

# EDUCATION

## CHAPTER 157

### HOUSE BILL NO. 1336

(Representative F. Klein)

(Senator Dever)

## STARK COUNTY FAIRGROUNDS REVISION ELIMINATED

AN ACT to repeal section 2 of chapter 188 of the 1987 Session Laws, relating to reversion of property not used as a fairgrounds in Stark County.

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

**SECTION 1. REPEAL.** Section 2 of chapter 188 of the 1987 Session Laws is repealed.

Approved March 26, 2001

Filed March 26, 2001

## CHAPTER 158

### HOUSE BILL NO. 1074

(Natural Resources Committee)

(At the request of the Board of University and School Lands)

## LANDS AND MINERALS TRUST FUND TRANSFER

AN ACT to provide for the transfer of certain mineral interests to the lands and minerals trust fund.

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

**SECTION 1. Board of university and school lands - Transfer 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.

Approved March 20, 2001

Filed March 20, 2001

## CHAPTER 159

### SENATE BILL NO. 2041

(Legislative Council)  
(Higher Education Committee)

### HIGHER EDUCATION STRATEGIC PLAN

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the North Dakota university system; and to amend and reenact section 15-10-14.2 of the North Dakota Century Code, relating to the higher education system strategic plan.

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

**SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**North Dakota university system - Unified system of higher education.**

The institutions of higher education under the control of the state board of higher education are a unified system of higher education, as established by the board, and are designated as the North Dakota university system.

**SECTION 2. AMENDMENT.** Section 15-10-14.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-14.2. Higher education system review - Plan - Report to legislative council strategic plan - Reports.**

1. ~~In 2002, and every six years thereafter, the~~ The state board of higher education shall ~~report to the legislative council and the governor on the status of the~~ adopt a strategic planning process and develop a strategic plan to define and prioritize university system, including the long-term goals and objectives that will best serve the citizens of this state. The board shall provide an annual performance and accountability report regarding performance and progress toward the goals outlined in the university system's strategic plan and accountability measures.
2. ~~During each year, except those years when reports are required by subsection 1,~~ the state board of higher education shall:
  - a. ~~Prioritize the long-term goals, including defining and meeting student and institutional expectations regarding teaching and learning, the curriculum, the quality of campus life, and educational services;~~
  - b. ~~Develop specific directions for the pursuit of the goals given priority;~~
  - c. ~~Develop measurable criteria in order to determine the rate of progress toward achieving the goals given priority; and~~
  - d. ~~Develop specific timelines within which the goals given priority must be attained.~~

3. In 2003, and every six years thereafter, the state board of higher education shall report to the legislative council and the governor and present the directions, criteria, and timelines the board developed in accordance with subsection 2.
4. The state board of higher education shall also present to the legislative council and the governor options for generating within the university system the revenues needed to ensure attainment of the goals given priority.
5. The state board of higher education shall report to the legislative council and the governor at least once assembly during each year, except those years when reports are required by subsections 1 and 3, and shall present a progress report regarding its goals and objectives, together with any other information requested by the legislative council or the governor regular legislative session regarding the status of higher education in this state.

Approved April 24, 2001  
Filed April 24, 2001

## CHAPTER 160

### SENATE BILL NO. 2039

(Legislative Council)  
(Higher Education Committee)

### CAPITAL PROJECT APPROVAL

AN ACT to amend and reenact section 15-10-12.1 of the North Dakota Century Code, relating to legislative approval of capital improvement projects financed by donations, gifts, grants, and bequests.

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

**SECTION 1. AMENDMENT.** Section 15-10-12.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-12.1. Acceptance of buildings and campus improvements - Legislative approval.** The state board of higher education may ~~not~~ authorize ~~the construction of buildings and campus improvements and building maintenance~~ on land under the control of the board which are financed by donations, gifts, grants, and bequests ~~without the consent of the legislative assembly~~ if the cost of the improvement or building maintenance is not more than three hundred eighty-five thousand dollars. The consent of the legislative assembly is required for construction of any building financed by donations, gifts, grants, and bequests and for campus improvements or building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvements or maintenance is more than three hundred eighty-five thousand dollars. During the time the legislative assembly is not in session, except for the six months preceding the convening of a regular session, and unless otherwise restricted by previous legislative action or other law, the state board of higher education, with the approval of the budget section of the legislative council, may authorize the use of land under the control of the board and construct buildings and campus improvements thereon which are financed by donations, gifts, grants, and bequests and campus improvements and building maintenance financed by donations, gifts, grants, and bequests and if the cost of the improvement or maintenance is more than three hundred eighty-five thousand dollars. The budget section approval must include a specific dollar limit for each building or campus improvement project, or maintenance project. The budget section may establish guidelines regarding the types of gifts for minor improvements which do not require the approval of the budget section based upon the financial impact of such construction projects upon the state of North Dakota. The state board of higher education, ~~with the approval of the budget section,~~ may authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. ~~The budget section may~~ board shall prescribe such conditions for the sale of the property as it determines necessary, ~~including.~~ The conditions must include requiring an appraisal and the public auction or advertisement for bids, unless the gift instrument requires a different process. If the state board of higher education submits a request for campus improvements, building maintenance, or to construct buildings under this section to the budget section for approval, the legislative council shall notify each member of the legislative assembly of the date of the budget section meeting at which the request will be considered and provide a copy of the meeting agenda to each

member of the legislative assembly. The chairman of the budget section shall allow any member of the legislative assembly an opportunity to present testimony to the budget section regarding any such request.

Approved April 23, 2001

Filed April 23, 2001

## CHAPTER 161

### HOUSE BILL NO. 1046

(Legislative Council)

(Education Services Committee)

### EDUCATION LAW REVISIONS

AN ACT to create and enact two new sections to chapter 15-10, a new section to chapter 15.1-09, and a new section to chapter 15.1-19 of the North Dakota Century Code, relating to oaths by faculty members, vehicle and heating fuel purchases, and student usage of alcohol or controlled substances; to amend and reenact subsection 1 of section 6-09.4-23, 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, subsection 2 of section 15.1-09-01, subsection 4 of section 15.1-09-05, sections 15.1-09-25, 15.1-09-26, 15.1-09-31, 15.1-09-34, 15.1-09-44, and 15.1-09-50, subsection 9 of section 15.1-12-10, section 15.1-19-09, subsection 7 of section 21-03-07, sections 21-06-12, 25-01.2-13, 34-07-02, and 34-07-15, subsection 5 of section 50-11.1-02, subsection 1 of section 54-07-01.2, sections 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 section 57-62-02 of the North Dakota Century Code, relating to evidences of indebtedness, correspondence courses, school admission, school district petitions, school district contracts, schoolbuses, military installation school districts, school board member oaths, school board size, school board minutes, fuel purchases, school board powers, reorganization, bond issuances, labor by minors, early childhood services, boards and commissions, vital records, educational foundations, special education, mill levies, education funding, and the coal development trust fund; and to repeal sections 15.1-07-22 and 15.1-09-37 of the North Dakota Century Code, relating to oaths of school district business managers and fees.

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

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

1. If the municipal bond bank or a paying agent notifies the superintendent of public instruction, in writing, that a school district has failed to pay when due the principal 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 ~~15-40.4~~ 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 ~~15-40.4~~ 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 support the institutions and policies of the United States during the period of the individual's employment within the state.

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

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

1. A complete curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, must be maintained upon the campus of one of the state institutions of higher education by the state board of public school education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, or as provided in subsection 6 all ~~pupils~~ students under the age of sixteen taking advantage of the provisions of this chapter must be required to attend their local district schools and to study their correspondence lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at a place designated by the state director in accordance with



the rules of the state board of public school education. If in attendance at a local school, ~~pupils~~ students must be supplied with desk space in their respective school without charge and shall attend school regularly and be under the same disciplinary supervision of the teachers as the other school ~~pupils~~ students.

3. The division of independent study may provide services to persons who are not North Dakota residents.
4. The correspondence work must be completed in accordance with the rules established by the state board of public school education.
5. Correspondence ~~pupils~~ students shall pay for books and materials used by them, postage required to mail reports to the division, and other fees as may be 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;

- b. The child may not enroll in kindergarten unless the child reaches the age of five before September first of the year of enrollment; and
    - c. The child has not reached the age of twenty-one before September first of the year of enrollment.
  2. Notwithstanding the provisions of subsection 1, a school district may not enroll in grade one a child who is not six years old before September first, unless the child will be six years old before January first and:
    - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate special talents or abilities; or
    - b. The child has completed an approved kindergarten program.
  3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before September first unless the child will be five years old before January first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate special talents or abilities.

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

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

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

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

1. The board of a school district may by resolution place on the ballot of any regular or special election the question of increasing the district's limit of indebtedness, beyond that fixed by the constitution, by five percent of the assessed valuation of all taxable property in the district.
2. The board of a school district shall place on the ballot of the next regular or special election the question of increasing the district's limit of indebtedness, beyond that fixed by the constitution, by five percent of the assessed valuation of all taxable property in the district, if the board receives a petition requesting the increase and signed by ~~at least one-third of the district's~~ at least one-third of the district's qualified electors of the district equal in number

to at least one-third of those who voted at the most recent annual school district election.

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

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

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

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

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

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

<sup>72</sup> **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

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<sup>72</sup> Section 15.1-09-25 was also amended by section 4 of House Bill No. 1335, chapter 179.

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 15.1-09-44 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-44. Schoolbuses - Use of nonprofit organizations.** The board of a school district may make a schoolbus available to a nonprofit organization for use in conjunction with the organization's activities. The board shall negotiate the terms of usage with the organization. The terms must address rental charges and insurance coverage. The driver of a schoolbus used by a nonprofit organization under this section must satisfy the requirements for a schoolbus driver set forth in section ~~45.1-07-24~~ 15.1-07-20.

**SECTION 19. 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.

<sup>73</sup> **SECTION 20. 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 21. 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 22.** 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.

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<sup>73</sup> Section 15.1-12-10 was also amended by section 4 of Senate Bill No. 2148, chapter 172.

**SECTION 23. 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 ~~45-51-11~~, ~~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 24. 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 45-47 or a board of education established under chapter 45-51~~ 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 25. 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 26. 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 of, and under the direct supervision of, the minor's parent or guardian unless the minor is exempt from compulsory school attendance under subdivisions b, c, and d of subsection 2, 3, or 4 1 of section 15-34.1-03 15.1-20-02 or, unless the minor has an employment certificate signed by the minor's parent or guardian in accordance with the provisions of this chapter. Any person, firm, corporation, or limited liability company employing a minor must keep on file a completed employment certificate, for each minor, as provided in this chapter. The employment certificate must be accessible to inspection by the principal of the school which the minor attends, a principal in the municipality in which the minor resides, or the labor commissioner or the commissioner's agent or representative.

**SECTION 27. AMENDMENT.** Section 34-07-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 28. AMENDMENT.** Subsection 5 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

5. "Early childhood services" means the care, supervision, education, or guidance of a child or children, unaccompanied by the child's parent, guardian, or custodian, which is provided in exchange for money, goods, or other services and is, or is anticipated to be, ongoing for periods of two or more hours per day for a part of three or more days per week. Early childhood services does not include:
  - a. Substitute parental child care provided pursuant to chapter 50-11.
  - b. Child care provided in any educational facility, whether public or private, in grade one or above.
  - c. Child care provided in a kindergarten which has been established pursuant to chapter ~~15-45~~ 15.1-22 or a nonpublic elementary school program approved pursuant to subsection 1 of section ~~15-34.1-03~~ 15.1-06-06.

- d. Child care provided to preschool age handicapped children in any educational facility through a program approved by the superintendent of public instruction.
- e. Child care provided in facilities operated in connection with a church, shopping center, business, or other establishment where children are cared for during periods of time not exceeding four continuous hours while the child's parent, guardian, or custodian is attending church services, shopping, or engaged in other activities, other than employment, on or near the premises.
- f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
- g. Summer resident or day camps for children which serve no preschool age children for more than two weeks.
- h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
- i. Headstart programs that are federally funded and meet federal headstart standards.
- j. Child care provided by a hospital by medical personnel within the physical structure of the hospital to children who are ill.

<sup>74</sup> **SECTION 29. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, ~~15-38-17~~ 15.1-13-02, 15-39.1-05.1, 15.1-01-01, 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, 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 members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
  - a. The aeronautics commission.
  - b. The milk marketing board.
  - c. The dairy promotion commission.
  - d. The state banking board.

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<sup>74</sup> Section 54-07-01.2 was also amended by section 5 of Senate Bill No. 2251, chapter 501, and section 13 of Senate Bill No. 2424, chapter 503.

- e. The state credit union board.
- f. The advisory board of directors to the Bank of North Dakota.
- g. The pardon advisory board.
- h. The state parole board.
- i. The state board of public school education.
- j. The education standards and practices board and the administrator's professional practices board.
- k. The board of trustees for the teachers' fund for retirement.
- l. The educational telecommunications council.
- m. The state game and fish advisory board.
- n. The health council.
- o. The air pollution control advisory council.
- p. The board of animal health.
- q. The administrative committee on veterans' affairs.
- r. The committee on aging.
- s. The committee on employment of people with disabilities.
- t. The commission on the status of women.
- 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 30. 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 31. 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 32. 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.
  - d. Special education program as provided in section ~~15-59-08~~ 15.1-32-20.
  - e. The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.
  - f. A final judgment obtained against a school district.
  - g. The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the

social security fund for contracted employees of a multidistrict special education board.

- h. The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.
  - i. Unemployment compensation benefits.
  - j. The removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any method approved by the United States environmental protection agency and any repair, replacement, or remodeling that results from such removal or abatement, any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36, any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school, and for providing an alternative education program as provided in section 57-15-17.1.
  - k. Participating in cooperative vocational education programs approved by the state board.
  - l. Maintaining a vocational education program approved by the state board and established only for that school district.
  - m. Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.
  - 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 ~~15-47-40.1~~ 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 ~~45-40.4~~ 15.1-27 may not be transferred to the building fund within the school district.

**SECTION 33. 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 ~~45-34.2-06.4~~ 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 34. 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 ~~45-27.3-08~~ 15.1-12-11 for elections for approval of school district reorganization proposals.

**SECTION 35. 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 ~~45-40.4~~ 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.

<sup>75</sup> **SECTION 36. 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 depleted natural resources subject to the provisions of this chapter and chapter ~~45-60~~ 15.1-36.

**SECTION 37. REPEAL.** Sections 15.1-07-22 and 15.1-09-37 of the North Dakota Century Code are repealed.

Approved April 5, 2001  
Filed April 5, 2001

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<sup>75</sup> Section 57-62-02 was also amended by section 13 of Senate Bill No. 2299, chapter 535.

## CHAPTER 162

### SENATE BILL NO. 2042

(Legislative Council)  
(Higher Education Committee)

### BOARD OF HIGHER EDUCATION POWERS

AN ACT to amend and reenact sections 15-10-17, 15-11-15, 15-11-32, 15-11-35, 15-11-36, and 15-12-22 of the North Dakota Century Code, relating to the powers and duties of the state board of higher education, state mineral tests, the child welfare research bureau, the fetal alcohol syndrome center, and the economic feasibility institute; and to repeal sections 15-10-14, 15-10-15, 15-10-25, 15-11-03, 15-11-19, 15-11-27, 15-11-28, 15-11-34, 15-12-03, 15-12-04, and 15-13-04 and chapter 47-28 of the North Dakota Century Code, relating to university system faculty, accounts and records, budget requests, expenditure abstracts, patents, university presidents, the university law library, the university radio station, hockey admission receipts, and gifts and grants.

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

**SECTION 1. AMENDMENT.** Section 15-10-17 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-17. Specific powers and duties of the state board of higher education.** The state board of higher education has all the powers and shall perform all the duties necessary to the control and management of the institutions described in this chapter; ~~including~~. In addition to the powers and duties specified in section 6 of article VIII of the Constitution of North Dakota, the board may:

1.
  - a. ~~To appoint~~ Appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under its control, and to fix their salaries within the limits of legislative appropriations therefor, and to fix the terms of office and to prescribe the duties thereof, provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the ~~person or persons~~ individual involved ~~request requests~~ that the meeting ~~shall~~ be open to other ~~persons or individuals~~ or to the public.
  - b. Appoint and remove the commissioner of higher education, fix the commissioner's salary within the limits of legislative appropriations, and prescribe the commissioner's duties.
  - c. Appoint and remove all university system office personnel, fix their salaries within the limits of legislative appropriations, fix their terms of office, and prescribe their duties.
2. ~~To control the grounds, buildings, and all other property of such institutions, regulate the conduct of students, staff, faculty, and visitors, and authorize~~ Authorize the employment of law enforcement officers;

~~with~~ having concurrent jurisdiction with other law enforcement officers to enforce laws and regulations at its institutions.

3. To adopt rules and regulations for the government of each of the institutions and of all their departments and branches.
  4. To determine the qualifications of applicants for admission to the various courses of instruction, to prescribe by rule criteria for the admission of students, and to ensure that the criteria for admission are applied to all applicants in a uniform and nondiscriminatory manner, regardless of the school or educational setting from which an applicant obtained a high school diploma or its equivalent. No instruction, either sectarian in religion or partisan in politics, shall ever be allowed in any department of such institutions, and no sectarian or partisan test shall ever be allowed or exercised in the election of professors, teachers, or other officers of the institutions, or in the admission of students, or for any other purpose.
  5. To prescribe courses of instruction and to confer such degrees and grant such certificates or diplomas for the work done as are usual or appropriate in similar institutions.
  6. To delegate to institution officers and faculty the power to suspend or expel students for misconduct or for other causes prescribed in such bylaws.
  7. To provide for the needs and proper development of each institution in harmony with the best interests of the people of the state, and to improve higher and technical education in the state.
  8. To coordinate and correlate the work in the different institutions to prevent wasteful duplication and to develop cooperation among the institutions.
  9. To fix Set tuition and fees.
  10. To make recommendations in regard to needed legislation for the institutions under its control.
44. 4. a. To ~~establish~~ Establish a retirement program as an alternative to chapter 15-39.1 for university system employees of institutions ~~under its control~~ subject to the following guidelines:
- ~~a.~~ (1) Benefits under the program must be provided through annuity contracts purchased by the board but which become the property of the participants;
  - ~~b.~~ (2) The cost of the annuity contracts must be defrayed by contributions made pursuant to rules of the state board of higher education;
  - ~~c.~~ (3) Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates

then being paid by the Bank of North Dakota must be transferred to the employee's account in the alternate program. The election must be made before July 1, 1980, and shall relinquish all rights the eligible employee or the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2; and

- d. (4) ~~Employees of institutions under the control of the state board of higher education~~ the university system who are members of the public employees retirement system and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapter 54-52.

- b. ~~The board shall provide~~ Provide for the administration of the alternate retirement program and establish rules for the program consistent with this subsection. This subsection does not derogate any existing retirement programs approved by the board.

12. 5. ~~To determine~~ Determine policy for purchasing by the ~~institutions of higher education~~ university system in coordination with the office of management and budget as provided by law.

13. 6. ~~To establish~~ Establish by rule an early retirement program for faculty and officers of the board as defined by the board. The limitations on severance pay pursuant to section 54-14-04.3 and on requiring the employee to pay contributions to continue on the state uniform group insurance program upon retirement or upon termination of employment pursuant to section 54-52.1-03 ~~shall~~ do not apply to the early retirement program.

14. ~~7.~~ ~~To adopt~~ Adopt rules to protect the confidentiality of student records, medical records, and, consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial information.
15. ~~8.~~ ~~To authorize~~ Authorize and encourage ~~institutions of higher education under its control~~ university system entities to enter into partnerships, limited liability companies, joint ventures, or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer.
9. Adopt rules promoting research, encouraging development of intellectual property and other inventions and discoveries by university system employees, and protecting and marketing the inventions and discoveries. The rules must govern ownership or transfer of ownership rights and distribution of income that may be derived from an invention or discovery resulting from research or employment in the university system. The rules may provide for transfer of ownership rights or distribution of income to a private, nonprofit entity created for the support of the university system or one of its institutions.

**SECTION 2. AMENDMENT.** Section 15-11-15 of the North Dakota Century Code is amended and reenacted as follows:

**15-11-15. Tests of state mineral and other resources - Duty of state board of higher education - Bulletins published.** The state board of higher education shall provide at the university of North Dakota suitable means for experimentation and practical testing of the mineral and other allied resources of the state in order to demonstrate their fitness for mining and manufacturing industries. ~~The dean of the school of mines shall make, or cause to be made, as rapidly as may be, exhaustive and practical tests of all mineral and allied resources of the state. Investigations and practical tests must be made to obtain a cheap and efficient method of lignite coal briquetting and to show, by actual tests, the best methods of burning lignite, to determine the possibility of utilizing lignite as a gas producing material and for power and lighting, to determine the value of sandstones and other stones for building material, to test clays for tableware, earthenware, stoneware, sewer pipe, and other products, and to make practical tests of other resources as opportunity is afforded. Bulletins may be published from time to time by the school of mines announcing the progress and results of all tests and investigations and giving as much aid as possible relative to the best methods of mining, handling, treating, and manufacturing the various mineral products of the state. A biennial report must be issued.~~

**SECTION 3. AMENDMENT.** Section 15-11-32 of the North Dakota Century Code is amended and reenacted as follows:

**15-11-32. Child welfare research bureau - Establishment - Director.**

4. ~~A child welfare research bureau is hereby established to.~~ The bureau must be administered and funded by and in conjunction with the university of North Dakota.
2. ~~A~~ The university shall appoint a director must be appointed by the university. The director shall manage the bureau, hire necessary personnel, and prepare a biennial budget. The university shall fix the

salaries of the director and bureau personnel, and may remove the director for cause.

**SECTION 4. AMENDMENT.** Section 15-11-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-11-35. Fetal alcohol syndrome center established.**

1. There is established in the department of neuroscience at the university of North Dakota school of medicine a fetal alcohol syndrome center.
2. The state board of higher education shall appoint a ~~person from the department of neuroscience~~ as director of the fetal alcohol syndrome program ~~and that person.~~ The director shall prepare an annual report on the status of fetal alcohol syndrome in North Dakota.
3. The fetal alcohol syndrome center shall develop prevention activities in groups that are at high risk for fetal alcohol syndrome. The center may enlist the aid of other agencies, persons, or organizations in its activities.
4. The responsibilities of the fetal alcohol syndrome program include:
  4. a. ~~To develop~~ Developing incidence and prevalence data on fetal alcohol syndrome in this state.
  2. b. ~~To conduct~~ Conducting research on prevention and management of fetal alcohol syndrome and maternal alcohol ingestion during pregnancy.
  3. c. ~~To develop~~ Developing a center for the evaluation of children with fetal alcohol syndrome from this state in cooperation with the child evaluation and treatment program at the ~~medical center rehabilitation hospital~~ at the university of North Dakota medical center and ~~to operate~~ operating followup clinics as funding allows.
  4. d. ~~To provide~~ Providing consultation and training across the state on fetal alcohol syndrome.
  5. e. ~~To conduct~~ Conducting other activities as may be directed by a state fetal alcohol syndrome task force.
5. The fetal alcohol syndrome center shall coordinate a study of the prevalence of fetal alcohol syndrome in school-age children in this state. The study must review the prevalence of fetal alcohol syndrome in both rural and urban North Dakota communities, including North Dakota Indian reservations.

**SECTION 5. AMENDMENT.** Section 15-11-36 of the North Dakota Century Code is amended and reenacted as follows:

**15-11-36. Evaluation of children with fetal alcohol syndrome.** The child evaluation and treatment program at the university of North Dakota medical center ~~rehabilitation hospital~~ shall develop a clinic to provide both initial diagnostic assessment and reevaluation of children with fetal alcohol syndrome. The diagnostic assessment must include a comprehensive multidisciplinary assessment of

psychological, speech and language, educational, occupational therapy, physical therapy, optometric, and audiological evaluations. Reevaluations must be individualized according to a child's needs. The center shall provide consultative services to schools, community agencies, and parents to assist in serving children diagnosed with fetal alcohol syndrome.

**SECTION 6. AMENDMENT.** Section 15-12-22 of the North Dakota Century Code is amended and reenacted as follows:

**15-12-22. Economic feasibility institute - Establishment - Director.**

- 1- ~~An~~ There is established an economic feasibility institute ~~is established~~ to be administered in conjunction with North Dakota state university of agriculture and applied science.
- 2- The university shall appoint a director of the economic feasibility institute. ~~However, the university shall appoint as the institute's first director the functioning professor in charge of the existing economic feasibility unit within the agricultural economics department of North Dakota state university of agriculture and applied science. The director shall manage the institute, hire and compensate necessary personnel within the limits of legislative appropriations and other funding sources, and prepare a biennial budget. The university shall fix the salary of the director, within the limits of legislative appropriations, and may remove the director for cause.~~

**SECTION 7. REPEAL.** Sections 15-10-14, 15-10-15, 15-10-25, 15-11-03, 15-11-19, 15-11-27, 15-11-28, 15-11-34, 15-12-03, 15-12-04, and 15-13-04 and chapter 47-28 of the North Dakota Century Code are repealed.

Approved April 24, 2001  
Filed April 24, 2001

## CHAPTER 163

### SENATE BILL NO. 2137

(Appropriations Committee)

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

## NDSU BUILDING AND RENOVATION APPROVAL

AN ACT to provide an appropriation and authorization for the construction of a student housing apartment building and for the renovation of Robinson hall on the campus of North Dakota state university; and to declare an emergency.

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

**SECTION 1. Construction of student housing on the North Dakota state university campus - Appropriation.** The state board of higher education may authorize North Dakota state university to provide for the construction of a student housing apartment building on the university campus. North Dakota state university may utilize any available local funds or funds received from other sources, including fire insurance recovery proceeds resulting from the F court building fire at that campus, for this project. There is appropriated for this project from local funds or other sources the sum of \$2,310,000.

**SECTION 2. Renovation of Robinson hall on the North Dakota state university campus - Appropriation.** The state board of higher education may authorize North Dakota state university to provide for the renovation of Robinson hall on the university campus. North Dakota state university may utilize any available federal, private, or local funds or funds received from other sources for this project. There is appropriated for this project from available federal, private, or local funds or other funds the sum of \$560,000.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved January 30, 2001  
Filed January 30, 2001



## CHAPTER 164

### SENATE BILL NO. 2136

(Education Committee)

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

### RESIDENT TUITION

AN ACT to amend and reenact subsection 2 of section 15-10-19.1 of the North Dakota Century Code, relating to resident tuition at state institutions of higher education.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-19.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A "resident student" for tuition purposes means:
  - a. A person ~~less than eighteen years of age~~ whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
  - b. A person of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
  - c. A person who graduated from a North Dakota high school ~~within six years of the beginning of the academic term;~~
  - d. A full-time active duty member of the armed forces assigned to a military installation in this state;
  - e. A spouse or dependent of a full-time active duty member of the armed forces assigned to a military installation in this state; ~~a dependent or of an instructor who lives and teaches in~~ employee of any institution of higher education in this state, and a spouse of any other resident for tuition purposes; and
  - f. ~~Any other~~ A person who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term.

Approved March 19, 2001  
Filed March 19, 2001

## CHAPTER 165

### HOUSE BILL NO. 1283

(Representatives Ekstrom, N. Johnson, Kliniske)  
(Senators Every, D. Mathern, Robinson)

## TECHNOLOGY OCCUPATIONS STUDENT LOAN PROGRAM

AN ACT to provide for a technology occupations student loan program.

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

### **SECTION 1. Technology occupations student loan program.**

1. The state board of higher education shall administer a technology occupations student loan program that encourages college students to pursue technology-based studies, to participate in technology internship programs, and to remain in the state after graduation. The board shall adopt rules to implement the program, including internship requirements, guidelines to determine which technology-related courses of study are eligible under the program, and standards for eligibility.
2. Students of board-approved colleges may apply for the technology occupations student loan program. To be eligible to receive student loan grants under the program, the applicant:
  - a. Must have graduated from a board-approved college;
  - b. Must have successfully completed the board-approved technology-related courses;
  - c. Must have maintained at least a 3.0 grade point average, based on a 4.0 grading system, at a board-approved college;
  - d. Must have actively participated in a board-approved technology internship with a business in the state;
  - e. Must have a student loan with the Bank of North Dakota;
  - f. Following graduation must be employed in the state in a board-approved technology occupation; and
  - g. Must have met and shall continue to meet any requirements established by rule.
3. The state board of higher education shall distribute student loan grants directly to the Bank of North Dakota to repay outstanding student loan principal balances for eligible applicants. The maximum student loan grant amount for which an applicant may qualify is one thousand dollars per twelve months of employment for a maximum of five years.

**SECTION 2. TECHNOLOGY OCCUPATIONS STUDENT LOAN PROGRAM FUNDING.** The funds appropriated in the student grant programs line item included in subdivision 1 of section 1 of Senate Bill No. 2003 of the fifty-seventh legislative assembly, include \$400,000 from the general fund for providing grants as authorized in section 1 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

Approved April 24, 2001

Filed April 24, 2001

## CHAPTER 166

### HOUSE BILL NO. 1444

(Representatives R. Kelsch, Delmore, Haas)  
(Senators Grindberg, Krebsbach)

## STUDENT LOAN FORGIVENESS PROGRAM

AN ACT to provide for a student loan forgiveness program to individuals preparing to teach at grade levels or in content areas having declared teacher shortages.

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

#### SECTION 1. Loans - Teacher shortages - Loan forgiveness.

1. The state board of higher education shall administer a student loan forgiveness program for individuals teaching at grade levels or in content areas identified as having a teacher shortage. The board shall adopt rules to implement the program.
2. The superintendent of public instruction shall annually identify the grade levels and content areas in which a teacher shortage exists.
3. To be eligible for loan forgiveness under this section, an individual:
  - a. Must have been admitted as a full-time student in a teacher preparation program, with the declared intention to teach at a grade level or in a content area identified by the superintendent of public instruction as one in which a teacher shortage exists; and
  - b. Must have obtained a student loan.
4. An individual may receive up to one thousand dollars per year and a maximum of five thousand dollars under this section.
5. The board shall consider all applications under this section in chronological order.
6. Upon notification that the individual has completed a full year of teaching in a school district or nonpublic school in this state at a grade level or in a content area identified by the superintendent of public instruction as one in which a teacher shortage exists, the board shall distribute funds directly to the bank of North Dakota to repay outstanding loan principal balances for eligible applicants.

**SECTION 2. STUDENT LOAN FORGIVENESS FUNDING.** The funds appropriated in the student grant programs line item included in subdivision 1 of section 1 of Senate Bill No. 2003, include \$250,000 from the general fund for providing loan forgiveness as authorized in section 1 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

Approved April 26, 2001  
Filed April 26, 2001

## CHAPTER 167

### HOUSE BILL NO. 1068

(Education Committee)

(At the request of the State Board for Vocational and Technical Education)

### PRIVATE POSTSECONDARY INSTITUTION AUTHORIZATION

AN ACT to amend and reenact subsection 5 of section 15-20.4-03 and section 15-20.4-05 of the North Dakota Century Code, relating to authorization and incorporation of private postsecondary educational institutions.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 15-20.4-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution ~~now or hereafter operating in this state~~ required to have an authorization to operate under this chapter proposes to discontinue its operation.

**SECTION 2. AMENDMENT.** Section 15-20.4-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-05. Prohibition.** A person, group, or entity of whatever kind, alone or in concert with others, may not:

1. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.
3. Use the term "university", "institute", or "college" without authorization to do so from the board.
4. Grant, or offer to grant, educational credentials, without authorization to do so from the board.

5. ~~Seek to incorporate within the state as a postsecondary educational institution without first obtaining a currently valid authorization to operate from the board, which authorization must be presented to the secretary of state upon application for articles of incorporation.~~

Approved March 6, 2001

Filed March 6, 2001

## CHAPTER 168

### SENATE BILL NO. 2231

(Senators Nething, Wardner)

(Representative N. Johnson)

### STUDENT FINANCIAL INSTITUTIONS

AN ACT to create and enact a new subsection to section 15-29-08 of the North Dakota Century Code, relating to authority of school district boards to establish student financial institutions; and to amend and reenact subsection 6 of section 6-01-17.1 of the North Dakota Century Code, relating to application fee for establishment of a separate banking facility.

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

**SECTION 1. AMENDMENT.** Subsection 6 of section 6-01-17.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. A banking association's application to establish and operate a separate facility, a fee of one thousand five hundred dollars. A banking institution that discontinues a facility established for the purpose of providing educational opportunities to a high school is entitled to a refund of any application fee paid.

**SECTION 2.** A new subsection to section 15-29-08 of the North Dakota Century Code is created and enacted as follows:

To establish, maintain, and supervise a student financial institution which is not subject to section 6-02-01, 6-02-03, 6-03-67.1, or 6-06-05 or any other statute or rule that regulates banks, other financial institutions, or currency exchanges. To qualify as a student financial institution, the student financial institution must be operated as part of a high school educational program under guidelines adopted by the school board, be advised on a regular basis by one or more state-chartered or federally chartered financial institutions including credit unions, but not owned or operated by a financial institution, be located on school premises and have as customers only students enrolled in, or employees of, the school of which it is located, and have a written commitment from the school board guaranteeing reimbursement of any depositor's funds lost due to insolvency of the student financial institution. Funds of a student financial institution that meet the requirements of this subsection are not school district or other public funds for purposes of any state law governing the use or investment of school district or other public funds. For purposes of borrowing money, cashing checks, and taking deposits concerning the operation of a student financial institution, the obligations of a minor have the same force and effect as though they were the obligations of a person over the age of majority.

## CHAPTER 169

### HOUSE BILL NO. 1101

(Government and Veterans Affairs Committee)  
(At the request of the Teachers' Fund for Retirement)

### TFFR ADMINISTRATION

AN ACT to amend and reenact subsection 4 of section 15-39.1-04, subdivision a of subsection 11 of section 15-39.1-04, and sections 15-39.1-16, 15-39.1-19.1, and 15-39.1-30 of the North Dakota Century Code, relating to definitions, annuities, participation by retired members who have resumed teaching, and confidentiality of records under the teachers' fund for retirement; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 15-39.1-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Contract" means a written agreement with ~~any~~ a school board or other governing body of ~~any~~ a school district or special education unit of this state or a letter of appointment by a state institution, state agency, or other employer participating in the fund.

**SECTION 2. AMENDMENT.** Subdivision a of subsection 11 of section 15-39.1-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- a. All persons licensed ~~to teach in this state~~ by the education standards and practices board who are contractually employed in teaching, supervisory, administrative, or extracurricular services ~~in any~~ by a state institution ~~or by any~~, special education unit, school board, or other governing body of any a school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers ~~employed in any state institution or in the school system of any school district in this state.~~ For purposes of this subdivision, "teacher" includes persons contractually employed by one of the above employers to provide teaching, supervisory, administrative, or extracurricular services to a separate state institution, state agency, special education unit, school board, or other governing body of a school district of this state under a third-party contract.

**SECTION 3. AMENDMENT.** Section 15-39.1-16 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-16. Option of teachers eligible to receive annuities.** The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:

Option one. Upon the death of the teacher, the reduced retirement allowance must be continued throughout the life of, and paid to, the person as the teacher has



nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the person designated dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option two. Upon the death of the teacher, one-half of the reduced retirement allowance must be continued throughout the life of, and paid to, the person as the teacher has nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the designated beneficiary dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option three. Upon the death of the teacher within five years of the commencement of annuity payments, the payments must be continued for the remainder of the five-year period to the person as the teacher has nominated by written designation filed with the board.

Option four. Upon the death of the teacher within ten years of the commencement of annuity payments, the payments must be continued for the remainder of the ten-year period to the person as the teacher has nominated by written designation filed with the board.

Option five. Level retirement income with social security option, which is available to teachers retiring before social security is payable.

The amount of the reduced retirement allowance payable upon the exercise of any of these options must be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and the teacher's designated beneficiary. A member's spouse, if any designated as beneficiary, must consent in writing to the member's choice of benefit payment option for any benefit payments commencing after June 30, 1999. The board may rely on the member's representations about that person's marital status in determining the member's marital status. The spouse's written consent must be witnessed by a notary or a plan representative. If the spouse does not consent, or cannot be located, the member's annuity benefit must be paid using option two, the fifty percent joint and survivor option.

<sup>76</sup> **SECTION 4. AMENDMENT.** Section 15-39.1-19.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-19.1. (Effective after ~~January 29, 2003~~ July 31, 2005) Annuities discontinued on resumption of teaching.** A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until ~~sixty~~ thirty calendar days have elapsed from the member's

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<sup>76</sup> Section 15-39.1-19.1 was also amended by section 2 of Senate Bill No. 2180, chapter 170.

retirement date. A retired member may then return to covered employment for a maximum of ~~ninety working days~~ seven hundred hours per year and continue receiving a monthly retirement benefit. ~~For purposes of this section, a working day is four or more hours of teaching.~~ Employment as a substitute teacher does not apply to the seven hundred-hour restriction. The board may waive this restriction in emergency situations.

Should the retired member's employment exceed the ~~ninety-day~~ seven hundred-hour maximum limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office ~~will result~~ results in the loss of one month's annuity benefit. The retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ~~ninety-day~~ seven hundred-hour maximum.

~~Any~~ A retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the ~~ninety-day~~ seven hundred-hour maximum. The employer shall pay the required contributions in a like manner.

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

1. If the teacher subsequently retires with less than two years of additional earned credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity, plus any postretirement benefit adjustments granted during the period of reemployment, the first day of the month following the teacher's re-retirement.
2. If the teacher subsequently retires with two or more ~~than two~~ but less than five years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment plus any postretirement benefit adjustments granted during the period of reemployment, or a recalculated annuity computed according to this chapter based on total years of service credit earned during both employment periods offset by the actuarial value of payments already received. The new annuity is payable the first day of the month following the member's re-retirement.
3. If the teacher subsequently retires with five or more years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity plus an additional annuity based upon years of service and average salaries earned during the period of reemployment plus any postretirement benefit adjustments granted during the period of reemployment, or a recalculated annuity based on all years of service computed under subsection 2 of section 15-39.1-10. The new annuity is payable the first day of the month following the member's re-retirement.

**(Effective from January 29, 2001, through January 29, 2003 July 31, 2005) Annuities discontinued on resumption of teaching.**

1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until ~~sixty~~ thirty calendar days have elapsed from the member's retirement date. Except as otherwise provided in this section, a retired member may then return to covered employment for a maximum of ~~ninety working days~~ seven hundred hours per year and continue receiving a monthly retirement benefit. ~~For purposes of this section, a working day is four or more hours of teaching.~~ Employment as a substitute teacher does not apply to the seven hundred-hour restriction. The board may waive this restriction in emergency situations. Should the retired member's employment exceed the ~~ninety-day~~ seven hundred-hour maximum limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office ~~will result~~ results in the loss of one month's annuity benefit. Except as otherwise provided in this section, the retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ~~ninety-day~~ seven hundred-hour maximum. A retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the ~~ninety-day~~ seven hundred-hour maximum. The employer shall pay the required contributions in a like manner.
2. A retired member may return to teaching for up to one year without losing any benefits provided at least fifty percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation. Employee and employer assessments under this arrangement must be paid by the person's employer. Assessments must be paid on the total salary earned by the retired member without regard to the amount of money placed in an educational foundation. A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment. For purposes of this subsection, a school district's educational foundation must be a nonprofit or charitable organization exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].
3. Upon the retired teacher's subsequent retirement, the member's benefit must be resumed as follows:
  - a. If the teacher subsequently retires with less than two years of additional earned credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity, plus any postretirement benefit adjustments granted

during the period of reemployment, the first day of the month following the teacher's re-retirement.

- b. If the teacher subsequently retires with two or more ~~than two~~ but less than five years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment plus any postretirement benefit adjustments granted during the period of reemployment, or a recalculated annuity computed according to this chapter based on total years of service credit earned during both employment periods offset by the actuarial value of payments already received. The new annuity is payable the first day of the month following the member's re-retirement.
- c. If the teacher subsequently retires with five or more years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity plus an additional annuity based upon years of service and average salaries earned during the period of reemployment plus any postretirement benefit adjustments granted during the period of reemployment, or a recalculated annuity based on all years of service computed under subsection 2 of section 15-39.1-10. The new annuity is payable the first day of the month following the member's re-retirement.

**SECTION 5. AMENDMENT.** Section 15-39.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-30. Confidentiality of records.** ~~Information pertaining to a teacher's retirement assessments and accumulated interest, disability applications and benefits, and surviving spouse applications and benefits~~ All records relating to the retirement benefits of a member or a beneficiary under this chapter ~~is~~ are confidential and ~~is~~ are not a public ~~record~~ records. The information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the teacher has given written consent to have the information disclosed.
2. A person legally representing the teacher, upon proper proof of representation, and unless the teacher specifically withholds consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit, years of age, employer and employee contribution amounts, and salary. The board may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal law. Any information provided to the member's participating employer under this subsection must remain confidential except as provided in subsection 6.
5. The administrative staff of the public employees retirement system for purposes relating to membership and benefits determination.

6. State or federal agencies for the purpose of validating member eligibility or employer compliance with existing state or federal law.
7. Member interest groups approved by the board, limited to information concerning the member's death.

Approved March 26, 2001

Filed March 26, 2001

## CHAPTER 170

### SENATE BILL NO. 2180

(Senators Holmberg, Freborg, O'Connell)  
(Representatives Carlisle, Delmore, R. Kelsch)

## RESUMPTION OF TEACHING UNDER TFFR

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to retired teachers returning to teaching under the teachers' fund for retirement; to amend and reenact subsection 1 of section 15-39.1-09 and section 15-39.1-19.1 of the North Dakota Century Code, relating to assessments and resumption of teaching under the teachers' fund for retirement; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 15-39.1-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsection 2 of section 15-39.1-10.3, section 3 of this Act, and subsection 3, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the fund seven and seventy-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official of the governmental body shall certify the governmental body payments and remit the payments monthly to the fund.

<sup>77</sup> **SECTION 2. AMENDMENT.** Section 15-39.1-19.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-19.1. (Contingent effective date and expiration date - See note) Annuities discontinued on resumption of teaching.** A Except as otherwise provided in section 3 of this Act, a retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until sixty calendar days have elapsed from the member's retirement date. A retired member may then return to covered employment for a maximum of ninety working days and continue receiving a monthly retirement benefit. For purposes of this section, a working day is four or more hours of teaching. The board may waive this restriction in emergency situations.

Should the retired member's employment exceed the ninety-day maximum limit, the retired member must immediately notify the fund office in writing. Failure to

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<sup>77</sup> Section 15-39.1-19.1 was also amended by section 4 of House Bill No. 1101, chapter 169.

notify the fund office will result in the loss of one month's annuity benefit. The retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ninety-day maximum.

Any retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the ninety-day maximum. The employer shall pay the required contributions in a like manner.

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

1. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity the first day of the month following the teacher's re-retirement.
2. If the teacher subsequently retires with more than two years of additional credited service, the retired person's annuity is the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment. The new annuity is payable the first day of the month following the member's re-retirement.

**(Contingent effective date and expiration date - See note) Annuities discontinued on resumption of teaching.**

1. A Except as otherwise provided in section 3 of this Act, a retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until sixty calendar days have elapsed from the member's retirement date. Except as otherwise provided in this section, a retired member may then return to covered employment for a maximum of ninety working days and continue receiving a monthly retirement benefit. For purposes of this section, a working day is four or more hours of teaching. The board may waive this restriction in emergency situations. Should the retired member's employment exceed the ninety-day maximum limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office will result in the loss of one month's annuity benefit. Except as otherwise provided in this section, the retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ninety-day maximum. A retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the ninety-day maximum. The employer shall pay the required contributions in a like manner.
2. A retired member may return to teaching for up to one year without losing any benefits provided at least fifty percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation. Employee and employer assessments under this arrangement must be paid by the person's employer. Assessments must be paid on the total salary earned by the retired member without regard to the amount of money placed in an educational foundation. A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of

subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment. For purposes of this subsection, a school district's educational foundation must be a nonprofit or charitable organization exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].

3. Upon the teacher's subsequent retirement, the member's benefit must be resumed as follows:
  - a. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity the first day of the month following the teacher's re-retirement.
  - b. If the teacher subsequently retires with more than two years of additional credited service, the retired person's annuity is the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment. The new annuity is payable the first day of the month following the member's re-retirement.

**SECTION 3.** A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

**Retired teachers return to active service - Critical shortage areas and disciplines - Rules.**

1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may elect to return to teaching without losing any benefits under the provisions of this section or elect to return to teaching under the provisions of section 15-39.1-19.1. To return to teaching under this section, a retired teacher must:
  - a. Return to teach in a critical shortage geographical area or subject discipline as determined by the education standards and practices board by rule; and
  - b. If retired after January 1, 2001, have been receiving a retirement annuity for at least one year. A retired teacher may perform noncontracted substitute teaching duties, but may not engage in full-time or part-time teaching duties during the one-year separation from service.
2. A retired teacher who returns to teaching under this section is not required to pay the employee assessment required by section



15-39.1-09. A retired teacher who returns to teaching under the provisions of this section must be treated as retired for all other purposes under this chapter. A retired teacher may not earn any additional service during the period of reemployment. The retired teacher's benefits may not be adjusted to reflect changes in the retired teacher's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, and additional benefits normally available to an active member, such as disability benefits, are not available to a retired teacher reemployed under this section.

**SECTION 4. EXPIRATION DATE.** This Act is effective through July 31, 2005, and after that date is ineffective.

Approved April 5, 2001  
Filed April 5, 2001

## CHAPTER 171

### HOUSE BILL NO. 1102

(Government and Veterans Affairs Committee)  
(At the request of the Teachers' Fund for Retirement)

### TFFR BENEFITS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to postretirement benefit adjustments under the teachers' fund for retirement; to amend and reenact subsection 2 of section 15-39.1-10 of the North Dakota Century Code, relating to the computation of benefits under the teachers' fund for retirement; and to provide for application.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 15-39.1-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The amount of retirement benefits is ~~one and eighty-eight hundredths~~ two percent of the final average monthly salary of the member multiplied by the number of years of credited service. For the purposes of this subsection, final average monthly salary means one thirty-sixth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any three years of service under the fund.

**SECTION 2.** A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

**Postretirement adjustments.** An individual who on June 30, 2001, is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive a monthly increase equal to an amount determined by taking two dollars per month multiplied by the member's number of years of service credit plus one dollar per month multiplied by the number of years since the member's retirement. In addition, an individual who is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive a seventy-five hundredths of one percent increase of the individual's current monthly benefit with the increased benefit payable each month thereafter beginning on July 1, 2001. An individual who on June 30, 2002, is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive a seventy-five hundredths of one percent increase of the individual's current monthly benefit with the increased benefit payable each month thereafter beginning on July 1, 2002. This annual benefit adjustment is conditioned on an actuarial test performed annually by the board's actuarial consultant to determine the actuarial adequacy of the statutory contribution rate. The board shall report the results of the actuarial test annually to the employee benefits programs committee. If the actuarial valuation indicates a shortfall between the actuarially determined benchmark contribution rate and the statutory rate, the board may reduce or suspend the conditional annual benefit adjustment. The actuarial adequacy test fails if one or more of the following are true:

1. The shortfall is greater than six-tenths of one percent in any year; or
2. The shortfall is greater than three-tenths of one percent in any two consecutive years.

**SECTION 3. APPLICATION OF ACT.** Section 1 of this Act applies only to individuals who begin receiving benefits from the fund under chapter 15-39.1 after June 30, 2001, and applies to those benefits payable after June 30, 2001. Section 2 of this Act applies to benefits payable after June 30, 2001.

Approved April 5, 2001  
Filed April 5, 2001

## CHAPTER 172

### SENATE BILL NO. 2148

(Education Committee)

(At the request of the Department of Public Instruction)

### SCHOOL DISTRICTS

AN ACT to amend and reenact sections 15.1-01-03, 15.1-12-05, 15.1-12-09, 15.1-12-10, and 15.1-12-27 of the North Dakota Century Code, relating to school district annexations, reorganizations, and dissolutions.

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

**SECTION 1. AMENDMENT.** Section 15.1-01-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

##### **15.1-01-03. State board of public school education - Powers and duties.**

1. The state board of public school education shall:
4. a. Assist county committees in carrying out their duties.
2. b. Provide county committees with clerical assistance, plans of procedure, standards, data, maps, forms, and other materials, information, and services.
3. c. Appoint members to the county committee, if the county superintendent does not fulfill this duty, as provided for in section 15.1-10-01.
4. 2. ~~Adopt~~ The state board of public school education may adopt rules regarding school district reorganizations, annexations, and dissolutions.

**SECTION 2. AMENDMENT.** Section 15.1-12-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

##### **15.1-12-05. Annexation of property to school district - Hearing.**

1. Upon receiving a petition for the annexation of property to a school district, the county superintendent shall schedule and give notice of a public hearing regarding the annexation.
2. The county superintendent shall publish notice of the public hearing in the official newspaper of the county in which the major portion of each affected school district's real property is situated, at least fourteen days before the date of the hearing. If no newspaper is published in the county, the county superintendent shall publish the notice in a newspaper in an adjoining county in this state.
3. Before the hearing, the county committee shall:
  - a. Determine the number of qualified electors residing on the property to be annexed;

- b. Ensure that two-thirds of such qualified electors have signed the petition; and
  - c. Ensure that all other statutory requirements regarding the petition have been met.
- 4. At the hearing, the county committee shall accept testimony and documentary evidence regarding:
  - a. The value and amount of property held by each affected school district;
  - b. The amount of all outstanding bonded and other indebtedness of each affected district;
  - c. The levies for bonded indebtedness to which the property will be subjected or from which the property will be exempted, as provided for in section 15.1-12-08;
  - d. The taxable valuation of each affected district and the taxable valuation under the proposed annexation;
  - e. The size, geographical features, and boundaries of each affected district;
  - f. The number of students in each affected district;
  - g. The general population of each affected district;
  - h. Each school in the district, including its name, location, condition, the grade levels it offers, and the distance that students living in the petitioned area would have to travel to attend school;
  - i. The location and condition of roads, highways, and natural barriers in each affected district;
  - j. Conditions affecting the welfare of students residing on the property to be annexed;
  - k. The boundaries of other governmental entities;
  - l. The educational needs of communities in each affected district;
  - m. Potential savings in school district transportation and administrative services;
  - n. The potential for a reduction in per student valuation disparity between the affected districts;
  - o. The potential to equalize or increase the educational opportunities for students in each affected district; and
  - p. All other relevant factors.
- 5. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall make specific findings of

fact and approve or deny the annexation. If the annexation is approved, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding and the county committee's decision to the state board for final approval of the annexation.

6. a. Except as provided in this subsection, the state board shall conduct a hearing after publication of a notice in the manner required in subsection 2, accept and consider testimony and documentary evidence regarding the proposed annexation, make specific findings, and approve or deny the annexation.
  - b. If no opposition is presented to the county committee at the hearing and the county committee approves the annexation, the state board may review the record of the county committee and give final approval to the annexation without holding its own hearing.
7. If the school districts involved in a proposed annexation include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the annexation petition.
8. If the school districts involved in a proposed annexation are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the annexation petition. The county committees shall vote separately on whether to approve the annexation.
9. ~~If a county committee denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months from the date on which the original petition was filed with the county superintendent. A petition involving any of the same property cited in the original petition may not be considered by a county committee more than twice in a twelve-month period.~~
- ~~40.~~ If the state board denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months after the state board's denial. A petition involving any of the same property cited in the original petition may not be considered by the state board more than twice in a twelve-month period.
- ~~44.~~ 10. Regardless of how many county committees consider the annexation, the decision may be appealed to the state board.
- ~~42.~~ 11. Each annexation must receive final approval from the state board.
- ~~43.~~ 12. The county superintendent with whom the petition has been filed shall forward all minutes, records, documentary evidence, and other information regarding the annexation, and the county committee's decision to the state board for final approval or for consideration of an appeal.
- ~~44.~~ 13. A decision of the state board with respect to an annexation petition may be appealed to the district court of the judicial district in which the property to be annexed is located.

**SECTION 3. AMENDMENT.** Section 15.1-12-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-12-09. School district reorganization - Initiation of a reorganization plan.**

1. In order for two or more contiguous school districts or contiguous portions of two or more school districts to initiate a reorganization process, the board of each participating school district must:
  - ~~4.~~ a. Vote to pursue the reorganization;
  - ~~2.~~ b. Prepare a reorganization plan;
  - ~~3.~~ c. Approve the reorganization plan; and
  - ~~4.~~ d. Submit the plan to the county superintendent having jurisdiction over the major portion of property in each participating school district.
2. Submission of a reorganization plan to the county superintendent after July 31, 2001:
  - a. Renders an annexation petition involving any real property that is included in the reorganization plan void, unless the annexation has already been approved by the state board; and
  - b. Prohibits the acceptance of a new annexation petition involving any real property that is included in the reorganization plan, until all reorganization proceedings have been completed.

<sup>78</sup> **SECTION 4. AMENDMENT.** Section 15.1-12-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-12-10. School district reorganization - Contents of plan - Public hearing - Testimony and evidence.**

1. The reorganization plan required by section 15.1-12-09 must:
  - a. Include a map showing the boundaries of each participating district and of the proposed new district;
  - b. Include the demographic characteristics of each participating district, including the population per age group;
  - c. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
  - d. Include projected student enrollments for the ensuing ten years;

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<sup>78</sup> Section 15.1-12-10 was also amended by section 20 of House Bill No. 1046, chapter 161.

- e. Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
  - f. Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
  - g. Address planned course offerings by the new district;
  - h. Include the planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district;
  - i. Include the planned number of members who will constitute the board of the new district and the manner in which the members are to be elected;
  - j. Address plans regarding student transportation;
  - k. Identify other governmental entities, including multidistrict special education units and area vocational and technology centers, which may provide services to the new district;
  - l. Include the taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district;
  - m. Include the amount of all bonded and other indebtedness incurred by each participating district;
  - n. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
  - o. Include a proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law; and
  - p. Include any other information that the participating school districts wish to have considered by the county committee or the state board.
2. Upon receiving a reorganization plan, the county superintendent shall schedule and give notice of a public hearing regarding the plan. If the school districts involved in a reorganization plan include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the reorganization plan. If the school districts involved in a reorganization plan are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the reorganization plan.



3. The county superintendent shall publish the notice in the official newspaper of the county at least fourteen days before the date of the hearing.
4. If no newspaper is published in the county, the county superintendent shall publish the notice in the official newspaper of an adjoining county in this state.
5. Before the hearing, the county committee shall review the reorganization plan and ensure that all statutory requirements have been met.
6. At the hearing, the county committee shall accept testimony and documentary evidence regarding the reorganization plan.
7. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall approve or deny the reorganization plan.
8. If the plan is approved by at least one county committee, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding, and the county committee's decision, to the state board for final approval. The state board shall publish notice of its meeting at which it will consider the reorganization plan in the official newspaper of the county at least fourteen days before the date of the meeting. If no newspaper is published in the county, the state board shall publish the notice in the official newspaper of an adjoining county in this state.
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 district.

**SECTION 5. AMENDMENT.** Section 15.1-12-27 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.**

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other districts. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a district adjacent to the dissolving district, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each school district adjacent to the dissolving district.
2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution.
3. The county committee shall consider testimony and documentary evidence regarding:

- a. The value and amount of property held by the dissolving school district;
  - b. The amount of all outstanding bonded and other indebtedness;
  - c. The distribution of property and assets among the districts to which the dissolved district is attached;
  - d. The taxable valuation of the dissolving district and adjacent districts and the taxable valuation of adjacent districts under the proposed manner of dissolution;
  - e. The size, geographical features, and boundaries of the dissolving district and of adjacent districts;
  - f. The number of students in the dissolving district and in adjacent districts;
  - g. The general population of the dissolving district and adjacent districts;
  - h. Each school in the dissolving district and in adjacent districts, including its name, location, condition, accessibility, and the grade levels it offers;
  - i. The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent districts;
  - j. Conditions affecting the welfare of students in the dissolving district and in adjacent districts;
  - k. The boundaries of other governmental entities;
  - l. The educational needs of communities in the dissolving district and in adjacent districts;
  - m. Potential savings in school district transportation and administrative services;
  - n. The anticipated future use of the dissolving districts' buildings, sites, and playfields;
  - o. The potential for a reduction in per student valuation disparities between the districts to which the dissolved district is attached;
  - p. The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent districts; and
  - q. All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property attached to one or more contiguous, operating school districts.

5. Any property ordered attached under this section must have at least one minor residing within its boundaries.
6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.
7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.
8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.
9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.

Approved March 21, 2001  
Filed March 21, 2001

## CHAPTER 173

### HOUSE BILL NO. 1344

(Representatives R. Kelsch, Brusegaard, Monson)  
(Senators Krebsbach, Wardner)

## TEACHER COMPENSATION AND PER STUDENT PAYMENTS

AN ACT to provide contingent payments for declining enrollment and the distribution of differing payment amounts; to create and enact four new sections to chapter 15-40.1 and one new section to chapter 15.1-02 of the North Dakota Century Code or in the alternative to create and enact four new sections to chapter 15.1-27 of the North Dakota Century Code, relating to the compensation of teachers and a school district compensation report; to amend and reenact sections 15-40.1-06 and 57-15-27 of the North Dakota Century Code or in the alternative to amend and reenact sections 15.1-27-04 and 15.1-27-05 of the North Dakota Century Code, relating to per student payments and ending fund balances; to provide legislative intent; to provide for a legislative council study; to provide an appropriation; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **15-40.1-06. Declaration of legislative intent - Educational support per student - School district equalization factor - Limitations.**

1. It is the intent of the legislative assembly to support elementary and secondary education in this state from state funds. For purposes of this section, state funds include all appropriations for foundation aid, tuition apportionment, supplemental per student payments, special education, vocational education, transportation aid, school district technology, the governor's school, teacher centers, and the leadership in educational administration development consortium. For purposes of distributing state funds, the superintendent of public instruction shall determine the educational cost per student. In determining the educational cost per student, the superintendent may not use:
  - a. Expenditures for capital outlay for buildings and sites, or debt service.
  - b. Expenditures from school activities and school lunch programs.
  - c. Expenditures for the cost of transportation, including the cost of schoolbuses.
2. a. The educational support per student ~~during~~ for the first year of the ~~1999-2004~~ 2001-03 biennium ~~must be~~ is two thousand ~~one~~ two hundred ~~forty-five~~ eighty-seven dollars ~~and~~. The educational

support per student for the second year of the 1999-2001 2001-03 biennium the educational support per student must be is two thousand two three hundred thirty forty-seven dollars and. The educational support per student is the basis for calculating grants-in-aid on a per student basis as provided in sections 15-40.1-07 and 15-40.1-08.

- b. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07.
  - c. School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be supported for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of students in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per student in the unaccredited school for each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.
  - d. School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of students in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.
3. In determining the amount of payments due a school districts for tuition apportionment provided in section 15-44-03, and per student aid under this section, the amount of district, the superintendent of public instruction shall add the tuition apportionment, foundation aid payments, per student payments, special education aid, and transportation aid, and teacher compensation payments for which a school district is

eligible ~~must be added together~~, and from that total, subtract the following ~~amounts must be subtracted~~:

- a. The product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.
  - b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of ~~three-fourths~~ fifty percent of the its actual expenditures, plus ~~an additional~~ twenty thousand dollars.
4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:
- a. Annual average daily membership report.
  - b. Annual school district financial report.
  - c. The September tenth fall enrollment report.
  - d. The personnel report forms for certified and noncertified employees.
5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

**SECTION 2.** If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** For purposes of sections 3 through 5 of this Act:

1. "Compensation" includes all salaries, benefits, commissions, memberships, the provision of housing, the provision of vehicles, and any other payments, in lieu of payments, or services, reportable as gross income under the Internal Revenue Code.
2. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as of July 1, 2001, as:
  - a. A class 22 coordinator;
  - b. A class 37 guidance counselor or school counselor;
  - c. A class 38 guidance counselor designate;
  - d. A class 40 instructional programmer;
  - e. A class 41 library media specialist;
  - f. A class 56 pupil personnel service provider;

- g. A class 59 school psychologist;
- h. A class 62 speech-language pathologist;
- i. A class 68 supervisor;
- j. A class 70 teacher or special education teacher; or
- k. A class 72 tutor in training.

**SECTION 3.** If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Compensation of teachers - Claim for reimbursement - Rules.**

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15-38.1, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to increase the compensation of teachers employed by the district.
2. The claim must include:
  - a. The number of full-time equivalent teachers employed by the district as of September fifteenth;
  - b. The number of full-time equivalent teachers who will receive an increase in compensation over the amount paid during the previous school year; and
  - c. The total amount of the increase in compensation.
3. a. For the 2001-02 school year, the reimbursement provided for in this section may not exceed one thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2001.
  - b. Except as provided in subdivision c, for the 2002-03 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2002.
  - c. For the 2002-03 school year, the reimbursement under this section for each individual employed as of September 15, 2002, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.
4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area vocational and technology center to which the district belongs.

5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

**SECTION 4.** If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Compensation of teachers - Distribution of reimbursement.** The superintendent of public instruction shall distribute approximately one-sixth of the total amount to which each school district is entitled under section 3 of this Act on or before the first day of each November, December, January, February, March, and May.

**SECTION 5.** If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Annual salary - Minimum amount.** Beginning with the 2001-02 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a base salary level for the contract period equal to at least eighteen thousand five hundred dollars. Beginning with the 2002-03 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a base salary level for the contract period equal to at least twenty thousand dollars.

**SECTION 6.** A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

**School district employee compensation report.**

1. Before September eleventh of each year, beginning in 2002, each school district shall provide the following information to the superintendent of public instruction, with respect to teachers and with respect to administrators:
  - a. The total amount of base salary.
  - b. The total amount of compensation reportable as gross income under the Internal Revenue Code.
  - c. Any other compensation paid or provided to or on behalf of individuals employed as teachers and as administrators.
  - d. Health insurance benefits paid to or on behalf of individuals employed as teachers and as administrators.
  - e. Retirement contributions and assessments paid on behalf of individuals employed as teachers and as administrators, and including individual shares if paid by the district.
  - f. Any other benefits paid or provided to or on behalf of individuals employed as teachers and as administrators.
2. The superintendent of public instruction shall:



- a. Compile the information required by subsection 1 in a manner that allows for accurate comparisons based on:
    - (1) Full-time versus part-time personnel;
    - (2) A normal schoolday versus an extended schoolday; and
    - (3) A regular school calendar of approximately one hundred eighty days versus an extended school year.
  - b. Forward a copy of the compiled information to the governor and the chairman of the legislative council.
- 3. If any school district fails without good cause to provide the information required by this section on or before September tenth and in the manner directed by the superintendent of public instruction, the superintendent shall withhold all state aid until the information is received.
- 4. For purposes of this section:
  - a. "Administrator" means an individual employed by a school district in an administrative position and includes a school district superintendent, an assistant or associate superintendent, a principal, an assistant principal, a special education director, a vocational education director, and any other individual whose position requires an administrator's credential.
  - b. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as of July 1, 2001, as:
    - (1) A class 22 coordinator;
    - (2) A class 37 guidance counselor or school counselor;
    - (3) A class 38 guidance counselor designate;
    - (4) A class 40 instructional programmer;
    - (5) A class 41 library media specialist;
    - (6) A class 56 pupil personnel service provider;
    - (7) A class 59 school psychologist;
    - (8) A class 62 speech-language pathologist;
    - (9) A class 68 supervisor;
    - (10) A class 70 teacher or special education teacher; or
    - (11) A class 72 tutor in training.

<sup>79</sup> **SECTION 7. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-27-04. Per student payment.** The per student payment to which each school district is entitled for the first year of the biennium is two thousand ~~one~~ two hundred ~~forty-five~~ eighty-seven dollars. The per student payment to which each school district is entitled for the second year of the biennium is two thousand ~~two~~ three hundred ~~thirty~~ forty-seven dollars. The per student amount is the basis for calculating state payments to school districts, as provided in sections 15.1-27-06 and 15.1-27-07.

<sup>80</sup> **SECTION 8. AMENDMENT.** Section 15.1-27-05 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-27-05. School district equalization factor.** To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~and~~ transportation aid, and teacher compensation payments for which a school district is eligible and from that total subtract the following:

1. The product of thirty-two mills times the latest available net assessed and equalized valuation of property in the district.
2. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of ~~seventy-five~~ fifty percent of its actual expenditures, plus twenty thousand dollars.

**SECTION 9.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** For purposes of sections 10 through 12 of this Act:

1. "Compensation" includes all salaries, benefits, commissions, memberships, the provision of housing, the provision of vehicles, and any other payments, in lieu of payments, or services, reportable as gross income under the Internal Revenue Code.
2. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as of July 1, 2001, as:
  - a. A class 22 coordinator;
  - b. A class 37 guidance counselor or school counselor;

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<sup>79</sup> Section 15.1-27-04 was created by section 11 of House Bill No. 1045, chapter 181.

<sup>80</sup> Section 15.1-27-05 was created by section 11 of House Bill No. 1045, chapter 181.

- c. A class 38 guidance counselor designate;
- d. A class 40 instructional programmer;
- e. A class 41 library media specialist;
- f. A class 56 pupil personnel service provider;
- g. A class 59 school psychologist;
- h. A class 62 speech-language pathologist;
- i. A class 68 supervisor;
- j. A class 70 teacher or special education teacher; or
- k. A class 72 tutor in training.

**SECTION 10.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Compensation of teachers - Claim for reimbursement - Rules.**

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15.1-16, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to increase the compensation of teachers employed by the district.
2. The claim must include:
  - a. The number of full-time equivalent teachers employed by the district as of September fifteenth;
  - b. The number of full-time equivalent teachers who will receive an increase in compensation over the amount paid during the previous school year; and
  - c. The total amount of the increase in compensation.
3.
  - a. For the 2001-02 school year, the reimbursement provided for in this section may not exceed one thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2001.
  - b. Except as provided in subdivision c, for the 2002-03 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2002.
  - c. For the 2002-03 school year, the reimbursement under this section for each individual employed as of September 15, 2002, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board

or approved to teach by the education standards and practices board, may not exceed one thousand dollars.

4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area vocational and technology center to which the district belongs.
5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

**SECTION 11.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Compensation of teachers - Distribution of reimbursements.** The superintendent of public instruction shall distribute approximately one-sixth of the total amount to which each school district is entitled under section 10 of this Act on or before the first day of each November, December, January, February, March, and May.

**SECTION 12.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Annual salary - Minimum amount.** Beginning with the 2001-02 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a level of salary for the contract period equal to at least eighteen thousand five hundred dollars. Beginning with the 2002-03 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a base salary level for the contract period equal to at least twenty thousand dollars.

**SECTION 13. AMENDMENT.** Section 57-15-27 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-27. Interim fund.** The governing body of any county, city, ~~school district,~~ park district, or ~~other~~ municipality, other than a school district, which is authorized to levy taxes may include in its budget an item to be known as the "interim fund" which must be carried over to the next ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the municipality may be legally extended, for that portion of such fiscal year prior to the receipt of taxes therein. In no case may ~~such~~ the interim fund be in excess of the amount reasonably required to finance the municipality for the first nine months of the next ensuing fiscal year. ~~Such~~ The interim fund may not be in excess of three-fourths of the current annual appropriation for all purposes other than debt retirement purposes and appropriations financed from bond sources ~~and, for school districts, an additional twenty thousand dollars.~~

#### **SECTION 14. CONTINGENT PAYMENT - DECLINING ENROLLMENT.**

1. If the superintendent of public instruction determines that the portion of the grants-foundation aid and transportation line item designated for per student payments in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, exceeds the estimated expenditure for per student payments during the first year of the 2001-03 biennium by an amount sufficient to provide for a distribution of one hundred fifty dollars times the number of students by which each district's 2000-01

fall enrollment is less than the district's 1997-98 fall enrollment, the superintendent shall distribute one hundred fifty dollars times the number of students by which a district's 2000-01 fall enrollment is less than that district's 1997-98 fall enrollment.

2. If the superintendent of public instruction determines that the portion of the grants-foundation aid and transportation line item designated for per student payments in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, does not exceed the estimated expenditure for per student payments during the first year of the 2001-03 biennium by the amount required for a payment under subsection 1, the superintendent may not distribute any amounts under subsection 1.
3. If the superintendent of public instruction determines that the portion of the grants-foundation aid and transportation line item designated for per student payments in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, exceeds the estimated expenditure for per student payments during the second year of the 2001-03 biennium, the superintendent shall distribute two hundred fifty dollars times the number of students by which a district's 2000-01 fall enrollment is less than that district's 1997-98 fall enrollment, or a lesser proportionate amount if the amount available is insufficient to provide for a distribution of two hundred fifty dollars times the number of students by which each district's 2000-01 fall enrollment is less than the district's 1997-98 fall enrollment.
4. No school district may receive payments for declining enrollments in excess of four hundred students under this section.
5. During the 2001-03 biennium, no school district may receive more than two hundred fifty dollars times the number of students by which the district's 2000-01 fall enrollment is less than that district's 1997-98 fall enrollment.

#### **SECTION 15. DISTRIBUTION OF DIFFERENCE IN PAYMENT AMOUNTS - HOLD HARMLESS - CONTINGENT PAYMENTS.**

1. a. If funds appropriated by the legislative assembly to the grants-foundation aid and transportation line item in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, remain after completion of all statutory obligations, including the payment of funds for declining enrollment under section 14 of this Act, to the extent of legislative appropriations, the superintendent of public instruction shall:
  - (1) Calculate the payment to which a school district is entitled during the 2001-03 biennium under this Act; and
  - (2) Calculate the payment to which a school district would have been entitled during the 2001-03 biennium under this Act if the per student payment established in section 15-40.1-06 or section 7 of this Act for the first year of the biennium were two thousand four hundred thirty-nine dollars and for the second year of the biennium were two thousand five

hundred two dollars and if no level of teacher compensation were established in this Act.

- b. If the amount to which a school district is entitled during the biennium under this Act does not exceed the amount to which a school district would have been entitled under the parameters of subsection 2, the superintendent of public instruction shall forward the difference between the amounts to the school district on or before June 30, 2003.
    - c. The superintendent may distribute up to \$2,000,000 of such contingent funds as hold harmless payments under this subsection. If insufficient funds exist to provide payments under this subsection, the superintendent shall prorate the amount to which the districts are entitled.
  2. If funds appropriated by the legislative assembly to the grants-teacher compensation payments line item in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the remaining funds as additional per student payments under chapter 15-40.1 or 15.1-27.
  3. If funds appropriated by the legislative assembly to the grants-foundation aid and transportation line item in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the remaining funds as additional per student payments under chapter 15-40.1 or 15.1-27.

#### **SECTION 16. APPROPRIATION - GRANTS FOR NATIONAL TEACHER CERTIFICATION.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$41,500, or so much of the sum as may be necessary, to the education standards and practices board for the purpose of making grants to assist teachers in obtaining national certification, for the biennium beginning July 1, 2001, and ending June 30, 2003.
2. An individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board may file an application with the board for a grant to assist with the cost of obtaining national teacher certification after July 1, 2001.
3. The education standards and practices board shall review each application chronologically.
4. A successful applicant is eligible to receive a grant in the amount of \$1,150 to assist with the assessment costs of national teacher certification.

5. At the conclusion of each of the first four full school years after the individual obtains the national teacher certification, the individual is entitled to receive an additional \$1,500, if:
  - a. The individual served during the school year as a full-time classroom teacher in a public school in this state; and
  - b. The individual participated in any efforts of the employing school district to develop and implement teacher mentoring programs and teacher evaluation programs.

**SECTION 17. TEACHER COMPENSATION PACKAGE - LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying the feasibility and desirability of implementing a teacher compensation package that recognizes four levels of teachers from beginning to advanced and which bases the compensation level for each category on the individual teacher's ability to meet or exceed district standards for content knowledge, planning and preparation for instruction, instructional delivery, student assessment, classroom management, and professional responsibility. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

**SECTION 18. LEGISLATIVE INTENT - GOALS OF SCHOOL DISTRICT REORGANIZATION.** It is the intent of the fifty-seventh legislative assembly that each reorganization of school districts result in a newly formed district that has long-term sustainability from a demographic and fiscal perspective and that can offer to current students and to students in the foreseeable future academic integrity and educational opportunities designed to enhance the students' natural talents and curiosities and ultimately enhance their lives, their career choices, and their ability to contribute to the society in which they find themselves as adults. It is the further intent of the fifty-seventh legislative assembly that the state board of public school education maintain cognizance of the fact that meeting these goals requires school districts participating in a reorganization to include at least one district that offers educational services to all its students from kindergarten through grade twelve and consists of a student population equaling at least two hundred twenty-five.

**SECTION 19. APPROPRIATION - SCHOOL DISTRICT COMPENSATION REPORT.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of developing and implementing a school district employee compensation report as provided in section 6 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 20. EFFECTIVE DATE.** Subdivision b of subsection 3 of section 15-40.1-06 of the North Dakota Century Code as amended by section 1 of this Act, subsection 2 of section 15.1-27-05 of the North Dakota Century Code as amended by section 8 of this Act, and section 13 of this Act become effective on July 1, 2004.

Approved April 30, 2001  
Filed April 30, 2001

## CHAPTER 174

### HOUSE BILL NO. 1058

(Representatives Byerly, R. Kelsch, Monson)  
(Senators Fischer, Kringstad, Lyson)

### DUPLICATIVE PAYMENTS TRANSFER

AN ACT relating to the transfer of duplicative payments received by the superintendent of public instruction.

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

**SECTION 1. Duplicative payments - Transfer - Distribution - Report to budget section.** If the superintendent of public instruction receives any federal or other moneys to pay programmatic administrative expenses for which the superintendent received a state general fund appropriation, the superintendent shall transfer the moneys to the state tuition fund. This section does not apply if the superintendent is required by federal law or by the terms of a grant to employ additional personnel. The superintendent shall report annually to the budget section of the legislative council regarding any transfers under this section.

Approved April 18, 2001  
Filed April 18, 2001



## CHAPTER 175

### SENATE BILL NO. 2166

(Education Committee)

(At the request of the Department of Public Instruction)

### SCHOOL INSTRUCTIONAL DAYS

AN ACT to create and enact section 15.1-06-08.1 of the North Dakota Century Code, relating to the waiver of statutes; and to amend and reenact sections 15.1-06-05 and 15.1-06-08 of the North Dakota Century Code, relating to the reconfiguration of instructional days and the waiver of accreditation rules.

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

**SECTION 1. AMENDMENT.** Section 15.1-06-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-05. School calendar - Modification Instructional days - Reconfiguration - Application.** A school district may apply to the superintendent of public instruction for approval of a pilot program in which the district's school calendar is reduced below one hundred eighty days.

1. The superintendent may approve an application for a pilot program if:
  - a. It allows the district to evaluate the modifications in the traditional school calendar from the perspective of increased school facility use; and
  - b. In the opinion of the superintendent, the program offers educational opportunities equivalent to those available in a one-hundred-eighty-day school calendar.
2. A district submitting an application under this section shall specify:
  - a. The minimum number of days students will attend school; and
  - b. The comparable instructional time.
3. A school district may apply to the superintendent of public instruction for permission to reconfigure the number of instructional days required by section 15.1-06-04.
2. The superintendent of public instruction may approve an application under subsection 1 only if the reconfiguration of the required number of instructional days:
  - a. (1) Makes available to each of the school district's elementary students at least nine hundred fifty-one and one-half hours of instructional time and makes available to each of the district's high school students at least one thousand thirty-eight hours of instructional time; and

- (2) Does not reduce the hours of instructional time below the level made available to elementary students and high school students, respectively, by the school district during the last school year completed prior to the date of the application; and
- b. (1) Encourages innovation;
- (2) Provides improved educational opportunities or enhanced academic opportunities for the students;
- (3) Provides for greater flexibility in the use of a school by current students;
- (4) Provides for greater flexibility in the use of a school by individuals or groups other than current students; or
- (5) Results in significant cost-savings to the district.
- 3. A reconfiguration of instructional days approved by the superintendent of public instruction under this section is valid for one school year. A school district may apply to the superintendent for permission to extend the reconfiguration of instructional days for one additional year.
- 4. If the superintendent of public instruction approves a district's application for reconfiguration of instructional time under this section, the district is eligible to receive the per student payments provided under chapter ~~15.1-28~~ 15.1-27.
- 4. ~~A district that operates an approved pilot program under this section for a period of three years may apply to the superintendent for permanent approval of the program.~~
- 5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications; ~~the evaluation of proposals, and any other matters necessary for the administration of pilot programs and the monitoring of any school or school district that receives a waiver~~ under this section.
- 6. A ~~pilot program~~ reconfiguration of instructional days approved by the superintendent of public instruction under this section satisfies the requirements for school operation and instructional time required by law.
- 7. A ~~pilot program~~ reconfiguration of instructional days approved by the superintendent of public instruction under this section does not affect the accrual of teachers' benefits provided by law.

**SECTION 2. AMENDMENT.** Section 15.1-06-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-08. ~~Conditions~~ Rules for school accreditation and approval - Waiver.** ~~The~~

- 1. A school or school district may apply to the superintendent of public instruction ~~may waive any condition~~ for a waiver of any rule governing

the accreditation and approval for a reasonable period of time of schools, provided the waiver encourages:

- a. Encourages innovation; permits experimentation; and has
  - b. Has the potential to result in an improved program. The superintendent may waive the conditions only with the concurrence of a majority of a waiver committee composed of one member appointed by the North Dakota education association, one member appointed by the North Dakota council of educational leaders, and one member appointed by the North Dakota school boards association educational opportunities or enhanced academic opportunities for the students.
2. The initial waiver must be for a specific period of time, but may not exceed one year. A school or a school district for which a waiver has been approved under this section, may apply for one extension of the waiver. The extension may not exceed one year.
3. If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the committee designated by the legislative council. If requested by the chairman of the committee, the superintendent shall appear before the committee and respond to questions regarding the approval or denial of any application for a waiver.
4. Any waiver granted by the superintendent of public instruction prior to the effective date of this Act is void as of the effective date of this Act. Any school or school district operating under a waiver granted by the superintendent prior to the effective date of this Act may apply for a new waiver under this Act.

**SECTION 3.** Section 15.1-06-08.1 of the North Dakota Century Code is created and enacted as follows:

**15.1-06-08.1. Statutes - Waiver.**

1. The superintendent of public instruction may not waive any statute, in whole or in part, except as provided for in this section.
2. A school or school district may apply to the superintendent of public instruction for a waiver of section 15.1-21-03, provided the waiver:
  - a. Encourages innovation; and
  - b. Has the potential to result in improved educational opportunities or enhanced academic opportunities for the students.

3. The initial waiver must be for a specific period of time but may not exceed one year. The school district may apply for extensions of the waiver. The first extension may not exceed a period of one year. Additional extensions may not exceed periods of two years.
4. If the superintendent of public instruction, after receipt and consideration of an application for a waiver under this section, approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must provide a detailed account of the reasons for which the waiver was granted and the specific time period for the waiver. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the committee designated by the legislative council. If requested by the chairman of the committee, the superintendent shall appear before the committee and respond to questions regarding the approval or denial of any application for a waiver under this section.
5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications and the monitoring of any school or school district that receives a waiver under this section.

Approved April 27, 2001  
Filed April 27, 2001

## CHAPTER 176

### SENATE BILL NO. 2177

(Senators Lyson, Kringstad)  
(Representatives Carlisle, Drovdal, Rennerfeldt)

## RELIGIOUS OBJECT DISPLAY IN SCHOOLS

AN ACT to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to the display of religious objects or documents in public school buildings.

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

**SECTION 1.** A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

**Religious objects or documents - Display.** A religious object or document of cultural, legal, or historical significance which has influenced the legal and governmental systems of the United States and this state may be displayed in a public school building together with other objects or documents of cultural, legal, or historical significance, which have influenced the legal and governmental systems of the United States and this state. The display of a religious object or document under this section must be in the same manner and appearance generally as other objects and documents displayed and may not be presented or displayed in any fashion that results in calling attention to the religious object or document apart from the other displayed objects or documents. A school board shall develop a policy for the proper display of any religious objects or documents.

Approved April 23, 2001

Filed April 23, 2001

## CHAPTER 177

### SENATE BILL NO. 2323

(Senators O'Connell, Lee, Thane)  
(Representatives Boehm, Froseth, Hunsakor)

### MILITARY OPEN ENROLLMENT

AN ACT to create and enact alternative new sections to chapter 15.1-08 of the North Dakota Century Code, relating to the open enrollment of students registered in military installation school districts; and to declare an emergency.

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

**SECTION 1.** If House Bill No. 1045 does not become effective, a new section to chapter 15.1-08 of the North Dakota Century Code is created and enacted as follows:

**Military installation - Open enrollment - Participation.** Notwithstanding any other provisions of law, a student whose school district of residence is a military installation school district may participate in open enrollment under chapter 15-40.3.

**SECTION 2.** If House Bill No. 1045 does become effective, a new section to chapter 15.1-08 of the North Dakota Century Code is created and enacted as follows:

**Military installation - Open enrollment - Participation.** Notwithstanding any other provisions of law, a student whose school district of residence is a military installation school district may participate in open enrollment under chapter 15.1-31.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 16, 2001  
Filed March 16, 2001

## CHAPTER 178

### HOUSE BILL NO. 1236

(Representative Hawken)  
(Senators Flakoll, Grindberg)

### FARGO SCHOOL BOARD TERMS

AN ACT to amend and reenact sections 15.1-09-02 and 15.1-09-27 and subsection 1 of section 15.1-09-30 of the North Dakota Century Code, relating to terms of Fargo board of education members; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-02. School boards - Terms of office.** The term of each elected member of a school board is three years, except when the member is completing the unexpired term of another. The term of office for a school board member begins at the annual meeting in July following the member's election and continues until a successor is elected and qualified. ~~The term of office for a member of the board of education of the city of Fargo begins at the first regular monthly meeting after the annual school district election held on the third Tuesday of April.~~

**SECTION 2. AMENDMENT.** Section 15.1-09-27 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-27. Organization of school board - Election of president.** At the annual meeting, school board members shall elect from among themselves a president to serve for one year. ~~Members of the Fargo board of education shall elect their president and a vice president at the first regular monthly meeting following the election of new board members.~~

**SECTION 3. AMENDMENT.** Subsection 1 of section 15.1-09-30 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Each school board shall hold an initial meeting during the month of July following the annual election; ~~except that the initial meeting for the board of education of the city of Fargo must take place at the time of the first regular monthly meeting after its annual election.~~ The president of the school board shall select a meeting date that is convenient to the other board members and shall provide board members with written notice of the meeting.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 179

### HOUSE BILL NO. 1335

(Representatives Bellew, DeKrey, Eckre, Haas)  
(Senators Dever, Freborg)

## SCHOOL AND CITY ELECTIONS

AN ACT to amend and reenact sections 15.1-09-14, 15.1-09-15, 15.1-09-24, 15.1-09-25, 40-09-04, 40-21-02, 40-21-07, and 40-21-12 of the North Dakota Century Code, relating to canvassing school district election results, members of school boards taking oaths of office and failing to qualify for office, terms of city commissioners, withdrawal of city nominating petitions, and canvassing city election results.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-14. School district election - Vote tally.** Upon the closing of the polls, the judges shall count and canvass the votes for each office. Within forty-eight hours after the closing of the polls, the judges and clerks of the election shall sign the returns and file them with the business manager of the school district. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement.

**SECTION 2. AMENDMENT.** Section 15.1-09-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.** The school board shall canvass all election returns and shall declare the result of an election within three days of the election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

**SECTION 3. AMENDMENT.** Section 15.1-09-24 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-24. School boards - Sharing of election expenses.** If a school district election is held in conjunction with a primary election, the board of the school district may agree with the governing body of the county or counties in which the district is located to share election costs and responsibilities, including those associated with a canvassing board, election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books. Each board of a school district that enters into an agreement with the county must notify the county auditor, in writing, at least fifty-five days before the election of the offices to be filled at the election and any measures to appear on the ballot.



<sup>81</sup> **SECTION 4. 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 ~~before commencing duties~~ within ten days after notice of the individual's election or appointment. Refusal to take and file an affirmation or oath of office, as required by this section, must also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

**SECTION 5. AMENDMENT.** Section 40-09-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-09-04. Commissioners - Terms - Resignations.** Each commissioner and the president of the board of city commissioners shall hold office for four years ~~after the date of election~~ commencing on the fourth Tuesday in June of the year in which the officer was elected and until a successor has been duly elected and qualified. The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign from office by filing a written resignation with the city auditor, who shall submit the resignation to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of the resignation. The resignation is effective upon its acceptance by the board.

**SECTION 6. AMENDMENT.** Section 40-21-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors.** Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, two election clerks may be appointed by the governing body. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the

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<sup>81</sup> Section 15.1-09-25 was also amended by section 13 of House Bill No. 1046, chapter 161.

publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, at least fifty-five days before the election of the offices to be filled at the election and any measures to appear on the ballot.

**SECTION 7. AMENDMENT.** Section 40-21-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-07. Petition for nomination of elective official in cities - Signatures required - Withdrawal of petition - Contents.** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor at least thirty-three days and before four p.m. on the thirty-third day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed pursuant to this section. Any signatures to a nominating petition obtained more than ninety days before that date may not be counted.

**SECTION 8. AMENDMENT.** Section 40-21-12 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-12. Counting ballots - Returns - Canvass of returns by governing body of municipality.** The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and the returns of the election shall be returned to the city auditor under seal within two days and before four p.m. on the second day after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes. However, if the election is held under an agreement with a county or counties pursuant to section 40-21-02, the returns must be canvassed as set out in the agreement.

Approved March 16, 2001

Filed March 16, 2001

## CHAPTER 180

### HOUSE BILL NO. 1141

(Education Committee)

(At the request of the Superintendent of Public Instruction)

## SCHOOL DISTRICT REORGANIZATION

AN ACT to create and enact three new sections to chapter 15.1-12 of the North Dakota Century Code, relating to school district reorganization; and to amend and reenact section 15.1-12-11.1 of the North Dakota Century Code, relating to school district reorganization bonuses.

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

**SECTION 1.** A new section to chapter 15.1-12 of the North Dakota Century Code is created and enacted as follows:

**Reorganization plan - Building fund levy.** The reorganization plan required by section 15.1-12-09 may propose the inclusion of up to ten mills as a building fund levy. If the reorganization plan is approved by a majority of electors residing within the boundaries of the proposed new district, the building fund levy becomes effective, notwithstanding any other voter approval requirement in section 57-15-16.

**SECTION 2.** A new section to chapter 15.1-12 of the North Dakota Century Code is created and enacted as follows:

**Reorganization plan - Interim fund balance.**

1. The reorganization plan must specify whether the balance in the interim fund of each district participating in the reorganization is to be wholly or partially allocated to the general fund of the newly reorganized district.
2. If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be wholly allocated to the general fund of the newly reorganized district, the reorganization plan may also provide that the general fund mill levy applicable to property in those participating districts having a general fund mill levy that is lower than the proposed general fund mill levy for the reorganized district may be raised incrementally, over a period of five years, to the level proposed for the reorganized district.
3.
  - a. If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be partially allocated to the general fund of the newly reorganized district, then each participating district shall divide the amount of its interim fund balance on the day preceding the effective date of the reorganization by the number of students in average daily membership in the district during the school year concluding on the day preceding the effective date of the reorganization.
  - b. The participating district having the lowest per student interim fund balance must contribute the total amount of its interim fund balance to the general fund of the newly reorganized district.

- c. Each of the other participating districts shall multiply the lowest district's per student interim fund amount by the number of students in average daily membership in their respective districts during the school year concluding on the day preceding the effective date of the reorganization. Each of the other participating districts must contribute the lesser of the amount arrived at under this subdivision or the total amount in its interim fund to the general fund of the newly reorganized district.
- d. If after complying with the requirements of subdivision c, a participating district has a balance available in its interim fund, the reorganization plan must allow that balance to be used by or on behalf of property owners residing within the boundaries of that participating district, as a proportionate credit against any property taxes owed by the property owners. The reorganization plan must determine the manner in which the proportionate credit must be used. The credit may be used either in its entirety on a single occasion or applied to several taxable years. The credit may not be used beyond the fifth taxable year.

**SECTION 3. AMENDMENT.** Section 15.1-12-11.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-12-11.1. Reorganization bonus - Eligibility - Distribution.**

1. If a school district reorganizes with one or more contiguous school districts or portions of districts, the newly reorganized district is entitled to receive a reorganization bonus, provided at least one of the reorganizing districts is a high school district and that the newly reorganized district ~~consists~~:
  - a. Consists of at least eight hundred square miles [207198 hectares];  
or
  - b. Consists of at least five hundred square miles [129499 hectares], has a student enrollment of at least five hundred twenty, and had no practical reorganization alternatives that would have allowed it to meet the requirements of subdivision a.
2. The total reorganization bonus to which a newly reorganized district is eligible consists of:
  - a. Fifty thousand dollars per one hundred square mile [25899 hectares] block, or a major portion thereof, included within the reorganized district and calculated by determining the lesser of the total square mileage [hectares] of the reorganized district or one thousand four hundred square miles [362597 hectares], and subtracting from that amount the square mileage [hectares] of the largest district or portion of a district involved in the reorganization;
  - b. One thousand dollars per student calculated by determining the lesser of the total fall enrollment of the newly reorganized district or seven hundred fifty and subtracting from that amount the fall enrollment in the district or portion of the district that had the largest student population of those districts or portions of districts

participating in the reorganization during the school year immediately preceding the effective date of the reorganization; and

- c. Fifty thousand dollars for each whole school district that formed the reorganized district.
3. The superintendent of public instruction shall distribute the reorganization bonus to each eligible reorganized district during the month of December, following the effective date of the district's reorganization.

**SECTION 4.** A new section to chapter 15.1-12 of the North Dakota Century Code is created and enacted as follows:

**Reorganization bonus - Advanced payment.**

1. If the boards of two or more school districts vote to study the feasibility and desirability of reorganizing with each other, the boards may apply to the superintendent of public instruction for an advanced reorganization payment.
2. The superintendent of public instruction shall advance a payment of fifteen thousand dollars to the board of each school district that voted to study the reorganization, provided that at least one of the participating districts is a high school district and that the districts, if reorganized, would qualify for a reorganization bonus under section 15.1-12-11.1.
3. If the school districts reorganize, the superintendent of public instruction shall deduct any money advanced under this section from the amount of the bonus due the newly reorganized district under section 15.1-12-11.1.
4. If the school districts fail to reorganize, each district must repay the amount advanced by the superintendent of public instruction under this section, at the time and in the manner determined by the superintendent of public instruction.

Approved April 24, 2001  
Filed April 24, 2001

## CHAPTER 181

### HOUSE BILL NO. 1045

(Legislative Council)  
(Education Services Committee)

### EDUCATION TITLE REVISION

AN ACT to create and enact chapters 15.1-13, 15.1-14, 15.1-15, 15.1-16, 15.1-17, 15.1-18, 15.1-20, 15.1-21, 15.1-22, 15.1-23, 15.1-27, 15.1-28, 15.1-29, 15.1-30, 15.1-31, 15.1-32, 15.1-33, 15.1-34, 15.1-35, and 15.1-36 of the North Dakota Century Code, relating to elementary and secondary education; to repeal chapters 15-21.1, 15-29, 15-34.1, 15-34.2, 15-35, 15-36, 15-37, 15-38, 15-38.1, 15-38.2, 15-40.1, 15-40.2, 15-40.3, 15-41, 15-43, 15-44, 15-45, 15-47, 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code, relating to elementary and secondary education provisions addressed in the creation of North Dakota Century Code title 15.1; to provide a penalty; and to provide a continuing appropriation.

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

<sup>82</sup> **SECTION 1.** Chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

##### **15.1-13-01. Definitions.** For purposes of this chapter:

1. "Administrator" means an individual who holds an administrator's credential and who is employed by the board of a school district for the primary purpose of providing administrative services to the schools of the district. The term includes a school district superintendent, an assistant or associate school district superintendent, a school principal, an assistant or associate school principal, a special education director, a director of a multidistrict special education unit, a vocational education director, and a director of a vocational technology center. The term may include an athletic or activity director who meets the requirements of this subsection.
2. "Board" means the education standards and practices board.
3. "Profession of teaching" means the provision in a public school district of teaching services, administrative services, or other services, which require licensure by the education standards and practices board.

##### **15.1-13-02. Education standards and practices board - Membership.**

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<sup>82</sup> Section 15.1-13-02 was amended by section 3 of House Bill No. 1326, chapter 182, section 15.1-13-14 was amended by section 2 of House Bill No. 1225, chapter 184, section 15.1-13-17 was amended by section 4 of House Bill No. 1326, chapter 182, and section 15.1-13-29 was amended by section 5 of House Bill No. 1326, chapter 182.

1. The governor shall appoint to the education standards and practices board:
  - a. Four individuals who are public school classroom teachers;
  - b. One individual who is a nonpublic school classroom teacher;
  - c. One individual who is a school board member;
  - d. Two individuals who are administrators; and
  - e. One dean of a college of education or chairman of a department of education.
2. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member.

**15.1-13-03. Board compensation.** Each member of the board is entitled to receive compensation in the amount of twenty-five dollars per day and to reimbursement for expenses as provided by law for other state officers while attending meetings or performing duties directed by the board. A member of the board may not lose the member's regular salary and may not be required to refuse the compensation to which the member is entitled under this section for serving on the board.

**15.1-13-04. Term of office - Vacancy.** The term of office for a member of the board is three years, beginning on July first of the year of appointment. No person may serve for more than two consecutive terms. If a vacancy occurs, it must be filled for the duration of the unexpired term in the same manner as an original appointment.

**15.1-13-05. Officers.** The board annually shall select a chairman and a vice chairman. The executive director of the board or the executive director's designee shall serve as secretary.

**15.1-13-06. Meetings - Notice.** The chairman of the board shall set the date and time of the board meetings and shall provide at least ten days' notice of the meeting to all board members. The chairman shall call a special meeting when requested to do so, in writing, by a majority of the board members.

**15.1-13-07. Quorum - Revocation requirement.**

1. A majority of the board constitutes a quorum.
2. Except as otherwise provided in this section, a majority of the quorum at any meeting has the authority to act upon any matter properly before the board.
3. At least five members of the board must consent to the revocation of an individual's teaching license.

**15.1-13-08. Board duties.** The board shall:

1. Supervise the licensure of teachers.
2. Set standards for and approve teacher preparation programs.

3. Seek the advice of teachers, administrators, school board members, teacher education professors, and other interested citizens in developing and updating codes or standards of ethics, conduct, professional performance, and professional practices.
4. Adopt, in accordance with chapter 28-32, codes or standards of ethics, conduct, professional performance, and professional practices.
5. Make recommendations for the inservice education of individuals engaged in the profession of teaching.
6. Issue minor equivalency endorsements.
7. Appoint an executive director to serve at its discretion.
8. Authorize the executive director to employ personnel, subject to approval by the board.

**15.1-13-09. Board powers.** The board may:

1. Adopt rules in accordance with chapter 28-32.
2. Contract with other states for the reciprocal approval of teacher preparation programs.
3. Apply for and receive federal or other funds on behalf of the state for purposes related to its duties.
4. Perform any duty related to the improvement of instruction through teacher education, professional development, and continuing education programs.

**15.1-13-10. Criteria for teacher licensure.**

1. The board shall establish by rule the criteria for teacher licensure and the process for issuing teaching licenses. The criteria must include considerations of character, adequate educational preparation, and general fitness to teach.
2. The board may not require a teacher who graduated from an accredited teacher education program on or before September 1, 1980, to earn any college credits in native American or other multicultural courses as a condition of licensure or license renewal.
3. This section does not affect the validity of teaching certificates in effect on July 31, 2001.
4. This section does not affect the qualifications for vocational education certificates, as otherwise established by law.

**15.1-13-11. Application and licensing fees.**

1. The board may set and charge a fee for:
  - a. Filing an application for a teaching license.



- b. Issuing a teaching license.
2. Any fee collected by the board must be deposited and disbursed in accordance with section 54-44-12.

**15.1-13-12. Teaching license - Period of effectiveness.** A teaching license issued by the board is effective for at least one school year, unless suspended or revoked by the board. This section does not apply to provisional teaching licenses issued by the board under section 15.1-13-13.

**15.1-13-13. Provisional teaching license - Period of effectiveness - Renewal.** The board may issue a provisional teaching license to an applicant awaiting completion of the background check required by section 15.1-13-14. The provisional license is valid for a period of forty days and may be renewed with the approval of the board. The board may adopt rules governing the issuance of a provisional teaching license. An individual applying for a provisional teaching license may be charged a fee established by the board. However, an individual applying for the renewal of a provisional teaching license may not be charged a fee.

**15.1-13-14. Initial licensure of teachers - Background check.** The board shall check, or cause to be checked, the background of each applicant for initial licensure as a teacher. The board shall require each applicant for licensure to file a complete set of the applicant's fingerprints, taken by a law enforcement officer, and all other information necessary to complete a statewide and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

**15.1-13-15. Teaching license - Application - Oath or affirmation.**

1. Each applicant for a teaching license shall subscribe to the following oath or affirmation:

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

2. The applicant shall execute the oath or affirmation in duplicate. One copy of the oath or affirmation must be filed with the board when the applicant applies for a teaching license. The applicant shall retain the other copy.
3. The board may not issue a license to teach unless a duly witnessed or notarized oath or affirmation has been filed with the board.

**15.1-13-16. Teaching license - Student transcript.** A student who has met all the criteria necessary to receive a teaching license, but who has not graduated from a college or university, may request that the college or university provide a copy of the student's completed transcript to the board or to a comparable entity in another state. Within ten days of the request by the student, the college or university shall provide a copy of the transcript showing that the student has met all the criteria

necessary to receive a teaching license except graduation. The transcript must indicate areas in which the student has a major or minor.

### **15.1-13-17. Teaching license - Requirements - Exceptions.**

1. An individual may not engage in the profession of teaching unless:
  - a. The individual holds a teaching license issued by the board; or
  - b. The individual is approved to teach by the board.
2. An individual may be approved to teach by the board only if the individual has previously held a North Dakota teaching certificate or license, holds a teaching certificate or license issued by another state, or has filed a completed application for licensure with the board.
3. The board shall adopt rules establishing the terms and conditions under which an individual may be approved to teach, as provided for in this section. The terms and conditions may include the payment of a fine to the board, enrollment in and completion of continuing education courses, and submission of a completed application for licensure by a date certain.

### **15.1-13-18. Teaching license - Presentation to business manager.**

Before being employed to teach, an individual shall present to the school district business manager a teaching license or other evidence of approval to teach issued by the board.

**15.1-13-19. Teaching license - Expiration.** Notwithstanding any other law, an individual whose teaching license expires within the final six weeks of a school year may continue teaching under the expired license until the completion of the school year.

### **15.1-13-20. Interim reciprocal teaching license - Period of validity.**

1. The board shall grant an interim reciprocal teaching license in accordance with sections 15.1-18-02 and 15.1-18-03 to an individual who holds a regular teaching license or certificate from another state, provided:
  - a. The individual's licensure or certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in elementary education, middle-level education, or a content area taught at a public high school;
  - b. The individual's licensure or certification is based upon the completion of a professional education sequence from a state-approved teacher education program and includes supervised student teaching;
  - c. The individual submits to a background check as required of initial applicants by this chapter;
  - d. The background check reveals nothing for which a North Dakota applicant would be denied initial licensure; and

- e. The individual submits a plan for meeting all requirements necessary to become a licensed teacher in this state.
2. An interim reciprocal license granted under this section is valid for two years.
3. The individual shall submit evidence of progress on the plan required by subsection 1 to the board prior to renewal of the interim reciprocal license.
4. The board may renew the interim reciprocal license for one additional two-year period if the board finds that the individual has demonstrated satisfactory progress.
5. Notwithstanding any other law, an interim reciprocal license granted under this section is the equivalent of a teaching license granted under this chapter.

**15.1-13-21. Reciprocal acceptance of teaching licenses.** The board shall pursue the reciprocal acceptance of teaching licenses issued by other states.

**15.1-13-22. Licensure of North Dakota American Indian language instructors.** The board may license an individual as an instructor of North Dakota American Indian languages and culture if the individual is recommended for licensure to teach North Dakota native languages by an indigenous language board created by a tribal government in this state and if the individual:

1. Displays competence in North Dakota American Indian languages and culture and has successfully completed a three-semester-hour course in classroom instruction at a tribal college or other institution of higher education; or
2. Holds a baccalaureate degree and has knowledge of and experience in North Dakota American Indian languages and culture.

**15.1-13-23. School guidance and counseling services - Providers.** Notwithstanding any other law, guidance and counseling services at the elementary and secondary school level may be provided by a person holding a graduate degree in counseling from a state-approved school counseling program, with coursework and an internship in school counseling, as required for all counselors by the superintendent of public instruction, provided the person has a North Dakota teaching license or will obtain one within seven years from the date of first employment under this section. The board shall adopt rules relating to the background check of a person hired under this section. All costs associated with a background check are the responsibility of the person being hired. The board shall monitor a person hired under this section to ensure that the person annually completes at least one-seventh of the total credits required for that person to obtain a teaching license, as determined at the time of employment under this section.

**15.1-13-24. Complaints against teachers or administrators.**

1. Any person may file with the board a complaint against a teacher or an administrator. The complaint must state the claims or charges and it must be signed. The complaint may include supporting documentation.

2. Upon receiving the complaint, the board shall serve a copy of the complaint and any supporting documentation upon the individual personally or by certified mail.
3. The individual has twenty days from the date the individual receives the complaint within which to file a response. The response may include supporting documentation.
4. If the individual files a timely response, the board shall meet to review the complaint, the response, and any documentation submitted by the parties, but may not accept testimony.
5. Based on the complaint, the response, and the documentation submitted in accordance with this section, the board may:
  - a. Dismiss the complaint as unfounded; or
  - b.
    - (1) Determine there is a reasonable basis to believe the claims or charges are true and subject to action by the board under this chapter;
    - (2) File a formal complaint against the individual in accordance with chapter 28-32; and
    - (3) Schedule and hold a public hearing on the complaint in accordance with chapter 28-32.
6. If the individual fails to file a timely response, the board shall determine whether the individual's failure to file a timely response constitutes an admission of the allegations in the complaint and whether the individual's teaching license should be subject to action by the board. If the board determines that the individual's failure to file a timely response is an admission of the allegations in the complaint and that the individual's teaching license should be subject to action by the board, the board shall hold a hearing in accordance with chapter 28-32 to take any appropriate action.

#### **15.1-13-25. Teaching license - Action by board - Causes.**

1. After holding a public hearing in accordance with chapter 28-32, the board may issue a written warning or reprimand to the individual, suspend the individual's teaching license, or revoke the individual's teaching license if:
  - a. The individual obtained a license by means of fraud, misrepresentation, or concealment of facts.
  - b. The board becomes aware of any fact or circumstance that would have caused the board to deny licensure had the board known of the fact or circumstance at the time of initial licensure.
  - c. The individual is incompetent, immoral, intemperate, or cruel.
  - d. The individual has been convicted of, has pled guilty to, or has pled nolo contendere to an offense deemed by the board to have a

direct bearing upon an individual's ability to serve as a teacher or an administrator.

- e. The board believes that the individual, having been convicted of an offense, has not been sufficiently rehabilitated under section 12.1-33-02.1.
  - f. The individual has refused to perform the duties of a teacher or an administrator.
  - g. The individual has breached a contract with a school district.
  - h. The individual has violated this chapter or any rule adopted by the board.
2. Any action of the board taken under this section may be appealed to the district court of Burleigh County in accordance with chapter 28-32.

**15.1-13-26. Crimes against a child and sexual offenses - Denial of or immediate revocation of teaching license.**

- 1. The board shall deny an application for a teaching license and shall immediately revoke the teaching license of an individual who has been found guilty of a crime against a child or a sexual offense.
- 2. An individual who is denied a teaching license or who has had a teaching license revoked under subsection 1 may file a request with the board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. The scope of the hearing is limited to determining whether the individual was convicted of a crime against a child or a sexual offense and whether the conviction has been overturned on appeal.
- 3. A final decision denying a teaching license or revoking a teaching license under this section is appealable pursuant to chapter 28-32. A court may not stay the decision pending an appeal. A court shall affirm the decision denying a teaching license or revoking a teaching license unless the court finds that the individual was not convicted of a crime against a child or a sexual offense or that the conviction was overturned on appeal.
- 4. The board may impose a fee against a licensee as reimbursement for all or part of the costs of administrative actions that result in disciplinary action against the licensee under this section.
- 5. As used in this section:
  - a. "Conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt overturned on appeal.

- b. "Crime against a child" means violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, 12.1-16-04, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-05, 12.1-17-06, 12.1-17-07, 12.1-17-07.1, 12.1-17-10, 12.1-18-01, 12.1-18-02, 12.1-18-03, 12.1-29-01, 12.1-29-02, or 12.1-29-03, or an equivalent ordinance, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
- c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or 12.1-22-03.1, or chapter 12.1-27.2, or an equivalent ordinance.

**15.1-13-27. Suspension or revocation of teaching license - Notice.**

- 1. If an individual's teaching license is suspended or revoked, the board shall notify the individual, the business manager of the school district employing the individual, each county superintendent of schools in the state, and the superintendent of public instruction.
- 2. Upon being notified that one's teaching license has been suspended or revoked, the individual shall return the license to the education standards and practices board. If the individual fails to return the license within the time period set by the board, the board may publish notice of the suspension or revocation in the official newspaper of the county in which the individual was employed.

**15.1-13-28. Teaching license - Effect of revocation.** The revocation of an individual's teaching license results in the immediate termination of the individual's employment by a school district. The school district shall, however, compensate the individual for services rendered only until such time as the notice of revocation is received by the district.

**15.1-13-29. Teaching license of administrator - Determinations by subcommittee.**

- 1. Notwithstanding the provisions of any other law, when a complaint regarding an administrator is filed with the board, all actions and determinations provided for in this chapter must be made by a subcommittee of the board.
- 2. The subcommittee must consist of the two board members who are administrators, the board member who is a school board member, and two board members who are teachers and who have been appointed to the subcommittee by the board.
- 3. The subcommittee shall convene at a regular or special meeting of the board.
- 4. The subcommittee shall select its own chairman and vice chairman and the executive director of the board, or the director's designee, shall serve as its secretary.
- 5. a. A majority of the subcommittee constitutes a quorum for purposes of this section.

- b. Except as otherwise provided in this section, a majority of the quorum has the authority to act on any matter properly before the subcommittee.
  - c. At least three members of the subcommittee must consent to the revocation of an administrator's teaching license.
- 6. Any action or determination by the subcommittee regarding the teaching license of an administrator:
  - a. Must be taken or made by the same process and on the same grounds as provided in sections 15.1-13-24, 15.1-13-25, and 15.1-13-26;
  - b. Has the same force and effect as an action or determination by the education standards and practices board;
  - c. May not be modified by the board; and
  - d. May be appealed under this chapter in the same manner as actions or determinations by the board.

**15.1-13-30. Venue for legal actions.** Burleigh County, North Dakota, is the venue for all actions to which the education standards and practices board is a party.

**15.1-13-31. Conviction of individual holding teaching license - Written notification.** A state's attorney shall provide written notification to the board when an individual holding a teaching license is convicted of a felony or a class A misdemeanor.

**SECTION 2.** Chapter 15.1-14 of the North Dakota Century Code is created and enacted as follows:

**15.1-14-01. School district superintendent - Duties.** A school district superintendent shall:

- 1. Supervise the general operation of the school district.
- 2. Supervise the provision of education to students.
- 3. Visit the schools of the district.
- 4. Supervise school personnel.
- 5. Prepare and deliver reports requested by the board of the district.
- 6. Perform any other duties requested by the board.

**15.1-14-02. School district superintendent - Bond.** A school district superintendent shall furnish to the school district a bond in an amount fixed by the board of the school district and equal to at least the maximum amount of money that may be subject to the superintendent's control at any one time. The bond must be conditioned for the faithful discharge of the superintendent's duties, including the maintenance of accurate financial records and the safekeeping and deliverance of all school property and funds that come under the superintendent's control. The bond

must be written through the state bonding fund and must be obtained at the expense of the school district.

**15.1-14-03. School district superintendent - Evaluation.**

1. Before December fifteenth of each year, the board of a school district shall conduct a formative evaluation of the superintendent's performance.
2. Before March fifteenth of each year, the board shall conduct a formal evaluation of the superintendent's performance. The board shall place a copy of the evaluation report in the superintendent's file and shall provide a copy of the evaluation report to the superintendent.
3. If the board finds the superintendent's performance to be unsatisfactory in any area, the board shall detail its findings regarding the superintendent's performance in the report and shall make recommendations.
4. Upon receiving the report, the superintendent may provide a written response to the board. The board shall place the superintendent's written response in the superintendent's personnel file.
5. The board shall meet with the superintendent to discuss the evaluation.

**15.1-14-04. School district superintendent - Grounds for dismissal.** The board of a school district may dismiss a school district superintendent prior to the expiration of the individual's contract for any of the following causes:

1. Immoral conduct.
2. Insubordination.
3. Conviction of a felony.
4. Conduct unbecoming the position of superintendent.
5. Failure to perform contracted duties without justification.
6. Gross inefficiency that the superintendent has failed to correct after written notice.
7. Continuing physical or mental disability that renders the superintendent unfit or unable to perform the superintendent's duties.

**15.1-14-05. School district superintendent - Discharge for cause - Notice of hearing - Legal expenses.**

1. If the board of a school district intends to discharge a superintendent for cause prior to the expiration of the superintendent's contract, the board shall:
  - a. Provide the superintendent with a written description of the reasons for the discharge; and



- b. Provide the superintendent with written notice specifying the date and time at which the board will conduct a hearing regarding the discharge.
2. If the superintendent chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the superintendent.

**15.1-14-06. School district superintendent - Discharge for cause - Hearing.**

1. At the hearing, the superintendent may produce evidence and witnesses to rebut any reasons given by the board of the school district for its discharge of the superintendent.
2. The hearing must be conducted in accordance with chapter 28-32.
3. All witnesses are subject to cross-examination.
4. Unless otherwise agreed to by the board and the superintendent, the hearing must be conducted as an executive session of the board, except that:
  - a. The superintendent may invite to the hearing any two representatives to speak on behalf of the superintendent and may invite the superintendent's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the school district business manager.
5. If a continuance is requested by the superintendent, the board shall grant a continuance for a period not in excess of seven days. The board may grant a continuance in excess of seven days upon a showing of good cause.
6. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.

**15.1-14-07. School district superintendent - Discharge for cause - Report to the education standards and practices board.** If the board of a school district discharges a superintendent for cause, the board shall report the discharge to the education standards and practices board.

**15.1-14-08. School district superintendent - Suspension during discharge proceeding - Compensation.** The board of a school district may suspend a superintendent if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued. If the superintendent is ultimately discharged for cause, the board may determine the amount of compensation, if any, due the superintendent during the period of suspension. If the superintendent is ultimately not discharged, the board may not apply any reduction to the superintendent's salary for the period of suspension.

**15.1-14-09. School district superintendent - Nonrenewal of contract - Reasons - Notice.**

1. If the board of a school district contemplates not renewing the contract of a superintendent who has been employed by the board in that position for at least two consecutive years, the board shall on or before April fifteenth:
  - a. Provide written notification of the contemplated nonrenewal to the superintendent.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the superintendent.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the superintendent.
2. a. The reasons for the contemplated nonrenewal of the superintendent's contract must:
  - (1) Be sufficient to justify the contemplated nonrenewal;
  - (2) Relate to the ability, competence, or qualifications of the superintendent; and
  - (3) Originate from specific findings documented in the formal evaluation of the superintendent's performance required by section 15.1-14-03.
- b. The provisions of this section do not apply if the contemplated nonrenewal is based on a necessary reduction in personnel.

**15.1-14-10. School district superintendent - Nonrenewal of contract - Hearing.**

1. At the hearing required by section 15.1-14-09, the board of the school district shall present testimony or documentary evidence to substantiate the reasons for the contemplated nonrenewal of a superintendent who has been employed by the board in that position for at least two consecutive years.
2. The superintendent may call witnesses and present evidence necessary to refute the reasons for nonrenewal.
3. Each witness appearing on behalf of the board of the school district or the superintendent may be questioned for the purpose of clarification.
4. Unless otherwise agreed to by the board and the superintendent, the hearing must be conducted as an executive session of the board, except that:

- a. The superintendent may invite to the hearing any two representatives to speak on behalf of the superintendent and may invite the superintendent's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the school district business manager.
5. If the superintendent chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the superintendent.
6. If a continuance is requested by the superintendent, the board shall grant a continuance for a period not to exceed seven days.
7. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.
8. If, after considering the testimony and evidence presented at the hearing, the board chooses not to renew the contract of the superintendent, the board shall provide written notice of its decision to the superintendent on or before May first.

**15.1-14-11. School district superintendent - Contract - Failure to provide notice of nonrenewal.** The contract of a school district superintendent is deemed to be renewed for a period of one year from its termination date if:

1. On or before April fifteenth, the board of a school district has not provided written notification to the superintendent regarding a contemplated nonrenewal of the superintendent's contract; and
2. On or before June first, the superintendent has not provided to the board a written resignation.

**15.1-14-12. School district superintendent - Employed for less than two years - Notification of nonrenewal.** If the board of a school district elects not to renew the contract of a superintendent who has been employed by the board in that position for less than two years, the board shall provide written notice of the nonrenewal to the superintendent before May first. At the request of the superintendent, the board shall meet with the superintendent to convey the reasons for the nonrenewal.

**15.1-14-13. Multidistrict special education unit - Director - Evaluation.**

1. Before December fifteenth of each year, the board of a multidistrict special education unit shall conduct a formative evaluation of the director's performance.
2. Before March fifteenth of each year, the board shall conduct a formal evaluation of the director's performance. The board shall place a copy of the evaluation report in the director's file and shall provide a copy of the evaluation report to the director.

3. If the board finds the director's performance to be unsatisfactory in any area, the board shall detail its findings regarding the director's performance in the report and shall make recommendations.
4. Upon receiving the report, the director may provide a written response to the board. The board shall place the director's written response in the director's personnel file.
5. The board shall meet with the director to discuss the evaluation.

**15.1-14-14. Multidistrict special education unit - Director - Grounds for dismissal.** The board of a multidistrict special education unit may dismiss a director prior to the expiration of the individual's contract for any of the following causes:

1. Immoral conduct.
2. Insubordination.
3. Conviction of a felony.
4. Conduct unbecoming the position of a director.
5. Failure to perform contracted duties without justification.
6. Gross inefficiency that the director has failed to correct after written notice.
7. Continuing physical or mental disability that renders the director unfit or unable to perform the director's duties.

**15.1-14-15. Multidistrict special education unit - Director - Discharge for cause - Notice of hearing - Legal expenses.**

1. If the board of a multidistrict special education unit intends to discharge a director for cause prior to the expiration of the director's contract, the board shall:
  - a. Provide the director with a written description of the reasons for the discharge; and
  - b. Provide the director with written notice specifying the date and time at which the board will conduct a hearing regarding the discharge.
2. If the director chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the director.

**15.1-14-16. Multidistrict special education unit - Director - Discharge for cause - Hearing.**

1. At the hearing, the director may produce evidence and witnesses to rebut any reasons given by the board of the multidistrict special education unit for its discharge of the director.
2. The hearing must be conducted in accordance with chapter 28-32.

3. All witnesses are subject to cross-examination.
4. Unless otherwise agreed to by the board and the director, the hearing must be conducted as an executive session of the board, except that:
  - a. The director may invite to the hearing any two representatives to speak on behalf of the director and may invite the director's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the unit's business manager.
5. If a continuance is requested by the director, the board shall grant a continuance for a period not in excess of seven days. The board may grant a continuance in excess of seven days upon a showing of good cause.
6. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.

**15.1-14-17. Multidistrict special education unit - Director - Discharge for cause - Report to the education standards and practices board.** If the board of a multidistrict special education unit discharges a director for cause, the board shall report the discharge to the education standards and practices board.

**15.1-14-18. Multidistrict special education unit - Director - Suspension during discharge proceeding - Compensation.** The board of a multidistrict special education unit may suspend a director if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued. If the director is ultimately discharged for cause, the board may determine the amount of compensation, if any, due the director during the period of suspension. If the director is ultimately not discharged, the board may not apply any reduction to the director's salary for the period of suspension.

**15.1-14-19. Multidistrict special education unit - Director - Nonrenewal of contract - Reasons - Notice.**

1. If the board of a multidistrict special education unit contemplates not renewing the contract of a director who has been employed by the board in that position for at least two consecutive years, the board, on or before April fifteenth, shall:
  - a. Provide written notification of the contemplated nonrenewal to the director.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the director.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the director.

2. a. The reasons for the contemplated nonrenewal of the director's contract must:
  - (1) Be sufficient to justify the contemplated nonrenewal;
  - (2) Relate to the ability, competence, or qualifications of the director; and
  - (3) Originate from specific findings documented in the formal and written evaluations of the director's performance required by section 15.1-14-13.
- b. The provisions of this section do not apply if the contemplated nonrenewal is based on a necessary reduction in personnel.

**15.1-14-20. Multidistrict special education unit - Director - Nonrenewal of contract - Hearing.**

1. At the hearing required by section 15.1-14-19, the board of the multidistrict special education unit shall present testimony or documentary evidence to substantiate the reasons for the contemplated nonrenewal of a director who has been employed by the board in that position for at least two consecutive years.
2. The director may call witnesses and present evidence necessary to refute the reasons for nonrenewal.
3. Each witness appearing on behalf of the board or the director may be questioned for the purpose of clarification.
4. Unless otherwise agreed to by the board and the director, the hearing must be conducted as an executive session of the board, except that:
  - a. The director may invite to the hearing any two representatives to speak on behalf of the director and may invite the director's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the unit's business manager.
5. If the director chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the director.
6. If a continuance is requested by the director, the board shall grant a continuance for a period not in excess of seven days.
7. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.
8. If, after considering the testimony and evidence presented at the hearing, the board chooses not to renew the contract of the director, the board shall provide written notice of its decision to the director on or before May first.

**15.1-14-21. Multidistrict special education unit - Director - Contract - Failure to provide notice of nonrenewal.** The contract of a multidistrict special education unit director is deemed to be renewed for a period of one year from its termination date if:

1. On or before April fifteenth, the board of the multidistrict special education unit has not provided written notification to the director regarding a contemplated nonrenewal of the director's contract; and
2. On or before June first, the director has not provided to the board a written resignation.

**15.1-14-22. Multidistrict special education unit - Director - Employed for less than two years - Notification of nonrenewal.** If the board of a multidistrict special education unit elects not to renew the contract of a director who has been employed by the board in that position for less than two years, the board shall provide written notice of the nonrenewal to the director before May first. At the request of the director, the board shall meet with the director to convey the reasons for the nonrenewal.

**15.1-14-23. Area vocational and technology center - Director - Evaluation.**

1. Before December fifteenth of each year, the board of an area vocational and technology center shall conduct a formative evaluation of the director's performance.
2. Before March fifteenth of each year, the board shall conduct a formal evaluation of the director's performance. The board shall place a copy of the evaluation report in the director's file and shall provide a copy of the evaluation report to the director.
3. If the board finds the director's performance to be unsatisfactory in any area, the board shall detail its findings regarding the director's performance in the report and shall make recommendations.
4. Upon receiving the report, the director may provide a written response to the board. The board shall place the director's written response in the director's personnel file.
5. The board shall meet with the director to discuss the evaluation.

**15.1-14-24. Area vocational and technology center - Director - Grounds for dismissal.** The board of an area vocational and technology center may dismiss a director prior to the expiration of the individual's contract for any of the following causes:

1. Immoral conduct.
2. Insubordination.
3. Conviction of a felony.
4. Conduct unbecoming the position of a director.
5. Failure to perform contracted duties without justification.

6. Gross inefficiency that the director has failed to correct after written notice.
7. Continuing physical or mental disability that renders the director unfit or unable to perform the director's duties.

**15.1-14-25. Area vocational and technology center - Director - Discharge for cause - Notice of hearing - Legal expenses.**

1. If the board of an area vocational and technology center intends to discharge a director for cause prior to the expiration of the director's contract, the board shall:
  - a. Provide the director with a written description of the reasons for the discharge; and
  - b. Provide the director with written notice specifying the date and time at which the board will conduct a hearing regarding the discharge.
2. If the director chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the director.

**15.1-14-26. Area vocational and technology center - Director - Discharge for cause - Hearing.**

1. At the hearing, the director may produce evidence and witnesses to rebut any reasons given by the board of the area vocational and technology center for its discharge of the director.
2. The hearing must be conducted in accordance with chapter 28-32.
3. All witnesses are subject to cross-examination.
4. Unless otherwise agreed to by the board and the director, the hearing must be conducted as an executive session of the board, except that:
  - a. The director may invite to the hearing any two representatives to speak on behalf of the director and may invite the director's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the center's business manager.
5. If a continuance is requested by the director, the board shall grant a continuance for a period not in excess of seven days. The board may grant a continuance in excess of seven days upon a showing of good cause.
6. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.

**15.1-14-27. Area vocational and technology center - Director - Discharge for cause - Report to the education standards and practices board. If**



the board of an area vocational and technology center discharges a director for cause, the board shall report the discharge to the education standards and practices board.

**15.1-14-28. Area vocational and technology center - Director - Suspension during discharge proceeding - Compensation.** The board of an area vocational and technology center may suspend a director if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued. If the director is ultimately discharged for cause, the board may determine the amount of compensation, if any, due the director during the period of suspension. If the director is ultimately not discharged, the board may not apply any reduction to the director's salary for the period of suspension.

**15.1-14-29. Area vocational and technology center - Director - Nonrenewal of contract - Reasons - Notice.**

1. If the board of an area vocational and technology center contemplates not renewing the contract of a director who has been employed by the board in that position for at least two consecutive years, the board shall on or before April fifteenth:
  - a. Provide written notification of the contemplated nonrenewal to the director.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the director.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the director.
2.
  - a. The reasons for the contemplated nonrenewal of the director's contract must:
    - (1) Be sufficient to justify the contemplated nonrenewal;
    - (2) Relate to the ability, competence, or qualifications of the director; and
    - (3) Originate from specific findings documented in the formal and written evaluations of the director's performance required by section 15.1-14-23.
  - b. The provisions of this section do not apply if the contemplated nonrenewal is based on a necessary reduction in personnel.

**15.1-14-30. Area vocational and technology center - Director - Nonrenewal of contract - Hearing.**

1. At the hearing required by section 15.1-14-29, the board of the area vocational and technology center shall present testimony or documentary evidence to substantiate the reasons for the contemplated

nonrenewal of a director who has been employed by the board in that position for at least two consecutive years.

2. The director may call witnesses and present evidence necessary to refute the reasons for nonrenewal.
3. Each witness appearing on behalf of the board or the director may be questioned for the purpose of clarification.
4. Unless otherwise agreed to by the board and the director, the hearing must be conducted as an executive session of the board, except that:
  - a. The director may invite to the hearing any two representatives to speak on behalf of the director and may invite the director's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the center's business manager.
5. If the director chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the director.
6. If a continuance is requested by the director, the board shall grant a continuance for a period not to exceed seven days.
7. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.
8. If, after considering the testimony and evidence presented at the hearing, the board chooses not to renew the contract of the director, the board shall provide written notice of its decision to the director on or before May first.

**15.1-14-31. Area vocational and technology center - Director - Contract - Failure to provide notice of nonrenewal.** The contract of an area vocational and technology center director is deemed to be renewed for a period of one year from its termination date if:

1. On or before April fifteenth, the board of the center has not provided written notification to the director regarding a contemplated nonrenewal of the director's contract; and
2. On or before June first, the director has not provided to the board a written resignation.

**15.1-14-32. Area vocational and technology center - Director - Employed for less than two years - Notification of nonrenewal.** If the board of an area vocational and technology center elects not to renew the contract of a director who has been employed by the board in that position for less than two years, the board shall provide written notice of the nonrenewal to the director before May first. At the request of the director, the board shall meet with the director to convey the reasons for the nonrenewal.

**SECTION 3.** Chapter 15.1-15 of the North Dakota Century Code is created and enacted as follows:

**15.1-15-01. Performance reviews - Written reports.**

1. a. The school district shall conduct two performance reviews of each individual employed as a teacher, a principal, or as an assistant or associate superintendent during each of the first three years an individual holds such a position. The school district shall prepare written reports of the individual's performance. The school district shall make the first yearly report available to the individual on or before December fifteenth. The school district shall make the second yearly report available to the individual on or before March fifteenth.
- b. If an individual begins employment as a teacher, a principal, or as an assistant or associate superintendent after January first, the school district shall conduct one review of the individual's performance. The school district shall make the written report available to the individual on or before March fifteenth.
2. Beginning with the fourth year of an individual's employment as a teacher, a principal, or as an assistant or associate superintendent, the school district shall conduct at least one review of the individual's performance each year. The school district shall prepare a written report of the individual's performance and make the report available to the individual on or before March fifteenth.

**15.1-15-02. First-year teachers - Review of evaluations - Renewal and nonrenewal of contracts.**

1. If the board of a school district contemplates not renewing the contract of an individual employed as a first-year teacher, the board shall review the individual's evaluations required by section 15.1-15-01 and meet with the individual in an executive session to discuss the reasons for the contemplated nonrenewal.
2. The individual employed as a first-year teacher may be accompanied by two representatives selected by the individual for the purpose of speaking on behalf of the individual and by the individual's spouse or one other family member.
3. No claim for relief for libel or slander may be brought regarding any communication made at an executive session of a school board held pursuant to this section.
4. If the board of a school district elects not to renew the contract of an individual employed as a first-year teacher, the board shall provide written notification of the decision, together with a detailed description of the board's reasons, to the individual no earlier than April fifteenth nor later than May first.
5. Failure by the board of a school district to provide the notification required by subsection 4 constitutes an offer to renew the individual's contract on the same terms and conditions as the individual's contract for the current year.

6. For purposes of this section, a "first-year teacher" means an individual teaching for the first school year since obtaining a license to teach.

**15.1-15-03. Employment after January first - Review of evaluation - Renewal and nonrenewal of contracts.**

1. If the board of a school district contemplates not renewing the contract of an individual employed after January first as a teacher, a principal, or as an assistant or associate superintendent, the board shall review the individual's evaluation required by section 15.1-15-01 and meet with the individual in an executive session to discuss the reasons for the contemplated nonrenewal.
2. The individual may be accompanied by two representatives selected by the individual for the purpose of speaking on behalf of the individual and by the individual's spouse or one other family member.
3. No claim for relief for libel or slander may be brought regarding any communication made at an executive session of a school board held pursuant to this section.
4. If the board of a school district elects not to renew the contract of the individual, the board shall provide written notification of the decision, together with a detailed description of the board's reasons, to the individual no earlier than April fifteenth nor later than May first.
5. Failure by the board of a school district to provide the notification required by subsection 4 constitutes an offer to renew the individual's contract on the same terms and conditions as the individual's contract for the current year.
6. The provisions of this section are applicable only through the conclusion of the school year in which the individual was employed.

**15.1-15-04. Contracts - Renewals - Notice.**

1.
  - a. If the board of a school district elects not to renew the contract of a teacher, a principal, or an assistant or associate superintendent for the ensuing school year, the board shall provide written notification of the decision to the individual.
  - b. The board may not notify the individual under this section earlier than March first nor later than May first of the school year in which the individual has been employed.
  - c. The failure of a board to provide written notice under this subsection constitutes an offer to renew the individual's contract for the ensuing school year, under the same terms and conditions as the individual's current contract.
2.
  - a. No earlier than March first nor later than May first, the board of a school district shall notify each individual offered renewal of a contract of the date by which the individual must accept or reject the contract.

- b. At least thirty calendar days must pass between the notification of each individual, as required by this subsection, and the date by which the individual must accept or reject the contract.
- 3.
  - a. In order to accept an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of acceptance to the board on or before the date required by the board or June first, whichever is earlier. An individual accepting an offer to renew a contract is entitled to a written contract for the ensuing school year.
  - b. In order to reject an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of rejection to the board on or before the date required by the board or June first, whichever is earlier.
  - c. If an individual fails to provide notification of acceptance or rejection of an offer to renew a contract, the board is relieved of any continuing contract provisions.
- 4. If negotiations are being carried on pursuant to chapter 15.1-16, the provisions of this section requiring the board of a school district to give an individual notice and requiring that the individual respond to the notice are suspended until the negotiations are completed.

**15.1-15-05. Contracts - Contemplated nonrenewal - Reasons - Notice.**

- 1. If the board of a school district contemplates not renewing the contract of an individual employed as a teacher, a principal, or as an associate or assistant superintendent, the board shall, no earlier than March first nor later than April fifteenth:
  - a. Provide written notification of the contemplated nonrenewal to the individual.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the individual.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the individual.
- 2. The reasons for the contemplated nonrenewal of the individual's contract must not be frivolous or arbitrary. The reasons must be sufficient to justify the contemplated nonrenewal and must:
  - a. Originate from specific findings documented in the report of the individual's performance required by section 15.1-15-01 and relate to the individual's ability, competence, or qualifications; or

- b. Originate from the needs of the district in justifying a reduction in the staff.

### **15.1-15-06. Contracts - Contemplated nonrenewal - Hearing.**

1. At the hearing required by section 15.1-15-05, the school district superintendent or a designee of the board shall present testimony or documentary evidence regarding the reasons for the contemplated nonrenewal of the individual's contract.
2. The board of the school district contemplating the nonrenewal of an individual's contract may call additional witnesses to present testimony or documentary evidence regarding the reasons for nonrenewal.
3. The individual whose contract is subject to nonrenewal may call witnesses and produce evidence necessary to refute the reasons for the nonrenewal.
4. Each witness appearing on behalf of the board of the school district or the individual whose contract is subject to nonrenewal may be questioned for the purpose of clarification.
5. The board of the school district shall review all testimony and evidence presented at the hearing and make a determination regarding the nonrenewal. If the board determines that the reasons for nonrenewal have not been substantiated, the board shall dismiss the nonrenewal proceedings.
6. Unless otherwise agreed to by the board of the school district and the individual subject to the nonrenewal, the hearing must be conducted as an executive session of the board, except that:
  - a. The individual may invite to the hearing any two representatives, and the individual's spouse or one other family member; and
  - b. The board may invite to the hearing any two representatives, the school district business manager, and the school district superintendent.
7. The individual subject to the nonrenewal may request one continuance. If a continuance is requested, the board of the school district shall grant a continuance not in excess of seven days.
8. No cause of action for libel or slander may be brought regarding any communication made in an executive session of the board held for the purposes provided in this section.
9. A determination by the board of a school district not to renew an individual's contract is, if made in good faith, final and binding on all parties.
10. If the board of a school district elects not to renew an individual's contract, the board shall provide notice of its determination to the individual in writing on or before May first.

**15.1-15-07. Discharge for cause - Grounds.** The board of a school district may dismiss an individual employed as a teacher, a principal, or as an assistant or associate superintendent prior to the expiration of the individual's contract for any of the following causes:

1. Immoral conduct.
2. Insubordination.
3. Conviction of a felony.
4. Conduct unbecoming the position held by the individual.
5. Failure to perform contracted duties without justification.
6. Gross inefficiency that the individual has failed to correct after written notice.
7. Continuing physical or mental disability that renders the individual unfit or unable to perform the individual's duties.

**15.1-15-08. Discharge for cause - Hearing.**

1. If the board of a school district contemplates the discharge for cause of an individual employed as a teacher, a principal, or as an assistant or associate superintendent, prior to the expiration of the individual's contract, the board shall provide written notice to the individual at least ten days prior to the discharge date. The notice must:
  - a. State the date and time at which the board will conduct a special hearing to address charges against the individual; and
  - b. State that the individual may demand a list of the charges.
2. If the individual demands a list of charges under subsection 1, the board shall furnish the list to the individual at least five days before the hearing.
3. If the individual notifies the board in writing at least two days before the hearing that the individual intends to contest the charges, the board shall produce evidence of the charges at the hearing, together with witnesses who are subject to cross-examination by the individual or by a representative of the individual.
4. If a witness is a minor and if it is the wish of the witness or the witness's parent, the witness may be accompanied by legal counsel and a parent.
5. At the hearing, the individual may produce evidence and witnesses to refute any charges. Any witnesses produced by the individual are subject to cross-examination.
6. The hearing must be conducted in accordance with chapter 28-32.
7. Unless otherwise agreed to by the board and the individual, the hearing must be conducted as an executive session of the board, except that:

- a. The individual may invite to the hearing any two representatives and the individual's spouse or one other family member; and
  - b. The board may invite to the hearing any two representatives, the school business manager, and the school district superintendent.
8. The individual subject to the discharge may request one continuance. If a continuance is requested, the board of the school district shall grant the continuance not in excess of seven days. Upon a showing of good cause by the individual, the board may grant a continuance in excess of seven days.
9. No cause of action for libel or slander may be brought regarding any communication made in an executive session of the board held for the purposes provided in this section.

**15.1-15-09. Alleged child abuse - Discharge - Nonrenewal of contract - Limitations.**

1. The board of a school district may not discharge or refuse to renew the contract of a teacher, a principal, or an assistant or associate superintendent solely because a report of suspected child abuse or neglect under section 50-25.1-05 alleges participation by the individual.
2. If a report of suspected child abuse or neglect under section 50-25.1-05 alleges participation by a teacher, a principal, or an assistant or associate superintendent, the board of a school district may suspend the individual pending the outcome of the case.

**15.1-15-10. Suspension during discharge proceeding - Compensation.**

1. The board of a school district may suspend an individual employed as a teacher, a principal, or as an assistant or associate superintendent if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued.
2. The board shall address the matter of the individual's suspension in an executive session, unless both the board and the individual agree that the matter may be addressed in the presence of others or at an open meeting of the board.
3. If the individual is ultimately discharged for cause, the board may determine the amount of compensation, if any, payable to the individual during the period of suspension. If the individual is ultimately not discharged, the board may not apply any reduction to the individual's salary for the period of suspension.

**15.1-15-11. Discharge for cause - Report to education standards and practices board.** If the board of a school district discharges for cause an individual employed as a teacher, a principal, or as an assistant or associate superintendent, the board shall report the discharge to the education standards and practices board.

**15.1-15-12. Nonapplicable provisions.** This chapter does not apply to:

1. Any individual employed to teach at an institution of higher education under the control of the state board of higher education;



2. Any individual employed to teach at the youth correctional center, the school for the blind, or the school for the deaf; and
3. Any individual who replaces a teacher, a principal, or an assistant or associate superintendent while that teacher, principal, or assistant or associate superintendent is on a leave of absence or a sabbatical.

<sup>83</sup> **SECTION 4.** Chapter 15.1-16 of the North Dakota Century Code is created and enacted as follows:

**15.1-16-01. Definitions.** As used in this chapter:

1. "Administrator" means an individual who is employed by the board of a public school district primarily for administration of a school or schools of the district and who devotes at least fifty percent of the individual's time in any one year to the duties of administration of the school or schools of the district.
2. "Negotiating unit" means:
  - a. A group of administrators having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with the board of a school district; or
  - b. A group of teachers having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with the board of a school district.
3. "Representative organization" means an organization authorized by a negotiating unit to represent the members of the unit in negotiations with a school board.
4. "Strike" means any concerted work stoppage, slowdown, or withholding of contracted services.
5. "Teacher" means a public school employee licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed primarily as a classroom teacher.

**15.1-16-02. Education factfinding commission - Appointment - Terms - Quorum.**

1. The education factfinding commission consists of three members experienced in educational activities. One member is appointed by the governor, one member is appointed by the superintendent of public

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<sup>83</sup> Section 15.1-16-03 was amended by section 2 of Senate Bill No. 2366, chapter 185, and section 15.1-16-04 was amended by section 3 of Senate Bill No. 2366, chapter 185.

instruction, and one member is appointed by the attorney general. The member appointed by the superintendent of public instruction shall serve as the chairman of the commission.

2. The term of each commission member is three years staggered.
3. If a vacancy occurs, the individual who appointed the member to be succeeded shall appoint a new member to serve only the unexpired term of the member to be succeeded.
4. Two members of the commission constitute a quorum.

**15.1-16-03. Education factfinding commission - Compensation.** Each member of the commission is entitled to receive compensation at the rate of sixty-two dollars and fifty cents per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

**15.1-16-04. Education factfinders - Compensation.** Each factfinder appointed by the education factfinding commission, including each commission member who serves as a factfinder, is entitled to receive compensation at the rate of sixty-two dollars and fifty cents per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

**15.1-16-05. Education factfinding commission - Rules - Powers.** The education factfinding commission may adopt rules. The commission and any factfinder appointed by the commission have, in the performance of their duties, the powers provided in sections 28-32-09, 28-32-11, and 28-32-12.

**15.1-16-06. Factfinding - Sharing of cost.** If an impasse is deemed to exist under section 15.1-16-14, the contending parties shall share the cost of factfinding equally.

**15.1-16-07. Representative organizations - Participation.**

1. An individual employed as a teacher may form, join, and participate in the activities of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations.
2. An individual employed as an administrator may form, join, and participate in the activities of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations.
3. Any individual employed as a teacher or as an administrator may refuse to join or participate in the activities of a representative organization.

**15.1-16-08. Representative organization - Negotiating unit - Right to negotiate.** A representative organization has the right to represent a negotiating unit in matters of employee relations with the board of a school district. Any teacher or administrator has the right to present the individual's views directly to the board.

**15.1-16-09. Scope of representation.** A representative organization's scope of representation may include matters relating to the terms and conditions of employment and employer-employee relations, including salary and working hours.

**15.1-16-10. Negotiating unit - Formation.** A group of teachers or a group of administrators employed by the board of a public school district may form a negotiating unit by filing with the board a description of the job groupings or positions that constitute the negotiating unit. Upon receipt of the description, the board shall accept or reject the proposed negotiating unit. If the board accepts the negotiating unit, the teachers or the administrators within the unit may designate or select a representative organization as provided for in section 15.1-16-11.

**15.1-16-11. Representative organization - Selection.**

1.
  - a. If an organization is interested in representing a group of teachers or a group of administrators, the organization may file with the board of a school district a petition asserting that the organization represents a majority of the teachers or the administrators included within a negotiating unit.
  - b. The petition must be accompanied by evidence substantiating the assertion contained in it.
  - c. Within ten days after receiving the petition, the board of the school district shall post notice of its intent to consider the petition in each school wherein the members of the negotiating unit are employed.
  - d. No sooner than ten nor later than twenty days after posting the notice of intent to consider the petition, the board shall investigate the petition, determine the question of representation, and post notice of its determination in each school wherein the members of the negotiating unit are employed.
  - e. If the petition is not contested, the board shall recognize the petitioner as the representative organization of the negotiating unit, unless it finds in good faith that there is a reasonable doubt the representation exists.
2. If any organization has an interest in representing a group of teachers or a group of administrators and wishes to contest the claim of representation made in the petition under subsection 1, the contesting organization must file with the board of the school district a petition containing a written statement of contest together with substantiating evidence, within ten days from the date on which the board posted the notice of intent to consider the original petition.
3. If the board of a school district fails to make and post notice of its determination or if the board's determination has been contested, the board shall call an election to determine the question of representation not sooner than twenty nor later than thirty days after the posting of the notice of intent to consider the original petition.
4. If the board of a school district receives a petition that is signed by at least twenty-five percent of the members of the negotiating unit and which calls for an election to determine the question of representation, the board shall call the election.

5. The election must be conducted in the manner agreed to by the interested parties. If the interested parties cannot reach an agreement, the election must be conducted in the manner determined by the education factfinding commission under its rules.
6. Once a representative organization has been selected, its authority to represent the negotiating unit continues for at least one year from the date of the selection.

**15.1-16-12. Representative organization - Payroll deduction - Dues.** If an individual who is employed as a teacher, and who is a member of a representative organization as defined in this chapter, signs a petition requesting that dues for the representative organization be deducted from the individual's regular paycheck, the board of the school district shall comply with the petition. Nothing in this section may be interpreted to mean that the dues of a nonmember must be deducted in that manner.

**15.1-16-13. Good-faith negotiations.**

1. The board of a school district or its representatives and the representative organization or its representatives shall, if requested by either entity, meet at reasonable times and negotiate in good faith regarding:
  - a. The terms and conditions of employment.
  - b. Employer-employee relations.
  - c. Formation of a contract, which may contain a provision for binding arbitration.
  - d. The interpretation of an existing contract.
2. The board of a school district and the representative organization, at the request of either party, shall execute a written contract incorporating any agreement reached.
3. Either the board of a school district or the representative organization may modify or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate the contract to the other party not less than sixty days before the annual anniversary date.
4. Nothing in this section compels either the board of a school district or a representative organization to agree to a proposal or to make a concession.

**15.1-16-14. Impasse - Existence.**

1. An impasse exists if:
  - a. After a reasonable period of negotiation, an agreement has not been formulated and a dispute exists.
  - b. The board of a school district and the representative organization both agree that an impasse exists.

2. An impasse may exist if:
  - a. A written contract entered into between the board of a school district and the representative organization under section 15.1-16-13 does not contain a procedure for resolving a dispute.
  - b. A written agreement entered into between the board of a school district and the representative organization under section 15.1-16-13 contains an inadequate procedure for resolving a dispute.

#### **15.1-16-15. Impasse - Resolution.**

1. If an impasse exists, the board of a school district and the representative organization may agree to seek mediation. The board and the representative organization shall jointly select a mediator and agree to a distribution of the mediation cost. If mediation fails or if mediation is not attempted, the board or representative organization may request that the education factfinding commission provide assistance.
2. If the education factfinding commission is asked to provide assistance under subsection 1 and if the commission determines that an impasse exists, the commission shall act as a factfinding commission or appoint a factfinder from a list of qualified individuals maintained by the commission. A factfinder appointed under this section has the powers designated by the commission. Upon completion of all duties, the factfinder shall make a recommendation to the commission.
3. The education factfinding commission shall:
  - a. Consider the facts, make its findings, and issue a recommendation; or
  - b. Consider the report and recommendation of its factfinder and, after any further investigation the commission elects to perform, make its findings and issue a recommendation.
4. Within forty days from the date the commission is asked to provide assistance, the commission shall deliver its findings and recommendations to the board of the school district and to the representative organization. No sooner than ten nor later than twenty days after its findings and recommendations are delivered to the board and the representative organization, the commission shall make its findings and recommendation public if the impasse is not resolved.
5. If facts are established or a recommendation made in accordance with factfinding procedures agreed to by the board of the school district and the representative organization and the impasse continues, the education factfinding commission may consider the findings and recommendations without instituting its own factfinding procedure and the commission may issue its own findings and recommendations based on the information available. No sooner than ten nor later than twenty days after these findings and recommendations are delivered to the board and the representative organization, the commission shall make its findings and recommendations public if the impasse is not resolved.

**15.1-16-16. Participation in a strike - Prohibition.** Teachers and administrators employed by school districts may not participate in a strike. The board of a school district may withhold some or all the wages otherwise due a teacher or an administrator who elects to participate in a strike in violation of this section.

**15.1-16-17. Discrimination - Prohibition.** Neither the board of a school district nor any administrator employed by the district may discriminate against any individual employed as a teacher or administrator because the individual exercises rights available under this chapter.

**15.1-16-18. Representative organization - Recognition - Withdrawal of recognition.** A contract between the board of a school district and a representative organization bars another representative group from petitioning for recognition and bars the withdrawal of recognition from the representative organization for the duration of the contract or three years, whichever is less.

**15.1-16-19. Sick leave - Accumulation.** The board of a school district shall allow a teacher to:

1. Use at least ten days of sick leave each school year without a loss of compensation; and
2. Accumulate sick leave and carry over from year to year at least thirty days of accumulated unused sick leave.

**15.1-16-20. School for the blind - School for the deaf - Youth correctional center - Contracts of employment for teachers - Personnel policies.**

1. The superintendent of public instruction shall develop contracts of employment and personnel policies applicable to each individual employed as a teacher at the school for the blind and the school for the deaf. The director of the division of juvenile services, with the approval of the director of the department of corrections and rehabilitation, shall develop contracts of employment and personnel policies applicable to each individual employed as a teacher at the North Dakota youth correctional center.
2. The contracts required by this section may include the assignment of duties, salaries, work hours, job titles, and a school calendar.
3. The personnel policies required by this section must include job descriptions and nonrenewal, discipline, and dismissal procedures. The policies must seek to harmonize the rights of teachers with laws applicable to other state employees. The superintendent of public instruction and the director of the division of juvenile services, with the approval of the director of the department of corrections and rehabilitation, shall work together in the development of the personnel policies.
4. Each individual employed as a teacher at the school for the blind, the school for the deaf, or the youth correctional center is entitled to receive a copy of a master agreement consisting of a policy manual and an individualized contract specifying the individual's job title, contracted hours, salary schedule, benefits, and other details applicable to the individual's employment.

5. For purposes of this section, "teacher" means a contracted state employee who:
  - a. Holds a teaching license or is approved to teach by the education standards and practices board;
  - b. Is employed primarily to provide classroom instruction or individualized instruction;
  - c. Has a work schedule set in accordance with the school calendar;
  - d. Is a guidance counselor, school librarian, itinerant outreach teacher, or a vocational and technological resource person required to meet teaching and licensure requirements; and
  - e. Is not a superintendent, assistant superintendent, principal, supervisor, substitute, or paraprofessional.

**SECTION 5.** Chapter 15.1-17 of the North Dakota Century Code is created and enacted as follows:

**15.1-17-01. Personnel file - Review by teacher.** A teacher employed by a school district or a state-supported institution that provides elementary and secondary education to its students may review documents generated and placed in the teacher's personnel file after the teacher was employed for the position. Upon receiving a written request, the school principal, administrator, or school district superintendent shall provide to a teacher a copy of any document in the teacher's personnel file. The teacher shall pay any copying costs.

**15.1-17-02. Personnel file - Teacher's response.** A teacher employed by a school district may provide the school district superintendent with a written response to any document in the teacher's personnel file. A teacher employed by a state institution that provides elementary and secondary education to its students may provide the institution's administrator with a written response to any document in the teacher's personnel file. A school district superintendent or an administrator receiving a written response under this section shall attach the response to the appropriate document and return both to the teacher's personnel file.

**15.1-17-03. Personnel file - Objection to documents.** If a teacher believes that any document in the teacher's personnel file, other than a formal performance evaluation, is inappropriate or inaccurate, the teacher may request that the file be reviewed by the principal of the school or by the administrator if the school is a state institution that provides elementary and secondary education to its students. If a teacher employed by a school district is dissatisfied with the outcome of the initial review, the teacher is entitled to have the file reviewed, upon written request, by the school district superintendent. If a teacher employed by a school district is dissatisfied with the outcome of the superintendent's review, the teacher is entitled to have the file reviewed, upon written request, by the school board.

**15.1-17-04. Complaint against teacher - Notification.** If a complaint is filed against a teacher or against an individual for whom the teacher is administratively responsible, and the complaint is to be placed in the teacher's personnel file, the school principal, administrator, or school district superintendent shall inform the teacher of the complaint.

**15.1-17-05. No secret files maintained - Penalty.** It is a class B misdemeanor for any individual employed by a school district or a state-supported institution that provides elementary and secondary education to its students to maintain documents about a teacher unless the teacher has access to the documents, as provided in this chapter.

**SECTION 6.** Chapter 15.1-18 of the North Dakota Century Code is created and enacted as follows:

**15.1-18-01. Early childhood education teaching license.** The education standards and practices board shall develop and implement an optional early childhood education teaching license. The optional early childhood education teaching license may be used in nonparental settings such as early childhood programs, preschool programs, and head start programs.

**15.1-18-02. Kindergarten through grade eight - Teacher qualifications - Exceptions.**

1. In order to teach kindergarten, an individual must:
  - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a kindergarten endorsement; or
  - b. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrate to the satisfaction of the education standards and practices board that the individual will obtain a kindergarten endorsement within two years from the date of the assignment to teach kindergarten.
2. In order to teach any grade from one through eight, an individual must:
  - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a major, a minor, or an endorsement in elementary education; or
  - b. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrate to the satisfaction of the education standards and practices board that the individual will obtain an endorsement in elementary education within two years from the date of the assignment to teach any grade from one through eight.
3. Notwithstanding subsection 2, an individual may teach any grade from five through eight if the individual:
  - a. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and has a major or an endorsement in middle school education; or
  - b. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and



practices board and demonstrates to the satisfaction of the education standards and practices board that the individual will obtain an endorsement in middle school education within two years from the date of assignment to teach any grade from five through eight.

4. Notwithstanding subsection 2, an individual may teach grade seven or eight if the individual is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and has a major or a minor in the assigned course area or field.
5. Notwithstanding subsection 2, an individual may teach special education, foreign language, art, music, physical education, business education, and computer education at any grade level from kindergarten through eight, provided the individual is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and meets the requirements imposed by the superintendent of public instruction.
6. An individual may obtain an endorsement by completing teaching requirements and the minimum number of credit hours in courses prescribed by the education standards and practices board.
7. This section does not apply to an eminence-credentialed teacher.

**15.1-18-03. Grades nine through twelve - Teacher qualifications - Exceptions.**

1. In order to teach any grade nine through twelve, an individual must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a major, a minor, or a minor equivalency endorsement issued by the board in the course area or field being taught by the individual.
2. The approval status of a high school is not impacted by the employment of an individual who has a teaching license issued by the education standards and practices board in the disciplines of trade, industrial, technical, or health under chapter 15-20.1 but has neither a major nor a minor in the assigned field.
3. A minor equivalency granted to an individual by the superintendent of public instruction under prior authority remains valid.
4. Subsection 1 does not apply to an eminence-credentialed teacher.

**15.1-18-04. Student teacher - Eminence-credentialed teacher - Legal authority and status.**

1. An individual assigned as a student teacher or employed as an eminence-credentialed teacher has the same legal authority and status as a licensed teacher employed by the school district. The authority extends to all aspects of student management and discipline, the handling of confidential student records, and to all legal authority granted to a licensed teacher in the state.

2. An individual assigned as a student teacher or employed as an eminence-credentialed teacher must be deemed a licensed teacher employed by the district with respect to acts performed by the individual at the direction of or with the consent of the district employees under whose supervision and control the individual performs duties, whether or not the duties are performed entirely in the presence of district employees assigned to supervise the individual.
3. An individual assigned as a student teacher or employed as an eminence-credentialed teacher must be deemed an employee of the school district for purposes of liability insurance coverage under sections 32-12.1-05 and 39-01-08.
4. For purposes of this chapter, "eminence-credentialed teacher" means an individual who provides teaching services in accordance with subsection 21 of section 15.1-09-33.

<sup>84</sup> **SECTION 7.** Chapter 15.1-20 of the North Dakota Century Code is created and enacted as follows:

**15.1-20-01. Compulsory attendance.** Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child is in attendance at a public school for the duration of each school year. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.

**15.1-20-02. Compulsory attendance - Exceptions.**

1. The provisions of section 15.1-20-01 do not apply if the person having responsibility for the child demonstrates to the satisfaction of the school board that:
  - a. The child is in attendance for the same length of time at an approved nonpublic school;
  - b. The child has completed high school;
  - c. The child is necessary to the support of the child's family;
  - d. A multidisciplinary team that includes the child's school district superintendent, the director of the child's special education unit, the child's classroom teacher, the child's physician, and the child's parent has determined that the child has a disability that renders attendance or participation in a regular or special education program inexpedient or impracticable; or
  - e. The child is receiving home education; provided, however, that this exception is not available if the child has developmental disabilities as defined by subsection 1 of section 25-01.2-01.

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<sup>84</sup> Section 15.1-20-01 was amended by section 2 of House Bill No. 1371, chapter 189.

2. A decision by the board of a school district under subsection 1 is appealable to the district court.

**15.1-20-03. Compulsory attendance law - Enforcement.** Each teacher and administrator is charged with the enforcement of compulsory school attendance provisions. The compulsory school attendance provisions are applicable to any child who is offered school facilities by a school district, regardless of whether or not the child actually resides in the district. Each individual listed in this section shall investigate any alleged violation of the compulsory attendance provisions and shall obtain from the parent of any child not attending school in accordance with the requirements of this chapter the reason, if any, for the absence. In any school district not having a district superintendent, the county superintendent of schools must be notified of any allegation regarding the violation of compulsory attendance provisions and the county superintendent shall report the allegation to the state's attorney of the county. In all other districts, the school district superintendent or the principal of the child's school shall report to the state's attorney of the county the facts in connection with any alleged violation of the compulsory attendance provisions. The state's attorney may petition a court, pursuant to chapter 27-20, for a determination as to whether a child is educationally deprived.

**15.1-20-04. Home education - Definition.** For purposes of this chapter, "home education" means an educational program for a child provided in accordance with chapter 15.1-23 by the child's parent in the child's home.

**SECTION 8.** Chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-01. Education of students - Requirements.** The superintendent of public instruction shall ensure that students receive education in:

1. English language arts, including reading, composition, creative writing, English grammar, and spelling.
2. Mathematics.
3. Social studies, including the United States Constitution, and United States history, geography, and government.
4. Science, including agriculture.
5. Physical education.
6. Health, including physiology, hygiene, disease control, and the nature and effects of alcohol, tobacco, and narcotics.

**15.1-21-02. High schools - Required units.** In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:

1. Four units of English.
2. Three units of mathematics.
3. Four units of science.

4. Three units of social studies, including one of world history and one of United States history, both of which must emphasize geography.
5. One unit of health and physical education.
6. One unit of music.
7. Any six units selected from business education, economics and the free enterprise system, foreign language, American sign language, and vocational courses including family and consumer sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers. The vocational courses may be offered through cooperative arrangements approved by the state board for vocational and technical education.

**15.1-21-03. High school unit - Instructional time.**

1. Except as provided in subsection 2, each unit must consist of at least one hundred twenty hours of instruction per school calendar.
2. The following units must consist of at least one hundred fifty hours of instruction per school calendar: natural sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers.
3. The hour requirements of this section are subject to reductions resulting from the holidays and nonstudent contact days provided for in section 15.1-06-04.

**15.1-21-04. Minimum high school courses - Alternative curriculum plans.**

1. Except as otherwise provided in this section, each student shall enroll in at least four units of high school work in each grade from nine through twelve.
2. A student in grade twelve may enroll in fewer than four units of work, provided:
  - a. The student requires fewer than four units of work for graduation; and
  - b. The board of the school district has adopted an alternative high school senior curriculum plan.
3. An alternative high school senior curriculum plan becomes effective if:
  - a. It is adopted by action of the school board;
  - b. It contains specific criteria under which a high school senior may enroll in fewer than four units of work; and
  - c. It has been submitted to and approved by the superintendent of public instruction.

**15.1-21-05. Indian education curriculum.** The superintendent of public instruction may develop an Indian education curriculum to be implemented within the minimum curriculum requirements for elementary and secondary schools. The superintendent shall provide for continuing research and evaluation and for inservice training necessary to implement an Indian education curriculum.

**15.1-21-06. Goals 2000 - Participation voluntary.** The board of a school district may choose to participate or not to participate in Goals 2000 Educate America Act [Pub. L. 103-227; 108 Stat. 125; 20 U.S.C. 5801 et seq.]. A board that chooses to participate and directly or indirectly receives federal funds for its participation shall expend the funds in the manner it determines best meets the goal of educational enhancement in the school district, in accordance with the district's locally developed goals 2000 educational improvement application plan. The superintendent of public instruction may not impose any financial penalty or other sanction on a school or school district if the school board chooses, at any time, to terminate participation in goals 2000.

**15.1-21-07. School-to-work - Student participation voluntary.** Before an elementary or secondary school student may participate in any course, program, or project offered under the auspices of the School-to-Work Opportunities Act of 1994 [Pub. L. 103-239; 108 Stat. 568; 20 U.S.C. 2394 et seq.], the student's school principal shall obtain the written consent of the student's parent or legal guardian. Participation by a student is voluntary and may not be deemed a condition of graduation. Neither school personnel, school district personnel, nor the superintendent of public instruction may impose any academic penalties or any other sanctions on a student for failure to participate. A student's participation in a course, program, or project offered under the auspices of the School-to-Work Opportunities Act of 1994 is subject to all state and federal child labor laws.

**SECTION 9.** Chapter 15.1-22 of the North Dakota Century Code is created and enacted as follows:

**15.1-22-01. Kindergarten - Establishment by board - Petition for establishment - Levy.**

1. Upon its own motion, the board of a school district may establish a free public kindergarten for the instruction during a school year of resident children below school age.
2. If the board receives a petition signed by qualified electors residing in the district equal in number to at least twenty percent of those who voted in the most recent annual school district election, the board must submit the question of establishing a kindergarten to the electorate at the next annual or special school district election. The margins of electoral approval provided in section 57-15-14 must be applied.
3. The board of a school district that establishes a kindergarten under this section may levy a tax pursuant to subdivision p of subsection 1 of section 57-15-14.2.

**15.1-22-02. Public kindergarten - Requirements.** A school district operating a kindergarten:

1. May not employ an individual as a kindergarten teacher unless the individual is licensed to teach by the education standards and practices board or approved by the education standards and practices board.

2. Shall submit to the superintendent of public instruction and follow a developmentally appropriate curriculum.
3. Shall provide at least the equivalent of thirty full days of instruction, on a half-day or full-day basis, as determined by the school board.
4. Shall apply all municipal and state health, fire, and safety requirements to the kindergarten.
5. May not enroll a child who is not five years old by midnight August thirty-first of the year of enrollment, unless the child will be five years old on or before December thirty-first and:
  - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the kindergarten operator, can demonstrate special talents or abilities; or
  - b. The child has been enrolled in another approved kindergarten.

**15.1-22-03. Nonpublic kindergarten - Requirements - Approval.** Any person operating a nonpublic kindergarten may request approval of the kindergarten from the superintendent of public instruction. The superintendent shall approve a nonpublic kindergarten if it meets the requirements of section 15.1-22-02.

**15.1-22-04. Kindergarten - Discontinuation.** A school board by resolution may cease to provide a kindergarten.

**SECTION 10.** Chapter 15.1-23 of the North Dakota Century Code is created and enacted as follows:

**15.1-23-01. Home education - Definition.** For purposes of this chapter, "home education" means a program of education supervised by a child's parent, in the child's home, in accordance with the requirements of this chapter.

**15.1-23-02. Statement of intent to supervise home education.** At least fourteen days before beginning home education or within fourteen days of establishing a child's residence in a school district, and once each year thereafter, a parent intending to supervise or supervising home education shall file a statement, reflecting that intent or fact, with the superintendent of the child's school district of residence or if no superintendent is employed, with the county superintendent of schools for the child's county of residence.

1. The statement must include:
  - a. The name and address of the child receiving home education;
  - b. The child's date of birth;
  - c. The child's grade level;
  - d. The name and address of the parent who will supervise the home education;
  - e. The qualifications of the parent who will supervise the home education;

- f. Any public school courses in which the child intends to participate and the school district offering the courses; and
  - g. Any extracurricular activities in which the child intends to participate and the school district or approved nonpublic school offering the activities.
2. The statement must be accompanied by a copy of the child's immunization record and proof of the child's identity as required by section 54-23.2-04.2.

**15.1-23-03. Home education - Parental qualifications.** A parent may supervise home education if the parent:

1. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Holds a baccalaureate degree;
3. Has met or exceeded the cutoff score of a national teacher exam given in this state or in any other state if this state does not offer such a test; or
4. Meets the requirements of section 15.1-23-06.

**15.1-23-04. Home education - Required subjects - Instructional time.** A parent supervising home education shall include instruction in those subjects required by law to be taught to public school students. The instruction must have a duration of at least four hours each day for a minimum of one hundred seventy-five days each year.

**15.1-23-05. Home education - Academic records.** A parent supervising home education shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including any standardized achievement test results. If the child transfers to a public school district, the parent shall furnish the record, upon request, to the school district superintendent or other administrator.

**15.1-23-06. Home education - Required monitoring of progress.** A parent who has a high school diploma or a general education development certificate may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains a basic composite standardized achievement test score below the fiftieth percentile nationally, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the parent and the monitor. If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children for whom the parent supervises home education.

**15.1-23-07. Home education - Required monitoring of progress - Reporting of progress - Compensation.**

1. If monitoring is required under section 15.1-23-06, the school district shall assign and compensate an individual to monitor a child receiving

home education unless the parent notifies the school district that the parent shall select and compensate an individual to monitor the child.

2. The individual assigned by the school district or selected by the parent under subsection 1 must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. Twice during each school year, the individual shall report the child's progress to the school district superintendent or to the county superintendent if the district does not employ a superintendent.
4. If one child receives home education, the individual shall spend an average of one hour per week in contact with the child and the child's parent. If two or more children receive home education, the individual shall spend one-half hour per month for each additional child receiving home education. If the child attends a public or an approved nonpublic school, the time may be proportionately reduced.

**15.1-23-08. Monitoring or test administration.** An individual who in accordance with this chapter monitors a child receiving home education or who administers a standardized achievement test to a child receiving home education shall notify the child's school district of residence.

**15.1-23-09. Home education - Standardized achievement test.** While in grades four, six, eight, and ten, each child receiving home education shall take a standardized achievement test used by the school district in which the child resides or, if requested by the parent, shall take a nationally normed standardized achievement test. The child shall take the test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.

**15.1-23-10. Home education - Standardized achievement test - Cost.**

1. If a child receiving home education takes the standardized achievement test used by the school district in which the child resides, the school district is responsible for the cost of the test and for the cost of administering the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
2.
  - a. If the child takes a nationally normed standardized achievement test not used by the school district in which the child resides, the child's parent is responsible for the cost of the test.
  - b. The cost of administering a test under this subsection is the responsibility of the child's parent if the test is administered by an individual who is selected by the parent. An individual selected by the child's parent to administer a test under this subsection must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.



- c. The cost of administering a test under this subsection is the responsibility of the school district if, at the request of the child's parent, the school district administers the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.

#### **15.1-23-11. Home education - Standardized achievement test - Results.**

1. A parent supervising home education shall file the results of the child's standardized achievement test with the superintendent of the district in which the child resides or with the county superintendent if the district does not employ a superintendent.
2. If the child's basic composite score on a standardized achievement test is less than the thirtieth percentile nationally, a multidisciplinary assessment team shall assess the child for a potential learning problem under rules adopted by the superintendent of public instruction.
3. If the multidisciplinary assessment team determines that the child is not disabled and the child's parent wishes to continue home education, the parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the superintendent of the school district or with the county superintendent if the district does not employ a superintendent. The parent is responsible for any costs associated with the development of the remediation plan. If the parent fails to file a remediation plan, the parent is deemed to be in violation of compulsory school attendance provisions and may no longer supervise the home education of the child.

**15.1-23-12. Home education - Remediation plan.** The superintendent of the school district shall use the remediation plan required by section 15.1-23-11 as the basis for determining reasonable academic progress. The remediation plan must remain in effect until such time as the child achieves on a standardized achievement test a basic composite score at or above the thirtieth percentile or a score, which when compared to the previous year's test score, demonstrates one year of academic progress. At the option of the parent, the test may be one required by section 15.1-23-09 or one administered in a higher grade level. The child's parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or who is approved to teach by the education standards and practices board, may amend the remediation plan from time to time in order to accommodate the child's academic needs. If after a remediation plan is no longer in effect the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a remediation plan must again be developed and implemented.

#### **15.1-23-13. Home education - Disabilities - Services plan.**

1. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be

provided without special education and related services, the parent may continue to supervise home education, provided that:

- a. The child does not have a developmental disability;
  - b. The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
  - c. The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
  3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
  4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem upon scoring below the thirtieth percentile on a subsequent standardized achievement test unless the reevaluation is performed pursuant to the child's services plan.

**15.1-23-14. Children with autism - Home education.** Notwithstanding any other law, a parent may supervise home education for a developmentally disabled child with autism if:

1. The child has been determined to be autistic by a licensed psychologist;
2. The child's parent is qualified to supervise home education under this chapter; and
3. The child's parent files with the superintendent of the child's school district of residence:
  - a. A notice that the child will receive home education;
  - b. A copy of the child's diagnosis of autism prepared and attested to by a licensed psychologist; and
  - c. A services plan developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the child's parent.

**15.1-23-15. Children with autism - Home education - Progress reports.**

1. On or before November first, February first, and May first of each school year, a parent supervising home education for an autistic child under

section 15.1-23-14 shall file with the superintendent of the child's school district of residence progress reports prepared by the services plan team selected under section 15.1-23-14. If at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.

2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction.

**15.1-23-16. Home education - Participation in extracurricular activities.**

1. A child receiving home education may participate in extracurricular activities either:
  - a. Under the auspices of the child's school district of residence; or
  - b. Under the auspices of an approved nonpublic school, if permitted by the administrator of the school.
2. For purposes of this section, a child participating under the auspices of the child's school district of residence is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the district.
3. For purposes of this section, a child participating under the auspices of an approved nonpublic school is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the school.
4. Once a child's parent has selected the public school district or the approved nonpublic school in which the child will participate for purposes of extracurricular activities and has provided notification of the selection through the statement required by section 15.1-23-02, the child is subject to the transfer rules as provided in the constitution and bylaws of the North Dakota high school activities association.

**15.1-23-17. Home education - High school diplomas.**

1. A child's school district of residence, an approved nonpublic high school, or the North Dakota division of independent study may issue a high school diploma to a child who, through home education, has met the issuing entity's requirements for high school graduation provided the child's parent submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve.
2. In the alternative, a high school diploma may be issued by the child's school district of residence, an approved nonpublic high school, or the North Dakota division of independent study provided the child, through home education, has completed at least seventeen units of high school coursework from the minimum required curriculum offerings established

by law for public and nonpublic schools and the child's parent or legal guardian submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve. The issuing entity may indicate on a diploma issued under this subsection that the child was provided with home education.

3. If for any reason the documentation required in subsection 1 or 2 is unavailable, the entity issuing the diploma may accept any other reasonable proof that the child has met the applicable requirements for high school graduation.

**15.1-23-18. Home education - Liability.** No state agency, school district, or county superintendent may be held liable for accepting as correct the information on the statement of intent or for any damages resulting from a parent's failure to educate the child.

**15.1-23-19. Home education - State aid to school districts.** For purposes of allocating state aid to school districts, a child receiving home education is deemed enrolled in the child's school district of residence if the child is monitored by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed by the public school district in which the child resides. A school district is entitled to fifty percent of the per student payment provided in section 15.1-27-04 times the appropriate factor in section 15.1-27-06 or 15.1-27-07 for each child receiving home education. If a child receiving home education is enrolled in public school classes, proportionate payments must be made. The total amount may not exceed the equivalent of one full per student payment times the appropriate weighting factor.

<sup>85</sup> **SECTION 11.** Chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**15.1-27-01. Payments to school districts - Distribution.**

1. The superintendent of public instruction shall determine the total state payments made to each school district during the previous fiscal year.
2. The superintendent of public instruction shall pay each district ten percent of the amount determined under subsection 1, within the limits of legislative appropriation, on or before July fifteenth, August first, September first, and October first of each year.
3. The superintendent of public instruction shall determine the amount that, in addition to the payments already made, is necessary to constitute the remainder of the amount due each district for the current school year.

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<sup>85</sup> Section 15.1-27-01 was amended by section 2 of Senate Bill No. 2430, chapter 191, section 15.1-27-04 was amended by section 7 of House Bill No. 1344, chapter 173, section 15.1-27-05 was amended by section 8 of House Bill No. 1344, chapter 173, section 15.1-27-12 was amended by section 2 of House Bill No. 1321, chapter 192, and section 15.1-27-26 was amended by section 17 of House Bill No. 1013, chapter 13.

4. On or before November first, the superintendent of public instruction shall pay to each district, within the limits of legislative appropriation, an amount that, in addition to the above payments, constitutes fifty percent of the sum due under this chapter.
5. On or before the first day of December, January, February, March, and April, payments equal to twenty percent of the total remaining payments must be made to each district.
6. If funds appropriated for distribution to districts as per student and transportation aid become available after April first, the superintendent of public instruction shall distribute the newly available payments on or before June thirtieth.

**15.1-27-02. Per student payments - Required reports.**

1. The superintendent of public instruction may not forward state aid payments to a school district beyond the October payment unless the district has filed the following with the superintendent:
  - a. An annual average daily membership report.
  - b. An annual school district financial report.
  - c. The September tenth fall enrollment report.
  - d. The personnel report forms for licensed and nonlicensed employees.
2. On or before December fifteenth, each school district shall file with the superintendent of public instruction the taxable valuation and mill levy certifications. If a district fails to file the taxable valuation and mill levy certifications by the required date, the superintendent of public instruction may not forward to the district any state aid payments to which the district is entitled, until the taxable valuation and mill levy certifications are filed.

**15.1-27-03. Cost of education - Determination.**

1. The superintendent of public instruction shall determine the educational cost per student.
2. In determining the educational cost per student, the superintendent may not use:
  - a. Capital outlay for buildings.
  - b. Capital outlay for sites.
  - c. Capital outlay for debt service.
  - d. Expenditures for school activities.
  - e. Expenditures for school lunch programs.
  - f. Expenditures for transportation costs, including schoolbuses.

**15.1-27-04. Per student payment.** The per student payment to which each school district is entitled for the first year of the biennium is two thousand one hundred forty-five dollars. The per student payment to which each school district is entitled for the second year of the biennium is two thousand two hundred thirty dollars. The per student amount is the basis for calculating state payments to school districts, as provided in sections 15.1-27-06 and 15.1-27-07.

**15.1-27-05. School district equalization factor.** To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, and transportation aid for which a school district is eligible and from that total subtract the following:

1. The product of thirty-two mills times the latest available net assessed and equalized valuation of property in the district.
2. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of seventy-five percent of its actual expenditures plus twenty thousand dollars.

**15.1-27-06. Per student payments - Weighting factors - High school students.** The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating a high school and to each school district contracting to educate high school students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. Each district having under seventy-five students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.625 adjusted by seventy-five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
2. Each district having at least seventy-five but fewer than one hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.335 adjusted by seventy-five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
3. Each district having at least one hundred fifty but fewer than five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.24 adjusted by seventy-five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.

4. Each district having at least five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.14 adjusted by seventy-five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
5. Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:
  - a. Subsection 1 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if fewer than seventy-five students in average daily membership are enrolled in the alternative education program.
  - b. Subsection 2 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least seventy-five but fewer than one hundred fifty students in average daily membership are enrolled in the alternative education program.
  - c. Subsection 3 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least one hundred fifty but fewer than five hundred fifty students in average daily membership are enrolled in the alternative education program.
  - d. Subsection 4 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least five hundred fifty students in average daily membership are enrolled in the alternative education program.
6. In order to be eligible for enumeration under this section, a student:
  - a. Must have completed the work of the eighth grade;
  - b. Must not have completed the work of the twelfth grade; and
  - c. Must be a resident of this state or a nonresident attending a school in this state under the auspices of a foreign student exchange program.

**15.1-27-07. Per student payments - Weighting factors - Elementary school students.** The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. a. Each district having only a one-room rural school is entitled to receive the amount of money that results from multiplying the factor

- 1.28 adjusted by seventy-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. The payment level provided for in this subdivision is applicable only to the first sixteen students.
- b. If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is located is entitled to receive ninety percent of the per student payment provided for in section 15.1-27-04 for each additional student. The district is not entitled to any payment for more than twenty students in average daily membership.
  - c. If a one-room rural school is located in a district having another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six, as provided in this section.
  - d. If a one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5.
- 2. Except as provided in subsection 1, each school district having fewer than one hundred students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor 1.09 adjusted by seventy-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
  - 3. Each school district having at least one hundred students but fewer than one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .905 adjusted by seventy-five percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.
  - 4. Each school district having at least one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .95 adjusted by seventy-five percent of the difference between .95 and the factor



representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.

5. Each school district having students in grades seven and eight is entitled to receive the amount of money that results from multiplying the factor 1.01 adjusted by seventy-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades seven and eight in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher. The payments provided for in this subsection are not available for students who attend a one-room rural school if that school is the only one in the district that offers educational services to students in grades seven and eight.
6. Each school district having a special education program approved by the director of special education is entitled to receive, for each student who is enrolled in the program and who is at least three years of age but less than the compulsory age for school attendance, the amount of money that results from multiplying the factor 1.01 adjusted by seventy-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of special education students in average daily membership in the program who are at least three years of age but less than the compulsory age for school attendance, times the per student payment provided for in section 15.1-27-04.
7.
  - a. Each school district operating a kindergarten as provided for in section 15.1-22-02 is entitled to receive the amount of money that results from multiplying the factor .50 adjusted by seventy-five percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of kindergarten students in average daily membership in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
  - b. In order to receive the full per student payment available under this section, a district must operate a kindergarten program that provides the equivalent of ninety full days of classroom instruction during a twelve-month period. A district is entitled to a prorated payment under this section if it operates a kindergarten program of shorter duration.

8. Each school district that educates students who are also enrolled in nonpublic schools is entitled to receive proportionate payments under this section.
9. Each school district is entitled to receive as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.
10. A school district is not entitled to any payments provided for by this chapter unless each teacher employed by the district:
  - a. Holds a teaching license issued by the education standards and practices board; or
  - b. Has been approved to teach by the education standards and practices board.

**15.1-27-08. Per student payments - Unaccredited high schools.** If a high school becomes unaccredited, the per student payment to which the school district is entitled during the first year in which the high school is unaccredited is the amount established in section 15.1-27-04. The school district is not entitled to the amount that results from applying the weighting factors provided in section 15.1-27-06. In each successive year, the per student payment to which the school district is entitled for each student in the unaccredited high school must be reduced by an additional two hundred dollars. If a school regains its accreditation, the school is entitled to the per student payments provided for accredited schools for the entire school year in which the school becomes accredited.

**15.1-27-09. Per student payments - Unaccredited elementary schools.** If a school district operates an unaccredited elementary school, the per student payment to which the school district is entitled during the first year in which the elementary school is unaccredited is the amount established in section 15.1-27-04. The school district is entitled to the amount that results from applying the weighting factors provided in section 15.1-27-07. In each successive year, the per student payment to which the school district is entitled for each student in the unaccredited elementary school must be reduced by an additional two hundred dollars. If a school regains its accreditation, the school is entitled to the per student payments provided for accredited schools for the entire school year in which the school becomes accredited.

**15.1-27-10. Per student payments - Special education.**

1. Except as provided in subsection 2, each biennium the superintendent of public instruction shall distribute moneys appropriated by the legislative assembly for per student special education payments to each school district in the state on the basis of students in average daily membership. The superintendent of public instruction shall forward the payments, as calculated under section 15.1-27-05, to eligible school districts in the same manner and at the same time that the superintendent distributes per student and transportation aid payments. For purposes of this section, "special education" means the provision of special services to students who have special needs, including students who are gifted and talented. Expenditures under this section may not conflict with nonsupplanting and maintenance of effort provisions under the Individuals With Disabilities Education Act, 20 United States Code 1400 et seq.

2. Upon the written request of a school district, the superintendent of public instruction may forward all or a portion of the moneys to which the school district is entitled under this section directly to the special education unit of which the school district is a member.
3. The superintendent of public instruction may withhold state special education funds due a school district if, in response to a complaint, the superintendent finds that the district is not providing a free appropriate public education to a student as required by law. Any withholding under this subsection may not exceed an amount equal to the cost of meeting the affected student's needs.

**15.1-27-11. High school districts - Supplemental payments.** The superintendent of public instruction shall calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the district's latest available net assessed and equalized taxable valuation of property. If the quotient is less than the latest available statewide average taxable valuation per student and if the district's educational expenditure per student is below the most recent available statewide average cost of education per student, the superintendent of public instruction shall:

1. Determine the difference between the latest available statewide average taxable valuation per student and the average taxable valuation per student in the high school district;
2. Multiply the result determined under subsection 1 by the number of students in average daily membership in grades one through twelve in the high school district;
3. Multiply the result determined under subsection 2 by the number of general fund mills levied by the district in excess of one hundred fifty, provided that any mills levied by the district which are in excess of two hundred ten may not be used in this calculation; and
4. Multiply the result determined under subsection 3 by thirty percent. The result is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15.1-27.

**15.1-27-12. Per student payments - Limited English proficient students.**

1. In addition to any other payments provided for by this chapter, each school district is entitled to receive four hundred dollars for each student who has been assessed by the student's school district and determined to have negligible or very limited English language skills as evidenced by a classification of level I or II using the Woodcock-Munoz language survey.
2. In order to receive the full payment provided for in this section, a school district must complete the student assessment required by subsection 1 and forward the results to the superintendent of public instruction on or before October twenty-fifth of each school year. The superintendent shall distribute the payments no later than May thirtieth of each school year. The superintendent shall prorate payments under this section for any students registering in the school district after October first or

departing from the school district prior to the completion of the school year.

**15.1-27-13. Per student payments - Students on active duty.** A school district is entitled to receive payments under this chapter for a student who is absent up to one semester because the student is a member of the North Dakota national guard and is engaged in active duty or training within or outside the state.

**15.1-27-14. Per student payments - Students attending school out of state.** For each student attending school out of state in accordance with section 15.1-29-01, the weighting factors provided in sections 15.1-27-06 and 15.1-27-07 must be increased by twenty percent.

**15.1-27-15. Per student payments - Isolated schools.**

1. If an elementary school has fewer than fifty students and fifteen percent or more of its students would have to travel beyond a fifteen-mile [24.15-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-07 must be increased by twenty percent for the first fifteen students. If the school has fewer than fifteen students, the payment received must be for fifteen students.
2. If a high school has fewer than thirty-five students and fifteen percent or more of its students would have to travel beyond a twenty-mile [32.2-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-06 must be increased by twenty percent for the first twenty students. If the school has fewer than twenty students, the payment received must be for twenty students.

**15.1-27-16. Per student payments - Cooperating districts.** If, on or after July 1, 1997, any school district receiving payments under this chapter cooperates with another school district for the joint provision of educational services under a plan approved by the superintendent of public instruction, each cooperating district is entitled to receive, for a period of four years, at least the same per student payment for each high school and elementary student as the district received prior to initiation of the cooperative plan.

**15.1-27-17. Per student payments - Reorganization of school districts.**

1. If any school district receiving per student payments calculated under section 15.1-27-06 reorganized with another school district under chapter 15.1-12 before August 1, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school student as each separate school district received for each high school student prior to the reorganization, for a period of four years.
2. If any school district receiving per student payments calculated under this chapter reorganizes with another school district under chapter 15.1-12 after July 31, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school and elementary student as each separate school district received for each high school and elementary student prior to the reorganization, for a period of four years.

3. The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1 or 2, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the reorganization.
4. Notwithstanding the provisions of any other law, no school district may receive less in per student payments for the first year of its reorganization than the total amount that the districts participating in the reorganization received in per student payments for the school year immediately preceding the reorganization. If less than a whole school district participated in a reorganization, the superintendent of public instruction shall prorate the payments to which the newly reorganized district is entitled under this subsection.

**15.1-27-18. Per student payments - Eligibility - Minimum amounts.**

1. In order to be counted for the purpose of calculating per student payments, as provided for by this chapter, a high school student must be enrolled in at least four high school units. The units may include vocational education courses offered in accordance with chapter 15-20.1 and courses that are approved by the superintendent of public instruction and offered by another high school district.
2. If a student is enrolled for graduation in a nonpublic school or if a student is taking fewer than four high school units and is enrolled in an approved alternative high school education program, the school district in which the student is enrolled is entitled to receive proportionate payments.
3. Each high school district must receive at least as much in total per student payments as it would have received if it had the highest number of students in the next lower weighting category.

**15.1-27-19. Summer school courses and programs - Proportionate payments.**

1. Each school district that offers summer school courses at the high school level is entitled to receive proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock-hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction.
2. A school district that offers remedial summer school programs at the elementary level is entitled to receive proportionate payments provided the programs comply with rules adopted by the superintendent of public instruction.
3. The superintendent of public instruction may adopt rules regarding proportionate payments for remedial summer school programs at the elementary level and summer school courses at the high school level.
4. Proportionate payments made under this section during a biennium for summer school courses or programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for

per student and transportation aid payments during the biennium, or eight million dollars, whichever is less. No more than seventy-five percent of the amount made available under this subsection may be used to support summer school courses at the high school level and no more than twenty-five percent of the amount made available under this subsection may be used to support remedial summer school programs at the elementary level.

**15.1-27-20. Per student payments - Claim by school district - Appeal.**

1. Upon the completion of student registration and in no event later than September tenth of each year, the business manager of a school district claiming payments from state funds under the provisions of this chapter shall file a claim in the manner prescribed by the superintendent of public instruction. The business manager must provide the number of registered high school and elementary school students for whom payments are claimed and any other information requested by the superintendent of public instruction.
2. The superintendent of public instruction shall compute the per student payments on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever provides the greater total payment. The superintendent shall make adjustments in the subsequent year according to a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's per student aid payments.
3. School districts educating children of agricultural migratory workers and school districts offering high school summer courses during the months of June, July, and August are not restricted to payments for a one hundred eighty-day school term.
4. Upon termination of the school year and in no event later than July fifteenth, the business manager of each school district that has received payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a verified statement of the name, residence, and membership of each student and the units of high school work taken by each student enrolled during the previous school year. The county superintendent shall investigate the validity of the statement and shall determine the residence and other qualifications of each student named in the statement. The county superintendent of schools shall attest to the statement. On or before September first of each year, the county superintendent shall certify to the superintendent of public instruction the number of students enrolled in each district in the county for the previous school year upon which any adjustment may be based. If the county superintendent disallows any statement in whole or in part, the county superintendent shall provide notice of the disallowance, together with the names of the affected students, to the superintendent of public instruction and to the school district filing the statement.

5. A district may appeal the determination of a county superintendent to the superintendent of public instruction on or before September fifteenth of the year in which the determination is made. The superintendent of public instruction may modify the determination of the county superintendent if the evidence submitted by the district justifies a modification. The judgment of the superintendent of public instruction is final.

**15.1-27-21. Payment to school district - Property valuation changes.**

1. If the taxable valuation of property is diminished because real property is reclassified as personal property as a result of legislative or judicial action, the state payment to an affected school district must be based on the diminished valuation in the year in which it is paid to the district.
2. If the state payment to a school district is based upon a determination of property valuation that is later diminished by legislative or judicial action, the district has one year from the date of the final determination or adjudication of the property tax base adjustment within which to apply to the superintendent of public instruction for a supplemental state payment in an amount equaling the difference between the amount that the district received and the amount that the district would have received if the correct property tax base had been used.
3. A school district is entitled to the supplemental state payment provided by this section even if the payment is made in a succeeding biennium.
4. The superintendent of public instruction shall pay the amount due under this section within the limits of legislative appropriations for per student payments and transportation aid.

**15.1-27-22. Insufficient moneys - Fractional payments.** If moneys in the state general fund are insufficient to make all payments to school districts, the superintendent of public instruction shall prorate the payments on a fractional basis. As additional moneys come into the fund, payments may be made until the school districts receive all moneys to which they are entitled. If an appropriation made by the legislative assembly is inadequate to meet all claims against the appropriation and is therefore the cause of the insufficiency, the prorated fractional payments made under this section constitute payment in full.

**15.1-27-23. Weather or other emergency conditions - Closure of schools - State payments to school districts.** If because of severe weather or other emergency conditions a school or school district remains closed or provides less than a full day of instruction, the school or school district shall make every effort to reschedule classes so that students receive at least one hundred seventy-three full days of instruction. Any school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state payments to the school or school district, the governor waive the rescheduling in whole or in part. The governor may not grant a waiver for less than a full day of instruction.

**15.1-27-24. Taylor Grazing Act funds - Disposition.** The state treasurer shall apportion payments from the federal government to this state under the provisions of 43 United States Code 315i (the Taylor Grazing Act) among the counties in the state in the proportion that the number of acres [hectares] of Taylor Grazing Act land in each county bears to the total amount of Taylor Grazing Act land

in the state. The state treasurer shall make the distributions to school districts in each county on the basis of average daily membership of all students residing within the county.

**15.1-27-25. Royalties available under federal law - Distribution to counties and school districts - Continuing appropriation.**

1. Any money paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L. 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.] must be credited to the state general fund and must be distributed only pursuant to the terms of this section.
2. Within three months following the calendar quarters ending in March, June, September, and December, the state auditor shall certify to the state treasurer the amount of money the state received during the preceding calendar quarter for royalties under the Act of Congress cited in subsection 1.
3. The state treasurer shall allocate the percentage of the total moneys received as required by this section among the counties in which the minerals were produced based on the proportion each county's mineral royalty revenue bears to the total mineral royalty revenue received by the state for that calendar quarter. The state treasurer shall pay the amount calculated to each county.
4. The counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services.
5. The percentage of money received by the state under the Act of Congress cited in subsection 1 which must be allocated and paid to the counties under this section is ten percent for collections in 2000, twenty percent for collections in 2001, thirty percent for collections in 2002, forty percent for collections in 2003, and fifty percent for collections in 2004 and thereafter.
6. Any remaining money received by the state under the Act of Congress cited in subsection 1 must be distributed to school districts as provided for in this chapter. Any moneys distributed under this subsection are deemed the first moneys withdrawn or expended from the general fund for the purpose of state aid to school districts.
7. The funds needed to make the distribution to counties, as provided for in this section, are hereby appropriated on a continuing basis.

**15.1-27-26. School district transportation of students - Payments.**

1. Each school district providing transportation to students in contract schoolbuses or in district-owned and operated schoolbuses, and each school district with students riding commercial buses to and from school is entitled to receive the following amounts:
  - a. Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school vehicle having a capacity of nine or fewer students and



transporting students who reside outside the incorporated limits of the city in which the students' school is located.

- b. Sixty-seven cents per mile [1.61 kilometers] for each schoolbus and school vehicle having a capacity of ten or more students and transporting students who reside outside the incorporated limits of the city in which the students' school is located.
  - c. Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school vehicle transporting students who reside within the incorporated limits of a city in which the students' school is located.
  - d. Twenty cents for each one-way trip by a student who rides a schoolbus or a commercial bus to or from school and who resides within the incorporated limits of the city in which the student's school is located.
2. A school district that is entitled to payments for a schoolbus having a capacity of ten or more students is also entitled to receive forty cents per day for each public school student who resides outside the city limits and who is transported in such a bus.
  3. Only a school district abiding by the laws of this state with respect to schoolbus standards and schoolbus driver qualifications, as determined by the superintendent of public instruction, may receive payments under this section.
  4. For each student transported by family transportation in accordance with section 15.1-30-02, a school district is entitled to receive forty cents per day for each mile [1.61 kilometers] over two miles [3.22 kilometers] measured from the front door of the school attended by the student to the front door of the student's residence, according to the most convenient route of public travel.

**15.1-27-27. School district transportation of special education students - Payments.**

1. Each school district is entitled to receive the following for transporting students enrolled in special education programs:
  - a. If the district transports nine or fewer students per vehicle, the amount provided in section 15.1-27-26 for the transportation of nine or fewer students per vehicle.
  - b. If the district transports ten or more students per vehicle, the amount provided in section 15.1-27-26 for the transportation of students in a vehicle having a capacity of ten or more.
2. Except as provided in subsection 3, a school district entitled to payments under this section is entitled to transportation aid for all miles [kilometers] traveled and for each student transported, even if a student lives within the incorporated limits of the city in which the student's school is located.

3. A school district may not receive more than one per student payment for transportation of a student regardless of the frequency with which the student is transported during any one day.
4. Notwithstanding any other law, the superintendent of public instruction shall make the payments due a school district under this section directly to a multidistrict special education unit if requested to do so by the school district.

**15.1-27-28. School district transportation of vocational and technical education students - Payments.**

1. Each school district is entitled to receive an amount for transporting students to and from schools in other districts and to and from schools within the district for vocational and technical education courses offered through cooperative arrangements approved by the state board for vocational and technical education. The amount must be the same for mileage and per day payments as that provided in subdivisions a through c of subsection 1 of section 15.1-27-26.
2. A school district may not receive more than one per student payment for transportation of a student regardless of the frequency with which the student is transported during any one day.
3. Notwithstanding any other law, the superintendent of public instruction shall make the payments due a school district under this section directly to an area vocational and technology center if requested to do so by the school district.

**15.1-27-29. Transportation payments - Certification of information.**

1. On or before July fifteenth of each year, the business manager of a school district shall certify to the county superintendent of schools the following information regarding the buses that transported students residing outside the incorporated limits of the city in which their school was located:
  - a. The number of buses operated on a contract basis or owned and operated by the district;
  - b. The manufacturer's listed passenger capacity of each bus; and
  - c. The daily mileage that each bus traveled in transporting students.
2. On or before July fifteenth of each year, the business manager of a school district shall certify to the county superintendent of schools the following information regarding the schoolbuses or commercial buses that transported students residing within the incorporated limits of the city in which their school was located:
  - a. A city plat indicating the location of each school building;
  - b. The route traveled by each bus;
  - c. The manufacturer's listed passenger capacity of each bus; and

- d. The number of one-way bus trips taken during the school year by students residing within the city limits.
3. On or before July fifteenth of each year, the business manager of each school district shall certify to the county superintendent of schools the amount of transportation payments claimed and any other information required by the superintendent of public instruction.
4. On or before September first of each year, the county superintendent of schools shall:
  - a. Certify to the superintendent of public instruction all claims for transportation payments submitted by each school district in the county; and
  - b. Notify a school district of any claims for transportation payments that have been disallowed.
5. A district may appeal the decision of a county superintendent under subsection 4 to the superintendent of public instruction on or before September fifteenth of the year in which the determination is made. The superintendent of public instruction may modify the determination of the county superintendent. The judgment of the superintendent of public instruction is final.
6. For purposes of this section, daily mileage means twice the distance computed to the nearest tenth of a mile [160.93 meters] traveled in a single trip by each bus over its scheduled route.

**15.1-27-30. School district closure - Distribution of transportation payments.**

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of transportation payments to which the former school district would have been entitled for providing transportation services during its final year of operation and shall pay a percentage of the total amount to each North Dakota school district that enrolls students who attended the former school district during the prior school year. Each of the school districts eligible for a payment under this section is entitled to receive that percentage of the total amount which is the same as the percentage that the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.
2. The superintendent of public instruction shall pay the amount to which a school district is entitled under this section in the manner and at the time provided for other state payments in section 15.1-27-01.

**15.1-27-31. State transportation payments to school districts.**

1. The superintendent of public instruction shall forward transportation aid payments to school districts in the same manner and at the same time as other payments from the state to school districts are made, as provided in section 15.1-27-01.

2. No school district may receive more than ninety percent of the actual costs it incurs in the provision of transportation services.
3. For purposes of this section, actual costs include the transportation operating expenditures reported to the superintendent of public instruction for the most recent year plus the eight-year average cost of transportation equipment determined by the superintendent of public instruction. Any district that has contracted for transportation services, however, may determine its actual costs for the first year the district provides its own transportation services by using the statewide average cost of transportation during that first year.

**15.1-27-32. School district closure - Distribution of per student special education payments.**

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of per student special education payments to which the former school district would have been entitled under section 15.1-27-10 for the provision of special education services during its final year of operation and shall pay a percentage of the total amount to each North Dakota school district that enrolls students who attended the former school district during the prior school year. Each of the school districts eligible for a payment under this section is entitled to receive that percentage of the total amount which is the same as the percentage that the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.
2. The superintendent of public instruction shall make payments under this section in the manner and at the time provided for other state payments in section 15.1-27-01.

**15.1-27-33. Nonoperating school districts - Education of students - State payments.**

1. Notwithstanding any other law, a school district operating on July 1, 1999, may become a nonoperating district, provided:
  - a. The board of the district terminates the operation of all public schools in the district;
  - b. The board provides for the education in other school districts of all kindergarten, elementary, and secondary school students residing in the district; and
  - c. The board pays to each school district educating its students the full per student cost of education in the receiving district.
2. The board of a nonoperating school district shall continue to employ, on a full-time or a part-time basis, one person qualified to manage the finances of the district.
3. The board of a nonoperating school district is governed by all laws applicable to the board of an operating school district.

4. In lieu of all other state payments, a nonoperating school district under this section is entitled to receive an amount equal to the per student payment determined under section 15.1-27-04 and multiplied by the number of students ages six through seventeen who reside in the district, as established by the latest available school district census, less the product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.
5. A school district may be nonoperational for no more than three school years.
6. At or before the conclusion of the three-year period, the nonoperating school district must become, through reorganization or dissolution, part of one or more operating school districts.
7. A school district that has become a nonoperating district and has accepted state payments, as provided for by this section, may not revert to an independent operating district.

**15.1-27-34. Transfer of funds prohibited - Youth correctional center.** The superintendent of public instruction may not transfer any portion of the funds appropriated for per student payments and transportation aid to the youth correctional center to support the provision of educational services by the youth correctional center.

**15.1-27-35. Average daily membership - Calculation.** Average daily membership is calculated by adding the total number of days that each student in a given classroom, school, or school district is in attendance during a school calendar and the total number of days that each student in a given classroom, school, or school district is absent during a school calendar, and then dividing the sum by one hundred eighty. For purposes of calculating average daily membership, all students are deemed to be in attendance on:

1. The three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
2. The two days set aside for the attendance of teachers at the North Dakota education association instructional conference; and
3. The two full days, or portions thereof, during which parent-teacher conferences are held or which are deemed by the board of the district to be compensatory time for parent-teacher conferences held outside regular school hours.

**SECTION 12.** Chapter 15.1-28 of the North Dakota Century Code is created and enacted as follows:

**15.1-28-01. State tuition fund - Source.** The net proceeds of fines for the violation of state laws, payments for school land leases, and interest and income from the common schools trust fund must be paid into the state treasury and constitute the state tuition fund.

**15.1-28-02. Reports of county treasurer.** The county treasurer shall collect the net proceeds of all fines for violation of state laws and all payments for school land leases within the county and shall forward the amounts collected, together with

a detailed statement of the moneys collected to the state treasurer on or before the fifteenth of each month.

**15.1-28-03. State tuition fund - Apportionment - Payment.** On or before the third Monday in each February, April, August, October, and December, the office of management and budget shall certify to the superintendent of public instruction the amount of the state tuition fund. The superintendent shall apportion the fund among the school districts of the state in proportion to the number of school-age children residing in each district, as shown by the latest enumeration provided for by law and pay the amount apportioned to each school district. The superintendent shall make the payments required by this section at the same time as the per student payments required under chapter 15.1-27.

<sup>86</sup> **SECTION 13.** Chapter 15.1-29 of the North Dakota Century Code is created and enacted as follows:

**15.1-29-01. Education of students in bordering states - Payment of tuition.**

1. Students may attend a school in a bordering state in accordance with section 15.1-29-02 under the following circumstances:
  - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school in a bordering state.
  - b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.
  - c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state.
2. If the school board of the district in which the student resides denies a request for a student's attendance in and payment of tuition to another state, the student's parent may appeal the decision to the three-member committee referenced in section 15.1-29-06.
  - a. If the three-member committee determines that the student meets the terms of subdivision b or c of subsection 1, the student may attend school in the bordering state and the board of the student's school district of residence shall pay the tuition.
  - b. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15.1-29-06.
  - c. If the student is a kindergarten student, the three-member committee shall apply the same criteria as that specified for elementary students in section 15.1-29-06, except that subsection 2 of section 15.1-29-06 does not apply to an appeal for out-of-state attendance and payment of tuition. Notwithstanding the provisions of this section, if a student's school district of residence does not provide for the education of kindergarten students, the district may not pay tuition for a kindergarten student to attend school in a bordering state.

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<sup>86</sup> Section 15.1-29-01 was amended by section 3 of Senate Bill No. 2147, chapter 193, section 15.1-29-02 was amended by section 2 of House Bill No. 1346, chapter 194, section 15.1-29-06 was amended by section 4 of Senate Bill No. 2147, chapter 193, and section 15.1-29-08 was repealed by section 5 of Senate Bill No. 2147, chapter 193.

- d. Any decision by the three-member committee regarding the payment of tuition for high school, elementary, or kindergarten students may be appealed by the school board or by the student's parent to the state board of public school education. A decision by the state board is final.
3.
  - a. The superintendent of public instruction shall forward all per student and transportation aid payments for a student attending an out-of-state school to the student's school district of residence.
  - b. The student's district of residence may reduce any tuition payment it must make to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school.
  - c. Transportation payments for a student attending school in a bordering state must be determined as provided in section 15.1-27-27.
4. Nothing in this section requires that a school district of residence provide student transportation or payments in lieu of transportation for students attending out-of-state schools.

**15.1-29-02. Education of students in bordering states - Reciprocal contract.**

1. The superintendent of public instruction shall pursue a reciprocal contract with the education agency of each bordering state. The contract must address the cost of educating students in the public schools of the bordering state.
2. A school district may comply with the terms of the superintendent's reciprocal contract or, upon providing notice to the superintendent of public instruction, may contract with a school district in a bordering state for the education of students. A contract between school districts supersedes the terms of the superintendent's reciprocal contract. A contract between school districts must provide for the payment of tuition at an agreed-upon amount. The amount of tuition payable per student may not exceed the amount set by the superintendent's reciprocal contract nor may it be less than the per student payment plus tuition apportionment in the North Dakota school district.
3. For purposes of per student payments and tuition apportionment payments, a student who attends school in a bordering state under a contract provided for by this section is deemed to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district of the bordering state for payments as provided in the contract.
4. If the education agency of a bordering state is not authorized to or refuses to enter into a reciprocal contract with the superintendent of public instruction, a school district in this state may enter into its own contract with a school district in a bordering state for the education of students. A school district in this state may not agree to accept students from a bordering state unless the tuition payable equals or exceeds the



per student payment plus the tuition apportionment payment that the district would have received from this state for a student in the same grade if its student had been attending school in the bordering state.

**15.1-29-03. Education of students in other districts - Payment of tuition.**

1. After taking into account the best interests of all affected parties, the board of a school district may elect to send its students to another school district. In this instance, the board may pay tuition for the students. The board may arrange, and when petitioned to do so by qualified electors of the district equal in number to at least a majority of those who voted in the most recent annual school district election shall arrange, with other boards to send students to the other districts and to pay for their tuition and transportation.
2. If a district does not provide educational services to an entire grade level, the students in that grade level may attend a public school of their choice outside their district of residence without going through the procedures outlined in section 15.1-29-05. The school district of residence shall pay tuition to the admitting district. For purposes of determining whether educational services are provided to an entire grade level, districts cooperating with each other in the joint provision of educational services under a plan approved by the superintendent of public instruction are considered to be a single district.

**15.1-29-04. Payment of tuition by sending districts - Interest on late payments.** If a school board approves the payment of tuition for a student attending school in another district or if a district is required to make tuition payments under the provisions of this chapter, the sending district shall pay at least fifty percent of the annual tuition charge to the admitting district on or before December thirty-first and any remaining amount on or before May thirty-first. If payment is not received by the admitting district within thirty days after the date on which payment is due, simple interest at the rate of six percent per annum accrues to any amount due.

**15.1-29-05. Payment of tuition - Petition by parent.** A student's parent may file a written petition with the board of the student's school district of residence for the payment of tuition in order that the student can attend another school district. Within sixty days after receiving the petition, the board shall meet with the student's parent and render a decision regarding the payment of tuition. If the board does not render a contrary decision within the sixty-day period, the petition is deemed approved. If the petition is approved, the board shall pay the tuition charges. If the petition is denied, the student's parent may file an appeal with the county superintendent of schools.

**15.1-29-06. Payment of tuition for grades one through twelve - Appeal - Withholding of state payments.**

1. a. Within fifteen days after receipt of an appeal filed under section 15.1-29-05, the county superintendent of schools shall convene a three-member committee consisting of the county superintendent, the state's attorney, and one member appointed by the board of county commissioners for a term of three years. The committee shall consult with the boards of the affected districts and with the student's parent. The committee shall schedule a hearing, giving due notice to each affected board and to the student's parent. The committee shall conduct the hearing in a manner that allows all

parties to present arguments and responses. The committee shall base its decision regarding the payment of tuition on the grade in which the student is enrolled.

- b. If the student is or during the following school year will be enrolled in any grade from nine through twelve and the committee finds that the attendance of the student is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the student's educational needs, or extreme hardship for the student or the student's family, the committee shall approve the application and the payment of tuition by the student's school district of residence, thereby obligating the district of residence to pay the tuition. The committee's directive regarding the payment of tuition may be for any fixed number of school years, up to the completion of the student's high school education, unless open enrollment is an available option. The decision of the committee may be appealed to the state board of public school education. A decision by the state board is final.
    - c. If the student is or during the following school year will be enrolled in any grade from one through eight and the committee finds that the attendance of the student is necessitated by shorter distances or extreme hardship for the student or the student's family, the committee shall approve the application and the payment of tuition by the student's district of residence, thereby obligating the district of residence to pay the tuition. The committee's directive regarding the payment of tuition is limited to one school year. The student's parent may make subsequent applications for the payment of tuition. The decision of the committee is final and is not subject to appeal.
  2. If a student's school district of residence consists of land situated in more than one county, the three-member committee established under subsection 1 must consist of the county superintendent of schools and the state's attorney from the county in which the greatest portion of the school district's land is situated, and an individual appointed for a term of three years by the board of county commissioners representing the county in which the greatest portion of the school district's land is situated.
  3. If the student's school district of residence does not comply with the decision requiring that tuition charges be paid, the board of the admitting district shall notify the superintendent of public instruction. Upon verifying that tuition payments are due the admitting district and are unpaid, the superintendent of public instruction shall withhold all state payments to the student's school district of residence until any tuition due has been fully paid.
  4. A school district of residence may provide transportation to a student for whom tuition is paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

**15.1-29-07. Payment of tuition by parent - Content of tuition contract.**

1. If the board of a student's school district of residence refuses to pay the tuition for the student to attend school in another district and if the committee established under section 15.1-29-06 denies the petition on appeal, the student's parent may pay the tuition.
2. If the parent chooses to pay the tuition, the parent shall:
  - a. Submit at least fifty percent of the total amount due on the day of enrollment; and
  - b. Provide the board of the admitting district with a written contract agreeing to pay any remaining balance on or before December thirty-first.

**15.1-29-08. Payment of tuition - Kindergarten student.** If the student is or during the following school year will be enrolled in kindergarten, the board of the student's school district of residence may pay tuition to the receiving district. The board's decision with respect to a kindergarten student is not appealable. If the board of the student's district of residence does not pay the tuition to the admitting district, the student's parent may pay the tuition to the admitting district under the provisions of section 15.1-29-11.

**15.1-29-09. Payment of tuition by federal government.** An admitting district may accept payments under title 1 of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.] as tuition for a nonresident student if:

1. The student's parent is employed on an installation owned by the federal government;
2. The student's parent resides on an installation owned by the federal government; and
3. The boards of the student's school district of residence and the admitting district agree to accept the payments in lieu of other tuition for the nonresident student.

**15.1-29-10. Tuition contracts - Agreement with federal officials.** A school board may contract with federal officials for the education of students in a federal school.

**15.1-29-11. Admission of students - Conditions.** The board of a school district shall admit students from other districts to its schools if:

1. The admission does not create overcrowding; and
2.
  - a. The board of the sending district has entered into a contract with the board of the admitting district regarding the students' attendance;
  - b. Tuition will be paid by the parents of the students from the sending district; or
  - c. The grade level required by the students is not offered by the sending district.

**15.1-29-12. Tuition payments - Determination.**

1. Except as provided in section 15.1-29-13, a school district sending a student to another district for purposes of education shall pay the full cost of education incurred by the admitting district.
2.
  - a. The admitting district shall determine the cost of education per student for its kindergarten, elementary, and high school students on the basis of its average daily membership and those expenditures permitted in determining the cost of education per student in section 15.1-27-03.
  - b. To the cost of education per student, the admitting district shall add the state average capital outlay per student. The state average capital outlay per student is determined by dividing the total of all school districts' annual expenditures for sinking and interest funds, tax receipts to the building funds, and general fund expenditures for capital outlay by the average daily membership of the state.
  - c. The admitting district shall subtract the following from the amount arrived at under subdivision b:
    - (1) The weighted per student payment received by the admitting district, less the average amount per North Dakota resident student enrolled in the school district realized from the deductions applied under section 15.1-27-06; and
    - (2) Any credit for taxes paid to the admitting district by the student's parent.
  - d. The amount remaining is the full cost of education incurred by the admitting district and the tuition amount payable for the individual student.
3. If the student's school district of residence and the student's parent are both paying tuition, the credit allowed under subdivision c of subsection 2 for taxes paid to the admitting district by the student's parent must be proportionately credited to the student's district of residence and the student's parent.
4. This chapter does not affect the right of a school board to charge and collect tuition from students who are not residents of this state, in accordance with section 15.1-29-02.

**15.1-29-13. Tuition payments - Nonresident students.**

1.
  - a. Except as provided in this subsection, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
  - b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
  - c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any

per student payment and transportation aid otherwise payable for the nonresident student.

2. a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.
  - b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.
  - c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.
  - d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.
  - e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.
3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

**15.1-29-14. Student placement for noneducational purposes - Residency determination - Payment of tuition.**

1. For purposes of applying this chapter, a student's school district of residence is the district in which the student resides:
  - a. At the time that a state court, tribal court, juvenile supervisor, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;
  - b. At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;
  - c. At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or
  - d. At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility.

2. The student's school district of residence is obligated to pay:
  - a. All charges for tuition upon claim of the admitting district; and
  - b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3.
  - a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.
  - b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for per student and transportation aid:
    - (1) If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency outside this state; or
    - (2) If a court orders a termination of parental rights with respect to the student's parents.
4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.
5. If the student's district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition payments are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition from per student payments and transportation aid otherwise payable to the student's school district of residence until the tuition due has been fully paid.
6. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for special education

in the case of a student with disabilities or from funds appropriated for per student payments and transportation aid in all other cases.

7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until the special education services are concluded. If the student's custodial parent establishes residency outside this state, or if a court orders a termination of parental rights with respect to the student's parents, the state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for per student and transportation aid.
8.
  - a. The placing agency shall provide written notice regarding an initial placement and all subsequent placements of a student, by registered mail, to the superintendent of the student's school district of residence and to the superintendent of the admitting district:
    - (1) Within five working days after a placement is made under court order;
    - (2) Within five working days after an emergency placement is made; or
    - (3) At least ten working days prior to any other placement.
  - b. The written notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
  - c. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.
9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition by either the student's school district of residence or the superintendent of public instruction.
10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

**15.1-29-15. Levy for tuition payments.** If the board of a school district approves tuition payments for students in grades seven through twelve or if the board is required to make tuition payments under this chapter, the board may levy an amount sufficient to meet such payments, pursuant to subdivision c of subsection 1 of section 57-15-14.2.

**SECTION 14.** Chapter 15.1-30 of the North Dakota Century Code is created and enacted as follows:

**15.1-30-01. Transportation or meals and lodging - Options of school board.**

1. The board of a school district may:
  - a. Provide for the transportation of a student to and from school; or
  - b. If acceptable to the student's parent, reimburse the parent for expenses incurred in providing meals and lodging to the student outside the student's home, provided that the reimbursement may not exceed the amount permitted under subsection 4 of section 15.1-27-27.
2. A parent receiving payments under section 15.1-30-02 is not eligible to receive payments under this section.
3. If the board elects to provide for the transportation of students by public transit, the board shall establish eligibility criteria based on a minimum distance between a student's residence and the school. Except as otherwise provided by law, the board shall apply the criteria equally to all students in the district.
4. Benefits under this section are available even if a student is transported to another school district in or outside this state, provided the student's attendance meets all other conditions established by law.

**15.1-30-02. Transportation payments - Board option.**

1. The board of a school district in the state may pay to the parent of each student who resides more than two miles [3.22 kilometers] from the public school which the student attends a reasonable sum per day for each day the student attends the school, provided:
  - a. The student is transported to school by an adult member of the student's family;
  - b. The student's transportation is provided in a vehicle furnished by the student's parent;
  - c. The student's transportation is paid for by the student's parent; or
  - d. The cost of providing meals and lodging for the student at a location other than the student's residence is assumed by the student's parent.
2. The board shall calculate the payment provided for in this section according to the distance between the front door of the student's residence and the front door of the school attended by the student, using the most direct public route.

**15.1-30-03. Transportation payments - Written request - Waiver.** A parent entitled to any payment authorized by a school board under this chapter shall submit to the school district a written request for payment before June thirtieth of each school year or the payment is deemed waived. Any payment not made within one year of the date on which it is requested is deemed to have been refused and the claim is deemed to have expired.



**15.1-30-04. Provision of meals and lodging for high school students - Payment permitted - Levy.** Instead of providing transportation so that an eligible high school student residing in the district can attend school in another district, a school board may pay a reasonable allowance to the student's parent for costs incurred in the provision of meals and lodging for the student at a location other than the student's residence. A school district that furnishes either transportation or an allowance for the provision of meals and lodging for a student under this section may levy a tax pursuant to subdivision a of subsection 1 of section 57-15-14.2 for this purpose.

**15.1-30-05. Schoolbus transportation services - Optional fee.** The board of a school district that has not been reorganized may charge a fee for the provision of schoolbus transportation service to students. If the service began before July 1, 1981, the total fees charged may not exceed an amount equal to the difference between the state transportation payment and the lesser of the state average cost for transportation or the district's cost during the preceding school year. If the service started on or after July 1, 1981, the total fees charged may not exceed an amount equal to the difference between the state transportation payment and the school district's cost of transportation during the preceding school year. A district that has not previously provided transportation to students shall base its fees on estimated costs during the first year transportation is provided.

**15.1-30-06. Transportation - Bids, contracts, bonds.**

1. Before the beginning of each school year, the board of a school district that provides transportation shall contract for the provision of transportation services during the school year. Except as provided in section 15.1-30-11, the board shall provide notice of its intent to contract by publishing the time and place for submission of sealed bids in the official newspaper of the school district at least ten days prior to the required date of submission. The notice must:
  - a. Include the route to be covered by each contract;
  - b. Provide that the board reserves the right to reject any and all bids;
  - c. Provide that each successful bidder must submit in a separate envelope a bond in an amount set by the board, provided that the amount of the bond must be at least five hundred dollars;
  - d. Provide that the bond must be conditioned for the faithful performance of the duties set forth in the contract; and
  - e. Provide that any bids submitted name the individual who will operate the vehicle and describe the vehicle.
2. If the transportation vehicle is privately owned, the duration of the contract may not exceed seven years.
3. This section does not apply to a school district that owns its own buses and employs its own busdrivers.

**15.1-30-07. Transportation contract - Standard form.** The superintendent of public instruction shall prepare a standard transportation contract form and shall provide copies, upon request, to school districts.

**15.1-30-08. Transportation contract - Provisions.** A transportation contract must:

1. Provide that no vehicle other than that described in the contract may be used to transport students, unless a change is authorized in writing by the board of the school district.
2. Provide that only the individual named in the contract may operate a vehicle used to transport students, unless a change is authorized in writing by the board.
3. Include the transportation routes that were established by the board and which are to be covered by the transportation provider.
4. Set compensation for the provision of transportation.
5. Describe the process by which an equitable adjustment of compensation will be determined and paid if a change in the established transportation routes becomes necessary.

**15.1-30-09. Transportation contract - Waiver of provisions.** In the case of an emergency or other unforeseen event, the school board president may waive transportation contract provisions requiring that only vehicles described in the contract be used and that the vehicles be operated only by individuals named in the contract. The waiver is valid only until the next regular or special meeting of the board.

**15.1-30-10. Transportation contract - Assignment.** A transportation contract is assignable only upon written authorization by the school board.

**15.1-30-11. Transportation contract - Direct negotiation.**

1. Notwithstanding sections 15.1-30-06 and 15.1-30-12, a contract for the transportation of students, originally bid by and let to a contractor, may be renewed:
  - a. Through direct negotiation between the board of a school district and the contractor; or
  - b. Upon sealed bids.
2. If a contract is to be renewed through direct negotiation, the school board shall publish notice in the official newspaper of the district, at least thirty days before the date of renewal, and shall make a good-faith effort to obtain at least two written quotations for the contract. The board shall maintain all quotations received on file for at least one year after their receipt. The quotations are public information.
3. If any written quotations are received, the board may directly negotiate a contract, provided:
  - a. The board shall conduct a public meeting regarding the contract;
  - b. The board provides at least seven days' notice of the public meeting regarding the contract by publication in the official newspaper of the district; and

- c. The public is given an opportunity to appear and comment at the public meeting.
4. All terms of the contract must be negotiated and agreed to in the public meeting.
5. If a contract is to be made upon the receipt of sealed bids, the board shall follow the procedure set forth in section 15.1-30-06 for advertising and awarding the bids.

**15.1-30-12. Contract for transportation - Conditions.**

1. The board of a school district shall let the contract, except as otherwise provided in section 15.1-30-11, to the lowest responsible bidder who:
  - a. Furnishes a bond approved by the board, as provided for in section 15.1-30-06;
  - b. Agrees to use a vehicle which, in the opinion of the board, meets the standards imposed by the superintendent of public instruction under sections 39-21-27 and 39-21-27.1 and which is safe, comfortable, and suitable for the purpose; and
  - c. Identifies individuals who, in the opinion of the board, are competent and responsible to serve as drivers.
2. The board may not enter a contract for transportation with an individual member of the board.
3. An individual member of the board may serve as the driver of a vehicle identified for use in the transportation contract.

**15.1-30-13. Transportation of students - Control and discipline.** The driver of a vehicle used to transport students under a contract as provided in this chapter is under the supervision and direction of the school board, the school district superintendent, the school principal, and the teachers of the school while the driver is on duty. The disciplinary authority of the school exists while a student is being transported, by or on behalf of the student's school, and the driver of the vehicle is charged with exercising control and discipline during the transportation.

**15.1-30-14. Schoolbus route - Extension into bordering state.** The board of a school district may extend its bus route into a bordering state for the purpose of transporting students from the bordering state into this state, provided that the superintendent of public instruction has entered a reciprocal contract with the bordering state under section 15.1-29-02 or that the board has entered a contract with a school district in the bordering state under section 15.1-29-02.

**15.1-30-15. Transportation services to nonpublic students - Joint provision of transportation services.**

1. If the board of a school district provides transportation services to its students, the board may provide transportation services to students attending nonpublic schools, provided:
  - a. The nonpublic school students are transported only along the bus route established for the public school students;

- b. The nonpublic school students are transported only on the days and at the times that the public school students are transported; and
  - c. The legal passenger capacity of each bus is not exceeded by the transportation of nonpublic school students.
- 2.
  - a. The board of a school district that provides transportation to its students may contract with other local, state, or federal government entities for the joint provision and integration of transportation services to the public.
  - b. A contract under this section must provide for the observation of all safety requirements otherwise imposed by law on schoolbuses, on school vehicles, and on schoolbus drivers when students are being transported.
  - c. Transportation services to students provided pursuant to this subsection qualify for state transportation aid under chapter 15.1-27. However, no payments may be made from state funds for any costs incurred as a result of a deviation from established schoolbus routes necessitated by a contract pursuant to this subsection.

<sup>87</sup> **SECTION 15.** Chapter 15.1-31 of the North Dakota Century Code is created and enacted as follows:

**15.1-31-01. Open enrollment - Procedure.**

- 1. By February first of the school year preceding the year of enrollment, a parent who wishes to enroll a student in a North Dakota school district other than the student's district of residence shall file an application for approval with the board of the student's district of residence. The superintendent of public instruction shall make the application forms available in each school district.
- 2. By March first of the school year preceding the year of enrollment, the school board of the student's district of residence shall act on the application, notify the parent of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district.
- 3. By April first of the school year preceding the year of enrollment, the board of the admitting district shall approve or deny the application. The board of the admitting district shall notify the board of the district of residence and the student's parent of its decision within five days.

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<sup>87</sup> Section 15.1-31-01 was amended by section 4 of Senate Bill No. 2106, chapter 195, section 15.1-31-06 was amended by section 5 of Senate Bill No. 2106, chapter 195, and section 15.1-31-07 was amended by section 6 of Senate Bill No. 2106, chapter 195.

4. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district or the student's parent relocates to another district.
5. All applications must be reviewed in the order they are received.
6. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. For purposes of determining whether the grade level in which the student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of education services under a plan approved by the superintendent of public instruction must be considered to be a single district.
7. A child placed for purposes other than education in a group or residential care facility or in a residential treatment center is not eligible for open enrollment under this section.
8. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent, moves from the student's school district of residence to another school district and who wishes to enroll in a school district other than the district to which the student moved.

**15.1-31-02. Open enrollment - Grounds for denial - Exception.** Except as provided in section 15.1-31-04, the board of a student's school district of residence may deny an application under section 15.1-31-01 only if the application will result in a reduction of the number of students enrolled in the district by more than twenty percent of the average daily membership the previous school year. However, if denying an application would result in the enrollment of children from the same nuclear family in different school districts, the school board of the district of residence may not deny the application.

**15.1-31-03. Open enrollment - Per student aid - Tuition apportionment.**

1. Once a student is enrolled in an admitting district, the student must remain enrolled in the admitting district until:
  - a. The student graduates;
  - b. The student relocates to another district;
  - c. The student's parent applies for enrollment in another school district; or
  - d. The student's parent notifies the student's school district of residence that the student will attend school in the school district of residence the following year.
2. Payment for per student aid must be made to the admitting district in accordance with chapter 15.1-27.

3. For purposes of tuition apportionment payments, a student whose application is approved under this section is considered a resident of the admitting district.
4. Except as specifically provided in this chapter, chapter 15.1-29 does not apply to students involved in open enrollment.

**15.1-31-04. Open enrollment - Students with disabilities - Additional costs.** If an application under this chapter is approved for a student with a disability, the board of the student's school district of residence shall pay to the admitting district the costs incurred by the admitting district in providing special education and related services to the student up to a maximum each school year of two and one-half times the state average per student elementary or high school cost, depending on the student's enrollment level, plus twenty percent of all remaining costs. The superintendent of public instruction shall reimburse the admitting district eighty percent of the remainder of the cost of educating the student with disabilities within the limits of legislative appropriations for that purpose.

**15.1-31-05. Open enrollment - Transportation.** A school district of residence may provide transportation to a student participating in open enrollment. If a district of residence does not provide transportation to a student participating in open enrollment, transportation may be provided by the admitting district, and the admitting district is then entitled to state payments for the transportation of that student.

**15.1-31-06. Open enrollment - School boards - Standards.**

1. The board of each school district shall set standards for the acceptance and denial of applications for admittance under open enrollment as provided in section 15.1-31-01. The standards may address the capacity of a program, class, grade level, or school building. The standards may not address previous academic achievement, participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.
2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered.
3. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly or indirectly exert influence on the student or the student's family, in order to encourage participation in the open enrollment program for the purpose of having the student participate in varsity athletic activities.

**15.1-31-07. Students not subject to this chapter.** If a student, as a result of a school district dissolution, resides in a district other than the one the student chooses to attend at the time of dissolution, the student is not subject to the provisions of this chapter and may attend school in the chosen school district. The student may not be considered a student in average daily membership in the student's school district of residence for purposes of section 15.1-31-02.

<sup>88</sup> **SECTION 16.** Chapter 15.1-32 of the North Dakota Century Code is created and enacted as follows:

**15.1-32-01. Definitions.** As used in this chapter:

1. "Related services" means transportation and developmental and corrective or supportive services required to assist a student with disabilities to benefit from special education.
2. "Special education" means instruction designed to meet the needs of a student with disabilities, transportation, and corrective and supporting services required to assist a student with disabilities in taking advantage of, or responding to, educational programs and opportunities.
3. "Student who is gifted" means an individual who is identified by qualified professionals as being capable of high performance and who needs educational programs and services beyond those normally provided in a regular education program.
4. "Student with disabilities" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who because of mental, physical, emotional, or learning characteristics requires regular or special education and related services designed to meet the individual's educational needs. The term includes an individual who is mentally retarded, hearing impaired, deaf, deaf-blind, speech or language impaired, visually impaired, emotionally disturbed, orthopedically impaired, or autistic, and an individual who has a specific learning disability, a traumatic brain injury, or other health impairment.

**15.1-32-02. Coordination of special education policies and programs.**

The superintendent of public instruction shall establish, within the provisions of this chapter, general state policy regarding special education and shall endeavor to ensure a cooperative special education program coordinating all available services. The superintendent of public instruction shall cooperate with private agencies and solicit their advice and cooperation in the establishment of policy and in the coordination and development of special education programs.

**15.1-32-03. Interagency cooperative agreements - Development and implementation.** The superintendent of public instruction shall develop and implement interagency agreements with the department of corrections and rehabilitation, the department of human services, the state department of health, and other public and private entities to maximize the state resources available for fulfilling the educationally related service requirements of Public Law No. 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended.

**15.1-32-04. Institutions not supervised by public school authorities - Rules.** The superintendent of public instruction shall adopt rules governing special education programs in institutions that are supported in whole or in part by the state,

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<sup>88</sup> Section 15.1-32-01 was amended by section 2 of House Bill No. 1142, chapter 196.

but which are not supervised by public school authorities. The rules must be similar to those established for the delivery of special education in a public school.

**15.1-32-05. Special education - Cooperation among agencies.** The superintendent of public instruction, the state department of health, and the department of human services shall cooperate in planning and coordinating early intervention programs for individuals under the age of three.

**15.1-32-06. Director of special education.** The superintendent of public instruction shall employ a qualified director of special education and any necessary assistants.

**15.1-32-07. Director of special education - Assistance to school districts.** The director of special education shall assist school districts with the development and administration of special education programs.

**15.1-32-08. School districts - Provision of special education.** Each school district shall provide special education, singly or jointly with other districts, in accordance with this chapter. Each school district and entity providing special education shall cooperate with the director of special education and with the institutions of this state in the provision of special education.

**15.1-32-09. Superintendent of public instruction - Rules.** The superintendent of public instruction shall adopt rules for the provision of special education to students with disabilities and for the administration of this chapter.

**15.1-32-10. Gifted students.** A school district may provide special education to students who are gifted.

**15.1-32-11. School district records - Students with disabilities.** Each school district shall make and keep current a record of all students with disabilities who are residents of the district.

**15.1-32-12. Multidisciplinary teams - Individualized education programs - Services plans.** If a school district has evidence of a student's disability, the school district shall convene a multidisciplinary team consisting of educational professionals, medical professionals, and the student's parent to share assessment information related to the student's suspected disability. If necessary, the team shall develop an individualized education program or services plan and make recommendations for the delivery of special education and related services to the student.

**15.1-32-13. Related services - Insurance options - School district responsibility.** Each school district shall require that all family insurance options be exhausted in paying the costs of determining a student's medically related disability and in paying for the provision of related services to the student, provided there is no financial loss to the student or the student's parent. The school district is responsible for all costs not covered by the family's insurance.

**15.1-32-14. Special education per student payments.**

1. A student with disabilities who receives special education services is deemed to be enrolled in the student's school district of residence for purposes of calculating per student payments.



2. An additional prorated per student payment may be made if a student with disabilities attends a special education summer program approved by the superintendent of public instruction, provided the student's individualized education program or services plan requires that the student attend a special education summer program.
3. If a student who is enrolled in a nonpublic school receives special education services in a public school, the superintendent of public instruction shall forward a proportionate per student payment to the school district in which the student receives the services.
4.
  - a. If in the opinion of an individualized education program team or a services plan team a student is unable to attend a public school in the special education unit to which the student's school district of residence belongs, the student's school district of residence shall contract with another public school that:
    - (1) Does not belong to the same special education unit;
    - (2) Is located in this state;
    - (3) Is willing to admit the student; and
    - (4) Is able to provide appropriate services to the student.
  - b. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting school.
  - c. The contract must provide that the student's school district of residence agrees to pay to the district in which the admitting school is located, as part of the cost of educating the student for the school year, an amount equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment, plus twenty percent of all remaining costs. The amount paid may not exceed the actual per student cost incurred by the admitting school.
  - d. The liability of the student's school district of residence must be reduced proportionately if the student attends the admitting school for less than an entire school year.
  - e. Upon being notified by the admitting district that tuition payments provided for by this section are due and unpaid, the superintendent of public instruction, after verification, shall withhold all state aid payments to which the student's school district of residence is entitled until the tuition due has been paid.
  - f. The superintendent of public instruction shall provide to the school district, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits.

**15.1-32-15. Student with disabilities - Attendance at private institution or out-of-state public school.**

1. If in the opinion of an individualized education program team or an education services team a student is unable to attend a public school in the student's school district of residence because of a physical disability, a mental disability, or a learning disability, and if no public school in the state will accept the student and provide the necessary services, the student's school district of residence shall contract with:
  - a. A private, accredited, nonsectarian, nonprofit institution that is located within or outside of this state and which has the proper facilities for the education of the student; or
  - b. A public school located outside of this state that has proper facilities for the education of the student.
2. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting institution or school.
3. The contract must provide that the student's school district of residence shall pay to the institution or school, as part of the cost of educating the student, an amount for the school year equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment, plus twenty percent of all remaining costs.
4. The amount paid may not exceed the actual per student cost incurred by the institution or school.
5. The superintendent of public instruction shall provide to the student's school district of residence, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits.
6. The school district of residence is entitled to the per student payment for a student who receives services under this section.

**15.1-32-16. Transportation services - State reimbursement.** If a student's individualized education program or services plan requires the provision of transportation services, the student's school district of residence shall provide the services by any reasonably prudent means, including a regularly scheduled schoolbus, public transit, commercial transportation, chartered or other contracted transportation, and transportation provided by the student's parent or other responsible party. The school district is entitled to state reimbursement for the provision of transportation services to the student. If transportation is provided by a student's parent, the superintendent may reimburse the school district only for mileage costs.

**15.1-32-17. Extended educational program.** A student with disabilities is entitled to an educational program that extends beyond the normal school calendar if the student's individualized education program team or services team determines that regression would be caused by an interruption in the student's educational program and that the student's limited recoupment capacity makes it impossible or unlikely that the student will attain the level of self-sufficiency and independence from caretakers which the student would otherwise be expected to reach.

**15.1-32-18. Cost - Liability of school district for special education.** If the cost of providing special education and related services to a student with disabilities, as determined by the superintendent of public instruction, exceeds the reimbursement provided by the state, the student's school district of residence is liable to pay for each such student an amount over the state reimbursement up to a maximum each school year of two and one-half times the state average per student elementary cost of education or high school cost of education, depending on the student's level of enrollment, plus twenty percent of all remaining costs. The two and one-half times amount includes the amount that the school district is required to pay under section 15.1-32-14. The state is liable for eighty percent of the remaining cost of education and related services for each such student with disabilities within the limits of legislative appropriations.

**15.1-32-19. Boarding care costs - Reimbursement of school district.** The superintendent of public instruction, within the limits of legislative appropriation, shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid for a student with disabilities who is placed in a facility located outside of the student's school district of residence in order to receive special education services not available within the student's school district of residence. The student's school district of residence is liable for any room and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of human services.

**15.1-32-20. School district financing - Levy.** The board of a school district may budget an amount from the school district general fund for its special education program. With approval by a majority of the board, the school board may levy a tax pursuant to subdivision d of subsection 1 of section 57-15-14.2 for the purpose of carrying out a special education program, separately or jointly with other school districts.

**15.1-32-21. Federal aid for special education.**

1. The superintendent of public instruction may apply for, receive, and administer federal aid available for the provision of special education services to students.
2. The superintendent may expend any federal aid received in the administration of this chapter within the limits of legislative appropriations.
3. School districts and multidistrict special education units are deemed to be local education agencies for purposes related to the funding of special education services within the limits of legislative appropriations.
4. The school for the blind, the school for the deaf, the developmental center at westwood park, Grafton, the youth correctional center, and the Jamestown state hospital may apply for, receive, and administer federal aid and may expend federal aid within the limits of legislative appropriations.

**15.1-32-22. Right to educational services - Attorneys' fees.** In any judicial proceeding to enforce the rights of an individual with disabilities to receive educational services, the court may award reasonable attorneys' fees and costs to a prevailing parent or to the individual with disabilities.

**15.1-32-23. Special education teachers - Credentialing process.** The superintendent of public instruction may not change the credentialing process for special education teachers as it is in effect on July 1, 2001, without first convening a meeting to include representatives of the North Dakota council of education leaders, the council of exceptional children, the North Dakota education association, and the North Dakota school boards association. The purpose of the meeting is to receive comments regarding the proposed changes, the applicability of the proposed changes, including the scheduling, the manner of implementation, associated costs, and the short-term and long-term effects of the proposed changes. If, within thirty days after the date of the meeting, members of any two representative groups present at the meeting object in writing to the proposed changes, the superintendent may not implement the proposed changes before July 1, 2003.

**SECTION 17.** Chapter 15.1-33 of the North Dakota Century Code is created and enacted as follows:

**15.1-33-01. Multidistrict special education unit - Corporation.** Each multidistrict special education unit is a body corporate and has all the powers and duties usual to corporations for public purposes or as conferred upon it by law.

**15.1-33-02. Multidistrict special education units - School district participation.** A school district may join a multidistrict special education unit or together with other school districts form a multidistrict special education unit for purposes of planning and delivering special education and related services. Each school district shall participate in a multidistrict special education unit or have on file with the superintendent of public instruction a plan for providing special education and related services as a single district. If a school district wishes to join a multidistrict special education unit from which it has been excluded, the school district may petition the superintendent of public instruction. A school district may appeal a decision of the superintendent under this section to the state board of public school education.

**15.1-33-03. Multidistrict special education unit - Organizational plan - Contents.** Each multidistrict special education unit shall maintain an organizational plan on file with the superintendent of public instruction. The organizational plan must include:

1. A list of the unit's board members.
2. A description of how each school district is represented on the board.
3. The method used to select officers.
4. The terms of office.
5. Scheduled meeting times.
6. Quorum requirements.
7. Any other items required through rule by the superintendent of public instruction.

**15.1-33-04. Multidistrict special education unit - Board member appointments.** The organizational plan of each multidistrict special education unit must provide for the manner in which board members are appointed.

**15.1-33-05. Multidistrict special education unit - Board members - Compensation.** The board of each multidistrict special education unit shall set a level of compensation for services payable to its members, provided that no member may receive more than one thousand dollars annually for this purpose. In addition to compensation for services, each member may be reimbursed for all necessary meals and lodging and travel expenses actually incurred while engaged in official business of the board, at the same rate as provided for state officers and employees. Any mileage claimed may not exceed the number of miles [kilometers] between the points traveled as measured by the most usual route.

**15.1-33-06. Withdrawal from a multidistrict program.** In order for a school district to withdraw from a multidistrict special education unit, the following must occur on or before March first before the school year for which the withdrawal is to be effective:

1. The board of the withdrawing school district shall approve the withdrawal.
2. The board of the withdrawing school district shall inform the board of the multidistrict special education unit that it has elected to withdraw from the unit.
3. The board of the withdrawing school district shall submit a plan to the superintendent of public instruction regarding the provision of services to students with disabilities.

**15.1-33-07. Multidistrict special education unit - Board - Preparation of annual plan.** The board of a multidistrict special education unit shall prepare, on behalf of the participating school districts, an annual plan regarding the provision of special education and related services and shall submit the plan to the superintendent of public instruction for approval.

**15.1-33-08. Multidistrict special education unit - Board - Powers.** The board of a multidistrict special education unit may:

1. Receive state and federal funds and distribute them to each participating school district.
2. Employ personnel necessary to carry out administrative services, itinerant instruction, coordinative services, and related services.
3. Receive private and public funds and expend such funds for the compensation of personnel and for the payment of the board's expenses.
4. Contract with the board of any school district for the provision of special education and related services.

**15.1-33-09. Multidistrict special education unit - Board - Coordination of student transportation.** The board of a multidistrict special education unit shall plan and coordinate the transportation of each student receiving special education services within the unit.

**15.1-33-10. Multidistrict special education board - Rights of employees.** Any individual employed by the board of a multidistrict special education unit has the

same statutory rights as those accorded to an individual employed by a school district for the same purpose.

**SECTION 18.** Chapter 15.1-34 of the North Dakota Century Code is created and enacted as follows:

**15.1-34-01. Definitions.** As used in this chapter:

1. "Boarding home care for a student with disabilities" means the provision of food, shelter, security, and safety, on a twenty-four-hour basis, to an individual who has reached the age of three years but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who because of mental, physical, emotional, or learning characteristics requires regular or special education and related services designed to meet the individual's educational needs.
2. "Department" means the department of human services.
3. "Family boarding home" means a private residence at which boarding home care is regularly provided by the owner or lessee to no more than four students with disabilities. The limit of four students may be exceeded if all the students boarding at the home are related to each other by blood or marriage.
4. "Registration" means the process by which the department maintains a record of all family boarding homes, prescribes standards and adopts rules under section 15.1-34-14, and requires the operator of a home to certify that the operator has complied with the prescribed standards and adopted rules.
5. "Registration certificate" means a document issued by the department to provide public notice that the certificate holder is in compliance with this chapter and the applicable rules and standards prescribed by the department.
6. "Relative" means a grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt of the student by marriage, blood, or adoption.

**15.1-34-02. Students with disabilities - Boarding home care - Registration certificate.** A person may not establish or operate a family boarding home unless the person first obtains a registration certificate from the department. This section does not apply if the student's boarding and care are provided in:

1. The home of a relative.
2. A home or institution under the management and control of the state or the board of a school district.
3. A home providing "foster care for children" as defined in section 50-11-00.1.

**15.1-34-03. Registration certificate - Application.**

1. In order to obtain a registration certificate for a family boarding home, a person shall complete an application form available from the department.
2. The department may investigate the applicant's activities and may inspect the home for which the registration is sought.
3. The department shall grant the registration certificate within ten working days from the date the department receives the application if:
  - a. The home is in sanitary condition;
  - b. The home is properly equipped to provide for the health and safety of student boarders; and
  - c. The individual in charge of the home and all assistants are qualified to fulfill the duties required of them under this chapter and under any rules or standards prescribed by the department.
4. A registration certificate issued under this section is effective for up to two years.

**15.1-34-04. Boarding home fire inspection - Report.** The state department of health, the state fire marshal, or a designee of the state fire marshal shall inspect any home for which a registration certificate is sought if requested to do so by the department. The entity conducting the inspection under this section shall prepare an inspection report and present the report to the department.

**15.1-34-05. Boarding home - Conditions - Inspection - Investigation of owner or operator.** At any time, the department or its authorized agents may inspect the conditions of a family boarding home and investigate the qualifications of the owner or operator.

**15.1-34-06. Conviction - Effect on registration - Exceptions.** A person who has been convicted of an offense may not be disqualified from registration under this chapter, unless:

1. The department determines that the offense has a direct bearing upon the person's ability to serve the public as an owner or operator of a boarding home for students with disabilities; or
2. Following conviction for any offense, the department deems that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

**15.1-34-07. Registration certificate - Denial - Administrative hearing.** If after reviewing a person's application for a registration certificate the department elects to deny the application, the department shall serve the applicant with notice of the denial and with the reasons for the denial. The department shall hold an administrative hearing under chapter 28-32 regarding the person's application and its subsequent denial if requested to do so by the applicant within ten days from the date on which the department served the notice of denial.

**15.1-34-08. Registration certificate - Information.** The registration certificate must indicate the name of the owner or operator of the boarding home, the location of the boarding home, and the maximum number of students with disabilities who, at any one time, may board at the home.

**15.1-34-09. Records - Maintenance - Examination.** Any person to whom a registration certificate has been issued shall:

1. Maintain records regarding each student for whom care is provided, as directed by the department;
2. Submit forms and other information regarding each student for whom care is provided, as directed by the department; and
3. Allow department personnel and authorized agents of the department to examine all books, records, and reports regarding the home and each student for whom care is provided.

**15.1-34-10. Records - Students - Confidentiality.** All records and information regarding a student for whom care is provided under this chapter are confidential and may be disclosed only:

1. As part of a judicial proceeding;
2. To officers of the law;
3. To representatives of a governmental entity;
4. To the parent of a student for whom care is provided under this chapter; and
5. To any person who in the opinion of the department has, or may acquire, an advocacy function on behalf of a student for whom care is provided under this chapter.

**15.1-34-11. Registration certificate - Revocation.** The department may revoke a registration certificate issued under this chapter if:

1. The home is in an unsanitary condition.
2. The home is not properly equipped to provide for the health and safety of the students.
3. The individual in charge of the home and all assistants are not qualified to fulfill the duties required of them under this chapter and under any rules adopted by the department.
4. The owner or operator does not comply with the standards prescribed by the department.
5. The registration certificate was issued as a result of an application that contained fraudulent information or an untrue representation.
6. The person to whom the registration certificate was issued violated a rule adopted by the department.
7. The person to whom the registration certificate was issued is found guilty of an offense which, in the determination of the department, has a direct bearing upon the person's ability to serve the public as an owner or operator of a boarding home for students with disabilities.



8. The person to whom the registration certificate was issued is found guilty of any offense and the department determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

**15.1-34-12. Registration certificate - Revocation - Administrative hearing.** Before the department may revoke a person's registration certificate, the department shall serve the holder of the registration certificate with notice of the revocation and the grounds for the revocation. The department shall hold an administrative hearing under chapter 28-32 regarding the revocation of the person's registration certificate, if requested to do so by the holder of the registration certificate within ten days from the date on which the department served the notice of revocation.

**15.1-34-13. Student with disabilities - Placement by governmental entity - Requirements.** A governmental entity may not provide for the placement of a student with disabilities in a family boarding home unless the person operating the home:

1. Has obtained a registration certificate; or
2. Is exempt from the registration requirement under subsection 1 or 2 of section 15.1-34-02 and complies with all applicable standards and rules adopted by the department.

**15.1-34-14. Minimum standards - Rules - Inspection by governmental entity.** The department may:

1. Establish standards for the registration and operation of a family boarding home.
2. Allow the application of alternate standards, if appropriate.
3. Adopt rules governing the provision of boarding home care to students with disabilities.
4. Authorize a governmental entity to:
  - a. Inspect any home for which a registration certificate is sought under this chapter; and
  - b. Certify that the home meets the requirements of this chapter and any standards set by the department.

**15.1-34-15. Penalty.** A person who violates this chapter is guilty of a class B misdemeanor.

**SECTION 19.** Chapter 15.1-35 of the North Dakota Century Code is created and enacted as follows:

**15.1-35-01. Definitions.** In this chapter unless the context otherwise requires:

1. "Child nutrition program" means any program that provides federal assistance for the provision of nutritious meals to children.

2. "Food distribution program" means any program that provides federally donated agricultural commodities, products, and other foods, or cash payments in lieu of foods, to eligible participants.
3. "School" means a public school or a not-for-profit nonpublic school.

**15.1-35-02. Federal funds - Contracts - Expenditures.** The superintendent of public instruction shall administer federal funds designed to provide nonprofit child nutrition programs and food distribution programs for eligible participants. The superintendent of public instruction may enter a contract with any agency of the federal government so that the state may use available federal funds to the fullest extent possible. The superintendent of public instruction shall receive, deposit, and disburse any funds received in accordance with state and federal law.

**15.1-35-03. Administration of program - Rules - Disbursement of funds.** In order to provide for the establishment, maintenance, operation, and expansion of any child nutrition and food distribution program, the superintendent of public instruction may:

1. Contract with any public or private entity.
2. Adopt rules.
3. Employ personnel.
4. Provide technical advice and assistance to any public or private entity.
5. Assist in the training of personnel.
6. Disburse state and federal funds.
7. Take any other necessary action, in accordance with state and federal law.

**15.1-35-04. Board of a school district - Use of funds.** The board of a school district may expend any funds or gifts received by it under this chapter, and any funds received from the sale of meals under a child nutrition and food distribution program.

**15.1-35-05. Accounts and records - Rules - Reporting - Availability.** The superintendent of public instruction shall adopt rules regarding recordkeeping, accounting, and reporting by any public or private entity participating in a child nutrition or food distribution program. All accounts and records must be available for inspection and audit at any time by authorized officials and must be preserved for the period of time prescribed by the superintendent of public instruction. The superintendent of public instruction shall conduct or cause to be conducted audits, inspections, and administrative reviews of accounts, records, and operations with respect to child nutrition and food distribution programs, as necessary to determine whether the participants are complying with the terms of any contracts entered under this chapter, to determine whether the participants are following the rules adopted under this chapter, and to ensure that child nutrition and food distribution programs are effectively administered.

**15.1-35-06. Studies - Appraisals - Reports to governor.** In cooperation with other public and private entities, the superintendent of public instruction may:

1. Study methods to improve and expand child nutrition and food distribution programs;
2. Study methods to promote nutrition education in schools;
3. Conduct appraisals regarding the nutritive benefits and other benefits of child nutrition and food distribution programs; and
4. Report the findings and recommendations to the governor.

**15.1-35-07. Food service personnel - Training.** Each individual who manages the food service operation of a public or nonprofit private entity, with which the superintendent of public instruction has entered a contract under this chapter, shall undergo initial and continuing training regarding the safe handling, preparation, and service of food. The superintendent of public instruction shall adopt rules prescribing the nature, scope, and frequency of the training.

**SECTION 20.** Chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

**15.1-36-01. School construction projects - Approval.**

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of twenty-five thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project, the educational utility of the project, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project or demonstrates potential utilization of the project by a future reorganized school district; and
  - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the state board of public school education.
3. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. The decision of the state board is final.
4. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy-five thousand dollars.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

**15.1-36-02. School construction projects - Loans.**

1. The board of university and school lands may authorize the use of moneys in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02 to provide school construction loans, as described in this chapter. The outstanding principal balance of loans under this chapter may not exceed forty million dollars. The board may adopt policies and rules governing school construction loans.
2. In order to be eligible for a loan under this section, the board of a school district shall:
  - a. Obtain the approval of the superintendent of public instruction for its construction project under section 15.1-36-01; and
  - b. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.
4. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.
5. If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount. In determining the amount of a loan, the superintendent shall take into account the cost of the construction project and the fiscal capacity of the school district.
6. If the superintendent of public instruction approves the loan, the superintendent may determine the interest rate to be paid. The interest rate on a loan under this section may not exceed a rate of two percent below the net interest rate on comparable tax-exempt obligations as determined on the date the application is approved by the superintendent pursuant to section 15.1-36-01. The interest rate may not exceed six percent.
7. A school district may not receive a loan under this section unless the superintendent of public instruction determines that the district has an existing indebtedness equal to at least fifteen percent of its taxable valuation. In determining a school district's existing indebtedness, the superintendent shall include outstanding indebtedness authorized by an election under section 21-03-07 but not issued and indebtedness authorized to be paid with dedicated tax levies under subsection 7 of section 21-03-07 but not issued.
8. The superintendent of public instruction may adopt rules governing school construction loans.

9. For purposes of this section, a construction project means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority and further provided that the acquisition or activity is estimated to cost in excess of fifty thousand dollars.

**15.1-36-03. School construction project loans - Management by Bank of North Dakota.** If the superintendent of public instruction approves a loan application under section 15.1-36-02, the superintendent shall forward the application to the Bank of North Dakota. The Bank shall manage and service each school construction loan issued under this chapter and shall execute all necessary loan instruments. The Bank may charge a loan recipient a fee for managing and servicing the loan. The Bank shall receive payments of principal and interest from the school districts and shall remit the payments of principal and interest to the board of university and school lands. The board shall use or deposit the payments in accordance with section 57-62-02 and section 21 of article X of the Constitution of North Dakota.

**15.1-36-04. Evidences of indebtedness.** The board of a school district may issue and sell evidences of indebtedness under chapter 21-03 to finance the construction or improvement of a project approved under this chapter. The principal amount of the loan and the evidences of indebtedness to repay the loan may not exceed the lesser of thirty percent of the school district's taxable valuation or five million dollars. Evidences of indebtedness issued under this chapter constitute a general obligation of the school district.

**15.1-36-05. Construction of public school building - Violations - Penalty.**

1. A person is guilty of an infraction if the person:
  - a. Draws plans or specifications for the construction of a public school building or facility in violation of this chapter;
  - b. Superintends the construction of a public school building or facility in violation of this chapter;
  - c. Constructs a public school building or facility in violation of this chapter; or
  - d. Violates any other provision of this chapter.
2. A member of a school board is guilty of an infraction if the member concurred in a violation of this chapter by the board.

**SECTION 21. REPEAL.** Chapters 15-21.1, 15-29, 15-34.1, 15-34.2, 15-35, 15-36, 15-37, 15-38, 15-38.1, 15-38.2, 15-40.1, 15-40.2, 15-40.3, 15-41, 15-43, 15-44, 15-45, 15-47, 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code are repealed.

Approved May 4, 2001  
Filed May 8, 2001

## CHAPTER 182

### HOUSE BILL NO. 1326

(Representatives Grande, Brandenburg)  
(Senators Klein, Solberg)

## EDUCATION STANDARDS AND PRACTICES BOARD MEMBERSHIP

AN ACT to amend and reenact sections 15-36-11.1 and 15-38-17 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-13-02, subsection 3 of section 15.1-13-17, and subsection 2 of section 15.1-13-29 of the North Dakota Century Code, relating to the membership of the education standards and practices board and the assessment of fines; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-36-11.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-11.1. Exception to certificate requirement.** An individual without a valid certificate who is teaching under contract with a school may teach and be employed to teach if approved by the education standards and practices board. The education standards and practices board shall establish by rule the terms and conditions of approval. The terms and conditions may include the payment of fines a fine to the board in an amount not exceeding two hundred fifty dollars per incident, enrollment in and completion of continuing education courses, and a deadline for filing a completed application. Approval to teach and be employed to teach without a valid North Dakota certificate may only be granted if the individual has previously held a valid North Dakota certificate, currently holds a valid teaching certificate or license in another jurisdiction, or has filed a completed application with the board.

**SECTION 2. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-38-17 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-38-17. Education standards and practices board and administrator's professional practices board.**

1. The education standards and practices board consists of ~~nine~~ ten members. The governor shall appoint four classroom teachers from public schools, one classroom teacher from a private school, ~~one~~ two school board ~~member~~ members, two school administrators, and one dean of a college of education or chairman of a department of education.
2. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member.
3. The administrator's professional practices board consists of ~~five~~ six members ~~from~~ of the education standards and practices board. The

administrator's professional practices board includes the two school administrators who are members of the education standards and practices board, the ~~one~~ two school board ~~member~~ members who ~~is~~ are ~~member~~ are members of the education standards and practices board, and two teacher members who are members of and are selected by the education standards and practices board.

4. The term of office of members of the education standards and practices board and the administrator's professional practices board shall be three years commencing on July first of the year of the appointment.
5. Vacancies must be filled for an unexpired term in the same manner as original appointments.
6. A person may not serve for more than two consecutive terms as a member of either board. ~~Members of the current teachers' professional practices commission may serve out their remaining terms.~~

The education standards and practices board and the administrator's professional practices board shall each annually select a chairman and vice chairman, and the executive director of the education standards and practices board or the executive director's designee shall serve as secretary. Meetings of either board must be held after ten days' notice to all members at the call of the chairman or upon request in writing of a majority of either board. A majority constitutes a quorum and a majority of the quorum has authority to act upon any matter properly before either board. Each board shall adopt its own rules of order and procedure not inconsistent with sections 15-38-16 through 15-38-19 and shall hold meetings pursuant to the provisions of sections 15-38-16 through 15-38-19.

The members of each board are entitled to receive twenty-five dollars for each day actually engaged in the service of the appropriate board and must be paid actual and necessary traveling and other expenses at the same rate as for employees of the state. A member of either board may not lose the member's regular salary or the above compensation while serving on official business of the appropriate board.

<sup>89</sup> **SECTION 3. AMENDMENT.** Section 15.1-13-02 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-13-02. Education standards and practices board - Membership.**

1. The governor shall appoint to the education standards and practices board:
  - a. Four individuals who are public school classroom teachers;
  - b. One individual who is a nonpublic school classroom teacher;

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<sup>89</sup> Section 15.1-13-02 was created by section 1 of House Bill No. 1045, chapter 181.

- c. ~~One individual~~ Two individuals who ~~is a~~ are school board ~~member~~ members;
  - d. Two individuals who are administrators; and
  - e. One dean of a college of education or chairman of a department of education.
2. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member.

<sup>90</sup> **SECTION 4. AMENDMENT.** Subsection 3 of section 15.1-13-17 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

3. The board shall adopt rules establishing the terms and conditions under which an individual may be approved to teach, as provided for in this section. The terms and conditions may include the payment of a fine to the board in an amount not exceeding two hundred fifty dollars per incident, enrollment in and completion of continuing education courses, and submission of a completed application for licensure by a date certain.

<sup>91</sup> **SECTION 5. AMENDMENT.** Subsection 2 of section 15.1-13-29 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

2. The subcommittee must consist of the two board members who are administrators, the two board ~~member who is a~~ members who are school board ~~member~~ members, and two board members who are teachers and who have been appointed to the subcommittee by the board.

**SECTION 6. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

Approved May 4, 2001  
Filed May 8, 2001

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<sup>90</sup> Section 15.1-13-17 was created by section 1 of House Bill No. 1045, chapter 181.

<sup>91</sup> Section 15.1-13-29 was created by section 1 of House Bill No. 1045, chapter 181.



## CHAPTER 183

### SENATE BILL NO. 2412

(Senators Heitkamp, Flakoll, Freborg, Kelsh, Krauter)

### TEACHER LIFETIME LICENSURE

AN ACT to create and enact a new section to chapter 15-36 of the North Dakota Century Code or in the alternative to create and enact a new section to chapter 15.1-13 of the North Dakota Century Code, relating to lifetime licensure for teachers.

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

**SECTION 1.** If House Bill No. 1045 does not become effective, a new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

**Teaching license - Lifetime licensure.** If an individual has been licensed to teach in this state for a period of thirty years, the education standards and practices board shall grant the individual lifetime licensure. Nothing in this section precludes the board from taking any action against an individual's lifetime license if the board determines that the action is warranted under this chapter or chapter 15-38.

**SECTION 2.** A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

**Teaching license - Lifetime licensure.** If an individual has been licensed to teach in this state for a period of thirty years, the education standards and practices board shall grant the individual lifetime licensure. Nothing in this section precludes the board from taking any action against an individual's lifetime license if the board determines that the action is warranted under this chapter.

Approved March 16, 2001  
Filed March 16, 2001

## CHAPTER 184

### HOUSE BILL NO. 1225

(Representatives Grosz, Kasper, Tieman)

## TEACHER BACKGROUND CHECKS

AN ACT to amend and reenact section 15-38-18.2 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-13-14 of the North Dakota Century Code, relating to background checks for teacher licensure applicants.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-38-18.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-38-18.2. Education standards and practices board - Initial licensure of teachers - Application fee - Background - Provisional teaching certificates.** The education standards and practices board may charge an application fee established by the board by rule. The education standards and practices board shall check, or cause to be checked, the background of each applicant for initial licensure as a teacher. The board shall require each applicant for licensure to file a complete set of the applicant's fingerprints, taken by a law enforcement officer or a properly trained designee of a law enforcement officer, and all other information necessary to complete a state and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure. The board may adopt by rule, procedures for issuing forty-day provisional teaching certificates to applicants for initial licensure pending completion of the background check. A provisional teaching certificate may be renewed upon approval of the board. An applicant for a provisional teaching certificate may be charged a fee established by the board by rule, but no fee may be imposed for the renewal of a provisional teaching certificate.

<sup>92</sup> **SECTION 2. AMENDMENT.** Section 15.1-13-14 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

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<sup>92</sup> Section 15.1-13-14 was created by section 1 of House Bill No. 1045, chapter 181.

**15.1-13-14. Initial licensure of teachers - Background check.** The board shall check, or cause to be checked, the background of each applicant for initial licensure as a teacher. The board shall require each applicant for licensure to file a complete set of the applicant's fingerprints, taken by a law enforcement officer or a properly trained designee of a law enforcement officer, and all other information necessary to complete a statewide and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 185

### SENATE BILL NO. 2366

(Senators Kringstad, Robinson, Stenehjem)  
(Representatives Boehm, Schmidt)

## EDUCATION FACTFINDING COMMISSION COMPENSATION

AN ACT to amend and reenact section 15-38.1-04 of the North Dakota Century Code or in the alternative to amend and reenact sections 15.1-16-03 and 15.1-16-04 of the North Dakota Century Code, relating to compensation for factfinders and members of the education factfinding commission.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-38.1-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-38.1-04. Compensation of commission and factfinders.** Members of the commission are entitled to receive compensation at the rate of ~~sixty-two~~ eighty dollars ~~and fifty cents~~ per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission. Factfinders appointed by the commission, ~~including other than~~ commission members serving as factfinders, are entitled to reimbursement for expenses in the same manner as members of the commission and to compensation as established by the commission.

<sup>93</sup> **SECTION 2. AMENDMENT.** Section 15.1-16-03 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-16-03. Education factfinding commission - Compensation.** Each member of the commission is entitled to receive compensation at the rate of ~~sixty-two~~ eighty dollars ~~and fifty cents~~ per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

<sup>94</sup> **SECTION 3. AMENDMENT.** Section 15.1-16-04 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

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<sup>93</sup> Section 15.1-16-03 was created by section 4 of House Bill No. 1045, chapter 181.

<sup>94</sup> Section 15.1-16-04 was created by section 4 of House Bill No. 1045, chapter 181.

**15.1-16-04. Education factfinders - Compensation.** Each factfinder appointed by the education factfinding commission, ~~including each other than a~~ commission member who serves as a factfinder, is entitled to receive compensation at the rate of ~~sixty-two~~ eighty dollars ~~and fifty cents~~ per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

Approved March 16, 2001

Filed March 16, 2001

## CHAPTER 186

### HOUSE BILL NO. 1465

(Representatives Froelich, Grumbo, D. Johnson)

## TEACHER MENTAL RETARDATION AND SPECIAL EDUCATION CREDENTIAL

AN ACT to provide for a mental retardation credential; to create and enact two new sections to chapter 15-47 of the North Dakota Century Code or in the alternative to create and enact two new sections to chapter 15.1-18 of the North Dakota Century Code, relating to the special education strategist credential; and to provide an expiration date.

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

**SECTION 1.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Special education strategist credential.** In addition to any other credential, the superintendent of public instruction shall implement a special education strategist credential, effective August 1, 2001. Any individual who obtains a special education strategist credential and meets all other teacher licensure requirements imposed by statute may provide special education services in the areas of mental retardation, emotional disturbance, and specific learning disabilities.

**SECTION 2.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Provisional special education strategist credential.** Beginning August 1, 2001, upon application the superintendent of public instruction shall issue a provisional special education strategist credential to any individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who holds a credential applicable to the areas of mental retardation, emotional disturbance, or specific learning disabilities. The provisional credential must be made available to the individual for the lesser of three years or the period of time required by the individual to complete the requirements for a special education strategist credential.

**SECTION 3.** A new section to chapter 15.1-18 of the North Dakota Century Code is created and enacted as follows:

**Special education strategist credential.** In addition to any other credential, the superintendent of public instruction shall implement a special education strategist credential, effective August 1, 2001. Any individual who obtains a special education strategist credential and meets all other teacher licensure requirements imposed by statute may provide special education services in the areas of mental retardation, emotional disturbance, and specific learning disabilities.

**SECTION 4.** A new section to chapter 15.1-18 of the North Dakota Century Code is created and enacted as follows:

**Provisional special education strategist credential.** Beginning August 1, 2001, upon application the superintendent of public instruction shall issue a provisional special education strategist credential to any individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who holds a credential applicable to the areas of mental retardation, emotional disturbance, or specific learning disabilities. The provisional credential must be made available to the individual for the lesser of three years or the period of time required by the individual to complete the requirements for a special education strategist credential.

**SECTION 5. MENTAL RETARDATION CREDENTIAL.** In addition to any other credential, the superintendent of public instruction may implement a mental retardation credential effective August 1, 2001. Any individual who obtains a mental retardation credential and meets all other teacher licensure requirements imposed by statute may provide special education services in the area of mental retardation.

**SECTION 6. EXPIRATION DATE.** Section 5 of this Act is effective through June 30, 2003, and after that date is ineffective.

Approved April 5, 2001  
Filed April 5, 2001

## CHAPTER 187

### HOUSE BILL NO. 1437

(Representatives Dosch, Carlisle, Grande, Meier)  
(Senator Stenehjem)

## RELIGIOUS SPEECH IN SCHOOLS

AN ACT to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to religious and secular speech in schools; and to repeal section 15.1-19-03 of the North Dakota Century Code, relating to periods of silence during a schoolday.

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

**SECTION 1.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

#### **Recitation of prayer - Period of silence - Pledge of allegiance.**

1. A student may voluntarily pray aloud or participate in religious speech at any time before, during, or after the school day to the same extent a student may voluntarily speak or participate in secular speech.
2. A school board, school administrator, or teacher may not impose any restriction on the time, place, manner, or location of any student-initiated religious speech or prayer which exceeds the restriction imposed on students' secular speech.
3. A school board may, by resolution, allow a classroom teacher to impose up to one minute of silence for meditation, reflection, or prayer at the beginning of each school day.
4. A school board may authorize the voluntary recitation of the pledge of allegiance by a teacher or one or more students at the beginning of each school day. A student may not be required to recite the pledge of allegiance, stand during the recitation of the pledge of allegiance, or salute the American flag.

**SECTION 2. REPEAL.** Section 15.1-19-03 of the North Dakota Century Code is repealed.

Approved April 5, 2001  
Filed April 5, 2001



## CHAPTER 188

### HOUSE BILL NO. 1267

(Representatives Carlisle, R. Kelsch, Mahoney, Weiler)  
(Senators Freborg, Klein)

## SCHOOL LAW ENFORCEMENT RECORDS

AN ACT to create and enact two new sections to chapter 15.1-19 of the North Dakota Century Code, relating to records of a school law enforcement unit and retention of records; and to amend and reenact sections 27-20-51 and 27-20-52 of the North Dakota Century Code, relating to court and law enforcement records of a juvenile.

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

**SECTION 1.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

#### **School law enforcement unit.**

1. A school may create or designate a school law enforcement unit as defined in the Family Educational Rights and Privacy Act [20 U.S.C. 1232(g)] and rules adopted under the Act. Records of a school law enforcement unit regarding a student at a school are confidential but may be released to:
  - a. A juvenile court having the student before it in any proceeding;
  - b. Counsel for a party to the proceeding;
  - c. Officers of public entities to whom the student is committed;
  - d. Officers of a state or local law enforcement agency for use in the discharge of their official duties;
  - e. A superintendent or principal of another school in which the student wishes to enroll; and
  - f. The student's parent, legal guardian, or legal custodian.
2. Nothing in this section restricts the release of general information that does not identify the student.
3. This section does not apply to education records that are confidential under federal law.

**SECTION 2.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Record retention.** Records regarding a student obtained by a school under section 1 of this Act, section 27-20-51, or section 27-20-52 must be destroyed when the student reaches the age of eighteen or no longer attends the school, whichever occurs later.

**SECTION 3. AMENDMENT.** Section 27-20-51 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**27-20-51. Inspection of court files and records.**

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of district court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:
  - a. The judge and staff of the juvenile court.
  - b. The parties to the proceeding or their counsel or the guardian ad litem of any party.
  - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court, which must be given a copy of the findings and order of disposition when it receives custody of the child.
  - d. Any court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, prior to the criminal case, had been a party to the proceeding in juvenile court.
  - e. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4.
  - f. A staff member of the division of children and family services of the department of human services or a law enforcement officer when necessary for the performance of that person's duties under section 50-11.1-06.2 or the National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
  - g. An employee or agent of the department of human services when necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.
2. Juvenile court files and records are also open to inspection with written leave of a juvenile court judge or judicial referee to whom juvenile court matters have been referred:
  - a. Upon a showing in writing of a legitimate interest in a proceeding or in the work of the juvenile court, but only to the extent necessary to respond to the legitimate interest; and
  - b. By the principal of any public or private school that is a member of the North Dakota high school activities association, or the superintendent of any school district that has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.

3. In a proceeding under this chapter, if the juvenile court finds that a child committed a delinquent or unruly act that constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the juvenile court shall report the finding to the director of the department of transportation within ten days.
4. Following an adjudication of delinquency for an offense that would be a felony if committed by an adult, the juvenile's school principal, chief administrative officer, or designated school guidance counselor, if requested, must be allowed access to the disposition order. Any other juvenile court files and records of a child may be disclosed to a superintendent or principal of the school in which the child is currently enrolled or in which the child wishes to enroll if the child appears to present a danger to self or to the students or staff of the school.
5. Following an adjudication of delinquency for an offense that results in the prohibitions included in subsection 1 or 2 of section 62.1-02-01, if requested, a law enforcement officer must be allowed access to the disposition order.
6. The juvenile court may notify a referring agency of the disposition of a case.
7. Notwithstanding that juvenile court records are closed to the public, nothing in this section may be construed to limit the release upon request of general information not identifying the identity of any juvenile, witness, or victim in any proceeding under this chapter. Files in the clerk of court's office are open to public inspection if the related hearing was open to the public under section 27-20-24.

**SECTION 4. AMENDMENT.** Section 27-20-52 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**27-20-52. Law enforcement records.** Law enforcement records and files of a child alleged or found to be delinquent, unruly, or deprived must be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20-34, the interest of national security requires, or the court otherwise orders in the interest of the child, these records and files may not be open to public inspection; but inspection of these records and files is permitted by:

1. A juvenile court having the child before it in any proceeding;
2. Counsel for a party to the proceeding;
3. The officers of public institutions or agencies to whom the child is committed;
4. Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties;
5. A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which the child

is committed, or by the parole board, the governor, or the pardon advisory board, if one has been appointed, in considering the child's parole or discharge or in exercising supervision over the child; ~~and~~

6. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4-; and
7. A superintendent or principal of the school in which the child is currently enrolled or of a school in which the child wishes to enroll.

Notwithstanding that law enforcement records and files of a child alleged or found to be delinquent, unruly, or deprived are not open to public inspection, nothing in this section may be construed to limit the release of general information not identifying the identity of the child.

Approved April 18, 2001  
Filed April 18, 2001

## CHAPTER 189

### HOUSE BILL NO. 1371

(Representative Disrud)

### STUDENT COMPULSORY ATTENDANCE

AN ACT to amend and reenact section 15-34.1-01 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-20-01 of the North Dakota Century Code, relating to the compulsory attendance of students.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-34.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-34.1-01. Compulsory attendance.** ~~Every parent, guardian, or other~~

1. ~~Any person who resides within any school district, or who resides upon any government base or installation without any school district, and has control over any educable having responsibility for a child of an age of seven years to between the ages of seven and sixteen years who does not fall under the provisions of section 15-34.1-02 or 15-34.1-03, shall send or take such~~ shall ensure that the child is in attendance at a public school for the duration of each school year during the entire time such school is in session.
2. If a person enrolls a child of age six in a public school, the person shall ensure that the child is in attendance at the public school for the duration of each school year. The person may withdraw a child of age six from the public school. However, once the child is withdrawn, the person may not reenroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.

<sup>95</sup> **SECTION 2. AMENDMENT.** Section 15.1-20-01 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-20-01. Compulsory attendance.**

1. Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child is in attendance at a public school for the duration of each school year.
2. If a person enrolls a child of age six in a public school, the person shall ensure that the child is in attendance at the public school for the

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<sup>95</sup> Section 15.1-20-01 was created by section 7 of House Bill No. 1045, chapter 181.

duration of each school year. The person may withdraw a child of age six from the public school. However, once the child is withdrawn, the person may not reenroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.

3. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.

Approved April 13, 2001  
Filed April 13, 2001

## CHAPTER 190

### HOUSE BILL NO. 1293

(Representatives Berg, Haas, R. Kelsch, L. Thoreson)  
(Senators Freborg, G. Nelson)

## READING AND MATHEMATICS TESTING

AN ACT to create and enact seven new sections to chapter 15-47 of the North Dakota Century Code or in the alternative to create and enact seven new sections to chapter 15.1-21 of the North Dakota Century Code, relating to the testing of reading and mathematics.

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

**SECTION 1.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Reading and mathematics - Administration of test.** Beginning during the second half of the 2001-02 school year and annually thereafter, the superintendent of public instruction shall administer to students a test that is aligned to the state content standards in reading and mathematics. This test must be administered to at least one grade level selected within each of the following grade spans: grades three through five; grades six through nine; and grades ten through twelve.

**SECTION 2.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Test scores - Compilation.** The superintendent of public instruction shall arrange for the compilation of test scores in a manner that indicates achievement and allows a comparison of individual students, classrooms within a given school and school district, schools within the state, and school districts within the state. The test scores must also allow for comparisons based on students' gender, ethnicity, economic status, service status, and assessment status, unless doing so enables the identification of any student.

**SECTION 3.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Test scores - Publication.** Upon receiving notice that the compilation of test scores has been completed, the superintendent of public instruction shall inform the legislative council. The superintendent shall present the test scores publicly for the first time at a meeting of a legislative committee designated by the legislative council. At the meeting, the superintendent and representatives of the testing service that created the tests shall provide detailed testimony regarding the testing instrument, the methodology used to test and assess the students, and the significance of the test scores.

**SECTION 4.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Superintendent of public instruction - Review of test questions.** The superintendent of public instruction shall require that the entity developing a test to be administered under section 1 of this Act not include questions that might be deemed personal to a student or to the student's family and that the entity developing the test not include questions requiring responses that might be deemed personal to a student or to the student's family. Before a test is finalized for use in this state, the superintendent shall require that the test be reviewed by a standards alignment committee appointed by the superintendent to ensure that the test meets the requirements of this section.

**SECTION 5.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Professional development - Use of available funds.**

1. On or before October first of each year, each school district shall file a report with the superintendent of public instruction indicating:
  - a. The amount and source of funds that were made available to the district for professional development during the preceding school year;
  - b. The amount and source of funds that were expended by the district for professional development during the preceding school year;
  - c. The number of district teachers who participated in professional development activities during the preceding school year;
  - d. The source of funding for the professional development activities in which the teachers participated during the preceding school year; and
  - e. The nature and scope of the professional development activities in which the teachers participated.
2. The superintendent of public instruction shall compile the information submitted under this section to determine how much of the available funding for professional development was used by school districts in this state and, beginning with the reports due on or before October 1, 2002, whether the expenditure correlated with increased student achievement on the reading and mathematics tests required by section 1 of this Act.

**SECTION 6.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Content standards - Translation - Curriculum.** Each district shall provide upon request a copy of its content standards in the areas of reading and mathematics, a translation of the district's content standards in the areas of reading and mathematics for individuals who do not have a background in elementary or high school education, and a copy of the curriculum or syllabus used by each teacher of reading and mathematics.



**SECTION 7.** If House Bill No. 1045 does not become effective, a new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Test - Availability for viewing.** Upon request, a school district must allow any individual over the age of twenty to view any test administered under this Act as soon as the test is in the possession of the school district.

**SECTION 8.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Reading and mathematics - Administration of test.** Beginning during the second half of the 2001-02 school year and annually thereafter, the superintendent of public instruction shall administer to public school students a test that is aligned to the state content standards in reading and mathematics. This test must be administered to at least one grade level selected within each of the following grade spans: grades three through five; grades six through nine; and grades ten through twelve.

**SECTION 9.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Test scores - Compilation.** The superintendent of public instruction shall arrange for the compilation of test scores in a manner that indicates achievement and allows a comparison of individual students, classrooms within a given school and school district, schools within the state, and school districts within the state. The test scores must also allow for comparisons based on students' gender, ethnicity, economic status, service status, and assessment status, unless doing so enables the identification of any student.

**SECTION 10.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Test scores - Publication.** Upon receiving notice that the compilation of test scores has been completed, the superintendent of public instruction shall inform the legislative council. The superintendent shall present the test scores publicly for the first time at a meeting of a legislative committee designated by the legislative council. At the meeting, the superintendent and representatives of the testing service that created the tests shall provide detailed testimony regarding the testing instrument, the methodology used to test and assess the students, and the significance of the test scores.

**SECTION 11.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Superintendent of public instruction - Review of test questions.** The superintendent of public instruction shall require that the entity developing a test to be administered under section 8 of this Act not include questions that might be deemed personal to a student or to the student's family and that the entity developing the test not include questions requiring responses that might be deemed personal to a student or to the student's family. Before a test is finalized for use in this state, the superintendent shall require that the test be reviewed by a standards alignment committee appointed by the superintendent to ensure that the test meets the requirements of this section.

**SECTION 12.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Professional development - Use of available funds.**

1. On or before October first of each year, each school district shall file a report with the superintendent of public instruction indicating:
  - a. The amount and source of funds that were made available to the district for professional development during the preceding school year;
  - b. The amount and source of funds that were expended by the district for professional development during the preceding school year;
  - c. The number of district teachers who participated in professional development activities during the preceding school year;
  - d. The source of funding for the professional development activities in which the teachers participated during the preceding school year; and
  - e. The nature and scope of the professional development activities in which the teachers participated.
2. The superintendent of public instruction shall compile the information submitted under this section to determine how much of the available funding for professional development was used by school districts in this state and, beginning with the reports due on or before October 1, 2002, whether the expenditure correlated with increased student achievement on the reading and mathematics tests required by section 8 of this Act.

**SECTION 13.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Content standards - Translation - Curriculum.** Each district shall provide upon request a copy of its content standards in the areas of reading and mathematics, a translation of the district's content standards in the areas of reading and mathematics for individuals who do not have a background in elementary or high school education, and a copy of the curriculum or syllabus used by each teacher of reading and mathematics.

**SECTION 14.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Test - Availability for viewing.** Upon request, a school district must allow any individual over the age of twenty to view any test administered under this Act as soon as the test is in the possession of the school district.

Approved May 4, 2001  
Filed May 8, 2001

## CHAPTER 191

### SENATE BILL NO. 2430

(Senators O'Connell, Holmberg, Wanzek)  
(Representatives Hanson, D. Johnson, Mueller)

## STATE SCHOOL AID DISTRIBUTION

AN ACT to amend and reenact section 15-40.1-05 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-27-01 of the North Dakota Century Code, relating to the distribution of state aid to school districts; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-05. Distribution of payments to school districts - Duty of superintendent of public instruction.** The superintendent of public instruction shall determine the total payments made to each ~~respective~~ school district during the previous fiscal year. The superintendent shall pay each school district ten percent of that amount, within the limits of legislative appropriation, on or before ~~July fifteenth,~~ August first, and September first, ~~and October first~~ of each year. The superintendent shall pay each school district twenty percent of that amount, within the limits of legislative appropriation, on or before October first of each year. The superintendent of public instruction shall determine what amounts in addition to those payments are necessary to constitute the remainder of the payments due to each school district for the current school year. On or before November first, the superintendent of public instruction shall pay to each school district, within limits of legislative appropriation, the amounts needed in addition to the above payments to constitute ~~fifty~~ sixty percent of the sum found to be due under this chapter. On or before the first day of December, January, February, March, and April, payments equal to one-fifth of the total remaining payments must be made to each respective school district. If funds appropriated for distribution to school districts for per student and transportation aid become available after April first, the superintendent shall distribute the payments no later than June thirtieth.

<sup>96</sup> **SECTION 2. AMENDMENT.** Section 15.1-27-01 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

### **15.1-27-01. Payments to school districts - Distribution.**

1. The superintendent of public instruction shall determine the total state payments made to each school district during the previous fiscal year.

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<sup>96</sup> Section 15.1-27-01 was created by section 11 of House Bill No. 1045, chapter 181.

2. The superintendent of public instruction shall pay each district ten percent of the amount determined under subsection 1, within the limits of legislative appropriation, on or before ~~July fifteenth~~, August first, ~~and September first, and October first~~ of each year. The superintendent shall pay each school district twenty percent of that amount, within the limits of legislative appropriation, on or before October first of each year.
3. The superintendent of public instruction shall determine the amount that, in addition to the payments already made, is necessary to constitute the remainder of the amount due each district for the current school year.
4. On or before November first, the superintendent of public instruction shall pay to each district, within the limits of legislative appropriation, an amount that, in addition to the above payments, constitutes ~~fifty~~ sixty percent of the sum due under this chapter.
5. On or before the first day of December, January, February, March, and April, payments equal to twenty percent of the total remaining payments must be made to each district.
6. If funds appropriated for distribution to districts as per student and transportation aid become available after April first, the superintendent of public instruction shall distribute the newly available payments on or before June thirtieth.

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 16, 2001  
Filed March 16, 2001

## CHAPTER 192

### HOUSE BILL NO. 1321

(Representatives Disrud, Hawken, Wentz)  
(Senators Holmberg, Lee, Wanzek)

## LIMITED ENGLISH PROFICIENT STUDENT PAYMENTS

AN ACT to amend and reenact section 15-40.1-07.7 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-27-12 of the North Dakota Century Code, relating to the payments for limited English proficient students.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.1-07.7 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **15-40.1-07.7. Per student payments - Limited English proficient students.**

1. In addition to any other payments provided for by this chapter, each school district is entitled to receive ~~four~~:
  - a. Four hundred twenty-five dollars for each student who has been assessed by the student's school district and found to have negligible limited English language skills, as evidenced by a classification of level I using the Woodcock-Munoz language survey.
  - b. Three hundred twenty-five dollars for each student who has been assessed by the student's school district and ~~determined~~ found to have ~~negligible or~~ very limited English language skills, as evidenced by a classification of level I ~~or~~ II using the Woodcock-Munoz language survey.
  - c. Two hundred twenty-five dollars for each student who has been assessed by the student's school district and found to have limited English language skills, as evidenced by a classification of level III using the Woodcock-Munoz language survey.
2. In order to be eligible for assessment under this section, a student:
  - a. Must be at least five years of age but must not have reached the age of twenty-two;
  - b. Must be enrolled in a school district in this state;
  - c. Must have a primary language other than English; and

- d. Must have difficulty speaking, reading, writing, and understanding English.
    3. In order to be eligible for the payment provided for in this section, a school district must provide an approved program of instruction for students who have negligible limited English language skills, very limited English language skills, or limited English language skills. In order to receive the full payment provided for in this section, a school district must complete the student assessment required by subsection 1 and forward the results to the superintendent of public instruction on or before ~~October twenty-fifth~~ December first of each school year. The superintendent shall distribute the payments no later than May thirtieth of each school year. The superintendent shall prorate payments under this section for any students registering in the school district after ~~October first~~ the start of the school year or departing the school district prior to the completion of the school year.

<sup>97</sup> **SECTION 2. AMENDMENT.** Section 15.1-27-12 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-27-12. Per student payments - Limited English proficient students.**

1. In addition to any other payments provided for by this chapter, each school district is entitled to receive ~~four~~:
  - a. Four hundred twenty-five dollars for each student who has been assessed by the student's school district and found to have negligible limited English language skills, as evidenced by a classification of level I using the Woodcock-Munoz language survey;
  - b. Three hundred twenty-five dollars for each student who has been assessed by the student's school district and determined to have negligible or very limited English language skills, as evidenced by a classification of level I or II using the Woodcock-Munoz language survey; and
  - c. Two hundred twenty-five dollars for each student who has been assessed by the student's school district and determined to have limited English language skills, as evidenced by a classification of level III using the Woodcock-Munoz language survey.
2. In order to be eligible for assessment under this section, a student:
  - a. Must be at least five years of age but must not have reached the age of twenty-two;
  - b. Must be enrolled in a school district in this state;

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<sup>97</sup> Section 15.1-27-12 was created by section 11 of House Bill No. 1045, chapter 181.

- c. Must have a primary language other than English; and
  - d. Must have difficulty speaking, reading, writing, and understanding English.
- 3. In order to be eligible for the payment provided for in this section, a school district must provide an approved program of instruction for students who have negligible limited English language skills, very limited English language skills, or limited English language skills. In order to receive the full payment provided for in this section, a school district must complete the student assessment required by subsection 1 and forward the results to the superintendent of public instruction on or before ~~October twenty-fifth~~ December first of each school year. The superintendent shall distribute the payments no later than May thirtieth of each school year. The superintendent shall prorate payments under this section for any students registering in the school district after ~~October first~~ the start of the school year or departing from the school district prior to the completion of the school year.

Approved May 4, 2001  
Filed May 8, 2001

## CHAPTER 193

### SENATE BILL NO. 2147

(Education Committee)

(At the request of the Superintendent of Public Instruction)

### SCHOOL TUITION PAYMENT APPEALS

AN ACT to amend and reenact sections 15-40.2-05 and 15-40.2-09 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-29-01 and subsection 1 of section 15.1-29-06 of the North Dakota Century Code, relating to school district tuition payment appeals to the state board of public school education; and to repeal section 15.1-29-08 of the North Dakota Century Code, relating to appealing a school board's decision to not pay tuition for a kindergarten student.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.2-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.2-05. Application of parent or guardian for payment of tuition by district.** The parent or guardian of any student who is a resident of a district may apply in writing to the school board of the student's school district of residence for approval of the payment of tuition charges to another school district for attendance of the student in another school district. The school board shall, within sixty days of its receipt of the application, meet with the student's parent or guardian and render a decision in regard to the payment of tuition charges. If the school board has not rendered a decision within sixty days of receipt of the application, the application is deemed approved. If the school board of the district of residence approves the application, it shall pay the tuition charges. If the application is disapproved, the student's parent or guardian may file an appeal with the county superintendent of schools. A three-member committee consisting of a member appointed by the board of county commissioners for a term of three years or appointed to fill the unexpired portion of a term at the time a vacancy occurs, the state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the student's parent or guardian, hold a hearing after giving advance notice to the parties directly involved, and render a decision in regard to the payment of tuition charges. The hearing must be conducted in a manner that allows the arguments and responses of all parties to be presented. In making its decision, the committee shall determine whether the student is a high school student, which, for purposes of this section, must be defined to mean grades nine through twelve, whether the student is an elementary school student, which, for purposes of this section, must be defined to mean grades one through eight, or whether the student is a kindergarten student, which, for purposes of this section, must be defined as a program established pursuant to chapter 15-45, and then proceed in accordance with the following:

1. High school. If the student is a high school student and the committee finds that the attendance of the student is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the student, or extreme family or student hardship, the committee may approve the application.



Upon approval, the committee shall approve the payment of tuition by the student's district of residence, obligating the district of residence to pay the same. The committee's approval for the payment of tuition may be for any fixed number of school terms, up to the completion of the student's high school education. The decision of the committee may be appealed to the state board of public school education and the decision of the board is final.

2. Elementary or kindergarten. If the student is an elementary or kindergarten student and the committee finds that the attendance of the student is necessitated by shorter distances or extreme family or student hardship, the committee may approve the application. Upon approval, the committee shall approve the payment of tuition by the student's district of residence, and obligate the district of residence to pay the same. The committee's approval for the payment of tuition is limited to one school term, and subsequent applications for the payment of tuition may be made annually. The decision of the committee may be appealed to the state board of public school education and the decision of the board is final.
- ~~3. Kindergarten. If the student is a kindergarten student, the school board of the student's district of residence may pay tuition to the receiving district. The committee may not hear an appeal from the parents or guardian as provided for in this section if the school board of the district of residence decides not to pay tuition to the admitting district. If the school board of the district of residence does not pay the tuition to the admitting district, the student's parent or guardian may pay the tuition to the admitting district under the provisions of section 15-40.2-02.~~

If twenty-five percent or more of the taxable valuation of the school district of residence lies in another county, the joint committee must consist of a member appointed by the board of county commissioners for a term of three years or appointed to fill the unexpired portion of a term at the time a vacancy occurs, the state's attorney, and the county superintendent of schools from the county in which the school district headquarters is located, and any counties in which twenty-five percent or more of the taxable valuation is located. The concurrence of a majority of the quorum of the joint committee is necessary to render a decision regarding the payment of tuition. If the student's district of residence does not comply with the decision requiring that tuition charges be paid, the admitting district shall notify the county superintendent of schools of the county of the student's residence and the state superintendent of public instruction. Upon verification by the county superintendent of schools that tuition payments are due the admitting district and are unpaid, all payments from the state for foundation aid to the student's district of residence must be withheld until the tuition due has been fully paid.

A school district of residence may provide transportation to a student for whom tuition is being paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

**SECTION 2. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.2-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.2-09. Attendance in public schools or institutions of bordering states, when permitted - Continuation of attendance under certain circumstances.**

1. Students may attend a school in a bordering state in accordance with section 15-40.2-10 under the following circumstances:
  - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school or institution in a bordering state.
  - b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year, must be permitted to continue attending school in the district in the bordering state.
  - c. A student, whose sibling attended an out-of-state school during or before the 1990-91 school year, must be permitted to attend school in the district the sibling attends in the bordering state.
2. If the school board of the district in which the student resides denies a request for attendance and payment of tuition in another state, an appeal may be made to the three-member committee in accordance with section 15-40.2-05. If the three-member committee determines that the student falls within the terms of subdivision b or c of subsection 1, then the student may attend in the bordering state and the school district of residence shall pay the tuition. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15-40.2-05. ~~For kindergarten students, the three-member committee shall use the criteria specified for elementary students in section 15-40.2-05. Subsection 3 of section 15-40.2-05 does not apply to an appeal for out-of-state attendance and payment of tuition.~~ Regardless of the provisions of this section, if the school district of residence does not provide for the education of kindergarten students, it may not pay tuition for a kindergarten student to attend school in a bordering state. The decision of the committee regarding payment of tuition for high school, elementary, or kindergarten students may be appealed by the school board, or the parent or guardian of the student, to the state board of public school education, whose decision is final.
3. Foundation aid payments for students attending out-of-state schools must be made to the district of residence. However, the district of the student's residence is entitled to reduce the tuition payment to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school. Transportation payments for students attending school in a bordering state must be determined as provided in section 15-40.1-16.
4. This section does not require the district of residence to provide student transportation, or payments in lieu thereof, for students attending out-of-state schools.

<sup>98</sup> **SECTION 3. AMENDMENT.** Section 15.1-29-01 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-29-01. Education of students in bordering states - Payment of tuition.**

1. Students may attend a school in a bordering state in accordance with section 15.1-29-02 under the following circumstances:
  - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school in a bordering state.
  - b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.
  - c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state.
2. If the school board of the district in which the student resides denies a request for a student's attendance in and payment of tuition to another state, the student's parent may appeal the decision to the three-member committee referenced in section 15.1-29-06.
  - a. If the three-member committee determines that the student meets the terms of subdivision b or c of subsection 1, the student may attend school in the bordering state and the board of the student's school district of residence shall pay the tuition.
  - b. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15.1-29-06.
  - c. ~~If the student is a kindergarten student, the three-member committee shall apply the same criteria as that specified for elementary students in section 15.1-29-06, except that subsection 2 of section 15.1-29-06 does not apply to an appeal for out-of-state attendance and payment of tuition.~~ Notwithstanding the provisions of this section, if a student's school district of residence does not provide for the education of kindergarten students, the district may not pay tuition for a kindergarten student to attend school in a bordering state.
  - d. Any decision by the three-member committee regarding the payment of tuition for high school, elementary, or kindergarten

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<sup>98</sup> Section 15.1-29-01 was created by section 13 of House Bill No. 1045, chapter 181.

students may be appealed by the school board or by the student's parent to the state board of public school education. A decision by the state board is final.

3.
  - a. The superintendent of public instruction shall forward all per student and transportation aid payments for a student attending an out-of-state school to the student's school district of residence.
  - b. The student's district of residence may reduce any tuition payment it must make to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school.
  - c. Transportation payments for a student attending school in a bordering state must be determined as provided in section 15.1-27-27.
4. Nothing in this section requires that a school district of residence provide student transportation or payments in lieu of transportation for students attending out-of-state schools.

<sup>99</sup> **SECTION 4. AMENDMENT.** Subsection 1 of section 15.1-29-06 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

1.
  - a. Within fifteen days after receipt of an appeal filed under section 15.1-29-05, the county superintendent of schools shall convene a three-member committee consisting of the county superintendent, the state's attorney, and one member appointed by the board of county commissioners for a term of three years. The committee shall consult with the boards of the affected districts and with the student's parent. The committee shall schedule a hearing, giving due notice to each affected board and to the student's parent. The committee shall conduct the hearing in a manner that allows all parties to present arguments and responses. The committee shall base its decision regarding the payment of tuition on the grade in which the student is enrolled.
  - b. If the student is or during the following school year will be enrolled in any grade from nine through twelve and the committee finds that the attendance of the student is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the student's educational needs, or extreme hardship for the student or the student's family, the committee shall approve the application and the payment of tuition by the student's school district of residence, thereby obligating the district of residence to pay the tuition. The committee's directive regarding the payment of tuition may be for any fixed number of school years, up to the completion of the student's high school education, unless

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<sup>99</sup> Section 15.1-29-06 was created by section 13 of House Bill No. 1045, chapter 181.

open enrollment is an available option. The decision of the committee may be appealed to the state board of public school education. A decision by the state board is final.

- c. If the student is or during the following school year will be enrolled in any grade from ~~one~~ kindergarten through eight and the committee finds that the attendance of the student is necessitated by shorter distances or extreme hardship for the student or the student's family, the committee shall approve the application and the payment of tuition by the student's district of residence, thereby obligating the district of residence to pay the tuition. The committee's directive regarding the payment of tuition is limited to one school year. The student's parent may make subsequent applications for the payment of tuition. The decision of the committee may be appealed to the state board of public school education and the decision of the board is final and is not subject to appeal.

<sup>100</sup> **SECTION 5. REPEAL.** Section 15.1-29-08 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is repealed.

Approved March 14, 2001  
Filed March 14, 2001

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<sup>100</sup> Section 15.1-29-08 was created by section 13 of House Bill No. 1045, chapter 181.

## CHAPTER 194

### HOUSE BILL NO. 1346

(Representatives Skarphol, Aarsvold, Koppang)  
(Senators Lindaas, Lyson, Wardner)

## OUT-OF-STATE TUITION AGREEMENTS

AN ACT to amend and reenact section 15-40.2-10 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-29-02 of the North Dakota Century Code, relating to tuition agreements for students attending school in bordering states.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.2-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.2-10. Reciprocal master agreements for student Student attendance in other states - School district agreements - Procedure when bordering state does not enter into reciprocal master agreement - Contract - Tuition.**

1. The superintendent of public instruction shall enter into reciprocal master agreements with the appropriate state educational agencies or officers of bordering states in regard to the cost of educating elementary and high school students in the public schools or institutions in such bordering states. A school district may either comply with the terms of the reciprocal master agreement or, upon notification to the superintendent of public instruction, may enter into an agreement contract with a school district in a bordering state for the education of elementary and high school students. The agreement, which replaces the provisions of the master reciprocal agreement, must provide for the payment of tuition at an amount agreed upon by the school district of residence and the school district of the bordering state. However, the tuition may not exceed the amount established under the reciprocal master agreement, nor may it be less than the per student foundation aid plus tuition apportionment in the student's school district of residence. For purposes of foundation state aid distribution, a student attending who attends school in a bordering state under such an agreement a contract as provided by this section is deemed to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district in the bordering state for payments as provided in the agreement contract.
2. If the state educational agency or officer of the bordering state is not authorized to or declines to enter into a reciprocal master agreement with the superintendent of public instruction, a school district may negotiate with a school district of that bordering state an amount of tuition it is willing to pay to that other state's school district for the education of pupils in that state. The school district of residence is liable to the school district in the bordering state for the payments it agrees to make under this subsection. However, if the school district accepts

students from ~~that~~ a bordering state, it may not agree to accept ~~those nonresident~~ the students for an amount of tuition ~~that is less than the foundation aid~~ amount of the per student payment plus ~~the~~ tuition apportionment it would have received from this state for one of its students in the same grade if its student had been attending in that bordering state.

<sup>101</sup> **SECTION 2. AMENDMENT.** Section 15.1-29-02 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-29-02. Education of students in bordering states - Reciprocal contract Contract - Tuition.**

1. The superintendent of public instruction shall pursue a reciprocal contract with the education agency of each bordering state. The contract must address the cost of educating students in the public schools of the bordering state.
2. A school district may ~~comply with the terms of the superintendent's reciprocal contract or, upon providing notice to the superintendent of public instruction, may~~ contract with a school district in a bordering state for the education of students. A contract between school districts supersedes the terms of the superintendent's reciprocal contract. A contract between school districts must provide for the payment of tuition at an agreed-upon amount. The amount of tuition payable per student may not exceed the amount set by the superintendent's reciprocal contract nor may it be less than the per student payment plus tuition apportionment in the North Dakota school district.
3. 2. For purposes of per student payments and tuition apportionment payments, a student who attends school in a bordering state under a contract provided for by this section is deemed to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district of the bordering state for payments as provided in the contract.
4. 3. If the education agency of a bordering state is not authorized to or refuses to enter into a reciprocal contract with the superintendent of public instruction, a school district in this state may enter into its own contract with a school district in a bordering state for the education of students. A school district in this state may not agree to accept students from a bordering state unless the tuition payable equals or exceeds the per student payment plus the tuition apportionment payment that the district would have received from this state for a student in the same grade if its student had been attending school in the bordering state.

Approved March 13, 2001  
Filed March 13, 2001

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<sup>101</sup> Section 15.1-29-02 was created by section 13 of House Bill No. 1045, chapter 181.

## CHAPTER 195

### SENATE BILL NO. 2106

(Education Committee)

(At the request of the Superintendent of Public Instruction)

### OPEN ENROLLMENT

AN ACT to amend and reenact sections 15-40.3-01, 15-40.3-06, and 15-40.3-07 of the North Dakota Century Code or in the alternative to amend and reenact sections 15.1-31-01, 15.1-31-06, and 15.1-31-07 of the North Dakota Century Code, relating to open enrollment between school districts.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.3-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.3-01. Open enrollment - Procedure.** A student's parent or legal guardian who wishes to enroll the student in a North Dakota school district other than the student's district of residence shall, not later than February first of the school year preceding the year of enrollment, apply to the school board of the student's district of residence, on forms provided by the superintendent of public instruction, for approval to enroll the student in a district other than the student's district of residence. By March first of the school year preceding the year of enrollment, the school board of the district of residence shall act on the application, notify the parent or legal guardian of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district. By April first, the board of the admitting district shall approve or disapprove the application. The board of the admitting district shall notify the board of the district of residence and the student's parent or legal guardian within five days regarding its decision. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year, unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district, or the student's parents or guardians change residence to another district. All applications must be reviewed in the order that they are received. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. For purposes of determining whether the grade level in which a student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district. A child placed at a group or residential care facility or a residential treatment center in accordance with section 15-40.2-08 is not eligible for open enrollment under this section. The school board of a school district of residence and of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent or legal guardian, moves from the student's school district of residence to another school district and who wishes to enroll in a school district, other than the district to which the student moved. The school board of a school district of residence and of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent or legal guardian, moves into this state from out of state and who wishes to enroll in a school district other than the district to which the student moved.



**SECTION 2. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**15-40.3-06. Local school boards - Standards.**

1. Each school board shall adopt standards for the acceptance and rejection of applications for open enrollment as provided in section 15-40.3-01. The standards may include the capacity of a program, class, grade level, or school building. The standards may not include previous academic achievement, participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.
2. The school board of the admitting district may determine that the district may not accept applications for open enrollment under this chapter.
3.
  - a. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly ~~or indirectly~~ exert influence upon the student or the student's family, in order to encourage participation in the open enrollment program ~~for the purpose of having the student participate in varsity athletic activities. However, any student who participated in varsity athletic activities during the 1992-93 school year, at a school in a district other than the student's district of residence or at a school outside the boundary within which the student would normally attend school may continue to participate in varsity athletics at that school for the duration of the student's high school career.~~
  - b. For purposes of this subsection, directly exerting influence means providing information about the school district to individuals who are not residents of that district unless the information is requested.
  - c. If the members of the board of a school district believe that another school district has violated this subsection, the board may file a complaint with the superintendent of public instruction. Upon receipt of a complaint alleging a violation of this subsection, the superintendent of public instruction shall hold a hearing and accept testimony and evidence regarding the complaint. If the superintendent finds that a school district has violated this subsection, the superintendent may withhold some or all of the transportation aid payments to which the district would be otherwise entitled for a period of one year from the date of the finding. A decision by the superintendent under this subsection is appealable to the state board of public school education. A decision by the state board of public school education is final.

**SECTION 3. AMENDMENT.** If House Bill No. 1045 does not become effective, section 15-40.3-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.3-07. Students not subject to this chapter.** A student, who, as the result of dissolution or reorganization, resides in a district other than the one the student chooses to attend at the time of the dissolution or reorganization, is not subject to the provisions of this chapter and may attend school in the chosen school district if that district participates in open enrollment. The student may not be

considered a student in average daily membership in the student's school district of residence for purposes of section 15-40.3-02.

<sup>102</sup> **SECTION 4. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-31-01. Open enrollment - Procedure.**

1. By February first of the school year preceding the year of enrollment, a parent who wishes to enroll a student in a North Dakota school district other than the student's district of residence shall file an application for approval with the board of the student's district of residence. The superintendent of public instruction shall make the application forms available in each school district.
2. By March first of the school year preceding the year of enrollment, the school board of the student's district of residence shall act on the application, notify the parent of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district.
3. By April first of the school year preceding the year of enrollment, the board of the admitting district shall approve or deny the application. The board of the admitting district shall notify the board of the district of residence and the student's parent of its decision within five days.
4. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district or the student's parent relocates to another district.
5. All applications must be reviewed in the order they are received.
6. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. For purposes of determining whether the grade level in which the student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of education services under a plan approved by the superintendent of public instruction must be considered to be a single district.
7. A child placed for purposes other than education in a group or residential care facility or in a residential treatment center is not eligible for open enrollment under this section.
8. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent,

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<sup>102</sup> Section 15.1-31-01 was created by section 15 of House Bill No. 1045, chapter 181.

moves from the student's school district of residence to another school district and who wishes to enroll in a school district other than the district to which the student moved.

9. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent, moves into this state from out of state and who wishes to enroll in a school district other than the district to which the student moved.

<sup>103</sup> **SECTION 5. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-31-06. Open enrollment - School boards - Standards.**

1. The board of each school district shall set standards for the acceptance and denial of applications for admittance under open enrollment as provided in section 15.1-31-01. The standards may address the capacity of a program, class, grade level, or school building. The standards may not address previous academic achievement, participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.
2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered.
3.
  - a. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly ~~or indirectly~~ exert influence on the student or the student's family, in order to encourage participation in the open enrollment program ~~for the purpose of having the student participate in varsity athletic activities.~~
  - b. For purposes of this subsection, directly exerting influence means providing information about the school district to individuals who are not residents of that district unless the information is requested.
  - c. If the members of the board of a school district believe that another school district has violated this subsection, the board may file a complaint with the superintendent of public instruction. Upon receipt of a complaint alleging a violation of this subsection, the superintendent of public instruction shall hold a hearing and accept testimony and evidence regarding the complaint. If the superintendent finds that a school district has violated this subsection, the superintendent may withhold some or all of the transportation aid payments to which the district would be otherwise entitled for a period of one year from the date of the finding. A decision by the superintendent under this subsection is

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<sup>103</sup> Section 15.1-31-06 was created by section 15 of House Bill No. 1045, chapter 181.

appealable to the state board of public school education. A decision by the state board of public school education is final.

<sup>104</sup> **SECTION 6. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**15.1-31-07. Students not subject to this chapter.** If a student, as a result of a school district dissolution or reorganization, resides in a district other than the one the student chooses to attend at the time of the dissolution or reorganization, the student is not subject to the provisions of this chapter and may attend school in the chosen school district. The student may not be considered a student in average daily membership in the student's school district of residence for purposes of section 15.1-31-02.

Approved April 23, 2001  
Filed April 23, 2001

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<sup>104</sup> Section 15.1-31-07 was created by section 15 of House Bill No. 1045, chapter 181.

## CHAPTER 196

### HOUSE BILL NO. 1142

(Education Committee)

(At the request of the Department of Public Instruction)

### STUDENT WITH DISABILITIES DEFINITION

AN ACT to amend and reenact subsection 2 of section 15-59-01 of the North Dakota Century Code or in the alternative to amend and reenact subsection 4 of section 15.1-32-01 of the North Dakota Century Code, relating to the definition of a child or student with disabilities.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, subsection 2 of section 15-59-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Child with disabilities" means ~~a child~~ an individual who ~~has reached the third birthday, and is at least three years of age but who has not reached the age of twenty-one years by midnight before September first of August thirty-first, the year in which the individual turns twenty-one~~ and who because of mental, physical, emotional, or learning characteristics requires regular or special education and related ~~aids~~ and services designed to meet individual education the individual's educational needs. ~~This~~ The term includes ~~children who are mentally retarded, hard of hearing, deaf, deaf-blind, speech or language impaired, visually impaired, seriously emotionally disturbed, specific learning disabled, orthopedically impaired, otherwise health impaired, autistic, or~~ an individual with mental retardation, hearing impairment, deafness, deafness-blindness, a speech or language impairment, a visual impairment, emotional disturbance, and orthopedic impairment, or autism, and an individual who has a specific learning disability, a traumatic brain injured injury, or other health impairment. The term does not include an individual who is at least eighteen but not yet twenty-one years of age and incarcerated in an adult correction facility unless, in the individual's last educational placement prior to incarceration, the individual was identified as being a child with a disability and had an individualized education program or services plan.

<sup>105</sup> **SECTION 2. AMENDMENT.** Subsection 4 of section 15.1-32-01 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

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<sup>105</sup> Section 15.1-32-01 was created by section 16 of House Bill No. 1045, chapter 181.

4. "Student with disabilities" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who because of mental, physical, emotional, or learning characteristics requires regular or special education and related services designed to meet the individual's educational needs. The term includes an individual ~~who is mentally retarded, hearing impaired, deaf, deaf-blind, speech or language impaired, visually impaired, emotionally disturbed, orthopedically impaired, or autistic with mental retardation, hearing impairment, deafness, deafness-blindness, a speech or language impairment, a visual impairment, emotional disturbance, an orthopedic impairment, or autism,~~ and an individual who has a specific learning disability, a traumatic brain injury, or other health impairment. The term does not include an individual who is at least eighteen but not yet twenty-one years of age and incarcerated in an adult correction facility unless, in the individual's last educational placement prior to incarceration, the individual was identified as being a student with a disability and had an individualized education program or services plan.

Approved April 19, 2001

Filed April 19, 2001

## CHAPTER 197

### HOUSE BILL NO. 1301

(Representatives Nottestad, Aarsvold, Haas, L. Thoreson)  
(Senator Wardner)

### SCHOOL CONTINGENT PAYMENTS

AN ACT to amend and reenact subsection 2 of section 14 of chapter 169 of the 1999 Session Laws, relating to contingent payments; to provide an appropriation; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 14 of chapter 169 of the 1999 Session Laws is amended and reenacted as follows:

2. a. If any funds appropriated by the legislative assembly to the grants - foundation aid and transportation line item remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the first \$1,000,000 of such contingent funds as supplemental per student payments to each school district in the state on the basis of average daily membership.
- b. The superintendent shall distribute the next \$1,000,000 of such contingent funds to assist school districts experiencing declines in student enrollment under the terms provided for by subdivision b of subsection 1.
- c. ~~The superintendent shall distribute the next \$2,000,000 of such contingent funds to school districts eligible to receive reorganization bonuses, as provided for by Senate Bill No. 2441, as approved by the fifty-sixth legislative assembly, and shall distribute any remaining funds as supplemental per student payments to each school district in the state on the basis of average daily membership.~~

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,665,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of distributing reorganization bonuses under section 15.1-12-11.1 to school districts, for the biennium beginning July 1, 2001, and ending June 30, 2003. The superintendent of public instruction shall determine the eligibility of reorganized districts chronologically, according to the date on which each district's reorganization plan was approved by the state board of public school education. No reorganization bonus payable under this Act may exceed \$500,000. A reorganized district that receives a reorganization bonus under this Act is not eligible to receive additional reorganization bonuses based on future reorganization efforts for a period of ten years.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved May 4, 2001

Filed May 4, 2001



## CHAPTER 198

### SENATE BILL NO. 2324

(Senators Kelsh, Freborg)  
(Representatives Nelson, Weisz)

### FUNDING OF CORE CURRICULUM STUDY

AN ACT to provide for a legislative council study.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY - FUNDING OF CORE CURRICULUM.** The legislative council shall consider studying the delivery of a core curriculum to each elementary and high school student in this state and the feasibility and desirability of providing total state funding solely for the delivery of a core curriculum. The legislative council shall report its findings and recommendations, together with any legislation required to implement its recommendations, to the fifty-eighth legislative assembly.

Approved March 16, 2001  
Filed March 16, 2001

## CHAPTER 199

### SENATE BILL NO. 2201

(Senator Traynor)  
(Representatives Brekke, Nicholas)

### DEVILS LAKE SCHOOL LAND TRANSFER

AN ACT to provide for the removal of a future interest and a covenant from deeds transferring land from this state to the Devils Lake public school district No. 1.

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

**SECTION 1.** The state of North Dakota shall transfer in the name of the state of North Dakota by written document, executed by the governor and attested by the secretary of state, any interest, right, or title retained in the land transferred under chapter 647 of the 1989 Session Laws to Devils Lake public school district No. 1, including the interest, right, or title that provides if the land ceases to be used for school purposes, then the land shall revert to the state of North Dakota upon payment to the school district of the same price for which it was purchased. In addition, the state shall remove and release any person who may have any interest, right, or title to the property from the following covenant, agreement, servitude, or easement concerning the same property, which provides for the covenant and agreement that the students enrolled at the school for the deaf of North Dakota are guaranteed use of the facilities placed upon the property by Devils Lake public school district No. 1 in the proportion that the number of students enrolled at the school for the deaf of North Dakota bears to the total number of students entitled to use these facilities or as agreed to by the officials of the school for the deaf and the school district, or both.

**SECTION 2.** The state of North Dakota shall transfer in the name of the state of North Dakota by written document, executed by the governor and attested by the secretary of state, any interest, right, or title retained in the land transferred under chapter 247 of the 1975 Session Laws to Devils Lake public school district No. 1, including the interest, right, or title that provides if the land is ever no longer used for school purposes, then the land shall revert to the state of North Dakota upon payment to the school district of the same price for which it was purchased. In addition, the state shall remove and release any person who may have any interest, right, or title to the property from the covenant, agreement, servitude, or easement concerning the same property which provides for the covenant and agreement that the students enrolled at the school for the deaf of North Dakota are guaranteed use of the facilities placed upon the property by Devils Lake public school district No. 1 in the proportion that the number of students enrolled at the school for the deaf of North Dakota bears to the total number of students entitled to use these facilities.

**SECTION 3.** Sections 54-01-05.2 and 54-01-05.5 do not apply to any transfer or transaction under section 1 or 2 of this Act.

Approved April 13, 2001  
Filed April 13, 2001