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Prepared by the Legislative Council staff for Representative Brown
January 29, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1565

Introduced by

Representatives Brown, Davis, Finley-DeVille, Holle, Ista, Murphy, Nelson

Senators Marcellais, Mathern

A BILL for an Act to create and enact a new section to chapter 15.1-01 of the North Dakota Century Code, relating to establishing a grant program for the education of nonbeneficiary students attending tribally controlled schools; and to amend and reenact section 54-40.2-02 of the North Dakota Century Code, relating to authorization for public agencies and tribes to enter an agreement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-01 of the North Dakota Century Code is created and enacted as follows:

Tribally controlled schools - Grants for nonbeneficiary students.

1. As used in this section:
   a. "Nonbeneficiary student" means a student enrolled at a tribally controlled school who is not:
      (1) An enrolled member of a federally recognized Indian tribe; or
      (2) A biological child of a descendant member of an Indian tribe.
   b. "Tribally controlled school" means an elementary or secondary school in the state receiving financial assistance from the bureau of Indian affairs under 25 U.S.C. chapter 27.
2. The superintendent of public instruction shall provide a grant to a tribally controlled school to defray the cost of educating nonbeneficiary students.

SECTION 2. AMENDMENT. Section 54-40.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-02. Authorization to enter agreements - General contents.

1. Any one or more public agencies may enter ~~into~~ an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes, in accordance with this chapter or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.
2. The Indian affairs commission may propose agreements entered ~~into pursuant to~~under this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements.
3. If the public agency contemplating entering ~~into~~ an agreement under this chapter is a school district, or if the agreement permits the enrollment of students into a school district from a tribal school that is operating and receiving funding under the Tribally Controlled Schools Act of 1988, as amended [Pub. L. 100-297; 25 U.S.C. 2501 et seq.], the school district shall:
   a. Ensure the agreement clearly specifies the board of the school district will retain its identity and decisionmaking authority while fulfilling its statutory duties in accordance with state law;
   b. Provide written notice to the superintendent of public instruction that it is contemplating entering ~~into~~ an agreement under this chapter; and
   ~~b.~~c. Consider written recommendations that the superintendent makes regarding the agreement.
4. This chapter does not apply to agreements entered ~~into~~ under section 24-02-02.3 and chapter 54-38 or agreements entered with one or more tribal governments ~~pursuant to~~under a state or federally funded program or other activity, including any publicly announced offer of a grant, loan, request for proposal, bid, or other contract originating with a public agency, for which the tribal government is otherwise eligible under federal, state, or local law.