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- 15-55.1. Higher Education Facilities Bonds [Unconstitutional].
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- 15-57. Teacher Preparation Scholarships [Repealed].
- 15-58. County High School Equalization Fund [Repealed].
- 15-59. Special Education of Children [Repealed].
- 15-59.1. County Special Education Program [Repealed].
- 15-59.2. Multidistrict Special Education Programs [Repealed].
- 15-59.3. Boarding Home Care for Students with Disabilities [Repealed].
- 15-60. State School Construction Fund [Repealed].
- 15-61. Surplus Property Director [Repealed].
- 15-62. Scholarship Loans [Repealed].

## Chapter

- 15-62.1. Guarantee Loan Program.
- 15-62.2. Student Financial Assistance and Scholars Program.
- 15-62.3. Tuition Assistance Grant Program.
- 15-63. Indian Scholarships.
- 15-64. Compact for Education [Repealed].
- 15-65. Educational Telecommunications Council [Repealed].
- 15-66. Regional Medical Education Board [Repealed].
- 15-67. Uniform Management of Institutional Funds Act.

**CHAPTER 15-01****BOARD OF UNIVERSITY AND SCHOOL LANDS**

## Section

- 15-01-01. Board — Membership — Officers.
- 15-01-02. Powers — Control of public lands and permanent funds.
- 15-01-02.1. Board of university and school lands to set and establish fees — Collections.
- 15-01-03. Meetings of board — Quorum.
- 15-01-04. Record of meeting.
- 15-01-05. Expenses of board — How paid — Limitations.

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

**Source:** S.L. 1893, ch. 118, § 2; R.C. 1895, § 169; R.C. 1899, § 169; R.C. 1905, § 152; C.L. 1913, § 284; S.L. 1917, ch. 203, § 1; 1925 Supp., § 284; R.C. 1943, § 15-0101; S.L. 1987, ch. 187, § 1.

**Cross-References.**

Constitution and powers of board of university and school lands, see N.D. Const., art. IX, § 3.

**Law Reviews.**

State Lands: What Are We Doing? Thomas O. Smith, 51 N.D. L. Rev. 477 (1975).

**15-01-02. Powers — Control of public lands and permanent funds.** The board has:

1. Full control of the selection, appraisal, rental, sale, disposal, and management of:
  - a. Lands donated or granted by or received from the United States or from any other source for the support and maintenance of the common schools.
  - b. All lands which fall to the state by escheat.
  - c. All lands donated or granted by or received from the United States or from any other source for the maintenance of the educational, penal, or charitable institutions.
  - d. All lands acquired by the state through the investment of the permanent school funds of the state as the result of mortgage foreclosure or otherwise.
2. Full control of the investment of the permanent funds derived from the sale of any of the lands described in subsection 1.
3. Full control of such percent of the proceeds of any sale of public lands as may be granted to the state by the United States on such sale.
4. Full control of the proceeds of any property that fall to the state by escheat and of the proceeds of all gifts and donations to the state for the support or maintenance of the common schools, and of all other property otherwise acquired by the state for the maintenance of the common schools. Any gift to the state not specifically appropriated to any other purpose must be considered as a gift for the support and maintenance of the common schools.
5. Authority to expend moneys for the purpose of making refunds in cases in which an error has been made by the board, or a person dealing with the board, with regard to any of the lands, minerals, funds, proceeds, or any other kind of property managed by the board. Moneys expended to make refunds must come from the same fund or account into which the money to be refunded was originally placed.

**Source:** S.L. 1893, ch. 118, § 3; R.C. 1895, § 170; R.C. 1899, § 170; R.C. 1905, § 153; C.L. 1913, § 285; R.C. 1943, § 15-0102; S.L. 1971, ch. 159, § 1; 1989, ch. 188, § 1.

**Note.**

Section 1 of chapter 532, S.L. 2001, provides: **“Board of university and school lands — Trans-**

**fer of certain mineral interests to the lands and minerals trust fund.** The board of university and school lands shall transfer the ‘state addition’ and ‘state second addition’ mineral interests in Stark County to the lands and minerals trust fund.”

**Cross-References.**

Consultation with state investment board or director on investment policies, see § 21-10-06.

Exchange of lands for other lands of state or its subdivisions, see N.D. Const., art. IX, § 6.

Exchange of lands in Roosevelt National Park with United States, see § 54-01-13.1.

Exchange of lands with game and fish department, see § 20.1-11-12.

Exchange of lands with United States government, see N.D. Const., art. IX, § 6; § 15-06-19.1.

Mineral leasing, board to oversee, see §§ 38-11-02.1 to 38-11-02.4.

School and public lands, see N.D. Const., Art. IX.

**Coal Lands.**

Sale of coal lands is prohibited. *State v. Oster*, 61 N.W.2d 276 (N.D. 1953); *Haag v. State*, ex rel. Bd. of Univ. & Sch. Lands, 219 N.W.2d 121 (N.D. 1974).

The board of university and school lands has the duty to determine whether land is or is not “coal land”, the sale of which is prohibited; and such determination and the issuance of a contract of sale by the board are conclusive on the state, in the absence of fraud or bad faith, regardless of the recommendation of the state engineer regarding such determination and regardless of the subsequent discovery of coal on the land in question. *Haag v. State*, ex rel. Bd. of Univ. & Sch. Lands, 219 N.W.2d 121 (N.D. 1974).

**Compromise of Claims.**

The board has no power to compromise a claim for past due interest unless authorized by the legislature. *State ex rel. Bd. of Univ. & Sch. Lands v. Hanson*, 65 N.D. 1, 256 N.W. 201 (1934), decided prior to the enactment of Session Laws 1935, ch. 255.

**General Agent of Board.**

The commissioner of university and school lands acts as general agent of the board of university and school lands under its direction and authority. *State ex rel. Rausch v. Amerada Petro. Corp.*, 78 N.D. 247, 49 N.W.2d 14 (1951).

**Investment of Funds.**

The board of university and school lands is vested with discretion in directing the investment of the moneys of the permanent school fund. *Moses v. Baker*, 71 N.D. 140, 299 N.W. 315 (1941).

**Lands Granted by United States.**

School and university lands granted to the state by the United States of America are under the control of the board of university and school lands, subject to the provisions of article IX, § 6, of the North Dakota constitution and any law passed by the legislature of the state. *State ex rel. Rausch v. Amerada Petro. Corp.*, 78 N.D. 247, 49 N.W.2d 14 (1951).

The power to sell original grant lands is vested in the board of university and school lands by section 156 of the constitution. *State v. Oster*, 61 N.W.2d 276 (N.D. 1953).

**Mortgage Foreclosure.**

Lands acquired by the state upon foreclosure of a mortgage securing a loan made out of permanent

school funds do not become a part of said permanent trust. *State v. Amerada Petro. Corp.*, 71 N.W.2d 675 (N.D. 1955).

#### **Oil and Gas Leases.**

Under the Enabling Act, the state of North Dakota has full power to provide for the execution of oil and gas leases on school and university lands. *State ex rel. Rausch v. Amerada Petro. Corp.*, 78 N.D. 247, 49 N.W.2d 14 (1951).

#### **Sale of Lands.**

The board of university and school lands may exercise general powers in the sale of school lands except as limitations are imposed by the constitution and statutes. *Fuller v. Board of Univ. & Sch. Lands*, 21 N.D. 212, 129 N.W. 1029 (1911).

Letters patent conveying title to original grant school land may not be canceled by a subsequent discovery of a coal deposit therein. *State v. Oster*, 61 N.W.2d 276 (N.D. 1953); *Haag v. State, ex rel. Bd. of Univ. & Sch. Lands*, 219 N.W.2d 121 (N.D. 1974).

The decision of the board, in the absence of fraud or collusion, that a sale has been made according to the provisions of the law is final and will not be set aside by the courts. *State v. Oster*, 61 N.W.2d 276 (N.D. 1953); *State v. Amerada Petro. Corp.*, 71 N.W.2d 675 (N.D. 1955); *Haag v. State, ex rel. Bd. of Univ. & Sch. Lands*, 219 N.W.2d 121 (N.D. 1974).

#### **Source of Authority.**

The primary source of authority of the board of university and school lands is article IX, § 6, of the North Dakota constitution. When the legislature acts with respect to the powers of the board it acts in a restrictive capacity and not as a conferrer of authority. *State ex rel. Rausch v. Amerada Petro. Corp.*, 78 N.D. 247, 49 N.W.2d 14 (1951).

#### **Collateral References.**

Public Lands ⇌ 51.  
63 Am. Jur. 2d, Public Lands, § 107.  
73 C.J.S. Public Lands, § 94.

**15-01-02.1. Board of university and school lands to set and establish fees — Collections.** The board of university and school lands shall have authority to set and establish fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land contracts, holding land sales, furnishing documents, receiving and processing all loans made by the board, managing property acquired under chapter 15-08.1, and managing property for other state entities. All other fees provided for in this section must be deposited in the state lands maintenance fund.

**Source:** S.L. 1971, ch. 160, § 1; 1975, ch. 132, § 1; 1987, ch. 187, § 2; 1995, ch. 162, § 1.

#### **Effective Date.**

The 1995 amendment of this section by section 1 of chapter 162, S.L. 1995 became effective August 1, 1995.

**15-01-03. Meetings of board — Quorum.** The board shall meet on the last

Thursday of each month. If it appears a quorum will not be present for any meeting of the board, the meeting may be rescheduled by the commissioner upon reasonable notice to all members. Special meetings of the board may be held at any time at the written call of the chairman, the commissioner, or any two members of the board. Three members of the board constitute a quorum.

**Source:** S.L. 1893, ch. 118, § 4; R.C. 1895, § 171; R.C. 1899, § 171; R.C. 1905, § 154; C.L. 1913, § 286; R.C. 1943, § 15-0103; S.L. 1987, ch. 187, § 3; 1989, ch. 189, § 1.

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

**Source:** S.L. 1893, ch. 118, § 6; R.C. 1895, § 173; R.C. 1899, § 173; R.C. 1905, § 156; C.L. 1913, § 289; R.C. 1943, § 15-0104; S.L. 1987, ch. 187, § 4.

**15-01-05. Expenses of board — How paid — Limitations.** Necessary incidental expenses of the board, within the limits of any appropriation made therefor by the legislative assembly, must be paid by the office of management and budget from the state land maintenance fund upon satisfactory vouchers. The office of management and budget shall issue its warrant for such expenses.

**Source:** S.L. 1893, ch. 118, § 10; R.C. 1895, § 177; R.C. 1899, § 177; R.C. 1905, § 161; C.L. 1913, § 294; R.C. 1943, § 15-0105; S.L. 1971, ch. 161, § 4.

## **CHAPTER 15-02**

### **COMMISSIONER OF UNIVERSITY AND SCHOOL LANDS**

#### **Section**

- 15-02-01. Commissioner of university and school lands — Appointment — Oath.
- 15-02-02. Term of office — Vacancy.
- 15-02-03. Commissioner — Salary.
- 15-02-04. Deputy commissioner — Appointment — Oath.
- 15-02-05. Powers and duties in general.
- 15-02-05.1. Additional duties of commissioner.
- 15-02-05.2. Administrator of abandoned property — Employment.
- 15-02-06. Recording of clear lists of original grant lands — Fees.
- 15-02-07. Custody of abstracts and conveyances to state.
- 15-02-08. Commissioner to keep record of permanent funds — Biennial report.

Section

- 15-02-09. Commissioner to have seal — Seal as evidence.
- 15-02-10. Repealed.

**15-02-01. Commissioner of university and school lands — Appointment — Oath.** The board of university and school lands shall appoint a commissioner of university and school lands. All of the official acts of the commissioner are subject to the approval and supervision of the board. Before entering upon the duties of the commissioner, the commissioner shall take the oath prescribed for civil officers.

**Source:** S.L. 1893, ch. 118, § 3; R.C. 1895, § 170; R.C. 1899, § 170; R.C. 1905, § 153; C.L. 1913, § 285; R.C. 1943, § 15-0201; S.L. 1999, ch. 113, § 3.

**Effective Date.**

The 1999 amendment of this section by section 3 of chapter 113, S.L. 1999 became effective August 1, 1999.

**Cross-References.**

Bonding of public officers, see §§ 44-01-07 to 44-01-12, and ch. 26.1-21.  
 Oath of civil officers, see § 44-01-05.

**Eligibility for Appointment.**

The section of the constitution providing that no member of the assembly shall receive a civil appointment from the governor, or governor and senate, during the term for which he was elected, does not prohibit his appointment to a civil office by a constitutional board of five of which the governor is an ex officio member. *State ex rel. Strutz v. Stray*, 68 N.D. 498, 281 N.W. 83 (1938).

**15-02-02. Term of office — Vacancy.**

The term of office of the commissioner is four years beginning July first of the year following the general election of the board members and ending June thirtieth of the fourth calendar year after appointment or until a successor is appointed and qualified. The commissioner may be removed for cause at any time during the commissioner's term of office, by a vote of four or more board members. Upon vacancy by death, resignation, or removal, the board shall appoint a commissioner for the remainder of the four-year term.

**Source:** S.L. 1893, ch. 118, § 12; R.C. 1895, § 179; R.C. 1899, § 179; R.C. 1905, § 163; C.L. 1913, § 296; R.C. 1943, § 15-0202; S.L. 1999, ch. 150, § 1.

**Effective Date.**

The 1999 amendment of this section by section 1 of chapter 150, S.L. 1999 became effective July 1, 2001, pursuant to section 2 of chapter 150, S.L. 1999.

**Removal from Office.**

The board of university and school lands was vested with the arbitrary right to remove the commissioner of university and school lands. *State ex rel. Kositzky v. Prater*, 48 N.D. 1240, 189 N.W. 334 (1922).

**15-02-03. Commissioner — Salary.**

The salary of the commissioner of university and school lands must be within the amount appropriated for salaries by the legislative assembly.

**Source:** S.L. 1893, ch. 118, § 13; R.C. 1895, § 180; S.L. 1897, ch. 144, § 1; R.C. 1899, § 180; S.L. 1905, ch. 127, § 1; R.C. 1905, § 164; S.L. 1911, ch. 39, § 1; C.L. 1913, § 297; S.L. 1933, ch. 196, § 1; 1943, ch. 190, § 1; R.C. 1943, § 15-0203; S.L. 1949, ch. 314, § 4; 1981, ch. 535, § 3.

**15-02-04. Deputy commissioner — Appointment — Oath.**

The commissioner, with the consent of the board, may appoint a deputy. Before entering upon any duties the deputy shall take and subscribe the oath of office required by law for civil officers.

**Source:** S.L. 1893, ch. 118, § 14; R.C. 1895, § 181; R.C. 1899, § 181; R.C. 1905, § 165; S.L. 1907, ch. 163, § 1; C.L. 1913, § 298; R.C. 1943, § 15-0204; S.L. 1999, ch. 113, § 4.

**Effective Date.**

The 1999 amendment of this section by section 4 of chapter 113, S.L. 1999 became effective August 1, 1999.

**Cross-References.**

Bonding of public officers, see §§ 44-01-07 to 44-01-12, and ch. 26.1-21.  
 Oath of civil officers, see § 44-01-05.

**15-02-05. Powers and duties in general.** The commissioner, under such directions as may be given by the board of university and school lands, shall:

1. Have general charge and supervision of all lands described in section 15-01-02.
2. Act as general agent of the board in the performance of its duties.
3. Have the custody of all maps, books, and papers relating to any of the lands mentioned in this title.
4. Procure the books, maps, and plats required to keep a complete record of all such lands, and keep true records of all the sales, leases, permits, patents, deeds, and other conveyances of lands under his supervision made by the state showing the amount of money paid, the date of sale and of payment, the description of lands sold or leased, the number of acres [hectares] thereof, the name of the purchaser, and the designation of the fund to be credited therewith.
5. Direct all appraisements, sales, and leases, and execute all contracts of sale, leases, permits, and other evi-

dences of disposal of lands, subject to approval by the board.

6. Certify the book and page number of all contracts, leases, or permits recorded by him.

**Source:** S.L. 1893, ch. 118, §§ 3, 15; R.C. 1895, §§ 170, 182; R.C. 1899, §§ 170, 182; S.L. 1901, ch. 116, § 1; R.C. 1905, § 166; C.L. 1913, §§ 285, 299; R.C. 1943, § 15-0205.

**Cross-References.**

Investment of funds, see §§ 15-03-04 to 15-03-07.

**Compromise of Claims.**

The commissioner has no power to compromise any claim of the state, or exercise any discretion in determining the amount due. *State ex rel. Bd. of Univ. & Sch. Lands v. Hanson*, 65 N.D. 1, 256 N.W. 201 (1934), decided prior to the enactment of Session Laws 1935, ch. 255.

**General Agent of Board.**

The commissioner acts as general agent of the board under its direction and authority. *State ex rel. Rausch v. Amerada Petro. Corp.*, 78 N.D. 247, 49 N.W.2d 14 (1951).

**Leases and Purchase Contracts.**

The commissioner has the power to execute leases as well as purchase contracts. *Wittmayer v. Security State Bank*, 54 N.D. 845, 211 N.W. 436 (1926).

**15-02-05.1. Additional duties of commissioner.** In all cases under section 54-01-05.5 involving legislative bills dealing with the sale or exchange of state land, the commissioner of university and school lands shall provide the legislative assembly with an opinion as to whether the sale or exchange in question is consistent with the highest and best use of the land involved. As an aid in making the determination, the commissioner shall classify all land owned by the state or its instrumentalities according to its highest and best use. As used in this section, "highest and best use" means that use of a parcel of land which will most likely produce the greatest benefit to the state and its inhabitants, and which will best meet the needs of the people. In making this determination the considerations of the commissioner shall include: soils capability, vegetation, wildlife use, mineral characteristics, public use, recreational use, commercial or industrial use, aesthetic values, cultural values, surrounding land use, nearness to expanding urban areas, and any other resource, zoning, or planning information relevant to the determination.

**Source:** S.L. 1977, ch. 137, § 1; 1981, ch. 516, § 2.

**15-02-05.2. Administrator of abandoned property — Employment.** The commissioner of university and school

lands shall employ an administrator of abandoned property and other personnel as necessary for the proper administration of chapter 47-30.1 and shall set their salaries, within limits of legislative appropriations. All public officers shall assist the administrator in carrying out the administration of chapter 47-30.1.

**Source:** S.L. 1985, ch. 510, § 41.

**15-02-06. Recording of clear lists of original grant lands — Fees.** The commissioner of university and school lands shall cause the government clear lists of selected lands, or certified copies thereof, to be recorded in the offices of the recorders of the respective counties in which such lands have been selected. No fees may be charged or collected by the recorders for recording such lists.

**Source:** S.L. 1915, ch. 240, §§ 1, 2; 1925 Supp., §§ 287a1, 287a2; R.C. 1943, § 15-0206; S.L. 1981, ch. 516, § 2; 2001, ch. 120, § 1.

**15-02-07. Custody of abstracts and conveyances to state.** All abstracts and conveyances of title to the state of North Dakota, when the lands are held for penal, educational, charitable, or school purposes, must be deposited with and must remain in the control of the commissioner of university and school lands.

**Source:** S.L. 1893, ch. 118, § 47; R.C. 1895, § 214; R.C. 1899, § 214; R.C. 1905, § 198; C.L. 1913, § 332; R.C. 1943, § 15-0207.

**15-02-08. Commissioner to keep record of permanent funds — Biennial report.** The commissioner shall keep a record in suitable books showing a detailed quarterly statement of the condition of all of the permanent funds under the control of the board of university and school lands, the amount of each fund, how invested, when due, interest paid, and all acts connected with the management of such funds. All records and record books are open at all times for inspection by the public. The commissioner may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. If submitted, the report must show all investments of the several funds, the work done during the preceding fiscal biennium, the number of acres [hectares] of land sold or leased by the department, the amount received therefor, the amount of interest received to the credit of the several funds, the expense of administration of the department, and all other matters relating to the commissioner's office as are necessary

to disclose fully the operation of the department.

**Source:** S.L. 1893, ch. 118, § 15; R.C. 1895, § 182; R.C. 1899, § 182; S.L. 1901, ch. 116, § 1; R.C. 1905, § 166; C.L. 1913, § 299; R.C. 1943, § 15-0208; S.L. 1963, ch. 346, § 14; 1973, ch. 403, § 9; 1975, ch. 466, § 9; 1995, ch. 350, § 9.

**Effective Date.**

The 1995 amendment of this section by section 9 of chapter 350, S.L. 1995 became effective August 1, 1995.

**15-02-09. Commissioner to have seal — Seal as evidence.** The commissioner shall have an official seal. Such seal affixed to any contract of purchase, a receipt, or any other instrument issued and duly countersigned by the commissioner is prima facie evidence of the due execution of such contract or other instrument.

**Source:** S.L. 1893, ch. 118, § 15; R.C. 1895, § 182; R.C. 1899, § 182; S.L. 1901, ch. 116, § 1; R.C. 1905, § 166; C.L. 1913, § 299; R.C. 1943, § 15-0209.

**15-02-10. Fees for lease, contracts, patents — Collection.** Repealed by S.L. 1971, ch. 160, § 2.

## CHAPTER 15-03

### INVESTMENT OF FUNDS

Section

- 15-03-01. Permanent funds — State treasurer.
- 15-03-01.1. Creation of maintenance fund — Income derived from state assets.
- 15-03-01.2. Payment of salaries and expenses from maintenance fund — Vouchers and warrants.
- 15-03-01.3. Apportionment of maintenance fund balances quarterly.
- 15-03-02. Interest and income from grant lands.
- 15-03-03. Repealed.
- 15-03-04. Legal investments.
- 15-03-04.1. Loan pool account.
- 15-03-04.2. Board authority over farm loans.
- 15-03-04.3. Loan pool account — Management by Bank of North Dakota.
- 15-03-05. One-half of permanent funds to be invested in farm loans — Exception.
- 15-03-05.1. Calculation of fund income.
- 15-03-05.2. Distribution of fund income.
- 15-03-06. Repealed.
- 15-03-07. Limitations on farm loans.
- 15-03-08 to 15-03-11. Repealed.
- 15-03-12. Foreclosure of mortgages.
- 15-03-13. Redemption after foreclosure.
- 15-03-14. Conveyance of mortgaged land to state — Effect.
- 15-03-14.1. Repealed by omission.
- 15-03-15. Repealed.
- 15-03-16. Appropriation for investments.
- 15-03-17. Redemption of bonds by political subdivisions.

Section

- 15-03-18. Commissioner to maintain records of investments.
- 15-03-19 to 15-03-21. Repealed.

**15-03-01. Permanent funds — State treasurer.** All moneys belonging to the permanent funds of the common schools and other public institutions derived from the sale of any of the lands described in section 15-01-02 or from any other source must be paid over to the state treasurer and are subject to the order of the board of university and school lands. Such moneys must be paid over on the order of the board for investment as provided in this chapter whenever the board requires the same.

**Source:** S.L. 1893, ch. 118, § 7; R.C. 1895, § 174; R.C. 1899, § 174; R.C. 1905, § 157; C.L. 1913, § 290; R.C. 1943, § 15-0301; S.L. 1977, ch. 138, § 1; 1987, ch. 189, § 1.

**Cross-References.**

Consultation with state investment board or director on investment policies, see § 21-10-06.

**Collateral References.**

- Schools and School Districts ⇔ 18.
- 68 Am. Jur. 2d, Schools, §§ 85, 86.
- 78 C.J.S. Schools and School Districts, §§ 19, 20.

**15-03-01.1. Creation of maintenance fund — Income derived from state assets.** Ten percentum of the income derived from any state assets under the control of the board of university and school lands constitutes a fund to be known as the state lands maintenance fund.

**Source:** S.L. 1971, ch. 161, § 1.

**15-03-01.2. Payment of salaries and expenses from maintenance fund — Vouchers and warrants.** All salaries and expenses of the office of the commissioner of university and school lands must be paid from said state lands maintenance fund upon vouchers in duplicate, approved by the commissioner, setting forth the accounts covered thereby, duly itemized, one copy to be retained in the commissioner's office and the other to be filed with the office of management and budget, and warrants for the payment thereof drawn by said office of management and budget upon said fund.

**Source:** S.L. 1971, ch. 161, § 2.

**15-03-01.3. Apportionment of maintenance fund balances quarterly.** Any balance remaining over a minimum balance of forty thousand dollars in said

state lands maintenance fund on March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year must be apportioned by the office of management and budget among the several funds from which derived.

**Source:** S.L. 1971, ch. 161, § 3; 1973, ch. 128, § 1.

**15-03-02. Interest and income from grant lands.** All moneys accumulating in the interest and income fund arising from the sale or leasing of any lands granted by the state or by the Constitution of North Dakota for any institution of higher education of the state are pledged specifically for the maintenance of the institution for which such lands were granted after deducting the cost of administering such funds as provided in this chapter.

**Source:** S.L. 1890, ch. 158, § 13; 1890, ch. 159, § 1; 1890, ch. 160, § 18; 1891, ch. 89, § 2; R.C. 1895, §§ 906, 930, 949; S.L. 1897, ch. 89, § 8; R.C. 1899, §§ 906, 930, 949, 975; S.L. 1903, ch. 50; R.C. 1905, §§ 1075, 1113, 1173; S.L. 1911, ch. 61, § 3; C.L. 1913, §§ 1580, 1617, 1726; R.C. 1943, § 15-0302; S.L. 1971, ch. 161, § 5.

**Collateral References.**

Schools and School Districts ⇌ 15.  
68 Am. Jur. 2d, Schools, § 86.  
78 C.J.S. Schools and School Districts, §§ 16, 19.

**15-03-03. State treasurer to have custody of certain school funds.** Repealed by S.L. 1987, ch. 189, § 7, effective March 23, 1987.

**15-03-04. Legal investments.** Subject to the provisions of section 15-03-05, the board of university and school lands shall apply the prudent investor rule in investing the permanent funds under its control. The “prudent investor rule” means that in making investments the board shall exercise the same judgment and care, under the circumstances then prevailing and limitations of North Dakota and federal law, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. Notwithstanding any investments made before July 1, 1997, the board may not use any funds entrusted to it to purchase, as sole owner, commercial or residential real property in North Dakota without prior approval of the legislative assembly or the budget section of the legislative council.

**Source:** S.L. 1893, ch. 118, § 5; R.C. 1895, § 172; S.L. 1897, ch. 128, § 1; R.C. 1899, § 172; R.C. 1905, § 155; S.L. 1907, ch. 224, § 1; 1907, ch. 228, § 1; 1909, ch. 106, § 1; C.L. 1913, § 287; S.L. 1915, ch. 241, § 1; 1917, ch. 204, § 1; 1919, ch. 198, § 1; 1921, ch. 108, § 1; 1925 Supp., § 287; S.L. 1929, ch. 215, § 1; R.C. 1943, § 15-0304; S.L. 1953, ch. 124, § 1; 1957 Supp., § 15-0304; S.L. 1965, ch. 121, § 1; 1971, ch. 159, § 2; 1971, ch. 162, § 1; 1973, ch. 129, § 1; 1975, ch. 133, § 1; 1977, ch. 138, § 2; 1987, ch. 141, § 29; 1987, ch. 190, § 1; 1989, ch. 190, § 1; 1989, ch. 191, § 1; 1997, ch. 42, § 6.

**Effective Date.**

The 1997 amendment of this section by section 6 of chapter 42, S.L. 1997 became effective July 1, 1997.

**Real Estate Mortgage.**

A real estate mortgage executed to the state to secure a loan from the permanent school funds conveys no title to the land, constitutes a mere pledge of the land as security for the debt, and does not differ in nature from the ordinary real estate mortgage. *State v. Divide County*, 68 N.D. 708, 283 N.W. 184 (1938).

**Taxation.**

Real estate, mortgaged to the state to secure the repayment of a loan from the permanent school fund of the state, is subject to taxation during the period the lien of the mortgage exists. *State v. Divide County*, 68 N.D. 708, 283 N.W. 184 (1938).

**United States Bonds.**

The board of university and school lands may invest a portion of the money in the permanent school fund in United States bonds at a price greater than par. *Moses v. Baker*, 71 N.D. 140, 299 N.W. 315 (1941).

**Collateral References.**

Schools and School Districts ⇌ 18.  
78 C.J.S. Schools and School Districts, § 20.

**15-03-04.1. Loan pool account.** There is hereby created in the Bank of North Dakota a loan pool account. The board of university and school lands may purchase first mortgage farm loans made in accordance with this chapter from the Bank of North Dakota. All purchased farm loans must be managed and serviced by the Bank of North Dakota. The loans must be credited to the loan pool account and the investments, repayments, interest, and income must be credited to the various land department trust funds in the proportion that each participates therein. The loan pool account shall consist of current loans whenever possible. The board may authorize the Bank of North Dakota to renegotiate the mortgages in the loan pool account, including debt restructuring and reamortization, so long as the renegotiation is consistent with sound banking practices and the rules, regulations, and guidelines of the board. In the event foreclosures are necessary, the Bank of North Dakota shall handle foreclosures in accordance with standard banking practices and pro-

ceeds must be properly credited to the loan pool account and income accounts. The Bank of North Dakota shall charge such fee for the management of each loan as the Bank of North Dakota and the board of university and school lands shall agree. Such fee may only be deducted from interest payments received on loans. Loans purchased by the board of university and school lands may have originated in the Bank of North Dakota or other financial institutions. The Bank of North Dakota shall certify that all loans purchased by the board of university and school lands are first mortgages and that there are no prior judgments, mortgages, liens, or other encumbrances against the security for such first mortgages.

**Source:** S.L. 1977, ch. 138, § 3; 1987, ch. 189, § 2.

#### DECISIONS UNDER PRIOR LAW

##### **Prior Encumbrances.**

It was the legislative policy, that upon taking a mortgage to secure the repayment of a loan from the permanent school fund, that all prior encumbrances, including taxes then due, were paid before the net proceeds were turned over to the applicant, and all releases of encumbrances were recorded at his expense. *State v. Divide County*, 68 N.D. 708, 283 N.W. 184 (1938).

**15-03-04.2. Board authority over farm loans.** The board of university and school lands has authority to promulgate policies, rules, and regulations for the purchase of first mortgage farm loans. The board shall set such terms, conditions, interest rates, and other guidelines as it may desire commensurate with its fiduciary responsibilities.

**Source:** S.L. 1977, ch. 138, § 4.

**15-03-04.3. Loan pool account — Management by Bank of North Dakota.** Subject to this chapter the Bank of North Dakota, in accordance with standard banking practices, shall manage all loans in the loan pool account and execute all instruments on behalf of the board of university and school lands that pertain to real estate mortgages in the loan pool account, including reamortization agreements, satisfactions, and partial releases. The Bank of North Dakota shall also act as agent for the board and shall execute all instruments, including reamortization agreements, satisfactions, and partial releases, that pertain to mortgages previously issued by the board. All instruments must be executed in the same manner as specified in section 6-09-26. This section is self-executing and no assignment, power of

attorney, or other instrument of transfer is necessary to establish the authority of the Bank of North Dakota to act on behalf of the board of university and school lands under this section.

**Source:** S.L. 1979, ch. 204, § 1; 1987, ch. 189, § 3; 1991, ch. 54, § 5.

##### **Effective Date.**

The 1987 amendment of this section became effective March 23, 1987.

**15-03-05. One-half of permanent funds to be invested in farm loans — Exception.** At least one-half of the whole amount of the several permanent funds, as computed by the commissioner of university and school lands at the end of each fiscal year, must be invested in first mortgages on farmlands and rangelands in this state if there is a sufficient demand for investment in farm loans. First mortgage loans on farmlands and rangelands must be made only in accordance with the provisions of this chapter.

**Source:** S.L. 1893, ch. 118, § 5; R.C. 1895, § 172; S.L. 1897, ch. 128, § 1; R.C. 1899, § 172; R.C. 1905, § 155; S.L. 1907, ch. 224, § 1; 1907, ch. 228, § 1; 1909, ch. 106, § 1; C.L. 1913, § 287; S.L. 1915, ch. 241, § 1; 1917, ch. 204, § 1; 1919, ch. 198, § 1; 1921, ch. 108, § 1; 1925 Supp., § 287; S.L. 1929, ch. 215, § 1; R.C. 1943, § 15-0305; S.L. 1977, ch. 138, § 5; 1985, ch. 199, § 1.

**15-03-05.1. Calculation of fund income.** At the end of each fiscal year, the board shall calculate the income earned by the permanent funds. The net gain or loss realized on the sale of investment securities for the year must be amortized to fund income in equal annual installments over a ten-year period.

**Source:** S.L. 1989, ch. 190, § 2; 1993, ch. 157, § 1.

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

1. Distribute to the fund beneficiary all or a portion of the income in excess of the previous fiscal year's distribution;
2. Retain for distribution in future years all or a portion of the income in excess of the preceding fiscal

- year's distribution in an amount not to exceed ten million dollars; or
3. Add to the permanent fund all or a portion of the income in excess of the preceding fiscal year's distribution.

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

**Source:** S.L. 1989, ch. 190, § 2; 1993, ch. 157, § 2; 1995, ch. 163, § 1.

**Effective Date.**

The 1995 amendment of this section by section 1 of chapter 163, S.L. 1995 became effective August 1, 1995.

**Note.**

Section 4 of chapter 7, S.L. 1999, effective July 1, 1999, provides: "**LAND BOARD DISTRIBUTIONS.** Notwithstanding the provisions of section 15-03-05.2, during the 1999-2001 biennium, the board of university and school lands shall distribute to the veterans home all income from a permanent fund managed for this institution."

**15-03-06. Farm loans — Procedure in negotiating and completing loans.** Repealed by S.L. 1977, ch. 138, § 12.

**15-03-07. Limitations on farm loans.** Farm loans secured by a first mortgage may be made only upon farmland and rangeland in this state, and only to persons or other legal entities who are actual residents of this state and who are actively engaged in the business of farming or ranching.

**Source:** S.L. 1893, ch. 118, § 5; R.C. 1895, § 172; S.L. 1897, ch. 128, § 1, subs. 2; R.C. 1899, § 172, subs. 2; R.C. 1905, § 155, subs. 2; S.L. 1907, ch. 224, § 1, subs. 2; 1907, ch. 228, § 1, subs. 2; 1909, ch. 106, § 1, subs. 2; C.L. 1913, § 287, subs. 2; S.L. 1915, ch. 241, § 1, subs. 2; 1917, ch. 204, § 1, subs. 3; 1919, ch. 198, § 1, subs. 2; 1921, ch. 108, § 1, subs. 2; 1925 Supp., § 287, subs. 2; S.L. 1929, ch. 215, § 1, subs. 2; R.C. 1943, § 15-0307; S.L. 1953, ch. 124, § 2; 1957 Supp., § 15-0307; S.L. 1963, ch. 133, § 1; 1973, ch. 129, § 2; 1977, ch. 138, § 6.

**15-03-08. Warrant for amount of loan — Payable to state land commis-**

**sioner — Disbursement.** Repealed by S.L. 1977, ch. 138, § 12.

**15-03-09. Term, interest, payment of farm loans.** Repealed by S.L. 1977, ch. 138, § 12.

**15-03-10. Assignment of mortgage — Regulations governing — Execution.** Repealed by S.L. 1977, ch. 138, § 12.

**15-03-11. Satisfaction of mortgages.** Repealed by S.L. 1977, ch. 138, § 12.

**15-03-12. Foreclosure of mortgages.** Mortgages acquired by the state under the provisions of this chapter may be foreclosed either by action or advertisement in the manner provided by the laws of this state. An action to foreclose a mortgage must be brought and prosecuted in the name of the state.

**Source:** S.L. 1893, ch. 118, § 8; R.C. 1895, § 175; R.C. 1899, § 175; S.L. 1901, ch. 193, § 1; R.C. 1905, § 159; C.L. 1913, § 292; S.L. 1925, ch. 178, § 1; 1925 Supp., § 292; S.L. 1929, ch. 214, § 1; 1931, ch. 234, § 2; R.C. 1943, § 15-0312.

**Cross-References.**

Foreclosure by action, see ch. 32-19.

Foreclosure by advertisement, see ch. 35-22.

**Publication of Notice.**

Notices of mortgage foreclosure sales made by state officials are not required to be published in the official newspaper of a county. State Record Publishing Co. v. State, 50 N.D. 240, 195 N.W. 434 (1923).

**Collateral References.**

78 C.J.S. Schools and School Districts, § 20.

**15-03-13. Redemption after foreclosure.** When a mortgage acquired under the provisions of this chapter has been foreclosed, the mortgagor or a redemptioner may redeem the property from the purchaser within one year after the sale, in the following manner:

1. By paying the purchaser the amount of his purchase with interest at the rate provided in the mortgage;
2. By paying the amount of any insurance premiums, assessments, taxes, utilities, or other items which the purchaser has paid thereon after the purchase, and the interest thereon at the same rate; and
3. If the purchaser is also a creditor having a lien prior to that of the redemptioner, other than the mort-