

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1177

Introduced by

Representatives Wald, Haas, Herbel, Klein

Senators G. Lee, Wardner

1 A BILL for an Act to create and enact a new section to chapter 15.1-16 of the North Dakota  
2 Century Code, relating to salary increases for unfillable positions.

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

4 **SECTION 1.** A new section to chapter 15.1-16 of the North Dakota Century Code is  
5 created and enacted as follows:

6 **Salary increase - Unfillable position.**

7 1. a. If, after the conclusion of a school calendar, the board of a school district has  
8 a teaching position vacant and if the board, having done all things necessary  
9 and proper, is unable to fill that position by the forty-fifth day prior to the start  
10 of the district's school calendar with an individual who is highly qualified and  
11 who meets reasonable criteria established by the board, the board shall notify  
12 the superintendent of public instruction that:

13 (1) A teaching position is vacant;

14 (2) The board has done all things necessary and proper after learning of  
15 the vacancy to find a suitable and highly qualified candidate; and

16 (3) The board will be unable to meet the statutory requirements for school  
17 approval if the position remains unfilled.

18 b. Unless the superintendent of public instruction has reason to believe that the  
19 information contained in the notice as provided in subdivision a is not  
20 accurate, the superintendent shall authorize the board, notwithstanding the  
21 terms of any agreement negotiated under this chapter, to increase the  
22 compensation offered for that position to the extent deemed necessary by the  
23 board in order to attract a suitable and highly qualified individual. The

1                   compensation paid to a successful applicant under this section may not be  
2                   reduced in future years.

3           2.    a.   If a teaching position becomes vacant during a school calendar or less than  
4                   forty-five days prior to the start of the school calendar, the board of a school  
5                   district shall do all things necessary and proper to ensure that the vacancy  
6                   causes only minimal disruption to the instruction of students and that the  
7                   position becomes filled as quickly as possible by a highly qualified individual  
8                   who meets the reasonable criteria established by the board. The board shall  
9                   notify the superintendent of public instruction that the vacancy exists and that  
10                  the board will be unable to meet the requirements for school approval if the  
11                  position remains unfilled.

12               b.   Upon receipt of the notice as provided in subdivision a, the superintendent of  
13                   public instruction shall contact the several education associations in this state  
14                   and ask that they assist the board of the school district in any way possible to  
15                   locate and employ an individual under the terms of the district's existing  
16                   negotiated agreement. Only when the superintendent determines that all  
17                   reasonable efforts have been unsuccessful may the superintendent authorize  
18                   the board, notwithstanding the terms of any agreement negotiated under this  
19                   chapter, to offer the level of compensation it deems necessary in order to  
20                   attract a suitable and highly qualified individual for the duration of the school  
21                   calendar.

22           3.    If an individual resigns from a teaching position with a district, the individual may  
23                   be rehired by the board of that district to fill a vacancy, but the individual is not  
24                   eligible to receive a level of compensation greater than that provided for in the  
25                   district's negotiated agreement.

26           4.    If an individual has taught in this state during the preceding twelve months, the  
27                   individual is not eligible to receive a level of compensation greater than that  
28                   provided for in the district's negotiated agreement.

29           5.    This section is applicable to contracts that are negotiated under this chapter and  
30                   which take effect after July 31, 2007.