

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2336
(Senators Holmberg, Freborg, Grindberg)
(Representatives R. Kelsch, Monson)

AN ACT to provide for the expiration of certain rules adopted by the superintendent of public instruction; and to amend and reenact sections 15-21-04.1, 15-21-07, 15-21-07.1, 15-21-07.2, 15-21.1-03, 15-21.1-04, 15-45-03, and subsection 1 of section 28-32-01 of the North Dakota Century Code, relating to rulemaking by the superintendent of public instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-21-04.1 of the North Dakota Century Code is amended and reenacted as follows:

15-21-04.1. Superintendent may adopt accreditation standards rules - Compliance not mandatory. The superintendent of public instruction has the authority to adopt ~~standards rules~~ standards rules for the accreditation of the public and private schools of the state. Any public or private school which complies with ~~such standards~~ the rules must be deemed to be an accredited school.

SECTION 2. AMENDMENT. Section 15-21-07 of the North Dakota Century Code is amended and reenacted as follows:

15-21-07. Duties - To advise with county superintendents of schools and school boards - Appeals. The superintendent of public instruction shall counsel with and advise county superintendents of schools and school boards upon all matters involving the welfare of schools; and on request, ~~he~~ shall give them written answers to all questions concerning school laws. ~~He~~ The superintendent of public instruction shall decide all appeals from decisions of county superintendents of schools, and, for the consideration of such appeals, ~~he~~ the superintendent of public instruction may require affidavits, verified statements, or testimony under oath as to the facts in issue, as provided in chapter 28-32. As an administrative agency under chapter 28-32 ~~and following provisions thereof, he,~~ the superintendent of public instruction shall ~~prescribe, and cause to be enforced,~~ adopt rules of practice and regulations pertaining to the hearing and determination of appeals and ~~such rules and regulations as may be necessary to render effective the school laws of the state.~~

SECTION 3. AMENDMENT. Section 15-21-07.1 of the North Dakota Century Code is amended and reenacted as follows:

15-21-07.1. Agreements with federal agencies and school districts. The superintendent of public instruction in order to carry out the purposes of any federal statutes pertaining to public education may enter into agreements with any agency of the federal government and with the school board of any school district in the state, may make agreements with the federal government for and ~~in~~ on behalf of the public school districts of the state and may adopt ~~necessary rules of administration~~ to ensure the proper and efficient operation of ~~such the~~ the agreements and to ~~comply with such conditions as may be necessary to~~ obtain the full benefits of ~~such the~~ the federal statutes. Provided, however, that such contracts, agreements, or arrangements shall in no way impair the rights, powers, duties, or authority of local school districts and school boards in the management and control of their local schools.

SECTION 4. AMENDMENT. Section 15-21-07.2 of the North Dakota Century Code is amended and reenacted as follows:

15-21-07.2. ~~Regulations prescribed~~ Rules for agreements with federal agencies. All contracts, agreements, or arrangements affecting public tax supported schools or school systems under the supervision of the state superintendent of public instruction which may be made and entered

into with agencies of the federal government must be entered into in accordance with ~~regulations~~ rules prescribed by the superintendent of public instruction ~~and in no other manner~~.

SECTION 5. AMENDMENT. Section 15-21.1-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-21.1-03. Grants - Design - Coordination. The state superintendent or designated staff ~~must establish guidelines~~ shall adopt rules for the school districts to implement a chemical abuse prevention program in North Dakota schools. The ~~guidelines~~ rules may ~~reflect~~ include the following ~~and other criteria as may be appropriate~~:

1. Community involvement through a ~~citizens~~ citizens' advisory committee already in place or appointed by the school board.
2. Assessment of the current level of services and resources available within a community.
3. Assessment of student and staff needs.
4. Coordination of activities with public and private agencies whenever possible.
5. Development of an appropriate plan for implementation based upon assessed needs.
6. Evaluation of programs.
7. The budget to support implementation.

Based upon the criteria developed by the department of public instruction, the superintendent shall review the proposal and grant funds to the school districts.

The school districts may apply for funds independently or form a consortium for a more cost-effective program. The funding will be based upon the criteria and the merit of each program proposal.

The department shall develop a comprehensive plan to address the coordination of services with existing agencies. These agencies may include the department of human services, state department of health, department of transportation, and law enforcement agencies. The purpose of coordination is to develop ~~state guidelines~~ rules and identify resources.

SECTION 6. AMENDMENT. Section 15-21.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15-21.1-04. Staff. The superintendent shall employ one permanent professional staff person for the purpose of coordinating this program. The project coordinator shall:

1. Develop ~~guidelines~~ rules in consultation with other private and public agencies.
2. Disseminate ~~guidelines~~ rules to local communities.
3. Provide technical assistance to communities through schools in planning and implementation of a chemical abuse and prevention program.
4. Collect pertinent data for reporting and program evaluation.
5. Facilitate coordination of this program with prevention and educational programs presently being conducted by other state agencies.
6. Provide written evaluation to the superintendent for a report to the ~~state legislature~~ legislative assembly.
7. Serve as a resource specialist to schools in the areas of policy, development, instructional programs, and identifying model programs.

SECTION 7. AMENDMENT. Section 15-45-03 of the North Dakota Century Code is amended and reenacted as follows:

15-45-03. Accreditation ~~standards~~ rules. The superintendent of public instruction may adopt ~~standards~~ rules for the accreditation of all kindergartens operated in this state. All kindergartens that comply with these ~~standards~~ rules are accredited kindergartens.

SECTION 8. AMENDMENT. Subsection 1 of section 28-32-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, or employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency shall be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
 - a. The office of management and budget except with respect to rules relating to the state building code as authorized or required under section 54-21.3-03, rules relating to the Model Energy Code as required under section 54-21.2-03, rules relating to the central personnel system as authorized under section 54-44.3-07, rules relating to state purchasing practices as required under section 54-44.4-04, rules relating to records management as authorized or required under chapter 54-46, and rules relating to the central microfilm unit as authorized under chapter 54-46.1.
 - b. The adjutant general with respect to the division of emergency management.
 - c. The council on the arts.
 - d. The state auditor.
 - e. The department of economic development and finance.
 - f. The dairy promotion commission.
 - g. The education factfinding commission.
 - h. The educational telecommunications council.
 - i. The board of equalization.
 - j. The board of higher education.
 - k. The Indian affairs commission.
 - l. The industrial commission with respect to the activities of the Bank of North Dakota, the North Dakota housing finance agency, the North Dakota municipal bond bank, and the North Dakota mill and elevator association.
 - m. The department of corrections and rehabilitation except with respect to the activities of the division of adult services under chapter 54-23.4.
 - n. The board of pardons.
 - o. The parks and recreation department.
 - p. The parole board.
 - q. ~~The superintendent of public instruction, except with respect to rules prescribed under section 15-21-07 and rules implementing chapter 15-22.~~

- ~~f.~~ The state fair association.
- ~~s.~~ r. The state department of health with respect to the state toxicologist.
- ~~t.~~ s. The board of university and school lands except with respect to activities under chapter 47-30.1.
- ~~u.~~ t. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.
- ~~v.~~ u. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.
- ~~w.~~ v. The secretary of state with respect to rules adopted for the presidential preference contest under section 16.1-11-02.2.

SECTION 9. Expiration of existing rules. Any rule adopted by the superintendent of public instruction in a manner other than that set forth in chapter 28-32 is ineffective after October 31, 1999. For purposes of this section, "rule" includes any regulation, standard, guideline, statement, or policy that has the effect of law or which has either direct or indirect financial consequences for noncompliance.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2336.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 70 Nays 25 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State