

EDUCATION

CHAPTER 131

SENATE BILL NO. 2026

(Lips, Redlin, Berube, Solberg, Tweten)

(From Legislative Council Study)

EDUCATIONAL FINANCE

AN ACT to provide that personal property tax replacement allocations to school districts shall be made through the foundation program and to provide future restrictions on foundation program payments; to create and enact section 15-40.1-16.1 of the North Dakota Century Code, relating to transportation aid for cooperative vocational education programs; to amend and reenact sections 15-40.1-06, 15-40.1-07, 15-40.1-08, 15-40.1-09, 15-40.1-16, 15-40.2-03, and 57-15-14 of the North Dakota Century Code, relating to foundation program payments, tax levy limitations in school districts, aid for transportation, and tuition payments for school districts; to repeal section 57-58-02 of the North Dakota Century Code, relating to computation of grants-in-aid to county equalization funds; and declaring legislative intent.

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

SECTION 1. SCHOOL DISTRICT REPLACEMENT REVENUE - LEGISLATIVE INTENT.) The legislative assembly intends that allocations to replace the revenue lost by school districts through the repeal of the personal property tax be made through the foundation program rather than through the formula provided in section 57-58-01. It is the further intent of the legislative assembly that the personal property replacement moneys for junior colleges and for school district public recreation systems established pursuant to chapter 40-55 continue to be made through the formula provided in section 57-58-01.

SECTION 2. CERTIFICATIONS NOT TO INCLUDE SCHOOL DISTRICT REPLACEMENT REVENUE.) The certifications of the state tax commissioner to the state treasurer in the year 1976, and each year thereafter, which are made pursuant to section 57-58-01, shall not include any personal property tax replacement revenue which would otherwise be due school districts, nor shall it include personal property tax replacement revenue related to county equalization fund levies and the per capita school tax; provided, however, that such certifications shall include any amounts due school districts for junior colleges and public recreation systems of such districts.

The certification of the county auditor of each county to the state tax commissioner in the year 1976, and each year thereafter, as provided in section 57-58-01, shall not include any amount for taxes levied for school districts or the county equalization fund except for amounts due such districts for junior colleges and public recreation systems.

SECTION 3. AMENDMENT.) Section 15-40.1-06 of the 1973 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.) 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:

1. Expenditures for capital outlay for buildings and sites, or debt service.
2. Expenditures from school activities and school lunch programs.
3. Expenditures for the cost of transportation, including the cost of school buses.

It is hereby determined that the educational support per pupil during the first year of the 1975-1977 biennium shall be six hundred forty dollars and for the second year of the biennium the educational support per pupil shall be six hundred ninety 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. 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:

4. The product of twenty mills times the latest available net assessed and equalized valuation of property of the school district.
5. That amount in dollars of the state group rate for Title I of Public Law 81-874, 81st Congress, 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. Provided, however, that this section shall not include 3B students residing in tax-exempt, federally owned mobile homes.

SECTION 4. AMENDMENT.) Section 15-40.1-07 of 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 the county equalization fund to all school districts 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.

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 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 5. AMENDMENT.) Section 15-40.1-08 of 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 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 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.

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 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 15-40.1-09 of 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 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, 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 legal school holidays and days set aside for a North Dakota education association convention, plus 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 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,

*NOTE: Section 15-40.1-09 was also amended by section 2 of House Bill No. 1232, chapter 149.

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

*15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to twelve cents per mile for school buses having a capacity of sixteen or fewer pupils and twenty-six cents per mile for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each 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 250 and an area in excess of two square miles in which the school in which he is enrolled is located except as provided in section 15-40.1-16.1. The mileage payments provided for in this section shall be made to each school district for transporting pupils to and from school. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

SECTION 8.) Section 15-40.1-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

*NOTE: Section 15-40.1-16 was also amended by section 1 of House Bill No. 1022, chapter 158.

* 15-40.1-16.1. TRANSPORTATION AID FOR COOPERATIVE VOCATIONAL EDUCATION PROGRAMS.) There shall be paid from the county equalization fund 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. 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 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 9. AMENDMENT.) Section 15-40.2-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-03. LEGISLATIVE INTENT RELATING TO TUITION PAYMENTS.) It is the intent of the legislative assembly that school districts educating pupils in other school districts shall pay the full cost of education. Such costs shall be determined on the basis of average daily membership and shall include annual expenditures from the general fund and annual educational expenditures from all special funds, provided that only those expenditures permitted in determining the educational cost per pupil in section 15-40.1-06 shall be included in determining average current operating expenses. To such average current operating expense in the county for elementary or high school students, as the case may be, shall be added double the statewide total of all school districts' annual expenditures from sinking and interest funds, plus double the statewide total of all school districts' annual tax receipts to the building funds, including any amounts expended from school districts' general funds for capital outlay, divided by the average daily membership of the state. From this amount, the following shall be deducted for each individual pupil:

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

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

If the district of residence and the parent or guardian are

*NOTE: Section 15-40.1-16.1 was also created by section 2 of House Bill No. 1022, chapter 158.

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

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

SECTION 10. AMENDMENT.) Section 57-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. TAX LEVY LIMITATIONS IN SCHOOL DISTRICTS.) The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of twenty-four mills on the dollar of the net assessed valuation of the district, except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
 - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
 - b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the electors voting at any regular or special election upon such question.
2. In any school district having a total population of less than four thousand according to the last federal decennial census there may be levied any specific number of mills that upon resolution of the school board has been approved by sixty percent of the electors voting upon the question at any regular or special school election.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located; provided, however, that the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall

be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 11. REPEAL.) Section 57-58-02 of the North Dakota Century Code is hereby repealed.

SECTION 12. LEGISLATIVE INTENT.) It is the intent of the Forty-fourth Legislative Assembly that in the 1975-1977 biennium, school districts give first consideration in the use of state school foundation program funds to increasing teacher salaries.

Approved April 8, 1975

CHAPTER 132

SENATE BILL NO. 2149
(Committee on State and Federal Government)
(At the request of the Land Department)

LAND BOARD FEES

AN ACT to amend and reenact section 15-01-02.1 of the North Dakota Century Code, relating to setting and establishing fees by the board of university and school lands and the collection thereof.

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

SECTION 1. AMENDMENT.) Section 15-01-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-02.1. BOARD OF UNIVERSITY AND SCHOOL LANDS TO SET AND ESTABLISH FEES - COLLECTIONS.) The board of university and school lands shall have authority to set and establish fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land contracts, holding land sales, furnishing documents, and receiving and processing all loans made by the board. All leasing fees for agricultural purposes shall be collected by the county treasurer of the county wherein such land is leased at the time the first payment is made for leases, and such funds shall be deposited in the general fund of the county. All other fees provided for in this section shall be deposited in the state lands maintenance fund.

Approved March 13, 1975

CHAPTER 133

SENATE BILL NO. 2290
(Barth, Wright, Redlin)

LAND BOARD LOAN LIMITS

AN ACT to amend and reenact subsection 1 of section 15-03-04 of the North Dakota Century Code, relating to the investment of permanent school lands funds.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 15-03-04 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. First mortgages on farmlands and improvements thereon in this state to the extent such mortgages are guaranteed or insured by the United States or any instrumentality thereof, or if not so guaranteed or insured, not exceeding in amount eighty percent of the actual value of the property on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

Approved March 13, 1975

CHAPTER 134

HOUSE BILL NO. 1140
(Committee on State and Federal Government)
(At the request of the Land Department)

LAND BOARD LOAN MEETING

AN ACT to amend and reenact section 15-03-15 of the North Dakota Century Code, relating to the meeting of the board of university and school lands to consider the authorization and approval of investments and approval of farm loans and providing authority to seek assistance on the investment of funds in securities enumerated in section 21-10-07.

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

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

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

Approved March 9, 1975

CHAPTER 135

SENATE BILL NO. 2150
(Committee on Natural Resources)
(At the request of the Land Department)

LAND BOARD COAL LEASES

AN ACT to amend and reenact sections 15-05-01 and 15-05-04 of the North Dakota Century Code, relating to leasing coal lands or coal in tracts under the control of the board of university and school lands for coal mining purposes and pasturage and meadow purposes; and to repeal sections 15-05-02 and 15-05-03, relating to rental for coal lands and regulations governing and the provision that the lease for coal mining purposes is not to interfere with the right to lease for pasture.

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

SECTION 1. AMENDMENT.) Section 15-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-05-01. COAL LANDS OR COAL IN TRACTS - LEASES - TERM.) The board of university and school lands may lease any lands or coal in tracts that may be contained in lands sold with a reservation of coal deposits under its control for coal mining purposes. Any lease made under this chapter shall be for such period of time as the board may determine. Lands or coal in tracts that may be contained in lands sold with a reservation of coal deposits shall be leased for coal mining purposes for such royalty upon the coal as the board may deem fair and in the best interest of the state; provided, that the minimum royalty shall not be less than fifteen cents per ton, or six percent of the price per ton of coal, whichever is greater. The royalty shall apply only to coal actually mined and saved from the leased premises. If the board owns or controls a smaller interest than the entire and undivided coal estate, the royalty shall be paid to it only in proportion to which its interest bears to the entire undivided fee. The board may lease land or coal in tracts for the purpose of prospecting for and mining coal for an annual rental of not less than one dollar per acre per year. The rental paid for any year shall not be deducted from the royalties as they accrue.

SECTION 2. AMENDMENT.) Section 15-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-05-04. LANDS CONTAINING COAL LEASED FOR AGRICULTURAL PURPOSES - CONTENTS OF LEASE.) When any lands containing coal are leased for agricultural purposes, the lease shall contain a provision authorizing the board of university and school lands to lease the same land for coal mining purposes and shall reserve to the board the right to use and occupy or to lease for use and occupancy so much of the surface of the land as the lessee of the land for coal mining purposes requires for the extracting, mining, and marketing of the coal.

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

Approved April 8, 1975

CHAPTER 136

HOUSE BILL NO. 1052
(Solberg, Eagles, Dotzenrod, Kermott, Laske, Wagner)
(From Legislative Council Study)

OPTOMETRY AND DENTAL STUDENT LOANS

AN ACT to amend and reenact section 15-10-28.1 of the North Dakota Century Code, relating to veterinary medicine, optometry, and dentistry student loans.

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

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

15-10-28.1. BOARD OF HIGHER EDUCATION TO REQUIRE NOTE UPON LOAN TO VETERINARY MEDICINE, OPTOMETRY, OR DENTAL STUDENT - REPAYMENT.) At the time that payments are made to or on behalf of a student in veterinary medicine and surgery, optometry, or dentistry from the appropriations for reciprocal agreements, the board of higher education shall obtain a note signed by each such student in an amount equal to the average of the difference between the resident and nonresident tuition at the state institutions in each specialty listed above for which North Dakota has contracts. In the case of students who enter veterinary, dental, or optometrical practice in North Dakota, each year of actual practice shall be equivalent to repayment of one-third of the unpaid balance of the loan and of one-third of the accrued interest thereon. The board of higher education may temporarily waive the repayment of the note during the time the student is pursuing advanced study in veterinary medicine and surgery, optometry, or dentistry, or during the time such student is in the military service of the United States of America.

Approved March 17, 1975

CHAPTER 137

SENATE BILL NO. 2160
(Lashkowitz)

RECIPROCAL AGREEMENTS

AN ACT to amend and reenact section 15-10.1-04 of the North Dakota Century Code, relating to limitations on reciprocal agreements entered into by the board of higher education, and providing a statement of legislative intent.

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

SECTION 1. AMENDMENT.) Section 15-10.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10.1-04. PROCEDURES - LIMITATIONS.) The state board of higher education may prescribe the procedures for carrying out the authority conferred by sections 15-10.1-02 and 15-10.1-03 of this chapter. An agreement entered into pursuant to this chapter shall provide for approximately equal advantages between the contracting institutions or the contracting states.

SECTION 2. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that the board of higher education thoroughly investigate the possibility of entering into appropriate reciprocal agreements with the appropriate institutions in the states of South Dakota, Montana, and Minnesota, and that such agreements, if found feasible, be entered into by the board. It is further declared to be the intent of the legislative assembly that before entering into any such agreement which necessitates the expenditure of state funds, the state board of higher education return to the legislature for approval of such expenditures.

Approved March 25, 1975

CHAPTER 138

SENATE BILL NO. 2022
(Reiten, Strand)
(From Legislative Council Study)

JUNIOR COLLEGE AID FORMULA

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

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

SECTION 1. AMENDMENT.) Section 15-18-07 of the 1973 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 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 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 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 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 April 8, 1975

CHAPTER 139

SENATE BILL NO. 2023
(Goodman, Reiten, Strand)
(From Legislative Council Study)

REVIEW OF JUNIOR COLLEGE BUDGETS

AN ACT to amend and reenact section 15-18-08 of the North Dakota Century Code, relating to standards for state aid and to provide for an annual review of institutional budgets for junior colleges and educational centers by the state board of public school education.

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

SECTION 1. AMENDMENT.) Section 15-18-08 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved February 28, 1975

CHAPTER 140

SENATE BILL NO. 2024
(Strand, Reiten)
(From Legislative Council Study)

VERIFICATION OF JUNIOR COLLEGE STUDENTS

AN ACT to amend and reenact section 15-18-09 of the North Dakota Century Code, relating to the verification of students attending junior colleges and educational centers for state aid purposes.

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

SECTION 1. AMENDMENT.) Section 15-18-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-09. METHOD OF PAYMENT - VERIFICATION OF STUDENTS.) On or before July first of each year, the chief administrative officer of each junior college or educational center operated by a state-supported institution of higher education or the superintendent of each school district claiming state aid payments under section 15-18-07, shall file with the state board of public school education a verified statement containing the name and residence of each student enrolled in academic and vocational courses for whom payments are claimed, together with a listing of each course of study and the number of class hours for which such student was enrolled and in attendance, exclusive of temporary absences, during each week of the period for which payment is claimed. Such other information shall be submitted as may be requested by the state board of public school education. The state board of public school education shall consider all claims submitted for payment from each school district, and shall forward to the director of accounts and purchases a certified list of all school districts entitled to payments under section 15-18-07, together with the amount of the approved payments. The director of accounts and purchases shall immediately issue a warrant to each school district entitled to payment in accordance with the certified statements submitted by the state board of public school education. The decision of the state board of public school education in regard to all claims for payment shall be final. The staff of the state board of vocational education shall provide such professional and clerical assistance as the state board of public school education may require in performing the duties required by this section.

Approved March 25, 1975

CHAPTER 141

HOUSE BILL NO. 1023
(Mertens, Erickson, Larson, Leibhan, Rued)
(From Legislative Council Study)

COOPERATIVE VOCATIONAL
EDUCATION MILL LEVY

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

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

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

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

Approved March 12, 1975

CHAPTER 142

HOUSE BILL NO. 1245
(Committee on Education)

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

ACCEPTANCE OF GIFTS BY
VOCATIONAL EDUCATION BOARD

AN ACT to create and enact section 15-20.1-16.1 of the North Dakota Century Code, relating to the authorization of the State Board for Vocational Education to accept and use gifts.

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

SECTION 1.) Section 15-20.1-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-20.1-16.1. GIFTS - AUTHORIZATION TO ACCEPT AND USE.)
The director, with the approval of the state board, may accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. Gifts made under such conditions as in the judgment of the state board are proper and consistent with the provisions of this chapter may be so accepted and shall be held, invested and reinvested, and used in accordance with the conditions of the gift.

Approved March 17, 1975

CHAPTER 143

HOUSE BILL NO. 1020
(Mertens, Erickson, Larson, Leibhan, Rued)
(From Legislative Council Study)

MULTIDISTRICT VOCATIONAL
EDUCATION CENTERS

AN ACT to provide for the creation of multidistrict vocational education boards, and to provide for the establishment, control, and administration of multidistrict vocational education centers.

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

SECTION 1. MULTIDISTRICT CENTERS - DEFINITION OF TERMS.)
In this Act, unless the context otherwise requires:

1. "State board" means the state board of vocational education.
2. "Multidistrict vocational education center" means a program of vocational education conducted at one or more attendance centers by three or more participating public school districts.
3. "Center board" means the governing board of a multidistrict vocational education center.
4. "School board" means a participating public school district board.

SECTION 2. SUBMISSION OF PLAN FOR MULTIDISTRICT CENTER - APPROVAL BY STATE BOARD.) The school boards of three or more school districts may submit to the state board of vocational education a proposed plan to establish a multidistrict vocational education center. Such proposal shall be consistent with the state plan for vocational education and meet the requirements, rules, standards, and procedures as adopted by the state board. The state board upon receipt of a proposed plan to establish a multidistrict vocational education center shall examine such plan and receive testimony for the purpose of examining supporting and nonsupporting evidence submitted therewith. The state board shall process the proposed plan according to procedures consistent with the state plan. Nothing in this Act shall be interpreted to prohibit school districts from entering into other kinds of administrative structures for vocational centers approved by the state board pursuant to other provisions of law.

SECTION 3. AGREEMENT OF PARTICIPATION IN MULTIDISTRICT CENTER - RESOLUTION OF AGREEMENT.) After approval of a plan pursuant to this Act, all participating school districts of a multidistrict vocational education center shall enter into an agreement of participation which must receive a vote of approval of the school board of each participating school district. Prior to the effective date of an approved plan, a resolution of agreement shall be adopted by a majority vote of each participating school board and such resolution shall be published once in the official newspaper of each county or counties of the participating school districts.

SECTION 4. 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 of the participating school districts and shall be appointed by their respective school boards at the annual meeting of the school boards. The terms of office of the members of center boards shall be for three years 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.

SECTION 5. SPECIAL BOARD PLAN FOR SMALL CENTER.) If four or fewer school districts comprise a multidistrict vocational education center and if enrollment within such school district is insufficient to provide five members in accordance with section 4 of this Act, the boards of such school district shall agree upon the number and manner of selection of members of the center board and shall submit their plan of selection for approval by the state board pursuant to section 2 of this Act.

SECTION 6. MEETINGS OF CENTER BOARDS - ELECTION OF OFFICERS - QUORUM.) The initial organizational meeting of a center board shall be called and conducted by the chairman of the state board, and thereafter a center board shall meet monthly. At

the next meeting following the annual meeting of the school boards, the officers of a center board for the current school year shall be selected. The officers of a center board shall be a chairman and a vice chairman, who shall not be from the same school district. The chairman shall preside at all meetings of a center board and in his absence the vice chairman shall preside. Each center board member shall be entitled to one vote. A majority of the members of a center board shall constitute a quorum. Any motion or resolution may be adopted only by a majority vote of the members of the center board.

SECTION 7. POWERS AND DUTIES OF CENTER BOARDS.) The powers and duties of a center board shall be as follows:

1. To supervise, manage, and control a multidistrict vocational education center established by the cooperating school districts pursuant to this Act.
2. To provide vocational education programs approved by the state board.
3. To contract with, employ, and pay personnel to administer the affairs and to teach in the multidistrict vocational education center, and to remove for cause any personnel when the interests of the multidistrict vocational education center may require it, provided that personnel employed by a center board shall have the same statutory rights as provided by law for personnel employed by public school districts.
4. To lease, acquire, or purchase vocational education equipment for a multidistrict vocational education center.
5. To lease, acquire, purchase, or sell vocational education facilities, including real property, for a multidistrict vocational education center, provided that any purchase or sale of real property shall first be approved by two-thirds of the school boards of the participating school districts.
6. To receive and administer any private, local, state, or federal funds provided for the operation and maintenance of a multidistrict vocational education center.
7. To enter into contracts consistent with the other powers and duties provided for by this Act.

SECTION 8. 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.

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.

SECTION 9. DISTRIBUTION OF STATE FUNDS TO MULTIDISTRICT CENTERS - RULES AND REGULATIONS.) Funds which may be made available to the state board for distribution to multidistrict vocational education centers shall be apportioned and distributed by the state board to the multidistrict vocational education centers to assist such centers in defraying the cost involved in maintaining and operating such centers. The use of such funds shall be subject to such rules and regulations as may be prescribed by the state board, and shall be in accordance with the approved state plan for vocational education.

SECTION 10. APPROPRIATED AND FEDERAL FUNDS USED FOR DISTRIBUTION.) The funds distributed to the multidistrict vocational education centers under the provisions of section 9 of this Act shall be paid out of moneys appropriated to the state board of vocational education, including federal funds allotted to the state to promote and attain the purposes of state and federal legislation on vocational education.

SECTION 11. DISTRICT BECOMING PARTICIPANT IN ESTABLISHED CENTER - PROCEDURE.) After a multidistrict vocational education center has been established, any other school district may become a participant in the center and may be governed by the provisions of this Act upon following a process similar to that pursued by the school districts originally forming the center, including approval of the vote of the district board, the center board, and the state board according to the procedure set forth in sections 12 and 13 of this Act.

SECTION 12. DISTRICT BOARD RESOLUTION TO PARTICIPATE IN ESTABLISHED CENTER - PUBLICATION.) A school district board may request that the state board and the center board approve such school district as a participating district in an established multidistrict vocational education center upon approval of a resolution by the school district board. When such resolution has been adopted by the school district board, it shall be published once in the official newspaper of the county or counties in which the district is located.

SECTION 13. REFERENDUM ON DISTRICT PARTICIPATION IN MULTIDISTRICT CENTER - MAJORITY REQUIRED FOR APPROVAL.) A school district board shall not proceed to obtain approval as a participating district in a multidistrict vocational education center if a

petition for referendum of the question of said school district participating in a multidistrict vocational education center signed by twenty percent of the qualified voters of said school district voting at the last annual school election is filed with the school board within sixty days of the publication of the resolution provided for in section 12 of this Act. When such petition is filed, the school board shall not obtain approval as a participating district in a multidistrict vocational education center until the question of whether the district shall enter into a multidistrict vocational education center has been submitted to the voters of the district. If a majority of the total number of votes cast on the question within the school district is in favor of the question, the school board may proceed to obtain approval as a participating district in a multidistrict vocational education center.

SECTION 14. WITHDRAWAL OF DISTRICT FROM PARTICIPATION IN CENTER - SUBMISSION TO VOTERS - EFFECT OF WITHDRAWALS.) The procedure for withdrawal shall be the same as for joining as provided for in sections 11 through 13 of this Act, except that when a participating district is unable to obtain an approval of withdrawal from the center board, or the state board, or both, the participating district may submit the question to withdraw from the multidistrict vocational education center to the voters of the school district. If a majority of the total number of votes cast on the question is in favor of withdrawal, the participating school district shall be released from the multidistrict vocational education center. Such withdrawal may become effective at the end of the next school year or on such a date as determined by the state board, but such withdrawal shall not affect the liability of the withdrawing school district for obligations incurred during its participation.

SECTION 15. DISSOLUTION OF ESTABLISHED CENTER.) An established multidistrict vocational education center may be dissolved in accordance with rules and procedures adopted by the state board.

SECTION 16. RULES, REGULATIONS, AND STANDARDS FOR MULTIDISTRICT CENTERS.) The state board is hereby authorized and empowered to establish and adopt rules, regulations, standards, and procedures set forth in the state plan pertaining to the creation, operation, control, supervision, and approval of multidistrict vocational education centers.

Approved March 19, 1975

CHAPTER 144

HOUSE BILL NO. 1440
(Fleming)

ELIMINATION OF SCHOOL TREASURERS

AN ACT to create and enact a new section to chapter 15-29, and 7 new subsections to section 15-29-09 of the North Dakota Century Code, relating to legislative intent and the duties of the clerks of public school districts; to amend and reenact subsection 1 of section 11-14-13 and sections 11-14-14, 11-14-15, 15-18-06, 15-29-03, 15-29-04, 15-29-11, 15-29-13, 15-44-04, 15-44-05, 15-44-09, 15-47-05, 15-47-08, 15-47-21, 15-49-05, 15-49-06, 15-55-19, subsection 2 of section 21-01-01, and sections 21-03-40 and 54-10-15 of the North Dakota Century Code, relating to duties of the treasurers and clerks of public school districts; and to repeal section 15-29-12 of the North Dakota Century Code, relating to duties of treasurers of public school districts.

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

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

SCHOOL DISTRICT CLERK TO BE SUBSTITUTED FOR SCHOOL DISTRICT TREASURER.) It is the intent of the legislative assembly that the clerk of any public school district shall be substituted for, take any action previously taken by, and shall perform any duties previously performed by the treasurer of such public school district.

SECTION 2. AMENDMENT.) Subsection 1 of section 11-14-13 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The county treasurer shall keep a regular account with each school district in the county. He shall charge himself in such account with: the amount collected on taxes levied by the governing body of the school district; all sums apportioned to the district by the county superintendent of schools or other authority; and all sums received from the district. He shall credit himself with: all payments made to the clerk of the district and shall distinguish between items paid by

apportionment, from county taxes, and from other sources; all payments for redemption of or endorsement upon school district warrants in the collection of taxes; and all items of legal fees for collection and other duties performed.

SECTION 3. AMENDMENT.) Section 11-14-14 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-14-14. REPORTS OF DISBURSEMENTS OF FUNDS TO SCHOOL DISTRICTS.) Annually, on the first day of July, the county treasurer shall:

1. File with the county superintendent of schools an itemized statement of all funds remitted by him during the preceding school year to the clerk of each school district in the county; and
2. Send to the clerk of each school district in the county an itemized statement of all payments made by the county treasurer to such school district clerk during the preceding school year.

Such statement shall be made in substantial conformity with the forms prepared by the superintendent of public instruction for the annual report of school district treasurers.

SECTION 4. AMENDMENT.) Section 11-14-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-14-15. RECEIPTS AND WARRANTS TO BE DELIVERED TO SCHOOL DISTRICT CLERK.) The county treasurer shall deliver to the clerk of the school district, at the time of making other regular payments to him, a duplicate tax receipt for all amounts credited as an endorsement upon, or in payment of, any school district warrant, and he shall deliver to such district clerk all warrants which have been redeemed.

SECTION 5. AMENDMENT.) Section 15-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-06. PROCEEDS OF LEVY TO BE CERTIFIED TO SPECIAL SCHOOL DISTRICT.) The proceeds of any tax levy hereby authorized shall be certified quarterly to the clerk of any special school district having established such junior college or off-campus educational center of a state-supported institution of higher education and shall be placed in a special junior college fund or an off-campus center fund and shall be expended for the acquisition of property, construction, maintenance, and the operation of a junior college or off-campus center of a state-supported institution of higher education.

SECTION 6. AMENDMENT.) Section 15-29-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-03. ORGANIZATION OF SCHOOL BOARD - ELECTION OF PRESIDENT - APPOINTMENT OF CLERK.) At the annual meeting, the school board shall elect from among its members a president who shall serve for one year. The board shall appoint a clerk who is not a member of the board who shall hold his office during the pleasure of the board and receive such compensation for his services as shall be fixed by the board.

SECTION 7. AMENDMENT.) Section 15-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 8.) Seven new subsections to section 15-29-09 of the North Dakota Century Code are hereby created and enacted to read as follows:

Keep a separate true and correct account of the receipts and expenditures of each fund of the district.

Prepare and submit quarterly to the board a written report of the state of the finances of the district, and to submit such report at any other time upon the request of the board; provided, however, that in school districts in which are located only one or two-room schools, the clerk shall be required to submit such a report only upon the request of the board.

Produce at any meeting of the board or of any committee appointed to examine his accounts, whenever ordered to do so by the board, all of the books and papers pertaining to his office.

Keep safely in his possession or under his control all school moneys coming into his hands.

Pay out district moneys under his control in accordance with the provisions of section 15-29-13. The form of warrant shall be prescribed by the superintendent of public instruction and shall be so drawn that when signed by the clerk in an appropriate place it becomes a check on the school district depository.

Shall receive and have custody of all moneys from every source which the school board of the district is authorized to receive.

Attend meetings of the board, when requested, and perform all duties required of him under Title 57, Taxation, and Title 21, Governmental Finance.

SECTION 9. AMENDMENT.) Section 15-29-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 10. AMENDMENT.) Section 15-29-13 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 15-29-13. FORM OF WARRANTS - HOW WARRANTS PAID BY CLERK - ACTIVITIES FUND - INCIDENTAL REVOLVING FUND.) The clerk shall pay out moneys only upon the presentation of a warrant signed by the president of the board, and only if there is money in his hands or subject to his order sufficient for the payment thereof. The form of warrant to be used by a school district shall be prescribed by the superintendent of public instruction. When making payment of a warrant on school district funds, the school district clerk shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned, shall become a check on the school district depository. Immediately upon countersigning any warrant and inserting the name of the depository bank thereon, he shall enter the payment in his clerk's record. The clerk shall not issue a check on the depository bank except as provided in this section.

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

The school board may, by resolution, establish an incidental revolving fund in the depository bank and designate the superintendent of schools or such other school administrator as the board may select to draw checks directly on such fund for

*NOTE: Section 15-29-13 was also amended by section 1 of House Bill No. 1027, chapter 147.

such incidental expenses as the school board may direct in the resolution. The amount to be retained in such fund shall be established by the school board and drawn from the general fund. The superintendent or other school administrator designated to draw checks on such fund shall submit a monthly report to the school board listing the checks drawn, the payee, and the purpose for which the check was drawn.

SECTION 11. AMENDMENT.) Section 15-44-04 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-44-04. APPORTIONMENT OF STATE TUITION FUNDS BY COUNTY SUPERINTENDENT OF SCHOOLS - NOTICE OF APPORTIONMENT - PAYMENT.) Not less than twenty days nor more than thirty days after receiving the certificate of apportionment from the superintendent of public instruction, the county superintendent of schools shall apportion the state tuition fund to the several school districts which are entitled to any portion of such fund in proportion to the number of children residing in each district over six years of age and under eighteen years of age as appears from the enumeration upon which the superintendent of public instruction made the apportionment to the several counties. He shall notify each school district clerk immediately of the amount of tuition fund in the county treasury due the district and shall certify to the county treasurer and to the county auditor the amount due each school district. The county treasurer shall deliver to the several school district clerks, upon the order of the county auditor, the amounts apportioned to their respective districts, taking from each a receipt therefor.

SECTION 12. AMENDMENT.) Section 15-44-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-44-05. TUITION FUND WITHHELD WHEN DISTRICT HAS NOT MADE SCHOOL CENSUS OR WHEN CLERK NOT QUALIFIED - CLERK'S BOND.) No school district shall receive any portion of the state tuition fund until an enumeration of the children of school age in the district is made and reported in the manner required by the laws of this state. The county superintendent of schools may withhold the payment of tuition to any district if the officers thereof fail to make the reports required by law, and he shall not authorize the payment of money apportioned to any district unless the bond and oath of the clerk of the district have been filed.

SECTION 13. AMENDMENT.) Section 15-44-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-44-09. FUNDS CONTROLLED AND PAID OUT BY SCHOOL DISTRICT CLERK - ACCOUNTING.) All funds shall be kept in the possession or under the control of, and shall be paid out by, the school district clerk except as otherwise provided by the laws of this state, and he shall keep one general account of the entire receipts and expenditures of the district and separate itemized accounts for

each class of receipts and expenditures. His books shall show at all times, by entries under proper heads, all receipts of funds and payments made therefrom so as to enable any person readily to ascertain the balance in any fund.

SECTION 14. AMENDMENT.) Section 15-47-05 of 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 state is qualified to vote at 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.

SECTION 15. AMENDMENT.) Section 15-47-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-08. OATH OF OFFICE OF SCHOOL DISTRICT OFFICERS.) Each person elected or appointed as a member of the school board or as a school district clerk, before entering upon the duties of his office, shall take and file with the clerk of the district the oath prescribed for civil officers.

SECTION 16. AMENDMENT.) Section 15-47-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-21. TAX LEVIES FOR EQUALIZATION BETWEEN SCHOOL DISTRICTS LIMITED - REMITTANCE TAX.) When the amount to be levied on each of several districts or parts of districts affected by a change in school district boundaries has been determined, a list of the several amounts shall be made, and the respective amounts shall be set forth opposite the name of the district to which it is chargeable. The entire levy shall be stated substantially in the form provided for certifying school taxes, shall be addressed to the county auditor, and shall be signed by a majority of the members of the county committee or committees. Opposite the several descriptions of property on the tax list shall be entered the names of the school districts within which the property is situated. The levy shall be a valid levy on the taxable property of each district. Not more than fifteen mills of the levy shall be extended against the taxable property in any one year, and the levy, not exceeding fifteen mills on the dollar, shall be extended from year to year until the whole amount has been levied. The county auditor shall preserve the levies and shall extend the several rates from year to year as required by law for school district taxes, and the tax shall be collected at the same time and in the same manner as other taxes are collected, and paid over to the proper school district within which the property upon which the tax is paid is situated. The proceeds of taxes upon parts of districts lying outside of

the district with which they are equalized shall be paid to the clerk of the school district within which the property is situated. The taxes levied for equalization purposes shall be in addition to all other taxes for school purposes. The provisions of this section shall apply to proceedings under article II, annexation, and article IV, involuntary dissolution of chapter 15-53.1, but shall not apply to article III, reorganization, of chapter 15-53.1 except where specifically so referenced.

SECTION 17. AMENDMENT.) Section 15-49-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-49-05. FAILURE TO PAY OVER SCHOOL FUNDS - ACTION ON BOND.) When any person refuses or neglects to pay over to his successor in office any money in his hands as clerk of a school district, his successor, without delay, shall bring an action upon the official bond of the offending person for the recovery of the money.

SECTION 18. AMENDMENT.) Section 15-49-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*15-49-06. UNPAID WARRANTS - FAILURE TO ENDORSE AND PAY IN ORDER - PENALTY.) Any violation by the clerk of a school district of the provisions of law relating to the endorsement of warrants not paid for want of funds, and to the payment thereof in the order or presentation and endorsement, is an infraction.

SECTION 19. AMENDMENT.) Section 15-55-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-19. POWERS AND PROCEDURE.) In issuing and selling the bonds and carrying out the provisions of section 15-55-18, the board of education of such school district shall proceed under the same procedure, powers, limitations, and conditions provided for the state board of higher education in chapter 15-55 of the North Dakota Century Code, so that the provisions of chapter 15-55 shall be applicable to this issue, sale, and construction except that references therein to state, state treasury, state treasurer, state auditor shall be construed to mean such school district, school district treasury, and school district clerk, respectively, the school district clerk acting as treasurer.

SECTION 20. AMENDMENT.) Subsection 2 of section 21-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The term "warrant" when used in this chapter shall mean an order drawn by the proper taxing district officials on the treasurer, or other person acting as treasurer, of said taxing district, the warrant or order to be so drawn that when signed by the treasurer, or person acting as treasurer, in an appropriate place it becomes a check on the taxing district depository. No warrant upon the treasurer, or person acting as treasurer, shall be delivered or mailed to the payee or his

*NOTE: Section 15-49-06 was also amended by section 133 of Senate Bill No. 2039, chapter 106.

agent or representative until such warrant has been signed by the treasurer, or person acting as treasurer, and entered on the books of the treasurer or person acting as treasurer as a check drawn on a bank depository.

SECTION 21. AMENDMENT.) Section 21-03-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-40. SINKING FUNDS - CUSTODIAN.) The county treasurer shall be custodian of each sinking fund for the payment of bonds issued by each taxing district within the county except in case of any city or park district having a population of more than one thousand and any school district which upon the passage of a resolution by the school board chooses to have its clerk be custodian of such sinking fund. In the case of any city or park district having a population of more than one thousand, or a school district approving a resolution as provided in this section, the treasurer or person acting as treasurer of the respective city, park district, or school district shall be custodian of each of its sinking funds.

SECTION 22. AMENDMENT.) Section 54-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-15. AUDITS OF MUNICIPAL AGENCIES AND SCHOOL DISTRICTS BY ORDER OF GOVERNOR OR UPON PETITION.) When so ordered by the governor of this state, or on petition of thirty-five percent of the electors of any school district or city for which audits are not provided in section 54-10-14, or at the request of the chairman or governing board of any such political subdivision, the state auditor shall, through his deputy auditors or other authorized persons, audit the records of the governing body and the books, records, and financial accounts of the treasurer or person acting as treasurer and clerk or auditor thereof, as the case may be. Fees for such audits shall be paid in accordance with the provisions of section 54-10-14 to the state treasurer, and by him credited to the general fund of the state.

SECTION 23. REPEAL.) Section 15-29-12 of the North Dakota Century Code is hereby repealed.

Approved April 8, 1975

CHAPTER 145

SENATE BILL NO. 2287
(Solberg, Berube)

COMPENSATION OF SCHOOL BOARD MEMBERS

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

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

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

15-29-05. COMPENSATION OF BOARD MEMBERS.) Each member of the school board may receive not in excess of ten dollars as compensation for each meeting of the board actually attended by him. In addition thereto, each member may be reimbursed for all necessary meals and lodging and travel expense actually incurred by him while engaged on official business of the board, at the same rate as provided for state officers and employees. Any mileage claimed shall not exceed the number of miles between the points traveled as measured by the most usual route.

Approved April 8, 1975

CHAPTER 146

SENATE BILL NO. 2300
(Nasset)

CERTIFICATION OF PRINCIPALS

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 school boards.

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 North Dakota Century Code is hereby created and enacted to read as follows:

To appoint a principal, who shall be certified under the rules and regulations of the department of public instruction, and assign said principal the responsibilities of administration, supervision, and the development of the educational programs of one or more buildings or attendance units with that public school district. Such principal shall perform his duties under the direction of the superintendent of schools of that public school district.

Approved March 19, 1975

CHAPTER 147

HOUSE BILL NO. 1027
(Knudson, Hildebrand, Jacobson, McGauvran,
Raymond, Tinjum, Watkins)
(From Legislative Council Study)

SCHOOL ACTIVITIES FUNDS

AN ACT to amend and reenact section 15-29-13 of the North Dakota Century Code, relating to incidental revolving funds and to provide for the establishment of a school activities fund.

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

SECTION 1. AMENDMENT.) Section 15-29-13 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 15-29-13. FORM OF WARRANTS - HOW WARRANTS PAID BY TREASURER - ACTIVITIES FUND - INCIDENTAL REVOLVING FUND.) The treasurer shall pay out moneys only upon the presentation of a warrant signed by the president of the board and countersigned by the clerk, and only if there is money in his hands or subject to his order sufficient for the payment thereof. The form of warrant to be used by a school district shall be prescribed by the superintendent of public instruction. When making payment of a warrant on school district funds, the school district treasurer shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned, shall become a check on the school district depository. Immediately upon countersigning any warrant and inserting the name of the depository bank thereon, he shall enter the payment in his treasurer's record. The treasurer shall not issue a check on the depository bank except as provided in this section.

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

The school board may, by resolution, establish an incidental revolving fund in the depository bank and designate the super-

*NOTE: Section 15-29-13 was also amended by section 10 of House Bill No. 1440, chapter 144.

intendent of schools or such other school administrator as the board may select to draw checks directly on such fund for such incidental expenses as the school board may direct in the resolution. The amount to be retained in such fund shall be established by the school board and drawn from the general fund. The superintendent or other school administrator designated to draw checks on such fund shall submit a monthly report to the school board listing the checks drawn, the payee, and the purpose for which the check was drawn.

Approved March 9, 1975

CHAPTER 148

HOUSE BILL NO. 1144

(Committee on Transportation)

(At the request of the Department of Public Instruction)

SCHOOL BUS DEFINITION

AN ACT to amend and reenact sections 15-34.2-14 and 39-21-18 of the North Dakota Century Code, relating to definition and size of a school bus.

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

SECTION 1. AMENDMENT.) Section 15-34.2-14 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-14. QUALIFICATIONS, CHARACTER, AND AGE OF SCHOOL BUS DRIVERS.) The driver of a school bus shall be in good physical and mental health, able-bodied, free from communicable diseases, and shall have normal use of both hands, both feet, both eyes, and both ears. It shall be the duty of school boards to designate reputable physicians to examine each driver annually. It shall be the duty of each driver to present the physician's certificate of physical fitness to the employing school board before a contract is signed. Such driver shall possess a good moral character, shall be at least eighteen and not more than sixty-five years of age, and shall be required to have a North Dakota driver's license. However, the school board, in its discretion, may extend the maximum age of a driver to age sixty-seven. Any driver reaching the age of sixty-seven during the school year may be allowed to drive until the completion of that school year. All drivers over the age of sixty-five must submit to a physical examination once every six months and present the physician's certificate of physical fitness to the school board after each examination. The term school bus as used in this section shall mean a passenger motor vehicle having an actual seating capacity of seventeen or more passengers.

SECTION 2. AMENDMENT.) Section 39-21-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-18. AUDIBLE AND VISUAL SIGNALS ON VEHICLES.) 1. Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, exhaust whistle, or bell capable of causing a minimum sound intensity level of 85 decibels, such siren or signal

shall be mounted outside of the vehicle or in front of the radiator.

2. Every school bus, except small vehicles such as automobiles, station wagons, suburbans, and van type vehicles having a seating capacity of up to and including sixteen pupils, and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

3. A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with alternately flashing red lights specified herein and a vehicle designated for the use of the adjutant general or the assistant adjutant general may, but need not, be equipped with a siren, exhaust whistle, or bell specified herein.

4. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right of way and stop as prescribed in sections 39-10-26 and 39-10-46.

Approved March 17, 1975

CHAPTER 149

HOUSE BILL NO. 1232
(McGauvran)

LENGTH OF SCHOOL TERMS

AN ACT to amend and reenact sections 15-38-04.1, 15-40.1-09, and 15-47-33 of the North Dakota Century Code, relating to the length of elementary and secondary school terms.

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

SECTION 1. AMENDMENT.) Section 15-38-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-04.1. SCHOOL HOLIDAYS DEFINED.) The following days shall be school holidays, and schools shall not be in session thereon:

1. Every Sunday;
2. New Year's Day, the first day of January;
3. The anniversary of the Declaration of Independence, the fourth day of July;
4. Christmas Day, the twenty-fifth day of December;
5. Memorial Day, the last Monday in May;
6. Thanksgiving Day, the fourth Thursday in November;
7. Good Friday, the Friday next preceding Easter Sunday;
8. Labor Day, the first Monday in September;
9. Veteran's Day, the eleventh day of November; and
10. Every day appointed by the President of the United States or by the governor of this state for a public holiday;

provided that, if the first day of January, the fourth day of July, the eleventh day of November, or the twenty-fifth day of December falls upon a Sunday, the school holiday shall be the Monday following. Schools shall be in session as usual on all

other legal holidays which do not fall upon a Saturday or Sunday, provided that at least one hour shall be devoted to patriotic exercises consistent with the day. School shall not be held when so prescribed by the school board, in a schoolhouse which is used as a polling place on a day upon which an election is held throughout the state.

SECTION 2. AMENDMENT.) Section 15-40.1-09 of 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 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, 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 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

*NOTE: Section 15-40.1-09 was also amended by section 6 of Senate Bill No. 2026, chapter 131.

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 3. AMENDMENT.) Section 15-47-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-33. LENGTH OF ELEMENTARY AND SECONDARY SCHOOL YEAR TERM.) All elementary and secondary schools in this state shall provide at least one hundred eighty days of classroom instruction during each school term. 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 any day in which classes cannot be held because of acts of God, epidemic, or failure of physical facilities shall be included in the one hundred eighty days provided for in this section and teachers shall be paid therefore.

Approved April 8, 1975

CHAPTER 150

HOUSE BILL NO. 1233
(McGauvran)

PERSONS UNDER TEACHERS' RETIREMENT

AN ACT to amend and reenact subsection 1 of section 15-39.1-04 of the North Dakota Century Code, relating to persons to be covered by teachers' fund for retirement.

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

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

1. "Teacher" shall include:
 - a. All persons employed in teaching in any state institution or by any school board or other governing body of any school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers employed in any state institution or in the school system of any school district in this state, except that the superintendent and assistant superintendent of the Grafton state school may be brought within this definition at their option.
 - b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, state school supervisors and inspectors, every person engaged as president, dean, school librarian, or registrar of any state institution, the secretary of the North Dakota education association, all assistant secretaries and professional staff of such association, and the commissioner of higher education.
 - * 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.

Approved April 8, 1975

*NOTE: Subdivision c of subsection 1 of section 15-39.1-04 was repealed by section 9 of House Bill No. 1201, chapter 151.

CHAPTER 151

HOUSE BILL NO. 1201

(Committee on Education)

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

TEACHERS' RETIREMENT LAW AMENDMENTS

AN ACT to amend and reenact sections 15-39.1-09, 15-39.1-10, 15-39.1-15, 15-39.1-17, 15-39.1-19, 15-39.1-20, and subsections 1 and 3 of section 15-39.1-24, and to repeal subdivision c of subsection 1 of section 15-39.1-04 of the North Dakota Century Code, relating to the teachers' fund for retirement.

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

SECTION 1. AMENDMENT.) Section 15-39.1-09 of 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 four 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 four percent per annum of the salary of each teacher employed by it, but not to exceed a matching payment in excess of five hundred dollars annually. 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 North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-10. ELIGIBILITY TO BENEFITS.) Any teacher having ten years of teaching credit in the fund and who has attained the age of sixty-five years, or who attained the age of sixty-five years and completed his final year of teaching in 1971, shall be entitled to receive monthly benefits from the fund, until death, in an amount equal to the following:

1. One percent of the monthly salary of the teacher for the school year next preceding the effective date of

this chapter for each year of service of said teacher prior to the effective date of the chapter; and

2. One and one-half percent of the monthly salary of the teacher for each year subsequent to the effective date of the chapter.

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 year next preceding the effective date of this chapter are shown to have been nonrepresentative of his normal earnings, the board shall readjust his earnings for such year to the average annual earnings as based upon the teacher's five highest consecutive years of annual earnings prior thereto.

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

15-39.1-15. WITHDRAWAL FROM FUND - RETURN TO TEACHING.) Any teacher who has withdrawn from the fund as set forth in this chapter may, by returning to teach one full school year in a public school or state institution of this state, regain credit for prior teaching by repaying to the fund, with interest, at a rate to be set by the board, the amount which was returned to him on withdrawal.

SECTION 4. AMENDMENT.) Section 15-39.1-17 of 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.

SECTION 5. AMENDMENT.) Section 15-39.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-19. ANNUITIES DISCONTINUED ON RESUMPTION OF TEACHING.) Any person who has retired from teaching under the provisions of this chapter may become a teacher again in a public school or state institution in this or any other state and thereupon his annuity payments shall be discontinued during the time he continues to teach and such teacher shall be entitled to such additional retirement benefits as may be earned during the period when he again becomes a teacher. Payment of the annuity shall be resumed upon his further retirement.

Any retired member who has retired from teaching under the provisions of this chapter and who again becomes a teacher in a public school or state institution in this state or any other state shall immediately notify the office of the North Dakota teachers' fund for retirement when his or her earnings have exceeded the maximum earnings allowed by the Federal Social Security Act. The maximum earnings shall be determined within the fund's fiscal year of July 1 to June 30.

Any teacher who within any fiscal year of July 1 through June 30 has earnings in excess of the maximum earnings as established by the social security administration for the receipt of full social security benefits shall not be entitled to receive an annuity for those months during which the earnings were in excess of the maximum earnings so established.

Failure to notify, in writing, the fund as to the date when the member resumed teaching and the date when the teacher's earnings exceeded the maximum earnings allowed by the Federal Social Security Act for the receipt of full social security benefits in any one year shall, in addition to the deduction of benefits paid after reaching such maximum, result in the loss of one month's annuity benefits when the payment of the annuity is resumed upon further retirement.

Any person who again becomes a teacher shall pay the required assessments on the total earnings for the entire fiscal year involved

and the employer shall pay the required contributions on the teacher's total earnings for the entire fiscal year involved.

SECTION 6. AMENDMENT.) Section 15-39.1-20 of 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. Such refund shall be in lieu of any other benefits to which the member may be entitled under the terms of this chapter.

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

15-39.1-24. TEACHER ENTITLED TO ADDITIONAL CREDIT.) A teacher may receive additional credit for teaching toward retirement in the following instances and manner:

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

SECTION 8. AMENDMENT.) Subsection 3 of section 15-39.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-24. TEACHER ENTITLED TO ADDITIONAL CREDIT.) A teacher may receive additional credit for teaching toward retirement in the following instances and manner:

3. A teacher who attends a college, university, or other recognized school for two consecutive semesters or three consecutive quarters, other than summer sessions, for the purpose of improving his qualifications in the teaching profession shall be entitled to have such periods while in attendance at such college, university, or school credited as teaching service under the provisions of this chapter upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such college, university, or school attendance, plus the payment by him of the amount that would have been paid to the fund in his behalf from the school district or state institution where he was employed. Such back assessments must be paid prior to or at the time of retirement under this chapter, provided that:
 - a. The teacher must have taught at least one full school year in North Dakota immediately preceding his entrance into the college, university, or school and that immediately following such training he shall have taught not less than one full school year in a public school or state institution of this state; and
 - b. The period of college, university, or school attendance that may be credited as teaching service shall not exceed three full academic years, exclusive of summer schools; and
 - c. Payments on back assessments and back contributions shall be based on the salary received by the teacher during the first year of teaching following the college, university, or school attendance, together with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, except that no interest shall be charged on assessments for the period while actually in attendance at the college, university, or school.

* SECTION 9. REPEAL.) Subdivision c of subsection 1 of section 15-39.1-04 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1975

*NOTE: Subdivision c of subsection 1 of section 15-39.1-04 was amended by section 1 of House Bill No. 1233, chapter 150.

CHAPTER 152

HOUSE BILL NO. 1235
(Jacobson)

TEACHER RETIREMENT MILL LEVY

AN ACT to amend and reenact section 15-39.1-28 of the North Dakota Century Code, relating to a 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 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 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 12, 1975

CHAPTER 153

SENATE BILL NO. 2129
(Lips)ADJUSTMENT OF TEACHER
RETIREMENT ANNUITIES

AN ACT to amend and reenact section 15-39.2-01 of the North Dakota Century Code, relating to teacher retirement options, to require the adjustment of certain annuities calculated pursuant to chapter 15-39.2, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-39.2-01 of the 1973 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, except for those persons referred to in section 15-39.1-25 who have only such rights, benefits, and privileges as provided in chapter 15-39 as it existed on July 1, 1967, shall be entitled to elect to qualify for benefits under the teachers' fund for retirement by complying with the provisions of this chapter. 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

*NOTE: Section 15-39.2-01 was also amended by section 1 of Senate Bill No. 2197, chapter 154.

allowed for past years of service to the last year of typical earnings.

SECTION 2. ADJUSTMENT OF CERTAIN ANNUITIES.) Upon the effective date of this Act, the board of trustees of the teachers' fund for retirement shall recompute the annuities of those teachers and the beneficiaries of teachers who retired on or after July 1, 1971, whose benefits were computed pursuant to the provisions of chapter 15-39.2. Such annuities shall be adjusted to such amounts as such persons would have been entitled to had their annuities been computed pursuant to the provisions of chapter 15-39.1. No person who received benefits which are higher than those to which he is entitled pursuant to the provisions of this section shall be required to refund such amounts if such benefits were computed pursuant to an interpretation of the law by the board at the time such benefits were paid.

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 22, 1975

CHAPTER 154

SENATE BILL NO. 2197
(Wenstrom)

COLLEGE TEACHER RETIREMENT

AN ACT to create and enact a new section to chapter 15-39.2, and to amend and reenact section 15-39.2-01 of the North Dakota Century Code, relating to the membership of college teachers in the teachers' fund for retirement; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-39.2-01 of the 1973 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 2 of this Act. 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

*NOTE: Section 15-39.2-01 was also amended by section 1 of Senate Bill No. 2129, chapter 153.

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.

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:

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 those payments 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).

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 22, 1975

CHAPTER 155

SENATE BILL NO. 2113
(Longmire, Tweten)

OPTIONS FOR BENEFICIARIES OF
DECEASED TEACHERS

AN ACT to create and enact section 15-39.2-04 of the North Dakota Century Code, to provide that beneficiaries of certain deceased teachers may elect certain retirement options, and declaring an emergency.

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

SECTION 1. Section 15-39.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-39.2-04. BENEFICIARIES OF CERTAIN DECEASED TEACHERS - ELECTION - CONTRIBUTION TO FUND.) The beneficiary of a deceased teacher may make an election pursuant to the provisions of this chapter; provided that the beneficiary may not elect the second option provided under section 15-39.2-02, which option relates to teachers who have at least seventeen years of teaching credit under the teachers' insurance and retirement fund. The annuity of such beneficiary shall be computed in the manner in which the deceased teacher's annuity would have been computed if the deceased teacher had lived and had made such election. For the purposes of this section, the term "beneficiary" shall have the same meaning as such term has in section 15-39.1-17 concerning persons entitled to a monthly annuity under the provisions of chapter 15-39.1, and the term "deceased teacher" shall mean a teacher, deceased at the time application for an election is made, who died or retired from teaching under the teachers' insurance and retirement fund prior to July 1, 1971. Provided, however, that in order to be eligible to make such election, a beneficiary shall pay into the teachers' fund for retirement such amounts as the deceased teacher would have been required to pay had he made the election prior to his death.

SECTION 2. 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 22, 1975

CHAPTER 156

SENATE BILL NO. 2495
(Thane)
(Committee on Delayed Bills)

TEACHERS' RETIREMENT STUDY

AN ACT calling for a legislative council study of the teachers' fund for retirement, including the methods of funding and administering such fund; and providing an appropriation.

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

SECTION 1.) WHEREAS, the state of North Dakota established the teachers' fund for retirement and thereby accepted responsibility for the administration of such fund; and

WHEREAS, accurate information concerning the fiscal soundness of the fund is essential to responsible decisionmaking by the legislative assembly; and

WHEREAS, the welfare of the retired teachers in this state depends in large part on decisions made by the legislative assembly; and

WHEREAS, a recent actuarial study of the fund has shown an unfunded liability of approximately seventy-three million dollars; and

WHEREAS, further study is necessary to resolve conflicting information concerning the present status of the fund as well as the effect of various suggested proposals to amend or expand coverage under the fund.

SECTION 2.) The legislative council is hereby directed to conduct a study of the North Dakota teachers' fund for retirement. Such study shall include an investigation of the impact on the fund of recent legislative actions, a consideration of the feasibility of turning the fund over to the private sector for administration, and an investigation of the implications of requiring that school districts contribute the entire assessments to the fund, including that portion which is currently contributed by teachers. The legislative council may call upon the staff and board of the teachers' fund for retirement for such assistance as the council deems necessary in the conduct of this study.

SECTION 3. APPROPRIATION.) There is hereby appropriated

out of any moneys in the teachers' fund for retirement, not otherwise appropriated, the sum of \$10,000.00, or so much thereof as may be necessary, to the legislative council for actuarial and other direct costs of conducting the study provided for by this Act, for the biennium beginning July 1, 1975, and ending June 30, 1977.

Approved April 8, 1975

CHAPTER 157

HOUSE BILL NO. 1300
(McGauvran)

FOUNDATION PROGRAM
DISTRIBUTION DATES

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

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

SECTION 1. AMENDMENT.) Section 15-40.1-05 of 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 - 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 in the state, together with a statement of payments equal to one-fourth of the total payments made to each respective equalization fund during the previous fiscal year, and the department of accounts and purchases shall pay each county equalization fund 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 for the current school year, and shall certify to the department of accounts and purchases a list of all county equalization funds in the state, together with a statement of the payments due such funds. On or before November first, the department of accounts and purchases shall pay to each county equalization fund, 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.

Approved March 12, 1975

CHAPTER 158

HOUSE BILL NO. 1022

(Mertens, Erickson, Larson, Leibhan, Rued)
(From Legislative Council Study)

TRANSPORTATION AID FOR VOCATIONAL EDUCATION

AN ACT to create and enact section 15-40.1-16.1 of the North Dakota Century Code, relating to transportation aid for cooperative vocational education programs; and to amend and reenact sections 15-40.1-16 and 15-40.1-17 of the North Dakota Century Code, to provide transportation aid to school districts for transporting pupils.

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

SECTION 1. AMENDMENT.) Section 15-40.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to twelve cents per mile for school buses having a capacity of sixteen or fewer pupils and twenty-six cents per mile for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each 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 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 2.) Section 15-40.1-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

*NOTE: Section 15-40.1-16 was also amended by section 7 of Senate Bill No. 2026, chapter 131.

*15-40.1-16.1. TRANSPORTATION AID FOR COOPERATIVE VOCATIONAL EDUCATION PROGRAMS.) There shall be paid from the county equalization fund 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. 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 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 3. AMENDMENT.) Section 15-40.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-17. APPLICATION FOR TRANSPORTATION PAYMENTS.) On or before July fifteenth of each year, the clerk of each school district in this state providing school bus transportation shall certify to the county superintendent of schools the number of school buses operated on a contract basis or owned and operated by the district, the manufacturer's rated pupil capacity of each such bus, the daily mileage each such bus traveled on a school bus route during the school year in transporting pupils as provided for in section 15-40.1-16 and in section 15-40.1-16.1, the amount of transportation payments claimed, and such other information as the superintendent of public instruction may require. On or before the first day of September in each year, the county superintendent of schools shall certify all claims for transportation payments submitted by school districts in the county to the state superintendent of public instruction. At the time the county superintendent of schools certifies such claims to the superintendent of public instruction, he shall also give notice to any district of any disallowance that may have been made by him in the claim for transportation payments. Any district may appeal the decision of the county superintendent of schools to the superintendent of public instruction on or before the fifteenth day of September of any 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.

Approved April 8, 1975

*NOTE: Section 15-40.1-16.1 was also created by section 8 of Senate Bill No. 2026, chapter 131.

CHAPTER 159

HOUSE BILL NO. 1026
(Watkins, Jacobson, Knudson, Raymond)
(From Legislative Council Study)

FOUNDATION FUND FORFEITURE

AN ACT to amend and reenact section 15-40.2-04 of the North Dakota Century Code, relating to nonresident tuition payments.

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

SECTION 1. AMENDMENT.) Section 15-40.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-04. NONRESIDENT TUITION PAYMENTS MANDATORY - PAYMENTS ARE EXCLUSIVE.) Any school district that admits nonresident pupils to its schools as provided by this chapter, shall charge tuition for such pupils. The whole amount of such tuition shall be paid by the district from which the pupil is admitted, in accordance with section 15-40.2-03, or by his parent or guardian, in accordance with section 15-40.2-06.

Any school district that fails to sign a tuition agreement and fails to charge and collect tuition for nonresident students shall forfeit foundation payments for those nonresident students for whom tuition is not paid. Be it further provided that a school district may accept a nonresident student or students without a charge and collection of tuition if a written agreement is made between the sending and receiving districts.

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

Approved March 12, 1975

CHAPTER 160

HOUSE BILL NO. 1311
(McGauvran)

RESIDENCY DETERMINATIONS

AN ACT to amend and reenact section 15-40.2-08 of the North Dakota Century Code relating to residency determination of nonresident school pupils.

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

SECTION 1. AMENDMENT.) Section 15-40.2-08 of the 1973 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. 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 due the admitting district shall be paid by the state from funds appropriated by the legislative assembly for the foundation aid program.

Approved March 17, 1975

CHAPTER 161

HOUSE BILL NO. 1025
(Knudson, Jacobson, Raymond, Watkins)
(From Legislative Council Study)

NONPAYMENT OF TUITION

AN ACT to create and enact section 15-40.2-13 of the North Dakota Century Code, relating to nonresident tuition and to provide for the charging of interest for nonpayment of tuition charges.

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

SECTION 1.) Section 15-40.2-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-40.2-13. PAYMENT OF TUITION BY SENDING DISTRICTS - INTEREST ON LATE PAYMENTS.) Any school district approving the payment of tuition charges for pupils attending school in another district or required to make such payments under the provisions of this chapter shall remit to the admitting district not less than one-half of the annual tuition at the end of each semester of attendance. If such payments are not received by the admitting district within thirty days after the end of any semester for which payment is due, simple interest at the rate of six percent per annum shall accrue to such sums until payment is made.

Approved March 25, 1975

CHAPTER 162

HOUSE BILL NO. 1021
(Rued, Mertens, Leibhan, Larson, Erickson)
(From Legislative Council Study)

COOPERATIVE VOCATIONAL COURSES COUNTED FOR ACCREDITATION

AN ACT to amend and reenact section 15-41-24 of the North Dakota Century Code, relating to the inclusion for accreditation purposes of vocational education courses offered through approved cooperative programs.

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

SECTION 1. AMENDMENT.) Section 15-41-24 of 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 high school in this state at least once during each four-year period if such high school is to receive any accreditation 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, 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 high school may count for accreditation purposes vocational education courses which are offered through cooperative arrangements approved by the state board of vocational education.

Approved March 9, 1975

CHAPTER 163

SENATE BILL NO. 2025
(Redlin, Lips, Solberg, Tweten)
(From Legislative Council Study)

ESTABLISHMENT OF KINDERGARTENS

AN ACT to amend and reenact sections 15-45-01, 15-45-02, and 15-45-04 of the North Dakota Century Code, relating to the establishment of kindergartens, providing a minimum term for kindergartens, and providing for an election for a mill levy for kindergartens.

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

SECTION 1. AMENDMENT.) Section 15-45-01 of 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.

SECTION 2. AMENDMENT.) Section 15-45-02 of 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 of classroom instruction or ninety full days of classroom instruction during each school year. The school board shall determine whether kindergarten shall be provided on a half-day or a full-day basis.

SECTION 3. AMENDMENT.) Section 15-45-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-04. DISCONTINUANCE OF KINDERGARTENS.) Kindergartens may be discontinued by resolution of the school board.

Approved March 19, 1975

CHAPTER 164

HOUSE BILL NO. 1339
(Farrington)

SCHOOL STARTING AGE

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

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

SECTION 1. AMENDMENT.) Section 15-47-01 of the 1973 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 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, may start school at a younger age. However, under no circumstances shall a child start school that school year if he is not six years of age by January first.

Approved March 19, 1975

CHAPTER 165

SENATE BILL NO. 2301
(Nothing)

DEFINITION OF "TEACHER"

AN ACT to amend and reenact section 15-47-26 of the North Dakota Century Code, to extend the definition of teacher to include section 15-47-38.

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

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

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

Approved March 25, 1975

CHAPTER 166

SENATE BILL NO. 2021
(Goodman, Reiten, Strand)
(From Legislative Council Study)

EDUCATION OF DEAF-BLIND CHILDREN

AN ACT to amend and reenact section 15-47-34 of the North Dakota Century Code, relating to the education of deaf-blind children.

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

SECTION 1. AMENDMENT.) Section 15-47-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-34. EDUCATION OF DEAF-BLIND CHILDREN.) The state director of institutions, after consulting with the superintendents of the school for the blind, the school for the deaf, and the Grafton state school, shall determine whether those children under the age of twenty-one, who are deaf as well as blind, should be sent to the school for the blind, the school for the deaf, or the Grafton state school. If, in his judgment, there are not adequate facilities for the education of such children in this state, the director of institutions is authorized to determine whether such deaf-blind children should be sent to any school or institution outside the state of North Dakota providing a qualified program of education for such children.

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

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

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

Approved February 28, 1975

CHAPTER 167

SENATE BILL NO. 2204

(Tveten, Longmire, Strand, L. Christensen)

TEACHERS' CONTRACT RIGHTS

AN ACT to amend and reenact section 15-47-38 of the North Dakota Century Code, providing for expansion of rights for teachers in connection with discharge or failure to renew a teacher's contract.

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

SECTION 1. AMENDMENT.) Section 15-47-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-38. LEGISLATIVE INTENT IN EMPLOYMENT OF TEACHERS - NOTIFICATION OF DISCHARGE OR FAILURE TO RENEW - HEARING.)

1. The legislative assembly, in recognition of the value of good employer-employee relationships between school boards of this state and the teachers employed in the school systems, the need to recruit and retain qualified teachers in this state, and further in recognition of the many intangibles in evaluating the performance of individual members of the teaching profession, urges that each school board of this state ensure through formally adopted policies, that channels of communication exist between the board, supervisory personnel, and teachers employed within its school system. In the very sensitive area of discharge of teachers for cause prior to the expiration of the term of the teachers' contracts, or in decisions not to renew the contracts of teachers, school boards shall give serious consideration to the damage that can result to the professional stature and reputation of such teachers, which stature and reputation were acquired only after the expenditure of substantial time and money in obtaining the necessary qualifications for such profession and in years of practicing the profession of teaching; and that in all decisions of school boards relating to discharge or refusal to renew contracts, all actions of the board be taken with consideration and dignity, giving the maximum consideration to basic fairness and decency.
2. The school board of any school district contemplating

discharging a teacher for cause prior to the expiration of the term of the teacher's contract shall notify such teacher in writing of such fact at least ten days prior to the date of contemplated discharge. Such teacher shall be informed in writing of the time and place for a special meeting of the school board to be held for such purpose prior to the final decision on the matter. Such teacher shall also be informed in writing of his right to demand a specification of the reasons for such discharge, which must on demand of the teacher be furnished not less than five days prior to said meeting to be held on the question of contemplated discharge. Such reasons shall be sufficient to justify the contemplated action of the board and shall not be frivolous or arbitrary. At the meeting with the board, if the teacher has informed the board in writing at least two days prior thereto that he will contest the charges brought against him, the board must sustain the charges with evidence produced at such hearing with witnesses who shall be subject to cross-examination by the teacher or his representative. The teacher may then produce such witnesses as may be necessary to refute the charges, which witnesses shall be subject to cross-examination. The proceedings may, at the request of either party, be transcribed by a court reporter at the expense of the person requesting such transcript and the witnesses may on demand of either party be placed under oath by a person authorized by law to administer oaths. Any person testifying falsely under oath shall be guilty of perjury and punished according to law. The meeting shall be an executive session of the board unless both the school board and the teacher requesting such meeting shall agree that it shall be open to other persons or the public. The teacher may be represented at the meeting by two representatives of his own choosing. In addition to board members, the school district clerk, and the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. If the teacher so requests he shall be granted a continuance of not to exceed seven days by the board unless for good cause otherwise shown. No cause of action for libel or slander shall lie for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section.

3. A school board may dismiss a teacher, effective immediately, for any of the following causes:
 - a. Immoral conduct, insubordination, or conviction of a felony;
 - b. Conduct unbecoming a teacher which requires the immediate removal of a teacher from his classroom duties;

- c. Failure without justifiable cause to perform contracted duties;
 - d. Gross inefficiency which the teacher has failed to correct after reasonable written notice; or
 - e. Continuing physical or mental disability which renders him unfit or unable to perform his duties as a teacher.
4. The school board by unanimous vote may suspend the teacher from regular duty if such action is deemed desirable during the process of determining if cause for dismissal exists. If, upon final decision, the teacher is dismissed, the board may in its discretion determine the teacher's salary or compensation as of the date of suspension. If the final decision is favorable to the teacher, there shall be no abatement of salary or compensation.
 5. The school board of any school district contemplating not renewing a teacher's contract, as provided in section 15-47-27, shall notify such teacher in writing of such contemplated nonrenewal no later than April first. Such teacher shall be informed in writing of the time, which shall not be later than April seventh, and place of a special school board meeting for the purpose of discussing and acting upon such contemplated nonrenewal. Such teacher shall also be informed in writing of the reasons for such nonrenewal. Such reasons shall be sufficient to justify the contemplated action of the board and shall not be frivolous or arbitrary but shall be related to the ability, competence, or qualifications of the teacher as a teacher, or the necessities of the district such as lack of funds calling for a reduction in the teaching staff. At the meeting with the board the teacher may then produce such evidence as may be necessary to evaluate the reasons for nonrenewal, and either party may produce witnesses to confirm or refute the reasons. The school board shall give an explanation and shall discuss and confirm at such meeting its reasons for the contemplated nonrenewal of the contract. The meeting shall be an executive session of the board unless both the school board and the teacher shall agree that it shall be open to other persons or the public. The teacher may be represented at such meeting by any two representatives of his own choosing. In addition to board members, the school district clerk, and the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. Upon such hearing, if the teacher so requests, he shall be granted a continuance of not to exceed seven days.

No cause of action for libel or slander shall lie for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section. The determination not to renew a contract if made in good faith shall be final and binding on all parties. Final notice of the determination not to renew a contract shall be given in writing by April fifteenth as provided in section 15-47-27.

Approved April 8, 1975

CHAPTER 168

SENATE BILL NO. 2049
(Nasset, Wenstrom, Longmire, Erdman)
(From Legislative Council Study)

MEDICAL CENTER ADVISORY COUNCIL

AN ACT to amend and reenact section 15-52-03 of the North Dakota Century Code, relating to the medical center advisory council.

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

SECTION 1. AMENDMENT.) Section 15-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-03. MEDICAL CENTER ADVISORY COUNCIL - MEMBERS, TERMS, MEETINGS.) In order to assure the proper coordination and integration of the North Dakota state medical center with all other health and welfare activities of the state, a permanent medical center advisory council is hereby established to advise, consult, and make recommendations to the university administration, and to the several agencies represented on said medical center advisory council concerning the program of the North Dakota state medical center, the adaptation thereof to the needs of the state and to the requirements and facilities of the several agencies involved, and the use of the North Dakota state medical center and its facilities by the various institutions and agencies of the state and its political subdivisions. The medical center advisory council shall consist of eleven members, two to be named by the governor, one to be named by and from the membership of each of the following: The public welfare board of North Dakota, the state board of higher education, or such boards or departments as shall succeed them or any of them; the state health officer of the North Dakota state department of health; the North Dakota state medical association; and the North Dakota hospital association; and the remaining four members shall be the persons serving as directors of the area health education centers in Grand Forks, Fargo, Bismarck, and Minot, North Dakota.

The representatives named by the state agencies and boards above referred to shall be selected to serve as members of the medical center advisory council for periods of at least one year, but in no instance may they serve longer than their term of office on the public agency.

The representatives from the North Dakota state medical

association and the North Dakota hospital association shall serve a term of three years or until their successors are named and qualified.

The two members appointed by the governor shall serve for three-year terms as representatives of the public at large. The directors of the area health education centers shall serve during the term of their directorships. The medical center advisory council shall name its own chairman and the dean of the university of North Dakota medical school shall serve as executive secretary thereof. The medical center advisory council shall meet in January and June of each year, and, from time to time, on its own motion or upon request of the university administration, to consider plans and programs of action for the North Dakota state medical center, and make its recommendations thereon to the several agencies of the state and its political subdivisions involved and to the legislature.

Approved January 30, 1975

CHAPTER 169

HOUSE BILL NO. 1490
(Atkinson)

MEDICAL SCHOOL ADMISSIONS

AN ACT to create and enact a section of chapter 15-52 of the North Dakota Century Code relating to admission of students to the school of medicine at the university of North Dakota.

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

SECTION 1.) A section of chapter 15-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADMISSION OF STUDENTS - QUALIFICATIONS.) The faculty of the school of medicine at the university of North Dakota may, with the approval of the medical center advisory council and the board of higher education, adopt such rules and regulations governing the education and residency qualifications of applicants for admission to the medical school as it deems necessary and proper.

Approved March 12, 1975

CHAPTER 170

HOUSE BILL NO. 1555
(Martinson)

DISSOLUTION OF SCHOOL DISTRICTS

AN ACT to amend and reenact section 15-53.1-41 of the North Dakota Century Code, relating to the dissolution of school districts.

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

SECTION 1. AMENDMENT.) Section 15-53.1-41 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-41. DISSOLUTION OF SCHOOL DISTRICTS - DUTY OF COUNTY SUPERINTENDENT.) The county superintendent shall notify the county committee:

- * 1. When any school district can no longer levy sufficient taxes to carry on normal school operations;
2. When any school district within the county has not operated a school by the thirty-first of December of the year following the calendar year in which such operation ceased, providing fifty percent of the pupils from such school district are not attending schools in another state;
3. Of the existence of territory not organized into a school district; or
4. When any portion of a school district within the county is severed from such district by the expansion and growth of a city and the severed portion is not contiguous with such district. As used in this subsection, the word "contiguous" shall have the same meaning as is ascribed to it in section 15-53.1-05.

Upon receipt of such notice, the county committee shall forthwith give notice of hearing to dissolve the school district or attach the territory to other districts in the manner provided in section 15-53.1-29 and shall, after approval by the state committee, provide for its attachment to one or more adjoining school districts effective July first next following the approval unless another effective date is provided for by the county committee. Qualified

*NOTE: Subsection 1 of section 15-53.1-41 was also amended by section 1 of Senate Bill No. 2115, chapter 171.

electors residing in the attached territory shall be entitled to vote and hold office in the school district to the same extent as all other qualified electors residing therein, and such territory shall be part of the school district as fully in every respect as if it had been included in the district when organized. Nothing herein shall prevent the district from providing for the education of such children to the extent that its current budget in the judgment of the school board will permit, or shall relieve the district from any existing responsibility for the education of children attending its schools before the effective date of the order. Nothing herein shall change the effect of any election held within the school district pursuant to chapter 15-48 before the effective date of the order. This section applies to all school districts in the state including the board of education of the city of Fargo and the district under its jurisdiction for school purposes.

Approved March 25, 1975

CHAPTER 171

SENATE BILL NO. 2115
(Committee on Education)

(At the request of the Department of Public Instruction)

DISSOLUTION OF SCHOOL DISTRICTS AND ATTACHMENT TO OTHER DISTRICTS

AN ACT to amend and reenact subsection 1 of section 15-53.1-41 and section 15-53.1-42 of the North Dakota Century Code, relating to dissolution of school districts.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 15-53.1-41 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 1. When any school district can no longer levy sufficient taxes to carry on normal school operations;

SECTION 2. AMENDMENT.) Section 15-53.1-42 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-42. NOTICE OF HEARING - ORDER OF ATTACHMENT - JOINT COUNTY ACTION.) The county superintendent, upon order of the county committee, shall notify the clerk of each school district adjoining any district which is to be dissolved pursuant to section 15-53.1-41, and any unorganized territory recommended for attachment as therein provided, that a hearing will be held and the time and the place of the hearing by the county committee, for the purpose of determining to which school district or districts the dissolved or unorganized territory will be attached. At such hearing, the county committee shall receive testimony for the purpose of adjusting properties, debts, and liabilities of the district to be dissolved in accordance with the provisions of section 15-53.1-06. Upon or after such hearing, the county committee shall by resolution order the district dissolved and its territory attached, or the unorganized territory attached, to one or more adjoining school districts in such manner as will, in its judgment, provide the best educational opportunities for pupils of the public schools and the wisest use of public funds for the support of the public school system in such school districts and attached territory. The district to be dissolved shall be attached to a contiguous district operating an accredited high school if the district to be dissolved is contiguous to such a district or districts. The order shall become effective July first following the date of the order or

*NOTE: Subsection 1 of section 15-53.1-41 was also amended by section 1 of House Bill No. 1555, chapter 170.

resolution and after approval by the state committee, unless another effective date is provided for by the county committee, as provided in section 15-53.1-41. If that portion of the order providing for attachment of the dissolved or unorganized territory is rendered ineffective or suspended for any reason, the portion of the order providing for the dissolution shall also be suspended until such time as the attachment becomes effective. If any of such adjoining district is situated wholly or partly in a county other than that which included the district to be dissolved or the unorganized territory affected, any order attaching territory to such adjoining school district shall become effective only upon the adoption of a concurring resolution by the county committee of the other county in which it is situated. In the event that the county committees cannot agree upon an order attaching the territory to adjoining districts, the county superintendent of the county in which the majority of the district being dissolved is located shall submit the dissolution and attachment to the state committee, and in such instance the state committee shall dissolve and attach the district to be dissolved, or the unorganized territory, in the manner as will, in its judgment, provide the best educational opportunities for pupils of the public school system in such school districts and attached territories. The action of the state committee shall have the same effect as approval by all county committees.

Approved March 19, 1975

CHAPTER 172

HOUSE BILL NO. 1514
(R. Metzger, Rau)

SCHOOL LUNCH MATCHING FUNDS

AN ACT to provide for expenditure of foundation program funds for state matching funds for school lunch programs; and to repeal section 15-54-07 of the North Dakota Century Code, relating to restrictions on the expenditure of state funds.

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

SECTION 1. SCHOOL LUNCH MATCHING FUNDS.) The sum of \$750,000.00, or so much thereof as may be necessary, as appropriated for per-pupil payments by the "foundation payments" line item of subdivision 1 of house bill no. 1005 or such other Act providing an appropriation for foundation payments as enacted by the Forty-fourth Legislative Assembly, shall be the state matching funds for school districts for participation in school lunch programs, pursuant to federal law and regulations, during the biennium commencing July 1, 1975, and ending June 30, 1977.

SECTION 2. REPEAL.) Section 15-54-07 of the North Dakota Century Code is hereby repealed.

Approved April 8, 1975

CHAPTER 173

SENATE BILL NO. 2114
(Committee on Social Welfare and Veterans' Affairs)
(At the request of the Department of
Public Instruction)

EMPLOYEE HEALTH CERTIFICATES

AN ACT to amend and reenact section 15-54-08 of the North Dakota Century Code, relating to health certificates.

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

SECTION 1. AMENDMENT.) Section 15-54-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-54-08. HEALTH CERTIFICATES REQUIRED OF EMPLOYEES.) No person shall be employed by any school district in the preparation or serving of school lunches under the provisions of this chapter unless such person shall file with the school board or clerk thereof a health certificate. Such certificate shall be filed annually prior to the first day of employment, shall state that the employee is not afflicted with any communicable disease, and shall be signed by a licensed physician. The cost of obtaining such certificate shall be borne by the employer.

Approved March 7, 1975

CHAPTER 174

SENATE BILL NO. 2020

(Melland, Erdman, Nasset, Strinden, Thane, Wenstrom)
(From Legislative Council Study)

**HIGHER EDUCATION REVENUE
BOND PROCEDURES**

AN ACT to amend and reenact sections 15-55-02 and 15-55-18 of the North Dakota Century Code, relating to the issuance of revenue bonds by institutions under the control of the board of higher education, junior colleges, and off-campus educational centers.

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

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

15-55-02. BOARD MAY BORROW MONEY AND ISSUE BONDS - CONDITIONS - BONDS TAX FREE.) For the purpose of paying all or part of, but not to exceed, the cost of construction, equipment, and furnishing of any such buildings or any addition to existing buildings, or other campus improvements, or in order to refund any outstanding bonds issued for such purpose, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings or other campus improvements, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of said board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. Such bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the state board of higher education. Such bonds may be sold in such manner and at such price or prices not less than ninety-eight percent of par plus accrued interest to date of delivery, as may be considered by the board to be advisable. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, but the average annual net interest cost to maturity for

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

SECTION 2. AMENDMENT.) Section 15-55-18 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-18. BOND ISSUE FOR JUNIOR COLLEGES AND OFF-CAMPUS EDUCATIONAL CENTERS.) The school board of any school district having a junior college or off-campus educational center as provided in chapter 15-18 is hereby authorized and empowered to issue and sell tax-exempt bonds in an amount limited to the cost of purchasing or constructing buildings, adding to or repairing or renovating existing buildings, furnishing or equipping these buildings, or operating and maintaining these buildings for its junior college or off-campus educational center students. The total principal amount of such bonds shall not exceed two and one-half million dollars. The bonds authorized by this section shall be retired from revenues of the buildings and facilities purchased or constructed under the provisions of this section. The school board may also use tuition and fee revenue to retire these bonds. These bonds shall never become a general obligation of the school district, or the state of North Dakota.

Approved March 12, 1975

CHAPTER 175

SENATE BILL NO. 2403
(Tweten, Longmire)

HIGHER EDUCATION REFUNDING BONDS

AN ACT to amend and reenact section 15-55-02.1 of the North Dakota Century Code relating to the issuance of refunding bonds by the board of higher education.

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

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

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

outstanding bonds authorized to be refunded or may be sold at either public or private sale or may be sold in part and exchanged in part. There shall be no interest rate ceiling on those issues issued solely for refunding purposes. The sale price may exceed the principal amount of refunding bonds and the excess may be used to provide for payment of redemption premiums of the bonds to be refunded and to provide for expenses of the issuance and sale of the bonds and the retirement of the outstanding bonds. All other proceeds of the sale shall, to the extent needed, be immediately applied to the retirement of the bonds to be refunded, or such proceeds or investments thereof shall be placed in escrow to be held and applied to the payment of the bonds to be refunded.

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

Approved March 27, 1975

CHAPTER 176

HOUSE BILL NO. 1108
(Olin)

LEASE OF COLLEGE BUILDINGS

AN ACT to create and enact section 15-55-04.1 of the North Dakota Century Code, relating to the authority of the board of higher education to lease revenue-producing buildings.

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

SECTION 1.) Section 15-55-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-55-04.1. LEASE OF REVENUE-PRODUCING BUILDINGS.) The state board of higher education may, at such times as it deems necessary, enter into agreements with other persons, including any federal or state agency, for the lease of revenue-producing buildings, constructed or purchased under the provisions of this chapter, upon such terms and conditions as the board shall deem proper. However, any such lease entered into pursuant to this section shall be limited to a maximum term of two years.

Approved March 17, 1975

CHAPTER 177

HOUSE BILL NO. 1028
(Hildebrand, Jacobson, Knudson, Raymond, Schindler,
Tinjum, Watkins)
(From Legislative Council Study)

**PROPORTIONATE PAYMENTS FOR
PART-TIME SPECIAL PUPILS**

AN ACT to amend and reenact section 15-59-06 of the North Dakota Century Code, to provide for proportionate payments for nonpublic school students who are enrolled in special education programs in the public schools.

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

SECTION 1. AMENDMENT.) Section 15-59-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-06. STATE COOPERATION IN SPECIAL EDUCATION.)

Exceptional children who are enrolled in approved programs of special education shall be deemed to be regularly enrolled in the school 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 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 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 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 March 9, 1975

CHAPTER 178

HOUSE BILL NO. 1029

(Knudson, Hildebrand, Jacobson, McGauvran, Raymond,
Schindler, Tinjum, Watkins)
(From Legislative Council Study)

TERMS OF STATE SCHOOL
CONSTRUCTION FUND LOANS

AN ACT to amend and reenact sections 15-60-04 and 15-60-05 of the North Dakota Century Code, relating to the amounts to be loaned and the terms of loans under 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 North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. AMENDMENT.) Section 15-60-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-05. CONTRACTS TO LEASE AND LEASES BY SCHOOL DISTRICTS FROM BOARD.) Any school district within the state shall have power and authority to enter into contracts with the board to lease as lessee from the board, any school building constructed or improved by the board, for a term not exceeding thirty years, at such rental or rentals as may be determined by the board, and upon the completion of said school building the school district shall have power and authority to lease as lessee any school building completed by the board for a term, with respect to each not exceeding thirty years, at such rental or rentals as may be determined by the board. Such rental or rentals shall be applied on the total cost of the construction or improvement for such district until the full amount expended by the board shall have been repaid together with two and one-half percent interest per annum. Any unexpended proceeds of any bond issue of any school district may be paid over to the fund in the form of advance rentals under such contract. Upon full payment of all rentals by the school district, the board shall execute and deliver such deeds or bills of sale as may be necessary to transfer complete title and interest to the school district.

Approved March 9, 1975

CHAPTER 179

SENATE BILL NO. 2339
(Thane, Ringsak, Naaden)

SURPLUS PROPERTY DISPOSITION

AN ACT to amend and reenact sections 15-61-05 and 24-03-15 of the North Dakota Century Code, relating to disposition or exchange of state surplus property and to the sale of obsolescent highway equipment.

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

SECTION 1. AMENDMENT.) Section 15-61-05 of 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 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 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 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.

SECTION 2. AMENDMENT.) Section 24-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-15. SALE OF OBSOLESCEENT HIGHWAY EQUIPMENT.) The commissioner shall be authorized to sell, exchange, or otherwise dispose of all obsolescent road machinery, equipment, and material no longer needed, required, or useful for highway purposes. All such obsolescent road machinery, equipment, and material offered for sale to political subdivisions shall be sold by negotiation to the purchasing political subdivision at the state highway department's established market value. All such obsolescent road machinery, equipment, and material which is offered at general sale and valued at more than three thousand dollars shall be sold by public auction or by sealed bids at the highest and best bid, reserving the right to reject all bids, with no money deposit required of any bidder prior to sale. Any funds or money derived from the sale of such property shall be credited to the funds from which such purchase was made originally.

Approved March 27, 1975 .

CHAPTER 180

HOUSE BILL NO. 1240
(Wagner)

SURPLUS PROPERTY FUND INTEREST

AN ACT relating to the interest earned on the surplus property special fund.

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

SECTION 1. CREDITING OF INTEREST EARNED - SURPLUS PROPERTY SPECIAL FUND.) When the director of the division of surplus property requests the state treasurer to invest portions of the surplus property special fund in accordance with statutory investment authority, all interest earned as the result of the investment of these funds by the state treasurer shall be credited to the surplus property special fund.

Approved March 9, 1975

CHAPTER 181

SENATE BILL NO. 2261
(Nasset)

FINANCIAL ASSISTANCE FOR
RESIDENT STUDENTS

AN ACT to amend and reenact section 15-62.2-01 of the North Dakota Century Code, relating to participation in an undergraduate student financial assistance program.

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

SECTION 1. AMENDMENT.) Section 15-62.2-01 of the 1973 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 resident undergraduate students having graduated from North Dakota high schools, or 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 post-secondary education within North Dakota. The student must be in substantial need of financial assistance. This program shall be administered by a single state agency, which shall be the state board of higher education or such other agency as may otherwise be designated by the governor in accordance with federal law. Hereinafter, reference to the "administrative agency" will signify that board, agency, or commission ultimately designated as provided in this section to officially administer the North Dakota student financial assistance program.

Approved March 13, 1975

CHAPTER 182

HOUSE BILL NO. 1360
(Winkjer)

UNIFORM MANAGEMENT OF
INSTITUTIONAL FUNDS ACT

AN ACT relating to the establishment of guidelines for the management and use of investments held by educational, religious, or charitable institutions; and to repeal section 15-10-35 of the North Dakota Century Code, relating to investment of endowment funds by institutions under board of higher education control.

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

SECTION 1. DEFINITIONS.) In this Act:

1. "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.
2. "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.
3. "Governing board" means the body responsible for the management of an institution or of an institutional fund.
4. "Historic dollar value" means the aggregate fair value in dollars of:
 - a. An endowment fund at the time it became an endowment fund;
 - b. Each subsequent donation to the fund at the time it is made; and
 - c. Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

The determination of historic dollar value made in good faith by the institution is conclusive.

5. "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.
6. "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include:
 - a. A fund held for an institution by a trustee that is not an institution;
 - b. A fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund; or
 - c. A perpetual trust fund established by section 153 of the Constitution of the state of North Dakota.

SECTION 2. APPROPRIATION OF APPRECIATION.) The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 6. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

SECTION 3. RULE OF CONSTRUCTION.) Section 2 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income", "interest", "dividends", or "rents, issues or profits", or "to preserve the principal intact", or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this Act.

SECTION 4. INVESTMENT AUTHORITY.) In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

1. Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations,

shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

2. Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;
3. Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and
4. Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

SECTION 5. DELEGATION OF INVESTMENT MANAGEMENT.) Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

1. Delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;
2. Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and
3. Authorize the payment of compensation for investment advisory or management services.

SECTION 6. STANDARD OF CONDUCT.) In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing, they shall consider long and short-term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

SECTION 7. RELEASE OF RESTRICTIONS ON USE OR INVESTMENT.)

1. With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

2. If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the district court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.
3. A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institutions affected.
4. This section does not limit the application of the doctrine of cy pres.

SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION.)

This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

SECTION 9. SHORT TITLE.) This Act may be cited as the Uniform Management of Institutional Funds Act.

SECTION 10. REPEAL.) Section 15-10-35 of the 1973 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 19, 1975