

**HOUSE BILL NO. 1046**

Introduced by

Legislative Council

(Education Services Committee)

1 A BILL for an Act to create and enact two new sections to chapter 15-10, a new section to  
2 chapter 15.1-09, and a new section to chapter 15.1-19 of the North Dakota Century Code,  
3 relating to oaths by faculty members, vehicle and heating fuel purchases, and student usage of  
4 alcohol or controlled substances; to amend and reenact subsection 1 of section 6-09.4-23,  
5 sections 15-19-01, 15-19-04, 15.1-06-01, 15.1-07-02, 15.1-07-03, 15.1-07-17, and 15.1-08-06,  
6 subsection 2 of section 15.1-09-01, subsection 4 of section 15.1-09-05, sections 15.1-09-25,  
7 15.1-09-26, 15.1-09-31, 15.1-09-34, and 15.1-09-50, subsection 9 of section 15.1-12-10,  
8 section 15.1-19-09, subsection 7 of section 21-03-07, sections 21-06-12, 25-01.2-13, 34-07-02,  
9 and 34-07-15, subsection 5 of section 50-11.1-02, subsection 1 of section 54-07-01.2, sections  
10 54-23.2-04.2, 57-15-14, 57-15-14.2, 57-15-55.1, 57-16-04, and 57-51.1-08, and subsection 1 of  
11 section 57-62-02 of the North Dakota Century Code, relating to evidences of indebtedness,  
12 correspondence courses, school admission, school district petitions, school district contracts,  
13 military installation school districts, school board member oaths, school board size, school  
14 board minutes, fuel purchases, school board powers, reorganization, bond issuances, labor by  
15 minors, early childhood services, boards and commissions, vital records, educational  
16 foundations, special education, mill levies, education funding, and the coal development trust  
17 fund; and to repeal sections 15.1-07-22 and 15.1-09-37 of the North Dakota Century Code,  
18 relating to oaths of school district business managers and fees.

19 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

20 **SECTION 1. AMENDMENT.** Subsection 1 of section 6-09.4-23 of the 1999  
21 Supplement to the North Dakota Century Code is amended and reenacted as follows:

22 1. If the municipal bond bank or a paying agent notifies the superintendent of public  
23 instruction, in writing, that a school district has failed to pay when due the principal  
24 or interest on any evidences of indebtedness issued after July 31, 1999, or that the

bond bank or the paying agent has reason to believe a school district will not be able to make a full payment of the principal and interest when the payment is due, the superintendent of public instruction shall withhold any funds that are due or payable or appropriated to the school district under chapter ~~45-40.4~~ 15.1-27 until the payment of the principal or interest has been made to the bond bank or the paying agent, or until the bond bank or the paying agent notifies the superintendent of public instruction that arrangements satisfactory to the bond bank or the paying agent have been made for the payment of the principal and interest then due and owing. The notification must include information required by the superintendent of public instruction. State funds available to a school district under chapter ~~45-40.4~~ 15.1-27 are not subject to withholding under this section unless the withholding is authorized by resolution of the district's school board.

**SECTION 2.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Public institutions of higher education - Faculty members - Oath or affirmation.**

1. Before entering upon the discharge of duties, every faculty member employed by an institution of higher education under the control of the state board of higher education shall take the following oath or affirmation:

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

2. The faculty member shall execute the oath or affirmation in duplicate. One copy of the oath or affirmation must be filed with the state board of higher education. The faculty member shall retain the other copy.

**SECTION 3.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Public institutions of higher education - Alien faculty members - Oath or affirmation.** Before entering upon the discharge of duties, an individual who is not a citizen of the United States but who is a faculty member employed by an institution of higher education under the control of the state board of higher education shall take an oath or affirmation to

1 support the institutions and policies of the United States during the period of the individual's  
2 employment within the state.

3       **SECTION 4. AMENDMENT.** Section 15-19-01 of the 1999 Supplement to the North  
4 Dakota Century Code is amended and reenacted as follows:

5       **15-19-01. Correspondence courses - Establishment - Enrollment of ~~pupils~~**  
6 **students - Courses of instruction.** The state shall provide correspondence courses through  
7 the division of independent study under the following provisions:

- 8       1. A complete curriculum by correspondence which has been specifically determined  
9       by the state board of public school education as proper and suitable for instruction  
10       under correspondence methods, such determination and approval to be made not  
11       less than once in each school year, must be maintained upon the campus of one of  
12       the state institutions of higher education by the state board of public school  
13       education.
- 14       2. Unless specifically excused in writing upon the course application forms by the  
15       superintendent or an administrator of the school approving the enrollment  
16       application, or as provided in subsection 6 all ~~pupils~~ students under the age of  
17       sixteen taking advantage of the provisions of this chapter must be required to  
18       attend their local district schools and to study their correspondence lessons under  
19       the supervision of a local supervisor. If not required to attend their local schools,  
20       their work may be done at a place designated by the state director in accordance  
21       with the rules of the state board of public school education. If in attendance at a  
22       local school, ~~pupils~~ students must be supplied with desk space in their respective  
23       school without charge and shall attend school regularly and be under the same  
24       disciplinary supervision of the teachers as the other school ~~pupils~~ students.
- 25       3. The division of independent study may provide services to persons who are not  
26       North Dakota residents.
- 27       4. The correspondence work must be completed in accordance with the rules  
28       established by the state board of public school education.
- 29       5. Correspondence ~~pupils~~ students shall pay for books and materials used by them,  
30       postage required to mail reports to the division, and other fees as may be  
31       prescribed by the board of public school education.

6. ~~Pupils~~ Students exempt from the compulsory school attendance laws pursuant to subdivision e of subsection ~~5 1~~ of section ~~15-34.1-03~~ 15.1-20-02 may enroll in correspondence courses offered through the division of independent study. These students may study their correspondence lessons in their learning environment under the supervision of a parent. The tests for the correspondence study must be administered by ~~a~~ an individual who is licensed teacher to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed either by the public school district in which the parent resides or a state-approved private or ~~parochial~~ nonpublic school.

**SECTION 5. AMENDMENT.** Section 15-19-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-19-04. Duty of teachers, county and state officers, and institutions.** The state board of public school education and the superintendent or a member of the department of public instruction designated by the superintendent shall approve the content of courses offered, monitor compliance with sections ~~15-41-25 and 15-47-46~~ 15.1-18-02 and 15.1-18-03, approve credits granted for each course, and do all other things necessary to integrate the correspondence program into other programs administered or supervised by the department of public instruction. The division of independent study may advertise its correspondence program, however, the state board of public school education and the superintendent of public instruction shall ensure that the program in no way competes with the public schools of this state for the enrollment of students, encourages students to leave the public schools, or duplicates the facilities of the public schools through offering correspondence courses to students having access to such courses in the public schools.

**SECTION 6. AMENDMENT.** Section 15.1-06-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-01. Schools free and accessible - School ages.**

1. Each public school must be free, open, and accessible at all times to any child provided:
  - a. The child may not enroll in grade one unless the child reaches the age of six before September first of the year of enrollment;

- 1           b.    The child may not enroll in kindergarten unless the child reaches the age of  
2                five before September first of the year of enrollment; and  
3           c.    The child has not reached the age of twenty-one before September first of the  
4                year of enrollment.

- 5           2.    Notwithstanding the provisions of subsection 1, a school district may not enroll in  
6                grade one a child who is not six years old before September first, unless the child  
7                will be six years old before January first and:

- 8           a.    The child, by means of developmental and readiness screening instruments  
9                approved by the superintendent of public instruction and administered by the  
10               school district, can demonstrate special talents or abilities; or  
11           b.    The child has completed an approved kindergarten program.

- 12           3.   Notwithstanding subsection 1, a school district may not enroll in kindergarten a  
13               child who is not five years old before September first unless the child will be five  
14               years old before January first and the child, by means of developmental and  
15               readiness screening instruments approved by the superintendent of public  
16               instruction and administered by the school district, can demonstrate special talents  
17               or abilities.

18           **SECTION 7. AMENDMENT.** Section 15.1-07-02 of the 1999 Supplement to the North  
19   Dakota Century Code is amended and reenacted as follows:

20           **15.1-07-02. School district - Name change.** In order for the name of a school district  
21   to be changed, the question must be placed before and approved by a majority of the district's  
22   qualified voters at a district election. The school board may place the question on the ballot by  
23   resolution and shall place the question on the ballot if it receives a petition signed by ~~one-third~~  
24   ~~of the~~ qualified electors of the district equal in number to at least one-third of those who voted at  
25   the most recent annual school district election. If a majority of the district's qualified voters  
26   approve the name change, the district must be renamed accordingly. The business manager of  
27   the district shall provide notification of the new name to the county auditor, the county  
28   superintendent of schools, and the superintendent of public instruction.

29           **SECTION 8. AMENDMENT.** Section 15.1-07-03 of the 1999 Supplement to the North  
30   Dakota Century Code is amended and reenacted as follows:

31           **15.1-07-03. District's limit of indebtedness - Resolution.**

- 1           1.    The board of a school district may by resolution place on the ballot of any regular  
2                    or special election the question of increasing the district's limit of indebtedness,  
3                    beyond that fixed by the constitution, by five percent of the assessed valuation of  
4                    all taxable property in the district.
- 5           2.    The board of a school district shall place on the ballot of the next regular or special  
6                    election the question of increasing the district's limit of indebtedness, beyond that  
7                    fixed by the constitution, by five percent of the assessed valuation of all taxable  
8                    property in the district, if the board receives a petition requesting the increase and  
9                    signed by ~~at least one-third of the district's~~ qualified electors of the district equal in  
10                  number to at least one-third of those who voted at the most recent annual school  
11                  district election.

12           **SECTION 9. AMENDMENT.** Section 15.1-07-17 of the 1999 Supplement to the North  
13 Dakota Century Code is amended and reenacted as follows:

14           **15.1-07-17. School district contracts - Conflict of interest - Penalty.**

- 15           1.    A school board member or other school officer who has a conflict of interest in any  
16                    contract requiring the expenditure of school funds shall disclose the conflict to the  
17                    board and may not participate in any discussions or votes regarding that contract  
18                    without the consent of all other board members.
- 19           2.    For purposes of this section, a conflict of interest means the personal, professional,  
20                    or pecuniary interest of an individual, the individual's spouse or relative, or the  
21                    individual's business or professional associate.
- 22           3.    ~~After the disclosure required by subsection 1 has been made, a board may engage~~  
23                  ~~in future contracts with the individual for the purchase of goods and services,~~  
24                  ~~provided that the amount of a contract does not exceed eight thousand dollars.~~
- 25           4.    Any person who violates this section is guilty of a class A misdemeanor.

26           **SECTION 10. AMENDMENT.** Section 15.1-08-06 of the 1999 Supplement to the North  
27 Dakota Century Code is amended and reenacted as follows:

28           **15.1-08-06. Military installation - School districts - Application of other laws.**

- 29           1.    The duties set forth in section 15.1-09-28 are applicable to the president of a  
30                    school board governing a military installation school district established under this  
31                    chapter.

2. The duties set forth in sections 15.1-09-33, 15.1-09-35, and 15.1-09-38 are applicable to a school board governing a military installation school district established under this chapter unless other agreements have been reached.
3. The duties set forth in ~~section 15.1-07-22~~ sections 15.1-07-21, 15.1-07-23, and 15.1-07-24 are applicable to a the business manager of a military installation school district established under this chapter.
4. The compensation and expense reimbursement levels set forth in section 15.1-09-06 are applicable to members of a school board governing a military installation school district established under this chapter.
5. Sections 15.1-07-10 through 15.1-07-13, ~~15.1-07-24, and 15.1-07-26~~ and section 15.1-07-25 are applicable to military installation school districts established under this chapter.

**SECTION 11. AMENDMENT.** Subsection 2 of section 15.1-09-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The size of any school district board may be increased to either five, seven, or nine members or decreased to seven or five members if a petition is signed by ~~at least one-third of the~~ equal in number to at least one-third of those who voted at the most recent annual school district election and the change is approved by a majority of the qualified electors of the district voting on the question at a special election called for that purpose.

**SECTION 12. AMENDMENT.** Subsection 4 of section 15.1-09-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. The causes for which a vacancy may be declared include a member's death, refusal to serve, failure to qualify for the office, resignation, removal from office by a court of competent jurisdiction, and relocation to a residence outside the school district.

**SECTION 13. AMENDMENT.** Section 15.1-09-25 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-25. School board members - Affirmation or oath of office.** An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office within ten days after receiving notice of the

election or appointment and before commencing duties. If the individual refuses to take the affirmation or oath of office required by this section, the individual's action is deemed to be a refusal to serve and a failure to qualify for the office pursuant to section 44-02-01.

**SECTION 14. AMENDMENT.** Section 15.1-09-26 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-26. Affirmation or oath of office - Administration.** ~~An elected~~ Any member of a school board may administer ~~any~~ an affirmation or oath of office required of school board members ~~or, required of~~ school district personnel, or required in any school-related matter.

**SECTION 15. AMENDMENT.** Section 15.1-09-31 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-31. School board proceedings - Publication.** Every two years, at the time of a school district's annual election of board members, the electors of the district shall determine whether a record of the board proceedings must be published in the official newspaper of the district. If a majority of the electors voting on the question approve the publication, the school district business manager shall provide for publication of the school board ~~records~~ proceedings, including an itemized list of obligations approved for payment. ~~If applicable~~ appropriate, the business manager shall ~~request~~ require that the newspaper publishing the board proceedings ~~be identified as being published~~ indicate that the published proceedings are subject to review and revision by the board. The business manager shall ensure that the proceedings are published within a reasonable time after each board meeting. A vote to approve the publication is effective for a period of two years or until disapproved at a succeeding school district election.

**SECTION 16. AMENDMENT.** Section 15.1-09-34 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-34. Contracts by school boards - Bids - Penalty.**

1. Except as provided in this section, the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than twenty-five thousand dollars unless the school board has given ten days' notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. This section does not apply to contracts for:
  - a. The personal services of district employees.
  - b. Textbooks and reference books.



- c. Articles not sold on the open market.
  - d. Patented, copyrighted, or exclusively sold devices or features required to match articles already in use.
  - e. Patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
  - f. Building construction projects under chapters 48-01.1 and 48-02.
  - g. School transportation services purchased under section 15.1-30-11.
  - h. Vehicle fuel purchased under section 17 of this Act.
  - i. Heating fuel purchased under section 17 of this Act.
  - j. The purchase of a used motor vehicle, including a schoolbus, motorbus, or van, intended primarily for the transportation of students.
2. For purposes of this section, a "used motor vehicle" means a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of eighteen thousand miles [28967 kilometers].
  3. A board member who participates in a violation of this section is guilty of a class B misdemeanor.

**SECTION 17.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**Vehicle and heating fuel - Purchases.** At least once each year, the board of a school district shall publish in the official newspaper of the district information regarding the registration of vehicle fuel vendors and heating fuel vendors. Except as otherwise provided in this section, the board shall purchase vehicle fuel and heating fuel only after seeking written quotes from all vendors who registered with the district for that school year.

**SECTION 18. AMENDMENT.** Section 15.1-09-50 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-50. Board of education of city of Fargo - Powers.** In addition to the powers granted to all school boards by section ~~15.1-09-32~~ 15.1-09-33, the board of education of the city of Fargo has the power and duty:

1. To organize, establish, and maintain schools in the city and to change and discontinue the schools; and to liquidate the assets of discontinued schools outside the district boundaries, as authorized by the state board of public school education.

2. To lease houses or rooms for school purposes, lease lots or sites for schools, and fence real property.
3. To build, enlarge, alter, improve, and repair schools and appurtenances upon lots or sites now owned or leased for school purposes.
4. To provide, sell, exchange, improve, and repair school apparatus, books for indigent students, and appendages.
5. To provide fuel and other supplies for the schools.
6. To have the custody and safekeeping of the schools, books, furniture, and appurtenances and to see that local ordinances regarding schools are observed.
7. To compensate teachers out of the money appropriated and provided by law for the support of the public schools in the city so far as the same is sufficient, and to pay any remainder due from the money raised as authorized by this chapter.
8. To have the control and management of the public schools of the city and from time to time adopt rules for their good order, prosperity, and utility.
9. To prepare and report to the mayor and the city council ordinances and regulations necessary for the protection, safekeeping, and care of the schools, lots, sites, and appurtenances and all the property belonging to the city, connected with and appertaining to the schools, and to suggest proper penalties for the violation of ordinances and regulations.

**SECTION 19. AMENDMENT.** Subsection 9 of section 15.1-12-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. To become effective, a reorganization plan must meet all statutory requirements and must receive approval by both the state board and a majority of electors residing within ~~the boundaries of the proposed new~~ each school district.

**SECTION 20. AMENDMENT.** Section 15.1-19-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-19-09. Students - Suspension and expulsion - Rules.**

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules must provide for a procedural due process hearing ~~that allows a~~ before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the hearing.

2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct, ~~or for violating a school district weapons policy~~; provided the expulsion does not last beyond the termination of the current school year.

**SECTION 21.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Alcohol or controlled substance - Use or possession by student - Notification of principal.** If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

**SECTION 22. AMENDMENT.** Subsection 7 of section 21-03-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. The governing body of any public school district may also by resolution adopted by a two-thirds vote dedicate the tax levies as authorized by section ~~15-51-11,~~ ~~45-51-13~~ 15.1-09-47, 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public school buildings or for the construction or improvement of a project pursuant to chapter 15-60. The initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper of the school district, and any owner of taxable property within the school district may, within sixty days after publication, file with the business manager of the school district a protest

against the adoption of the resolution. Protests must be in writing and must describe the property that is the subject of the protest. If the governing body finds the protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the school district, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

**SECTION 23. AMENDMENT.** Section 21-06-12 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**21-06-12. Use of public funds or property for nonprofit education foundations - Public purposes.** Any school district ~~established under chapter 15-47 or a board of education established under chapter 15-54~~ may provide use of public property or in-kind services of personnel to participate in the creation and administration of nonprofit public school education foundations, subject to an annual audit, to receive, manage, invest, and distribute funds or property provided to the foundation by private, or nonschool district governmental entities, if such foundations are established to enhance the mission of the school district by providing facilities or services for recognition of staff and students that are not normally available through the funding of the school district, to administer funds received for education scholarships or endowments established by other entities, to encourage elementary, secondary, and postsecondary education, and to assist in raising, adding, investing, and distributing funds and earnings according to guidelines established by the foundation. The records of a foundation are not subject to audit under section 54-10-14.

**SECTION 24. AMENDMENT.** Section 25-01.2-13 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-13. Education.** Every developmentally disabled child is entitled to a free and appropriate education in the least restrictive appropriate setting in accordance with chapter ~~45-59~~ 15.1-32.

**SECTION 25. AMENDMENT.** Section 34-07-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**34-07-02. Certificate of employment required - Inspection - List of minors employed to be kept.** A minor fourteen or fifteen years of age may not be employed or permitted to work in any occupation except farm labor, domestic service, or in the employment

1 of, and under the direct supervision of, the minor's parent or guardian unless the minor is  
2 exempt from compulsory school attendance under subdivisions b, c, and d of subsection 2, 3,  
3 ~~or 4 1 of section 15-34.1-03~~ 15.1-20-02 or, unless the minor has an employment certificate  
4 signed by the minor's parent or guardian in accordance with the provisions of this chapter. Any  
5 person, firm, corporation, or limited liability company employing a minor must keep on file a  
6 completed employment certificate, for each minor, as provided in this chapter. The employment  
7 certificate must be accessible to inspection by the principal of the school which the minor  
8 attends, a principal in the municipality in which the minor resides, or the labor commissioner or  
9 the commissioner's agent or representative.

10 **SECTION 26. AMENDMENT.** Section 34-07-15 of the 1999 Supplement to the North  
11 Dakota Century Code is amended and reenacted as follows:

12 **34-07-15. Maximum hours of labor of minors fourteen or fifteen years of age -**  
13 **Notice to be posted.** A minor fourteen or fifteen years of age may not be employed or  
14 permitted to work at any occupation, except in domestic services and at farm labor, before the  
15 hour of seven a.m. nor after the hour of seven p.m., except that these hours are seven a.m. to  
16 nine p.m. from June first through labor day, nor more than eighteen hours during schoolweeks,  
17 nor more than three hours on schooldays, nor more than forty hours during nonschoolweeks,  
18 nor more than eight hours on nonschooldays. A schoolweek is considered to be any week  
19 Monday through Sunday in which a youth is required to be in attendance, for any period of time,  
20 four or more days. Provided, however, that the limitations restricting hours of work during  
21 schoolweeks and schooldays do not apply to minors who are not attending school because they  
22 are excepted from compulsory school attendance by subdivisions b, c, and d of subsection 2, 3,  
23 ~~or 4 1 of section 15-34.1-03~~ 15.1-20-02. Every employer shall post in a conspicuous place  
24 where minors are employed, a printed notice stating the hours of work required of the minors  
25 each day of the week, the hours of commencing and stopping work, and the hours allowed for  
26 dinner or other meals. The printed form of the notice must be furnished by the labor  
27 commissioner. The employment of any minor for a longer period than that stated in the notice  
28 is a violation of this chapter.

29 **SECTION 27. AMENDMENT.** Subsection 5 of section 50-11.1-02 of the North Dakota  
30 Century Code is amended and reenacted as follows:

- 1           5. "Early childhood services" means the care, supervision, education, or guidance of  
2           a child or children, unaccompanied by the child's parent, guardian, or custodian,  
3           which is provided in exchange for money, goods, or other services and is, or is  
4           anticipated to be, ongoing for periods of two or more hours per day for a part of  
5           three or more days per week. Early childhood services does not include:
- 6           a. Substitute parental child care provided pursuant to chapter 50-11.
  - 7           b. Child care provided in any educational facility, whether public or private, in  
8           grade one or above.
  - 9           c. Child care provided in a kindergarten which has been established pursuant to  
10           chapter ~~45-45~~ 15.1-22 or a nonpublic elementary school program approved  
11           pursuant to subsection 1 of section ~~45-34.1-03~~ 15.1-06-06.
  - 12           d. Child care provided to preschool age handicapped children in any educational  
13           facility through a program approved by the superintendent of public  
14           instruction.
  - 15           e. Child care provided in facilities operated in connection with a church,  
16           shopping center, business, or other establishment where children are cared  
17           for during periods of time not exceeding four continuous hours while the  
18           child's parent, guardian, or custodian is attending church services, shopping,  
19           or engaged in other activities, other than employment, on or near the  
20           premises.
  - 21           f. Schools or classes for religious instruction conducted by religious orders  
22           during the summer months for not more than two weeks, Sunday schools,  
23           weekly catechism, or other classes for religious instruction.
  - 24           g. Summer resident or day camps for children which serve no preschool age  
25           children for more than two weeks.
  - 26           h. Sporting events, practices for sporting events, or sporting or physical activities  
27           conducted under the supervision of an adult.
  - 28           i. Headstart programs that are federally funded and meet federal headstart  
29           standards.
  - 30           j. Child care provided by a hospital by medical personnel within the physical  
31           structure of the hospital to children who are ill.

1           **SECTION 28. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the 1999  
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, ~~45-38-17~~ 15.1-13-02, 15-39.1-05.1, 15.1-01-01, 15.1-05-02,  
5           20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, 50-06.1-16,  
6           54-34.3-10, 54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of  
7           the following boards and commissions must, subject to the limitations of this  
8           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 29. AMENDMENT.** Section 54-23.2-04.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-23.2-04.2. School enrollment procedures to aid identification and location of missing children.**

1. When a child enrolls in a public or nonpublic school, licensed day care facility, ~~home-based instruction~~ home education, licensed day care center, licensed child care facility, headstart program, or nursery school for the first time, the school, licensed day care facility, headstart program, or school superintendent of the jurisdiction shall:
  - a. Require the child's parent, guardian, or legal custodian to present to the school, licensed day care facility, or school superintendent of the jurisdiction, within forty days of enrollment, proof of identity of the child; and
  - b. Request the appropriate school records for the child from the previous school attended by the child. The school enrolling the child shall make the request within thirty days of enrollment of the child.
2. If a child's parent, guardian, or legal custodian does not present the proof of identity required in subsection 1 within forty days of enrollment or if the school does not receive the school records of the child within sixty days of enrollment, the school, licensed day care facility, or school superintendent of the jurisdiction shall notify the missing person information program provided in section 54-23.2-04.1 and a local law enforcement authority that no proof of identity has been presented for the child.
3. A school shall transfer records or proof of identity of a child within ten calendar days upon receipt of request.
4. When a school, licensed day care facility, or school superintendent receives a notice from a law enforcement authority, parent, guardian, or legal custodian that a



child who is or has been enrolled in that school or facility has been reported as a missing child, the school, licensed day care facility, or school superintendent shall:

- a. Flag the records of the child; and
- b. Notify the missing person information program provided in section 54-23.2-04.1 and a local law enforcement authority if a request for school records is received from any source.

5. When the division of vital records of the state department of health receives a notice from a law enforcement authority that a person is reported as missing, the division of vital records shall:

- a. Flag the records of the individual; and
- b. Notify the missing person information program provided in section 54-23.2-04.1 and a local law enforcement authority if a request for records is received from any source.

6. If it is necessary for law enforcement authorities to conduct an investigation on a missing child, school or day care personnel may not inform the person claiming custody of the child of the investigation while it is being conducted.

7. For purposes of this section:

- a. "Flag the records" means marking the division of vital records, school, day care, or ~~home-based instruction~~ home education records in such a manner that any personnel viewing that record will be automatically alerted that the child or individual has been reported as missing.
- b. ~~"Home-based instruction" means as applied in chapter 15-34.1.~~ "Home education" means a program of education supervised by a child's parent, in the child's home, in accordance with the requirements of chapter 15.1-23.
- c. "Proof of identity" means a certified copy of a birth certificate, a certified transcript, or similar student records from the previous school, or any other documentary evidence the school, licensed day care facility, or school superintendent considers appropriate proof of identity.
- d. "School" or "licensed day care facility" means all elementary and secondary schools, licensed day care centers, licensed child care facilities, headstart programs, and nursery schools whether public or nonpublic.

**SECTION 30. AMENDMENT.** Section 57-15-14 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-14. Tax levy limitations in school districts.** The aggregate amount levied each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo school district, may not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of one hundred eighty-five mills on the dollar of the taxable 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 qualified electors voting upon the question at any regular or special school district election.
  - b. There is 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 qualified 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, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.
3. In any school district in which the total assessed valuation of property has increased twenty percent or more over the prior year and in which as a result of that increase the school district is entitled to less in state ~~foundation~~ aid payments provided in ~~sections 15-40.1-06 through 15-40.1-08~~ chapter 15.1-27 because of the deduction required in ~~subsection 3 of section 15-40.1-06~~ 15.1-27-05, there may be levied any specific number of mills more in dollars than was levied in the prior year up to a general fund levy of one hundred eighty-five mills on the dollar of the taxable valuation of the school district. The additional levy authorized by this subsection may be levied for not more than two years because of any twenty percent or greater annual increase in assessed valuation. The total amount of

revenue generated in excess of the eighteen percent increase which is otherwise permitted by this section may not exceed the amount of state aid payments lost as a result of applying the deduction provided in ~~subsection 3 of section 15-40.1-06~~ 15.1-27-05 to the increased assessed valuation of the school district in a one-year period.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district must be submitted to the qualified electors 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 qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census is required. However, not fewer than twenty-five signatures are required unless the district has fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority does not affect the tax levy in the calendar year in which the election is held. The election must 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 31. AMENDMENT.** Section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-14.2. Mill levies requiring board action - Proceeds to general fund account.**

1. A school board of any school district may levy an amount sufficient to cover general expenses including the costs of the following:
  - a. Board and lodging for high school students as provided in ~~section 15-34.2-06~~ 15.1-30-04.
  - b. The teachers' retirement fund as provided in section 15-39.1-28.
  - c. Tuition for students in grades seven through twelve as provided in ~~section 15-40.2-12~~ 15.1-29-15.

- 1 d. Special education program as provided in section ~~15-59-08~~ 15.1-32-20.
- 2 e. The establishment and maintenance of an insurance reserve fund for
- 3 insurance purposes as provided in section 32-12.1-08.
- 4 f. A final judgment obtained against a school district.
- 5 g. The district's share of contribution to the old-age survivors' fund and matching
- 6 contribution for the social security fund as provided by chapter 52-09 and to
- 7 provide the district's share of contribution to the old-age survivors' fund and
- 8 matching contribution for the social security fund for contracted employees of
- 9 a multidistrict special education board.
- 10 h. The rental or leasing of buildings, property, or classroom space. Minimum
- 11 state standards for health and safety applicable to school building
- 12 construction shall apply to any rented or leased buildings, property, or
- 13 classroom space.
- 14 i. Unemployment compensation benefits.
- 15 j. The removal of asbestos substances from school buildings or the abatement
- 16 of asbestos substances in school buildings under any method approved by
- 17 the United States environmental protection agency and any repair,
- 18 replacement, or remodeling that results from such removal or abatement, any
- 19 remodeling required to meet specifications set by the Americans with
- 20 Disabilities Act accessibility guidelines for buildings and facilities as contained
- 21 in the appendix to 28 CFR 36, any remodeling required to meet requirements
- 22 set by the state fire marshal during the inspection of a public school, and for
- 23 providing an alternative education program as provided in section 57-15-17.1.
- 24 k. Participating in cooperative vocational education programs approved by the
- 25 state board.
- 26 l. Maintaining a vocational education program approved by the state board and
- 27 established only for that school district.
- 28 m. Paying the cost of purchasing, contracting, operating, and maintaining
- 29 schoolbuses.
- 30 n. Establishing and maintaining school library services.

- o. Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.
- p. Establishing 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.
- q. Establishing, maintaining, and conducting a public recreation system.
- r. The district's share of contribution to finance an interdistrict cooperative agreement authorized by section ~~15-47-40.4~~ 15.1-09-40.

2. This limitation does not apply to mill levies pursuant to subdivisions a, c, f, and j of subsection 1. If a school district maintained a levy to finance either its participation in a cooperative vocational education program or its sponsorship of single-district vocational education programs prior to July 1, 1983, and the district discontinues its participation in or sponsorship of those vocational education programs, that district must reduce the proposed aggregated expenditure amount for which its general fund levy is used by the dollar amount raised by its prior levy for the funding of those programs.

3. All proceeds of any levy established pursuant to this section must be placed in the school district's general fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied. Proceeds from levies established pursuant to this section and funds provided to school districts pursuant to chapter ~~15-40.4~~ 15.1-27 may not be transferred to the building fund within the school district.

**SECTION 32. AMENDMENT.** Section 57-15-55.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-55.1. City tax levy for transportation of public school students.** The governing body of any city, upon approval by a majority vote of the qualified electors of the city voting on the question at any citywide election, may annually levy a tax on the taxable valuation of property within the city to provide funds for fees charged by a school district pursuant to section ~~15-34.2-06.4~~ 15.1-30-05 for transportation for public school students who reside in the city but who attend school in another city in the same school district. A city levying a tax

pursuant to this section may levy only so much as will be required to provide an amount representing the difference between the estimated state transportation payment to be received by the school district on behalf of students residing in the city but attending school outside of the city and the estimated actual cost to be incurred by the district in providing transportation for those students.

**SECTION 33. AMENDMENT.** Section 57-16-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-16-04. Increase may be for five years - Extension - Discontinuance.** The governing board of the school district may submit the question of authorizing an excess levy for the current year and not to exceed four succeeding years. The notice of election must give the year or years for which authorization is sought for an excess levy as well as the percentage of excess which is to be voted upon. Prior to the termination of the excess levy, such levy may be extended for a term not to exceed the original term of the increase upon the unanimous approval by the governing board of the school district, and further extensions may be made for the same number of years prior to each termination date upon the unanimous approval of the governing board of the school district. The question of discontinuing such extended excess levy in any school district must be submitted to the qualified electors at the next regular election upon the filing with the school board of a petition containing the signatures of not less than ten percent of the qualified 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 such extended excess levy does not affect the tax levy in the calendar year in which the election is held. The election must be held in the same manner and subject to the same conditions as provided in section ~~15-27-3-08~~ 15.1-12-11 for elections for approval of school district reorganization proposals.

**SECTION 34. AMENDMENT.** Section 57-51.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-08. Intent.** It is the intent of the electors of the state of North Dakota and the legislative assembly to fund public elementary and secondary education in North Dakota at the level of seventy percent of the educational cost per student, as determined under the provisions of chapter ~~15-40-1~~ 15.1-27, to provide funds for the developmental center at westwood park, Grafton, and to provide for water development and utilization and energy conservation and

development programs by enactment of an excise tax to be known as the "oil extraction tax" and enactment of an income tax credit.

The legislative assembly has determined that many areas within the state of North Dakota do not have adequate water supplies for municipal, domestic, livestock, light industrial, and other uses. However, adequate water supplies are essential for the social and economic stability of municipalities and rural areas. It is, therefore, declared to be in the best interest of the people of the state of North Dakota to establish a resources trust fund to be used to construct, or assist in the construction of, multiple-use water supply facilities. The legislative assembly also recognizes that appropriate planning to meet current and long-range water needs for the benefit of all of the citizens of the state of North Dakota is a matter of concern and high priority. The legislative assembly further intends that revenues, generated by use of any facilities constructed, in whole or in part, with financing from the resources trust fund, shall be deposited in the resources trust fund.

**SECTION 35. AMENDMENT.** Subsection 1 of section 57-62-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Fifteen percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 13, chapter 626, 1979 Session Laws must also be deposited in the trust fund created pursuant to this subsection. The fund must be held in trust and administered by the board of university and school lands for loans to coal impacted counties, cities, and school districts as provided in section 57-62-03 and for loans to school districts pursuant to chapter ~~45-60~~ 15.1-36. The board of university and school lands may invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from the trust must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the state's general fund. Loan principal payments must be redeposited in the trust fund. The trust fund must be perpetual and held in trust as a replacement for

- 1                   depleted natural resources subject to the provisions of this chapter and chapter  
2                   ~~15-60~~ 15.1-36.
- 3                   **SECTION 36. REPEAL.** Sections 15.1-07-22 and 15.1-09-37 of the North Dakota  
4                   Century Code are repealed.