECTION 1. AMENDMENT.) Section 15-53.1-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-27. CONTINUANCE OF ELEMENTARY SCHOOLS IN REORGANIZED DISTRICTS.) Each elementary school included in reorganized school districts shall be kept in session as provided by law, except that any school may be discontinued when the people school board in the old district where the school is located, by a majority unanimous vote, approve approves its closing or--when--a--petition--requesting that--the--school--be--discontinued--is--signed--by--two--thirds--of--the electors--in--the--old--district--where--the--school--is--located--and--is presented--to--the--school--board--in--the--reorganized--district. The board may reopen such school at any time upon its own motion. This provision--shall--apply--for--five--years--from--and--after--the--effective date--of--the--reorganization--plan.--After--such--five--year--period--any school--may--be--closed--by--action--of--the--school--board--provided--that any--school--so--closed--for--a--period--of--one--year--or--more--may--be reopened--by--action--of--the--school--board--and--shall--be--reopened--when the--electors--in--the--old--district--so--decide--by--majority--vote--or--by--a petition--presented--to--the--school--board--in--the--reorganized--district signed--by--two--thirds--of--the--electors--in--the--old--district. Such school may be reopened only at the beginning of the next regular school term which follows by at least ninety days the date of the election--or--the--date--the--validity--of--the--petition--is--verified school board action.

Approved March 19, 1979

## CHAPTER 255

SENATE BILL NO. 2102  
(Thane)

REVENUE BOND ISSUE FOR SCHOOL OF SCIENCE  
STUDENT HOUSING

AN ACT to authorize the state board of higher education to issue revenue bonds for the construction of student housing at the state school of science at Wahpeton; to provide an appropriation; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSE.) In accordance with chapter 15-55, the state board of higher education is hereby authorized and empowered to issue and sell bonds for the purpose of purchasing land and constructing student housing facilities at the state school of science at Wahpeton, North Dakota, in an amount not to exceed three million dollars. The bonds authorized by this section shall be retired solely from revenue from the student housing facilities, and shall not be a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds authorized under section 1, or so much thereof as may be necessary, are hereby appropriated for the purchase of land, and constructing and equipping the student housing facilities authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved February 8, 1979

## CHAPTER 256

HOUSE BILL NO. 1376  
(Representatives Swiontek, Kennelly)  
(Senator Hanson)

### REVENUE BOND ISSUE FOR STATE UNIVERSITY STUDENT HOUSING

AN ACT to authorize the state board of higher education to issue revenue bonds for the construction of student housing at North Dakota state university of agriculture and applied science; to provide an appropriation; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSE.) In accordance with chapter 15-55, the state board of higher education is hereby authorized and empowered to issue and sell bonds for the purpose of constructing student housing facilities at North Dakota state university of agriculture and applied science, in an amount not to exceed two million dollars. The bonds authorized by this section shall be retired solely from revenue from the student housing facilities, and shall not be a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds authorized under section 1, or so much thereof as may be necessary, are hereby appropriated for constructing and equipping the student housing facilities authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 3, 1979

## CHAPTER 257

HOUSE BILL NO. 1525  
(Representatives Stenehjelm, Kuchera)  
(Senator Holmberg)

### REVENUE BOND ISSUE FOR UNIVERSITY STUDENT UNION

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds to construct a revenue-producing facility at the university of North Dakota; to make an appropriation; to set a limitation and provide an exception; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSES.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds, in any amount up to but not exceeding two million dollars, for the purpose of constructing a revenue-producing addition to the memorial student union at the university of North Dakota, Grand Forks. Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

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

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

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

Approved March 3, 1979

## CHAPTER 258

HOUSE BILL NO. 1526  
(Representatives Stenehjelm, Kuchera)  
(Senator Holmberg)

### REVENUE BOND ISSUE FOR UNIVERSITY PARKING LOTS

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds to construct revenue-producing facilities at the university of North Dakota; to make an appropriation; to set a limitation and provide for an exception; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSES.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds in any amount up to but not exceeding five hundred thousand dollars, for the purpose of constructing revenue-producing parking lots at the university of North Dakota. Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

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

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

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

Approved March 3, 1979

## CHAPTER 259

SENATE BILL NO. 2349  
(Olin)

REVENUE BOND ISSUE FOR DICKINSON STATE  
MARRIED STUDENT HOUSING

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds to construct a revenue-producing facility at Dickinson state college; to make an appropriation; to set a limitation and to provide an exception to it; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSE.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds, in any amount up to but not exceeding six hundred thousand dollars, for the purpose of constructing revenue-producing married student housing at Dickinson state college. Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

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

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

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

Approved March 18, 1979

## CHAPTER 260

SENATE BILL NO. 2060  
(Legislative Council)  
(Interim Committee on Education)

## ADVISORY COUNCIL ON SPECIAL EDUCATION REPEALED

AN ACT to amend and reenact sections 15-59-03, 15-59-04, and 15-59-05 of the North Dakota Century Code, relating to the advisory council on special education; and to repeal section 15-59-02 of the North Dakota Century Code, relating to the advisory council on special education.

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

SECTION 1. AMENDMENT.) Section 15-59-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-03. DIRECTOR OF SPECIAL EDUCATION.) A qualified director of special education and such ~~assistane~~ assistants as may be necessary shall be employed by the superintendent of public instruction ~~with-the-advice-and-approval-of-the-advisory-council.~~

SECTION 2. AMENDMENT.) Section 15-59-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-04. SCHOOL DISTRICTS TO PROVIDE SPECIAL EDUCATION.) School districts shall provide special education to handicapped children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with ~~the--state--advisory--council--and~~ the director of special education and with the institutions of the state. Each school district shall submit a plan with the superintendent of public instruction for implementing special education in the district by July 1, 1975. Special education services shall be fully implemented by July 1, 1980. School districts may provide special education to gifted children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with ~~the-state-advisory-council-and~~ the director of special education.

SECTION 3. AMENDMENT.) Section 15-59-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-05. POWERS AND DUTIES OF ~~ADVISORY--COUNCIL-AND THE~~ DIRECTOR OF SPECIAL EDUCATION.) The ~~advisory--council,--acting through--the--office--of--the~~ superintendent of public instruction, shall establish general state policy within the provisions of this chapter and shall endeavor to ensure a cooperative special education program coordinating all available services. ~~It~~ He shall cooperate with private agencies, soliciting their advice and cooperation in the establishment of policy and in the coordination and development of special education programs. ~~With-the-approval-of-the-advisory council-and-in~~ In accordance with the provisions of this chapter ~~and the--policy--of--the--council,~~ the director of special education shall prescribe rules and regulations for the special education of exceptional children and for the administration of this chapter ~~and he.~~ He shall assist the school districts of the state in the inauguration, administration, and development of special education programs, and he shall establish standards and provide for the approval of certification of schools, teachers, facilities, and equipment.

SECTION 4. REPEAL.) Section 15-59-02 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

## CHAPTER 261

HOUSE BILL NO. 1624  
(Fleming, Herman, Knudson, Mushik)

### SERVICES TO HANDICAPPED STUDENTS

AN ACT to provide for payment of room and board on behalf of handicapped students in out-of-state placements, and the development of implementation of interagency agreements for the provision of related services to handicapped students.

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

SECTION 1. COSTS OF OUT-OF-STATE BOARDING CARE FOR HANDICAPPED STUDENTS PAID BY THE SOCIAL SERVICE BOARD OF NORTH DAKOTA.) Within the limits of legislative appropriation, the social service board of North Dakota shall fund the provision of room and board on behalf of those handicapped children placed by school districts in out-of-state public or private facilities in accordance with section 15-59-07.

SECTION 2. INTERAGENCY COOPERATIVE AGREEMENTS FOR THE PROVISION OF EDUCATIONAL RELATED SERVICES TO HANDICAPPED STUDENTS - REPORT BY DEPARTMENT OF PUBLIC INSTRUCTION.) The department of public instruction shall cooperatively develop and implement interagency agreements with appropriate public and private agencies, including the director of institutions, the state social service board, and the state department of health, for purposes of maximizing available state resources in fulfilling the educational related service requirements of Public Law 94-142 and section 504 of the Rehabilitation Act of 1973, as amended. The department of public instruction shall report to the interim legislative council committee on education the content of such interagency agreements and the progress in achieving the goals and objectives set out therein at such time as the interim committee may direct.

Approved March 27, 1979

## CHAPTER 262

SENATE BILL NO. 2056  
(Legislative Council)  
(Interim Committee on Education)

## MULTIDISTRICT SPECIAL EDUCATION PROGRAMS

AN ACT to provide for the creation of multidistrict special education boards; to amend and reenact sections 15-40.1-16.1, 15-59-01, 15-59-05.1, 15-59-06, 15-59-07, and 15-59-08 of the North Dakota Century Code, relating to transportation costs, special education of exceptional children, financing and mill levies for special education; and to repeal section 15-59-09 and chapter 15-59.1 of the North Dakota Century Code, relating to county special education programs and the election to discontinue the mill levy for special education.

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

SECTION 1. MULTIDISTRICT SPECIAL EDUCATION PLAN.) School districts may be organized into multidistrict special education programs for purposes of planning and coordinating special education and related services. The multidistrict program board shall submit a plan for implementation by July 1, 1980 for such organization to the superintendent of public instruction, who shall approve or disapprove any plan submitted. Such plan and any amendments shall meet the regulations and guidelines as established by the superintendent of public instruction. School districts not participating in a multidistrict special education program shall submit a plan for providing special education and related services. The school board of any school district which has been excluded from a multidistrict special education program who wish to have their school district included in such program may petition the superintendent of public instruction, who shall consider such petition prior to approving any plan submitted pursuant to this section or section 5 of this Act. Appeals may be made to the state board of public education.

SECTION 2. ORGANIZATIONAL PLAN - CONTENTS.) The organizational plan to be submitted to the superintendent of public instruction shall include the number of members on the multidistrict special education board, how each district will be represented, selection of officers, terms of office, meeting times, requirements for a quorum, and such other items as may be required by regulation

of the superintendent of public instruction. Representatives on the multidistrict board shall be appointed by the school boards of the participating districts. Compensation for board members shall be the same as that allowed school board members pursuant to section 15-29-05.

SECTION 3. AGREEMENT OF PARTICIPATION IN MULTIDISTRICT PROGRAMS.) Upon approval of the plan by each school district by a majority vote of the school board, the school district shall become a member of the multidistrict special education program.

SECTION 4. WITHDRAWAL FROM A MULTIDISTRICT PROGRAM.) In order to withdraw from a multidistrict special education program, a school district must, on or before March first prior to the beginning of the school year for which it seeks withdrawal:

1. Approve the withdrawal by a majority vote of the school board.
2. Notify the multidistrict board of the withdrawal.
3. Submit a plan to the superintendent of public instruction for providing services to handicapped children.

SECTION 5. POWERS AND DUTIES OF THE MULTIDISTRICT BOARD.) The powers and duties of a multidistrict special education board shall be as follows:

1. To prepare, on behalf of the participating school districts, an annual plan for providing special education and related services, such plan to be submitted to the superintendent of public instruction for approval.
2. To receive state and federal funds and distribute them to each of the participating school districts.
3. To employ personnel to carry out administrative, itinerant instruction, coordinative, and related services, who shall have the same statutory rights as school district employees. Rights which teachers shall have during the transition as set forth herein shall include, but not be limited to, those rights available under sections 15-47-27 and 15-47-38 of the North Dakota Century Code.
4. To receive and expend any private, local, state, or federal funds for the payment of personnel and for expenses of the multidistrict board.
5. To contract with school districts within and without the multidistrict area to provide special education and related services.

\* SECTION 6. AMENDMENT.) Section 15-40.1-16.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-16.1. TRANSPORTATION AID FOR COOPERATIVE CERTAIN VOCATIONAL EDUCATION AND SPECIAL EDUCATION PROGRAMS.) There shall be paid from the county equalization fund and 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 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 section 15-40.1-16, except that 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 7. AMENDMENT.) Section 15-59-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-01. DEFINITIONS.) As used in this chapter:

1. "Exceptional child" means a natural person ~~to the age of twenty-one~~ not less than three nor more than twenty-one years of age, who, because of mental, physical, emotional, or learning characteristics, requires special education services. This may include a handicapped child or a gifted child. Services to handicapped children from three to six years of age may be provided in accordance with regulations as established by the state superintendent of public instruction.
2. "Special education" means classroom, home, hospital, institutional, or other instruction to meet the needs of handicapped children, transportation, and corrective and supporting services required to assist exceptional children in taking advantage of, or responding to, educational programs and opportunities.
3. "Handicapped child" means a child who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, specific learning disabled, crippled, or otherwise health impaired who by reason thereof requires special education and related services.

\* NOTE: Section 15-40.1-16.1 was also amended by section 11 of House Bill No. 1056, chapter 220.

4. "Gifted child" means a gifted and talented child identified by professional, qualified persons, who, by virtue of outstanding abilities, is capable of high performance and who requires differentiated educational programs and services beyond those normally provided by the regular school program in order to realize his contribution to self and society.
5. "Learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written languages, and which may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. The term "learning disability" shall include, but not be limited to, such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, but shall not include learning problems due primarily to visual, hearing or motor handicaps, mental retardation, emotional disturbance, or environmental disadvantage.

SECTION 8. AMENDMENT.) Section 15-59-05.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-05.1. ELIGIBILITY FOR STATE AND FEDERAL AID.) The superintendent of public instruction may apply for, administer, receive, and expend any federal aid for which this state may be eligible, under the office of the superintendent of public instruction, in the administration of this chapter within the limits of legislative appropriation. School districts, county special education boards and multi-county special education boards and multidistrict special education programs shall be eligible to serve as the local education agency for application, receipt, administration, and expenditure of state and federal aid within the limits of legislative appropriation. The North Dakota school for the blind, the North Dakota school for the deaf, the Grafton state school, the state industrial school, and the Jamestown state hospital shall be eligible to apply, receive, administer, and expend federal aid.

\* SECTION 9. AMENDMENT.) Section 15-59-06 of the 1977 Supplement to 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 and school districts providing such program and shall be included in determination of elementary and high school per-pupil payments from the county equalization fund and state foundation aid program whether or not such pupils are regularly attending school in the school or school district receiving such payments. In the case of a student who is enrolled in a nonpublic school but who is

\* NOTE: Section 15-59-06 was also amended by section 18 of House Bill No. 1056, chapter 220.

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 school day as such student participates in such special education program. For the purposes of this section, a normal school day 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, and that the parents of a child receiving special education under such program, or the legally responsible person, have made adequate efforts to provide needed education or that adequate reasons otherwise exist for the provision of special education to such child, 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 ~~one-and-one-half~~ 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 ~~two~~ 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 transportation, equipment, and residential care.

SECTION 10. AMENDMENT.) Section 15-59-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-07. CONTRACTS FOR HANDICAPPED CHILDREN TO ATTEND PRIVATE OR OUT-OF-STATE PUBLIC SCHOOLS.) If any school district in this state has any ~~educable~~ handicapped elementary or high school student who in the opinion of a qualified psychologist, a medical doctor, and the district superintendent is unable to attend the public schools in the district because of a physical or mental handicap or because of a learning disability, such school district shall contract with any accredited private nonsectarian nonprofit corporation within or without the state or an out-of-state public school which has proper facilities for the education of such student, if there are no public schools in the state with the necessary facilities which will accept such student. No school district shall enter into a contract with any private nonsectarian nonprofit corporation or out-of-state public school for the education of any student having a physical handicap or learning disability, unless the curriculum provided by such school and the contract has been approved in advance by the superintendent of public instruction. The contract shall provide that such school district agrees to pay to the private nonsectarian nonprofit corporation or the out-of-state public school as part of the cost of educating such student an amount for the school year equal to ~~three~~ 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 not exceed the actual per-pupil cost incurred by such private, nonsectarian nonprofit corporation or out-of-state public school. The transportation shall be furnished as provided by rules and

regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for at least eighty percent of the costs incurred by it in providing transportation for the applicant. The reimbursement shall not be for more than six round trips home per year at a rate not to exceed that paid state officials. The remainder of the actual cost of educating the handicapped student not covered by other payments or credits shall be paid from funds appropriated by the legislative assembly for special education notwithstanding limitations cited in section 15-59-06. The district of residence shall be entitled to the per-pupil foundation payment. ~~The district of the student's residence shall be reimbursed from funds appropriated by the legislative assembly for the foundation aid program, in an amount equal to sixty percent of the payment made to such private, nonsectarian, nonprofit corporation. If the attendance of such student at such school is for less than a school year, then the contract shall provide for such lesser amount prorated on a monthly basis.~~ The reimbursement herein provided to the contracting district from the ~~foundation aid program~~ state special education funds shall be in lieu of any other foundation aid to which the district might otherwise be entitled.

~~As used in this section, the term "learning disability" shall mean a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written languages, and which may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. The term "learning disability" shall include, but not be limited to, such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, but shall not include learning problems due primarily to visual, hearing or motor handicaps, mental retardation, emotional disturbance, or environmental disadvantage.~~

SECTION 11. AMENDMENT.) Section 15-59-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-08. SCHOOL DISTRICT SPECIAL EDUCATION PROGRAM - FINANCING - LEVY - LIMITATIONS OF LEVY.) The school board of any school district may budget funds from the school district general fund for a special education program for the school district. If the school district is located in a county which is not levying a county tax for special education, the school board may, upon approval by a majority of the ~~voters voting on the proposal at an election called by the school board,~~ levy a tax not to exceed a total of ~~three~~ five mills upon all taxable property in the school district for the purpose of carrying out a special education program for the school district, separately or, whenever possible, in cooperation with other school districts. Funds presently in the county special education program will be prorated back to all school

~~districts within the county or multidistrict special education board by a majority vote of the county special education board. If the school district is located in a county which is levying less than three mills for special education, or if the school district consists of territory in more than one county and one or more of the counties of which the district is a part, levy a tax for special education, the tax provided in this section shall be levied on all of the property in the district to the extent possible, provided that the levy on any property which is new subjected to a county levy for special education shall be reduced, if necessary, to ensure that none of the property located within the school district is subjected to a combined county and school district special education levy in excess of three mills. The school board of a school district, all or a part of which is located in a county levying a tax for special education, shall cooperate with the county or counties having special education programs to provide a program of special education for the children with special education needs in the school district. The levy provided in this section shall be over and above any mill levy limitations provided by law and shall be collected and paid in the same manner as are other school district property taxes. The county treasurer shall credit the proceeds of the tax levy, together with any other funds received from the state or other sources for school district special education purposes, to a school district special education fund. Such funds shall be expended, within the limitations of the budget approved by the school board, for the school district special education program.~~

SECTION 12. REPEAL.) Section 15-59-09 of the 1977 Supplement to the North Dakota Century Code and chapter 15-59.1 of the North Dakota Century Code are hereby repealed effective July 1, 1980.

Approved April 7, 1979

## CHAPTER 263

SENATE BILL NO. 2128  
(Committee on Education)

(At the request of the Department of Public Instruction)

### STATE SCHOOL CONSTRUCTION FUND LOAN ELIGIBILITY

AN ACT to amend and reenact subsection 2 of section 15-60-03 of the North Dakota Century Code, relating to the state school construction fund.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 15-60-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The board shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any other school districts. No obligations or debts of the board shall be deemed to be obligations of the state or any other school districts, and the state or any other school districts shall not be liable for the payment of principal or interest on such obligations. The board shall at no time enter into any contract with a school district under the provisions of this chapter, unless such school district is at that time annually levying a sufficient mill levy which the board has determined will provide for repayment of the contracted loan within twenty years after the initial payment from the state school construction fund to the school district, but a school district shall not borrow more than thirty percent of the taxable valuation of the district from the fund and shall not be permitted to levy less than ten mills for the maintenance of a building fund. The levy required by this section for repayment must be maintained over the life of the contract with the board, and the school district must have at the time of the loan an existing bonded indebtedness to the maximum limit permitted by law.

Approved March 12, 1979

## CHAPTER 264

HOUSE BILL NO. 1356  
(Berger, Black)

STATE SCHOOL CONSTRUCTION FUND  
LOAN LIMIT

AN ACT to amend and reenact section 15-60-04 of the North Dakota Century Code, relating to amount of loan from the state school construction fund.

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

SECTION 1. AMENDMENT.) Section 15-60-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 3, 1979

## CHAPTER 265

SENATE BILL NO. 2164

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

## SALE OF SURPLUS PROPERTY

AN ACT to amend and reenact section 15-61-05 of the North Dakota Century Code, relating to disposition of surplus property.

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

SECTION 1. AMENDMENT.) Section 15-61-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-61-05. DISPOSITION OR EXCHANGE OF STATE SURPLUS PROPERTY.) Whenever any department, agency, or institution of the state of North Dakota has in its possession property which is surplus, whether originally obtained with state or federal funds, and it appears to the head of such department, agency, or institution that such surplus property may be used by any other department, agency, or institution of the state or any political subdivision of the state, he shall inform the director of the department of accounts and purchases, which department shall then proceed to dispose of said property in the following manner:

1. By transferring it to other state departments, institutions, or agencies without cost, except for transportation expenses which shall be paid by the receiving agency, and except that when such surplus property was originally purchased pursuant to an appropriation other than from the general fund of the state, the agency receiving surplus property shall pay an amount equal to the fair market value of such property with such funds being deposited in the fund from which the original purchases were made; or
2. If not disposed of under subsection 1, then by sale on sealed bids or public auction at the highest and best bid for property valued at more than three thousand dollars with no money deposit required prior to sale, or by sealed bids or public auction or negotiation at fair value for property valued at less than three thousand dollars; or

3. If not disposed of under subsections 1 or 2, title to the property shall be transferred to the political subdivisions without cost, except for transportation expenses.

All proceeds of property sold under authority of this section, less sales costs, shall be deposited in the general fund except as provided for in subsection 1. No department, agency, or institution shall exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the department of accounts and purchases. Such approval shall be given by the director of the department of accounts and purchases only after he has determined that the item has been valued at fair value.

Approved March 10, 1979

## CHAPTER 266

HOUSE BILL NO. 1109  
(Committee on Education)  
(At the request of the Bank of North Dakota)

### STATE SCHOLARSHIP REVOLVING FUND REPEALED

AN ACT to repeal chapter 15-62 of the North Dakota Century Code,  
relating to the discontinued state scholarship revolving fund.

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

\* SECTION 1. REPEAL.) Chapter 15-62 of the North Dakota  
Century Code is hereby repealed.

Approved March 3, 1979

\* NOTE: Chapter 15-62 was also repealed by section 108 of  
House Bill No. 1073, chapter 187.

## CHAPTER 267

HOUSE BILL NO. 1334

(Unhjem, Lipsiea, Mattson, Stenehjem, Swiontek)

## GUARANTEE LOAN PROGRAM

AN ACT to amend and reenact section 15-62.1-01, subsection 1 of section 15-62.1-02, and sections 15-62.1-04, 15-62.1-07, and 15-62.1-09 of the North Dakota Century Code, relating to the guaranteed student loan program; and to repeal sections 15-62.1-11 and 15-62.1-12 of the North Dakota Century Code, relating to the guaranteed loan program.

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

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

15-62.1-01. GUARANTEE LOAN PROGRAM - ADMINISTRATION.) The Bank of North Dakota, hereinafter called the "agency", shall be the state agency designated to administer a state guarantee loan program, as provided in this chapter. ~~The--board--of--higher education,--hereinafter-referred-to-as-the-"board",--shall--advise--the--agency--on--criteria--for--student--eligibility--to--participate--in--the--program.~~ The industrial commission shall appoint an advisory board consisting of a representative of the board of higher education, two representatives of the financial community, three representatives of both public and private education, one student, one representative of the Bank of North Dakota who is involved in the loan function, and one lay person. The industrial commission shall solicit nominations from the appropriate constituent groups. The constituent groups may include, but are not limited to, the North Dakota bankers association, the state credit union board, the state savings and loan association, the accredited and/or approved postsecondary institutions in the state, the North Dakota student association, the state board of higher education and the Bank of North Dakota.

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

1. To guarantee the loan of money by eligible lending institutions, upon such terms, conditions, and application procedures, commensurate with the applicable provisions of the Federal Higher Education Act of 1965,\* [20 U.S.C. 1001 et seq.] as amended, which it may establish in accordance with the provisions of this chapter, to students, ~~provided such persons shall have been residents of this state for at least one year and who~~ meet such other requirements as may be determined necessary, prior to making application under this chapter, and who are accepted for enrollment or are attending ~~or plan to attend~~ an eligible postsecondary institution located within or without this state to assist them in meeting their expenses of higher education or ~~vocational education~~ postsecondary education. Students who are accepted for enrollment or are attending ~~or plan to attend~~ colleges an eligible postsecondary institution on at least a part-time half-time basis, as determined by the postsecondary institution, shall be eligible for loans hereunder. The agency shall, by rule, establish minimum qualifications for a person to be deemed a part-time student for purposes of this chapter.

SECTION 3. AMENDMENT.) Section 15-62.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-04. REPAYMENT OF LOANS.) ~~Loans made under the provisions of this chapter and any other loans received by the student under the provisions of the Higher Education Act of 1965,\* as amended, shall be repaid in the amount of not less than thirty dollars per month commencing on the first day of the tenth calendar month following termination of enrollment or earlier at the option of the borrower. Deferment of repayment provisions for not more than three years may be authorized by the agency if the student shall serve on active duty as a member of the armed forces of the United States or an active member of such other program as may be approved by the agency. Repayment, or deferment of repayment, of loans guaranteed under this chapter shall be consistent with the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], as amended.~~

SECTION 4. AMENDMENT.) Section 15-62.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-07. FEES FOR INSURANCE AND OTHER REASONABLE COSTS.) The agency is hereby authorized to charge reasonable fees for guarantee and insurance to students obtaining loans under this chapter, and such ~~receipts shall be deposited in the reserve fund in the agency~~ fees shall be available to defray costs of administering the guarantee loan program. Fees in excess of the amount required to pay the cost of administering the program shall be deposited in the reserve fund.

SECTION 5. AMENDMENT.) Section 15-62.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-09. INFORMATION SYSTEM.) The eligible postsecondary educational institutions in the state shall furnish to the agency and other lending institutions such information as may be necessary to properly administer the guarantee loan program and the agency shall furnish information in regard to student loan transactions on a regular basis to such postsecondary educational institutions.

SECTION 6. REPEAL.) Sections 15-62.1-11 and 15-62.1-12 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

## CHAPTER 268

SENATE BILL NO. 2377  
(Melland)

## STUDENT FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

AN ACT to amend and reenact sections 15-62.2-01, 15-62.2-02, 15-62.2-03, and 15-62.2-04 of the North Dakota Century Code, relating to the student financial assistance program and providing that the program be administered by the state board of higher education.

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

SECTION 1. AMENDMENT.) Section 15-62.2-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Resident undergraduate students ~~having--graduated--from North-Dakota-high-schools~~ 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.

The student must be in substantial need of financial assistance. This program shall be administered by ~~a-single-state--agency,--which shall-be~~ the state board of higher education ~~or-such-other-agency-as may-otherwise-be-designated--by--the--governor--in--accordance--with~~

~~federal--law--Hereinafter,--reference-to-the-"administrative-agency" will signify that board, agency, or commission ultimately designated as--provided--in--this--section--to--officially-administer-the-North-Dakota-student-financial-assistance-program.~~

SECTION 2. AMENDMENT.) Section 15-62.2-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-02. ADMINISTRATIVE-AGENCY BOARD OF HIGHER EDUCATION - POWERS AND DUTIES.) The powers and duties of the administrative agency board of higher education under this chapter shall be:

1. To administer the North Dakota student financial assistance program, and to adopt functional rules and regulations regarding the eligibility and selection of grant recipients.
2. To determine the amount of individual grants, but not to exceed five hundred dollars per recipient per academic year.
3. To establish criteria for substantial need based upon the ability of the parents or guardian to contribute toward the applicant's educational expenses.
4. To establish the appropriate procedures for fiscal control, fund accounting, and necessary reports.
5. ~~To--determine--the--organization--of--the--program,--hire-a-director-and-staff,--and-do-such-other--things--as--may--be-necessary--and--incidental--in--the--administration-of-the-program-~~
- 6- To apply for, receive, expend, and administer granted moneys from federal or private sources.

SECTION 3. AMENDMENT.) Section 15-62.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03. ADVISORY BOARD - MEMBERSHIP - APPOINTMENT - AUTHORITY.) There is hereby created and established a North Dakota student financial assistance program advisory board, which shall consist of three practicing financial aid officers, one chief administrator of a postsecondary educational institution, one chief fiscal officer of a postsecondary educational institution, one full-time secondary school counselor, and one student enrolled full time at a postsecondary educational institution. All advisory board members are to be selected from North Dakota educational institutions, except that no single institution shall provide more than one member. The advisory board members will be appointed and have terms designated by the administrative-agency board of higher education. Advisory board members shall be reimbursed for travel

expenses in the same manner and amounts as other state officials and employees. The advisory board shall have the responsibility to advise the administrative-agency board of higher education on all matters relating to the North Dakota student financial assistance program, and to act as a liaison between the administrative--agency board of higher education and the participating institutions of postsecondary education.

SECTION 4. AMENDMENT.) Section 15-62.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-04. FUNDS RECEIVED BY THE ADMINISTRATIVE-AGENCY BOARD OF HIGHER EDUCATION - WHERE DEPOSITED - HOW APPROPRIATED - HOW EXPENDED.) Funds received by the administrative-agency board of higher education shall be deposited in the state treasury in a special fund to be known as the North Dakota student financial assistance fund and expended in accordance with legislative appropriation. All expenditures from this fund shall be paid by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the administrative-agency board of higher education.

Approved March 23, 1979

## CHAPTER 269

HOUSE BILL NO. 1319  
(Representatives Unhjem, Conmy, Kuchera)  
(Senator Melland)

## TUITION ASSISTANCE GRANT PROGRAM

AN ACT to establish a tuition assistance grant program for eligible resident students of accredited private institutions in North Dakota; and to provide an appropriation.

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

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

1. "Accredited private institution" means an institution of higher learning located in North Dakota which is operated privately and not controlled or administered by any state agency or subdivision of the state, and which is accredited by the north central association of colleges and secondary schools.
2. "Baccalaureate degree" means the degree customarily granted upon completion of a course of study normally requiring four academic years of college work.
3. "Agency" means the North Dakota student financial assistance agency.
4. "Final unmet financial need" means that need which remains after deducting any amounts available from the United States department of health, education, and welfare in the form of a basic educational opportunity grant, or from the state of North Dakota in the form of a North Dakota student assistance grant or a tuition assistance grant, or both.
5. "Financial need" means the difference between (a) the student's financial resources available, including those available from the student's parents as determined by a need analysis as defined in the 1977-78 student financial aid handbook issued by the United States department of health, education, and welfare, and (b) the student's

anticipated annual expense while attending the accredited private institution. Financial need for each student shall be calculated each year.

6. "Full-time resident student" means a North Dakota resident, pursuant to section 15-10-19 of the North Dakota Century Code, who is enrolled at an accredited private institution in a course of study including at least one hundred eighty instructional hours per semester.
7. "Half-time resident student" means a North Dakota resident who is enrolled at an accredited private institution in a course of study including at least ninety instructional hours per semester.
8. "Qualified student" means a full-time or half-time resident student who has established financial need and who is making satisfactory progress towards graduation.
9. "Tuition assistance grant" means a grant by the state of North Dakota to a qualified student.

SECTION 2. ADMINISTRATION OF TUITION ASSISTANCE GRANT PROGRAM BY NORTH DAKOTA STUDENT FINANCIAL ASSISTANCE AGENCY.) The agency shall:

1. Administer the North Dakota tuition assistance grant program, and may adopt rules pursuant to chapter 28-32 with respect to program administration.
2. Receive from the accredited private institutions a computation of financial need for each eligible student, to which shall be attached a copy of a corroborating needs analysis from an agency authorized by the United States department of health, education, and welfare to process family financial statements.
3. Disburse tuition assistance grants.
4. Annually report to the legislative assembly on funds distributed to students of each accredited private institution, including the amounts disbursed, the number of full-time and part-time students assisted, the final unmet need of each student, if any, and funds returned because of discontinued student attendance.

SECTION 3. TUITION ASSISTANCE GRANT ELIGIBILITY - APPLICATION.) Any full-time resident student or half-time resident student who is admitted to and attends an accredited private institution and who establishes financial need is eligible for a tuition assistance grant upon application to the agency.

SECTION 4. TUITION ASSISTANCE GRANT MAXIMUM.) The maximum amount of a tuition assistance grant to a qualified full-time

resident student for each academic year consisting of two semesters is the lesser of (a) the amount of the student's financial need for that period, (b) the difference between the tuition charged by the accredited private institution and the highest undergraduate tuition charged by state colleges or universities, or (c) five hundred dollars. The maximum amount of a tuition assistance grant to a qualified half-time resident student is one-half the amount which would be paid to a qualified full-time resident student.

SECTION 5. TUITION ASSISTANCE GRANT DURATION.) A qualified full-time resident student may receive tuition assistance grants for not more than eight semesters of undergraduate study or until the attainment of a baccalaureate degree, whichever comes first. A qualified half-time resident student may receive tuition assistance grants for not more than sixteen semesters of undergraduate study or until the attainment of a baccalaureate degree, whichever comes first.

SECTION 6. DISTRIBUTION OF GRANT FUNDS.) Subject to section 4, the agency shall distribute available grant funds among qualified students so as to reduce the unmet financial need to the same amount for each student. The total funds appropriated for tuition assistance grants are to be equally divided for awarding grants during each academic year of the appropriation. The agency shall pay one-half of the tuition assistance grant to the student at the beginning of the fall semester and one-half to the student at the beginning of the spring semester upon receipt of certification by the accredited private institution that the student is enrolled and is in attendance. If the student discontinues attendance before the completion of any term, any refund to the student and/or repayment to the tuition assistance grant fund shall be governed by the published refund/repayment policy of the institution. The distribution of tuition assistance grant funds shall be by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the agency.

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 \$200,000.00, or so much thereof as may be necessary, to the North Dakota student financial assistance agency for the purpose of providing tuition assistance grants under this Act for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 24, 1979

## CHAPTER 270

SENATE BILL NO. 2094  
(Jones)

## INDIAN STUDENT SCHOLARSHIPS

AN ACT to amend and reenact sections 15-63-02, 15-63-03, 15-63-04, and 15-63-05 of the North Dakota Century Code, relating to scholarships for Indian students.

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

SECTION 1. AMENDMENT.) Section 15-63-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-02. DUTIES OF BOARD.) The state board for Indian scholarships shall:

1. Award scholarship grants as provided in this chapter.
2. Make necessary rules and regulations and establish standards, requirements, and procedures for the administration of this chapter.
3. Encourage persons of Indian blood to attend and be graduated from any institution of higher learning or state vocational education program within North Dakota, and to make application for scholarships.

SECTION 2. AMENDMENT.) Section 15-63-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-03. NUMBER AND NATURE OF SCHOLARSHIPS.) The state board for Indian scholarships shall provide scholarships each year for resident persons of at least one-fourth degree of Indian blood or for enrolled members of tribes now resident in North Dakota to entitle persons so selected to enter and attend any institution of higher learning or state vocational education program within North Dakota upon compliance with all requirements for admission and to pursue any course or courses offered in such institutions or programs.

SECTION 3. AMENDMENT.) Section 15-63-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-04. ELIGIBILITY OF CANDIDATES - DETERMINATION.) The initial and continuing scholarship eligibility of resident persons of one-fourth degree of Indian blood or enrolled members of tribes now resident in North Dakota shall be determined by the state board for Indian scholarships after the candidate has gained admission to any institution of higher learning or state vocational education program within North Dakota and has had this fact certified to the board. Factors to be considered in the award of these scholarships shall be the candidate's health, character, financial need, and probable and continuing success as a student.

SECTION 4. AMENDMENT.) Section 15-63-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 13, 1979