

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1035

Introduced by

Legislative Council

(Education Services Committee)

1 A BILL for an Act to create and enact a new section to chapter 15-38.1 of the North Dakota
2 Century Code, relating to teacher negotiations; and to amend and reenact section 11-10-10.5,
3 subsection 1 of section 12.1-05-05, sections 15-20.2-04, 15-36-12, 15-41-25, 15-47-42,
4 subsection 1 of section 15-47-46, section 15-59.2-02, subsection 5 of section 40-01.1-04,
5 subsection 1 of section 54-07-01.2, and subsection 4 of section 57-39.2-04 of the North Dakota
6 Century Code, relating to cross references to statutes in the education title.

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

8 **SECTION 1. AMENDMENT.** Section 11-10-10.5 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **11-10-10.5. County superintendent of schools - Officer.** For purposes of sections
11 11-10-10, 11-10-15, and 11-10-20, the county superintendent of schools employed by the board
12 of county commissioners is an officer of the county. ~~Notwithstanding any other provision of law~~
13 ~~except section 15-22-01, a~~ A board of county commissioners ~~may by majority vote shall~~ employ
14 ~~a person who meets the qualifications provided in section 15-22-02 to serve as the county~~
15 ~~superintendent of schools on a part-time basis, as provided for in section 15.1-11-01, or assign~~
16 ~~the duties of the county superintendent of schools, as provided for in section 15.1-11-02.~~

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-05-05 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 1. Except as provided in section ~~15-47-47~~ 15.1-19-02, a parent, guardian, or other
20 person responsible for the care and supervision of a minor, or other person
21 responsible for the care and supervision of ~~such~~ a minor for a special purpose, or a
22 person acting at the direction of any of the foregoing persons, may use reasonable
23 force upon the minor for the purpose of safeguarding or promoting ~~his~~ the minor's
24 welfare, including prevention and punishment of ~~his~~ the minor's misconduct, and

the maintenance of proper discipline. The force may be used for this purpose,
whether or not it is "necessary" as required by subsection 1 of section 12.1-05-07.

The force used must not create a substantial risk of death, serious bodily injury,
disfigurement, or gross degradation.

SECTION 3. AMENDMENT. Section 15-20.2-04 of the North Dakota Century Code is
amended and reenacted as follows:

**15-20.2-04. Center boards - Appointment of members - Terms - Compensation -
Vacancies.** An area vocational and technology center must 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 must 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 must be members of the school boards. The terms of office of the
members of center boards must be for at least one year and terminate upon the expiration of
their terms on their respective school boards. Members are eligible for reappointment to center
boards. 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~~ 15.1-09-06 for members of school boards. Compensation and
expenses of center board members must be paid out of center funds.

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

SECTION 4. AMENDMENT. Section 15-36-12 of the 1997 Supplement to the North
Dakota Century Code is amended and reenacted as follows:

**15-36-12. Certificate must be exhibited to business manager of the school district
- Completion of term after expiration of certificate.** No teacher is entitled to receive any
compensation for the time the teacher teaches in a public school without a certificate to teach
which lawfully is issued and in force in the county in which the school is taught. Prior to
receiving a salary for the first month taught in a school district, a teacher must exhibit the
teacher's certificate to the business manager of the school district. If a teacher's certificate
expires by its own limitations within six weeks of the close of the term, the teacher may finish

the term without reexamination or renewal thereof. This section does not apply to any person providing teaching services in accordance with subsection 21 of section 15-29-08.4 15.1-09-33.

SECTION 5. A new section to chapter 15-38.1 of the North Dakota Century Code is created and enacted as follows:

Impasse - Executive session of school board. Notwithstanding any other provision of law, if an impasse has been declared and final offer resolution is in effect, a school board may hold one executive session prior to submitting its final offer. The subject of the meeting must be limited to the determination of the board's final offer. Before holding the meeting, the board must, by a majority vote in a public meeting, decide to hold the executive session to determine its final offer. The time and place of the executive session must be announced at the public meeting. A written roll of members and all other persons present at the executive session must be made available to the public after the executive session. The proceedings of the executive session must be tape recorded by the board and must be preserved for two years after the contract is signed. Minutes of the executive session must also be kept, and the minutes and the tape recording must be made available to the public after the negotiated contract is signed by the board.

SECTION 6. AMENDMENT. Section 15-41-25 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-41-25. High schools - Teacher qualification. Except as provided in subsection 21 of section 15-29-08.4 15.1-09-33, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 shall have a valid teacher's certificate and shall have a major or minor in the course areas or fields that the teacher is teaching if the high school is to receive any approval by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, and health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which the teacher is employed may not affect the approval of the employing school district.

SECTION 7. AMENDMENT. Section 15-47-42 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-47-42. Status and authority of student and eminence-credentialed teachers.
Any student teacher or eminence-credentialed teacher hired or assigned in this capacity must be given the same legal authority and status as if the student or eminence-credentialed teacher

were a certificated employee of the school district. The authority of the student or eminence-credentialed teacher extends to all aspects of student management or discipline, the handling of confidential student records, and to all other aspects of legal authority granted to certificated teachers in the state. The student or eminence-credentialed teacher must be deemed a certificated employee of the district with respect to acts performed by the student or eminence-credentialed teacher at the direction, suggestion, or consent of the district employees under whose supervision and control the student or eminence-credentialed teacher performs duties, whether or not the duties are performed entirely in the presence of district employees assigned to supervise the student or eminence-credentialed teacher, and must be deemed an employee of the school district within the meaning of sections 32-12.1-05 and 39-01-08 relating to liability insurance carried by political subdivisions. For purposes of this section, "eminence-credentialed teacher" means a person providing teaching services in accordance with subsection 21 of section 15.1-09-33.

SECTION 8. AMENDMENT. Subsection 1 of section 15-47-46 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2 through 4 or subsection 21 of section 15.1-09-33, all teachers teaching kindergarten through grade eight must hold a teaching certificate and:
 - a. A minimum of a kindergarten endorsement to teach kindergarten;
 - b. A major, minor, or endorsement in elementary education to teach elementary education in grades one through eight; or
 - c. An endorsement in kindergarten or elementary education from the education standards and practices board attained prior to or within two years of the assignment to teach kindergarten or elementary education. An endorsement may be obtained by completing teaching requirements and a minimum number of credit hours in courses prescribed by the education standards and practices board.

SECTION 9. AMENDMENT. Section 15-59.2-02 of the North Dakota Century Code is amended and reenacted as follows:

15-59.2-02. Organizational plan - Contents. The organizational plan to be submitted to the superintendent of public instruction must include the number of members on the

1 multidistrict special education board, how each district will be represented, selection of officers,
2 terms of office, meeting times, requirements for a quorum, and such other items as may be
3 required by regulation of the superintendent of public instruction. Representatives on the
4 multidistrict board must be appointed by the school boards of the participating districts.
5 Compensation for board members must be the same as that allowed school board members
6 pursuant to section ~~15-29-05~~ 15.1-09-06.

7 **SECTION 10. AMENDMENT.** Subsection 5 of section 40-01.1-04 of the 1997
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9 5. With respect to a school district:

- 10 a. Execution of a joint powers agreement between the school district and one or
11 more other political subdivisions or the state for the cooperative or joint
12 administration of any service or function pursuant to chapter 54-40.3 or as
13 otherwise specifically provided by law, including the exercise of the general
14 powers to make contract for joint educational endeavors ~~pursuant to section~~
15 ~~15-47-32~~, or an agreement between the school district and a tribal
16 government pursuant to chapter 54-40.2.
- 17 b. Participation in a community or leadership development, assessment,
18 education, planning, or training program offered by any public or private
19 agency, institution, or organization.
- 20 c. An increase or decrease in the number of school board members pursuant to
21 section ~~15-28-01~~ 15.1-09-01.
- 22 d. ~~A cooperative arrangement pursuant to chapter 15-27.7.~~
- 23 e. Sharing of officers with other school districts or other political subdivisions
24 pursuant to chapter 11-10.3.
- 25 f. ~~e.~~ School district restructuring, annexation, or reorganization ~~pursuant to~~
26 ~~chapter 15-27.6, 15-27.2, or 15-27.3.~~
- 27 g. ~~f.~~ Transfer of a power or function of the school district to the county pursuant to
28 chapter 54-40.5.
- 29 h. ~~g.~~ That any other action be taken that is permitted by law.
- 30 i. ~~h.~~ That no action be taken.

1 **SECTION 11. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the 1997
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 3 1. Notwithstanding sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09-02.1,
4 12-55.1-02, 12-59-01, ~~45-21-17~~, 15-38-17, 15-39.1-05.1, ~~45-65-02~~ 15.1-01-01,
5 15.1-05-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6,
6 50-06.1-16, 54-34.3-10, 54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all
7 members of the following boards and commissions must, subject to the limitations
8 of this section, be considered to have resigned from such boards and commissions
9 effective January first of the first year of each four-year term of the governor:
- 10 a. The aeronautics commission.
 - 11 b. The milk marketing board.
 - 12 c. The dairy promotion commission.
 - 13 d. The state banking board.
 - 14 e. The state credit union board.
 - 15 f. The advisory board of directors to the Bank of North Dakota.
 - 16 g. The pardon advisory board.
 - 17 h. The state parole board.
 - 18 i. The state board of public school education.
 - 19 j. The education standards and practices board and the administrator's
20 professional practices board.
 - 21 k. The board of trustees for the teachers' fund for retirement.
 - 22 l. The educational telecommunications council.
 - 23 m. The state game and fish advisory board.
 - 24 n. The health council.
 - 25 o. The air pollution control advisory council.
 - 26 p. The board of animal health.
 - 27 q. The administrative committee on veterans' affairs.
 - 28 r. The committee on aging.
 - 29 s. The committee on employment of people with disabilities.
 - 30 t. The commission on the status of women.
 - 31 u. The North Dakota council on the arts.

- v. The state historical board.
- w. The Yellowstone-Missouri-Fort Union commission.
- x. The state water commission.
- y. The state water pollution control board.

SECTION 12. AMENDMENT. Subsection 4 of section 57-39.2-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 4. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, and the gross receipts from educational, religious, or charitable activities, unless the activities are held in a publicly owned facility, where the entire amount of net receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section ~~15-29-13~~ 15.1-07-12. This exemption does not apply to regular retail sales that are in direct competition with retailers. Gross receipts from educational, religious, or charitable activities held in a publicly owned facility are exempt if the sponsoring organization is a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.