

Introduced by

1 A BILL for an Act to create and enact title 15.1 of the North Dakota Century Code, relating to
2 elementary and secondary education; to repeal chapter 15-21, sections 15-21.1-01, 15-21.1-02,
3 15-21.1-03, 15-21.1-04, 15-21.1-05, 15-21.1-06, 15-21.1-07, 15-21.1-09, chapters 15-21.2,
4 15-22, 15-27.1, 15-27.2, 15-27.3, 15-27.4, 15-27.5, 15-27.6, 15-27.7, 15-28, sections 15-29-01,
5 15-29-01.1, 15-29-02, 15-29-03, 15-29-03.1, 15-29-04, 15-29-05, 15-29-06, 15-29-07,
6 15-29-08, 15-29-08.4, 15-29-09, 15-29-10, 15-29-11, 15-29-13, 15-29-14, 15-34.2-12,
7 15-34.2-13, 15-34.2-14, 15-34.2-17, 15-34.2-18, 15-35-01.2, 15-35-09, 15-35-11, 15-35-12,
8 15-35-14, 15-38-04.1, 15-38-06, 15-38-13, 15-38-13.1, 15-38-13.2, 15-41-01, 15-41-02,
9 15-41-03, 15-41-04, 15-41-05, 15-41-07, 15-41-08, 15-41-27, chapter 15-41.1, sections
10 15-43-11.1, 15-43-11.2, 15-43-11.3, 15-43-11.4, 15-44-06, 15-44-09, 15-44-10, 15-44-11,
11 chapter 15-46, sections 15-47-01, 15-47-01.1, 15-47-02.1, 15-47-04, 15-47-05, 15-47-06,
12 15-47-07, 15-47-08, 15-47-09, 15-47-10, 15-47-11, 15-47-12, 15-47-13, 15-47-14, 15-47-15,
13 15-47-16, 15-47-21, 15-47-22, 15-47-24, 15-47-25, 15-47-29, 15-47-30, 15-47-30.1, 15-47-31,
14 15-47-32, 15-47-33, 15-47-33.1, 15-47-36, 15-47-37, 15-47-39, 15-47-40, 15-47-40.1,
15 15-47-41, 15-47-43, 15-47-44.1, 15-47-44.2, 15-47-47, 15-47-48, 15-47-49, 15-47-50,
16 15-47-51, chapters 15-48, 15-49, 15-51, 15-54, 15-64, and 15-65 of the North Dakota Century
17 Code, relating to elementary and secondary education provisions addressed in the creation of
18 North Dakota Century Code title 15.1; to provide penalties; and to provide a continuing
19 appropriation.

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

21 **SECTION 1.** Chapter 15.1-01 of the North Dakota Century Code is created and
22 enacted as follows:

23 **15.1-01-01. State board of public school education - Composition.**

- 1 1. The state board of public school education consists of the superintendent of public
2 instruction and:
 - 3 a. An individual representing Barnes, Cass, Grand Forks, Griggs, Nelson,
4 Steele, and Traill counties;
 - 5 b. An individual representing Benson, Bottineau, Cavalier, McHenry, Pembina,
6 Pierce, Ramsey, Renville, Rolette, Towner, and Walsh counties;
 - 7 c. An individual representing Dickey, Emmons, LaMoure, Logan, McIntosh,
8 Ransom, Richland, and Sargent counties;
 - 9 d. An individual representing Burleigh, Eddy, Foster, Kidder, McLean, Sheridan,
10 Stutsman, and Wells counties;
 - 11 e. An individual representing Burke, Divide, McKenzie, Mountrail, Ward, and
12 Williams counties; and
 - 13 f. An individual representing Adams, Billings, Bowman, Dunn, Golden Valley,
14 Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, and Stark counties.
- 15 2. All board members other than the superintendent of public instruction must be
16 qualified electors and must reside in one of the counties they represent.
- 17 3. The governor shall appoint new board members from a list of three names
18 submitted by a committee consisting of the president of the North Dakota
19 education association, the president of the North Dakota council of educational
20 leaders, and the president of the North Dakota school boards association. Two of
21 the state board members must be members of the North Dakota school boards
22 association. Appointees serve for six-year terms, staggered so that the terms of
23 two members expire on June thirtieth of each even-numbered year. If a vacancy
24 occurs, the governor shall appoint an individual to serve for the duration of the
25 unexpired term.
- 26 4. Board members are entitled to receive compensation at the rate of sixty-two dollars
27 and fifty cents per day and reimbursement for expenses, from the biennial
28 appropriation for the superintendent of public instruction, as provided by law for
29 state officers, if they are attending board meetings or performing duties directed by
30 the board. No compensation may be paid under this section to any member who
31 receives compensation or a salary as a state employee or official.

- 1 5. The superintendent of public instruction shall serve as the executive director and
2 secretary of the board. The superintendent shall call meetings as necessary, carry
3 out the policies of the board, and employ personnel necessary to perform the
4 board's duties. The board shall annually elect one member to serve as the
5 chairman.

NOTE: Present Section 15-21-17. At the direction of the committee, the compensation of board members was raised from \$50 to \$62.50 per day.

6 **15.1-01-02. Joint meetings - State board of public school education - State board**
7 **of higher education - State board for vocational and technical education.** The state board
8 of public school education, the state board of higher education, and the state board for
9 vocational and technical education shall meet together at least once each year at the call of the
10 superintendent of public instruction, the commissioner of higher education, and the director of
11 vocational and technical education for the purposes of:

- 12 1. Coordinating elementary and secondary education programs, vocational and
13 technical education programs, and higher education programs.
14 2. Cooperating in the provision of professional growth and development opportunities
15 for elementary and secondary teachers and administrators.
16 3. Ensuring cooperation in any other jointly beneficial project or program.

NOTE: Present Section 15-21-18. (Amended as per committee motion.)

17 **15.1-01-03. State board of public school education - Powers and duties.** The state
18 board of public school education shall:

- 19 1. Assist county committees in carrying out their duties.
20 2. Provide county committees with clerical assistance, plans of procedure, standards,
21 data, maps, forms, and other materials, information, and services.
22 3. Appoint members to the county committee, if the county superintendent does not
23 fulfill this duty, as provided for in section 15.1-10-01.
24 4. Adopt rules regarding school district reorganizations, annexations, and
25 dissolutions.

NOTE: Present Section 15-27.1-06. Present Section 15-27.1-06 contains verbiage regarding provisions that must be included in the rules. These provisions appear to be duplicated in the list of factors that county committees must consider in annexation, reorganization, and dissolution proceedings and were therefore omitted from the rewrite of this section. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

1 **SECTION 2.** Chapter 15.1-02 of the North Dakota Century Code is created and
2 enacted as follows:

3 **15.1-02-01. Superintendent of public instruction - Qualifications.** The qualified
4 electors of this state shall elect a superintendent of public instruction at the appropriate general
5 election. The superintendent must be at least twenty-five years of age on the day of the
6 election, have the qualifications of an elector for that office, and hold a valid North Dakota
7 teaching certificate on the day of the election and at all times during the superintendent's term
8 of office.

NOTE: Present Section 15-21-01. The rewrite of this section reiterates the requirements found in Article V of the Constitution of North Dakota, but it does not repeat the constitutional provisions regarding the location and term of the office.

9 **15.1-02-02. Salary and traveling expenses.** The annual salary of the superintendent
10 of public instruction is fifty-eight thousand two hundred seventy-two dollars.

NOTE: Present Section 15-21-02. Verbiage regarding the Superintendent's entitlement to reimbursement was removed because the matter is already covered under Section 44-08-04, which pertains to expense reimbursement for all state officers.

11 **15.1-02-03. Appointment of deputy - Employment of personnel.** The
12 superintendent of public instruction may appoint a deputy superintendent and an assistant. The
13 superintendent may also hire personnel or contract with other persons to perform the work of
14 the department of public instruction.

NOTE: Present Section 15-21-03. The rewrite of present Section 15-21-03 eliminates the specific job descriptions of a deputy superintendent, as well as outdated references to "clerks."

15 **15.1-02-04. Superintendent of public instruction - Duties.** The superintendent of
16 public instruction:

- 17 1. Shall supervise the provision of elementary and secondary education to the
18 students of this state.
- 19 2. Shall supervise the establishment and maintenance of schools and provide advice
20 and counsel regarding the welfare of the schools.
- 21 3. Shall supervise the development of course content standards.
- 22 4. Shall supervise the assessment of students.
- 23 5. Shall serve as an ex officio member of the board of university and school lands.
- 24 6. Shall keep a complete record of all official acts and appeals.

- 1 7. Shall, as appropriate, determine the outcome of appeals regarding education
- 2 matters.
- 3 8. Shall direct school district annexation, reorganization, and dissolution and employ
- 4 and compensate personnel necessary to enable the state board of public school
- 5 education to carry out its powers and duties regarding school district annexation,
- 6 reorganization, and dissolution.
- 7 9. May participate in publicly and privately sponsored programs designed to assist
- 8 children and adopt rules regarding such programs.

NOTE: Present Sections 15-21-04 and 15-41-02. Present Section 15-21-04 provides that the Superintendent has the general supervision of the common and secondary schools of the state. The language in this section is modernized to give the Superintendent responsibility for the education of all students (public and nonpublic). Because this section begins with a specific duty, other statutory duties have been consolidated here as well:

1. The provision requiring the Superintendent to provide advice and counsel regarding the welfare of schools stems from present Section 15-21-07.
2. The provision regarding the development of course content standards stems from present Section 15-21-09.
3. The provision requiring the assessment of students stems from present Section 15-21-09.
4. The provision requiring that the Superintendent be an ex officio member of the Board of University and School Lands stems from present Section 15-21-04.
5. The provision requiring the Superintendent to keep a record of all official acts and appeals stems from present Section 15-21-08.
6. The provision requiring that the Superintendent determine the outcome of appeals stems from present Sections 15-21-07 and 15-22-17.
7. The provision requiring the Superintendent to direct annexation, reorganization, and dissolution proceedings and employ personnel necessary to enable the State Board of Public School Education to carry out its duties stems from present Section 15-27.1-07.
8. The provision authorizing the Superintendent to participate in publicly and privately sponsored programs designed to assist children and to adopt rules regarding participation in such programs is added at the suggestion of department personnel. The provision is designed to ensure that the Superintendent has the authority to adopt rules regarding programs which may or may not be referenced in statute. (Amended at the direction of the committee, as per the request of Ms. Cathy Grafsgaard, Department of Public Instruction.)

9 **15.1-02-05. Federal government - Contracts.**

- 10 The superintendent of public instruction may contract with an agency of the federal government:
- 11 1. For and on behalf of the department of public instruction.
 - 12 2. For and on behalf of a school district, with the consent of the school district board.

NOTE: Present Section 15-21-07.1. Present Section 15-21-07.1 authorizes the Superintendent of Public Instruction to enter into contracts for and on behalf of the public school districts. It then provides that any contracts entered into by the Superintendent

may not impair the rights, powers, duties, or authority of local districts and boards. The committee determined that this section should authorize the Superintendent to enter into contracts with the federal government. The committee determined that the section should also authorize the Superintendent to enter into contracts on behalf of a district, with the permission of a school board. The proposed language eliminates the unnecessary grant of rulemaking authority to the Superintendent.

1 **15.1-02-06. Preservation of property.** The superintendent of public instruction shall
2 provide for the preservation of all property that the superintendent acquires in an official
3 capacity and which has educational interest and value or which records official acts by the
4 superintendent. At the conclusion of the superintendent's term of office, the superintendent
5 shall deliver the property to the superintendent's successor.

NOTE: Present Section 15-21-05. The rewrite directs the Superintendent to provide for the preservation of property, rather than actually preserving it himself.

6 **15.1-02-07. Superintendent of public instruction - Lease of unused real property.**

- 7 1. The superintendent of public instruction may lease surplus portions of real
8 property, including buildings and improvements, owned by the state and
9 administered by the superintendent of public instruction at the school for the blind,
10 the school for the deaf, and the division of independent study.
- 11 2. The superintendent may lease the unused portion of a building only after
12 consultation with and adherence to conditions set by the administrator of the state
13 fire and tornado fund.
- 14 3. A lease agreement under this section may not exceed five years.
- 15 4. A lease agreement under this section must provide that:
- 16 a. It is cancelable by the state without liability at the end of any state fiscal
17 biennium; or
- 18 b. It is renewable at the sole discretion of the superintendent of public instruction
19 at the beginning of each fiscal biennium.
- 20 5. The superintendent may set additional terms and conditions for leases under this
21 section.
- 22 6. The attorney general shall review any lease under this section and approve its
23 legal adequacy before its execution.
- 24 7. The superintendent may expend revenues from leases under this section only with
25 legislative approval.

NOTE: Present Section 15-21-21.

1 **15.1-02-08. Accounting and reporting system - Uniformity.** The superintendent of
2 public instruction shall implement a uniform system for the accounting, budgeting, and reporting
3 of data for all school districts in the state. The superintendent of public instruction shall
4 designate the software standards to be used by school districts in their accounting, budgeting,
5 and reporting functions.

NOTE: Present Section 15-21-13.1. The rewrite of present Section 15-21-13.1 includes the provisions of present Section 15-21-13, which require the Superintendent to furnish school districts with appropriate reporting forms. At the direction of the committee, the original language calling for the Superintendent to "recommend ... software programs" was changed to authorize the "designation of software standards." The committee determined that uniformity would not be achieved if the Superintendent could only "recommend" certain programs. It also determined that the Superintendent should not select specific programs for the districts, but should rather establish the guidelines or standards that need to be met by programs in order to ensure a uniformity of reporting styles.

6 **15.1-02-09. Biennial report - Contents.** The superintendent of public instruction shall
7 submit a biennial report to the governor and the secretary of state in accordance with section
8 54-06-04. The superintendent shall include in the report:

- 9 1. The number of school districts in the state.
- 10 2. The financial condition of each school district, including its receipts and
11 expenditures.
- 12 3. The value of all property owned or controlled by each school district.
- 13 4. The cost of education in each school district.
- 14 5. The number of teachers employed by each school district and their salaries.
- 15 6. The number of students in average daily membership and average daily
16 attendance in each school district, the grades in which they are enrolled, and
17 where applicable the courses in which they are enrolled.
- 18 7. Information regarding the state's approved private schools.

NOTE: Present Section 15-21-14. The language of present Section 15-21-14 has been modernized and clarified. A substantive change that was made involves the removal of language requiring that the report show "[s]uch general matters, information, and recommendations relating to the educational interests of the state deemed important." A statutory section that requires "general matter" is not particularly helpful; neither is the addition of the phrase "deemed important," unless it is accompanied by parameters, including who is to do the "deeming." The rewrite sets forth the information that must be included in the report. The list is not, however, exclusive.

19 **15.1-02-10. Biennial report - Distribution.** The superintendent of public instruction
20 shall make the biennial report available to each member of the legislative assembly upon

1 request. The superintendent shall provide a copy of the report to each state officer and to the
2 legislative council library. The superintendent shall provide eight copies of the report to the
3 state library.

NOTE: Present Section 15-21-15. The rewrite of present Section 15-21-15 removes some of the verbiage already articulated in Section 54-06-04. It also removes references to printed copies, in recognition of other available communication tools (e-mail, Internet, diskettes, etc.). At the direction of the committee, the section eliminates the automatic distribution of the report to legislators and replaces it with a directive that the Superintendent make the report available to legislators "upon request." It removes the requirement that the report be shared with the state superintendent of each state and territory. It removes the requirement that county superintendents be provided with copies because there was no mandate to share the report with school district superintendents. Finally, it reduces the number of copies forwarded to the State Library from 10 to 8 and it eliminates the requirement that copies be sent to each institution of higher education. The committee was told that the State Library makes its copies available to the institutions. This section does not preclude the Superintendent from providing copies to any other person or entity.

4 **15.1-02-11. Superintendent of public instruction - Accreditation of schools -**

5 **Rules.** The superintendent of public instruction may adopt rules governing the accreditation of
6 public and nonpublic schools.

NOTE: Present Section 15-21-04.1.

7 **15.1-02-12. Expiration of existing rules.** Any rule adopted by the superintendent of
8 public instruction in a manner other than that set forth in chapter 28-32 is ineffective after
9 October 31, 1999. For purposes of this section, "rule" includes any regulation, standard,
10 guideline, statement, or policy that has the effect of law or which has either direct or indirect
11 financial consequences for noncompliance.

NOTE: Present Section 15-21-22.

12 **SECTION 3.** Chapter 15.1-03 of the North Dakota Century Code is created and
13 enacted as follows:

14 **15.1-03-01. Department of public instruction - Establishment.** There is hereby
15 established a department of public instruction. The superintendent of public instruction is the
16 chief administrative officer of the department of public instruction.

NOTE: Present Section 15-21-01.1. Present Section 15-21-01.1 contained language declaring that the Office of the Superintendent was a nonprofit education agency known as the Department of Public Instruction. This was enacted to ensure that the department could receive a preferred postal rate. According to the legislative history, the federal government did not recognize the "Superintendent of Public Instruction" as a department. The proposed language is patterned after that used for other agencies headed by constitutional officers.

- 1 1. Establish and maintain close cooperation and understanding among
2 executive, legislative, professional, educational, and lay leadership on a
3 nationwide basis at the state and local levels.
- 4 2. Provide a forum for the discussion, development, crystalization, and
5 recommendation of public policy alternatives in the field of education.
- 6 3. Provide a clearinghouse for information on matters relating to education
7 problems and how they are being met in different places throughout the
8 nation, so that the executive and legislative branches of state government and
9 of local communities may have ready access to the experience and record of
10 the entire country, and so that both lay and professional groups in the field of
11 education may have additional avenues for the sharing of experience and the
12 interchange of ideas in the formation of public policy in education.
- 13 4. Facilitate the improvement of state and local education systems so that all of
14 them will be able to meet adequate and desirable goals in a society that
15 requires continuous qualitative and quantitative advances in educational
16 opportunities, methods, and facilities.
- 17 B. It is the policy of this compact to encourage and promote local and state initiatives
18 in the development, maintenance, improvement, and administration of education
19 systems and institutions in a manner that will accord with the needs and
20 advantages of diversity among localities and states.
- 21 C. The party states recognize that each of them has an interest in the quality and
22 quantity of education furnished in each of the other states, as well as in the
23 excellence of its own education system and institutions, because of the highly
24 mobile character of individuals within the nation, and because the products and
25 services contributing to the health, welfare, and economic advancement of each
26 state are supplied in significant part by persons educated in other states.

27 Article II - State Defined

28 As used in this compact, "state" means a state, territory, or possession of the United States, the
29 District of Columbia, or the Commonwealth of Puerto Rico.

30 Article III - The Commission

- 1 A. The education commission of the states, hereinafter called "the commission", is
2 hereby established. The commission consists of seven members representing
3 each party state. One of the members must be the governor and two must be
4 members of the state legislative assembly selected by its respective houses. The
5 governor shall appoint the remaining four members, all of whom serve at the
6 pleasure of the governor. If the laws of a state prevent legislators from serving on
7 the commission, the governor shall appoint six members, all of whom shall serve at
8 the pleasure of the governor, unless the laws of the state otherwise provide. In
9 addition to any other principles or requirements that a state may establish for the
10 appointment and service of its members on the commission, the guiding principle
11 for the composition of the membership on the commission from each party state is
12 that the members representing the state must, by virtue of their training,
13 experience, knowledge, or affiliations, be in a position collectively to reflect broadly
14 the interests of the state government, higher education, the state education
15 system, local education, and lay and professional, as well as public and nonpublic
16 educational leadership. Of those appointees, one must be the head of a state
17 agency or institution, designated by the governor, having responsibility for one or
18 more programs of public education. In addition to the members of the commission
19 representing the party states, there may not be more than ten nonvoting
20 commissioners selected by the steering committee for terms of one year. The
21 nonvoting commissioners shall represent leading national organizations of
22 professional educators or individuals concerned with educational administration.
- 23 B. The members of the commission are entitled to one vote each on the commission.
24 No action of the commission is binding unless taken at a meeting at which a
25 majority of the total number of votes on the commission are cast in favor of the
26 action. Action of the commission may be only at a meeting at which a majority of
27 the commissioners are present. The commission shall meet at least once a year.
28 In its bylaws, and subject to any directions and limitations contained in the bylaws,
29 the commission may delegate the exercise of its powers to the steering committee
30 or the executive director, except for the power to approve budgets or requests for

- 1 appropriations, the power to make policy recommendations pursuant to Article IV,
2 and the adoption of the annual report pursuant to this article.
- 3 C. The commission shall have a seal.
- 4 D. The commission shall elect annually, from among its members, a chairman, who
5 must be a governor, a vice chairman, and a treasurer. The commission shall
6 provide for the appointment of an executive director. The executive director shall
7 serve at the pleasure of the commission and, together with the treasurer and other
8 personnel deemed appropriate by the commission, shall be bonded in an amount
9 determined by the commission. The executive director shall be secretary.
- 10 E. Notwithstanding the civil service, personnel, or other merit system laws of a party
11 state, the executive director, subject to the approval of the steering committee,
12 shall appoint, remove, or discharge personnel as necessary for the performance of
13 the functions of the commission, and shall fix the duties and compensation of the
14 personnel. The commission in its bylaws shall provide for the personnel policies
15 and programs of the commission.
- 16 F. The commission may borrow, accept, or contract for the services of personnel from
17 any party jurisdiction, the United States, or any subdivision or agency of the
18 aforementioned governments, or from any agency of two or more of the party
19 jurisdictions or their subdivisions.
- 20 G. The commission may accept for any of its purposes and functions under this
21 compact any and all donations, and grants of money, equipment, supplies,
22 materials, and services, conditional or otherwise, from any state, the United States,
23 or any other governmental agency, or from any person, firm, association,
24 foundation, or corporation, and may receive, utilize, and dispose of the same. Any
25 donation or grant accepted by the commission or services borrowed pursuant to
26 this article must be reported in the annual report of the commission. The report
27 must include the nature, amount, and conditions, if any, of the donation, grant, or
28 services borrowed, and the identity of the donor or lender.
- 29 H. The commission may establish and maintain facilities for transacting its business.
30 The commission may acquire, hold, and convey real and personal property and
31 any interest therein.

- 1 I. The commission shall adopt bylaws for the conduct of its business and shall have
2 the power to amend and rescind the bylaws. The commission shall publish its
3 bylaws in convenient form and shall file a copy of the bylaws and any amendment
4 to the bylaws, with the appropriate agency or officer in each of the party states.
- 5 J. The commission annually shall make to the governor and legislative assembly of
6 each party state a report covering the activities of the commission for the preceding
7 year. The commission may make additional reports, as it deems desirable.

8 Article IV - Powers

9 In addition to authority conferred on the commission by other provisions of the compact, the
10 commission has the authority to:

- 11 A. Collect, correlate, analyze, and interpret information and data concerning
12 educational needs and resources.
- 13 B. Encourage and foster research in all aspects of education, but with special
14 reference to the desirable scope of instruction, organization, administration, and
15 instructional methods and standards employed or suitable for employment in public
16 education systems.
- 17 C. Develop proposals for adequate financing of education as a whole and at each of
18 its many levels.
- 19 D. Conduct or participate in research if the commission finds that such research is
20 necessary for the advancement of the purposes and policies of this compact,
21 utilizing fully the resources of national associations, regional compact organizations
22 for higher education, and other agencies and institutions, both public and private.
- 23 E. Formulate suggested policies and plans for the improvement of public education as
24 a whole, or for any segment of public education, and make the recommendations
25 available to appropriate governmental units, agencies, and public officials.
- 26 F. Do any other thing necessary or incidental to the administration of its authority or
27 functions pursuant to this compact.

28 Article V - Cooperation With Federal Government

- 29 A. If the laws of the United States specifically so provide, or if administrative provision
30 is made within the federal government, the United States may be represented on
31 the commission by not more than ten representatives. Representatives of the

1 United States must be appointed and serve in the manner provided by or pursuant
2 to federal law, and may be drawn from any branch of the federal government. No
3 representative may have a vote on the commission.

4 B. The commission may provide information and make recommendations to any
5 executive or legislative agency or officer of the federal government concerning the
6 common education policies of the states, and may advise the agency or officer
7 concerning any matter of mutual interest.

8 Article VI - Committees

9 A. To assist in the expeditious conduct of its business when the full commission is not
10 meeting, the commission shall elect a steering committee of thirty-two members
11 which, subject to the provisions of this compact and consistent with the policies of
12 the commission, shall be constituted and function as provided in the bylaws of the
13 commission. One-fourth of the voting membership of the steering committee must
14 consist of governors, one-fourth must consist of legislators, and the remainder
15 must consist of other members of the commission. A federal representative on the
16 commission may serve with the steering committee, but without vote. The voting
17 members of the steering committee shall serve for terms of two years, except that
18 members elected to the first steering committee of the commission shall be elected
19 as follows: sixteen for one year and sixteen for two years. The chairman, vice
20 chairman, and treasurer of the commission must be members of the steering
21 committee and, anything in this paragraph to the contrary notwithstanding, shall
22 serve during their continuance in these offices. Vacancies in the steering
23 committee do not affect its authority to act, but the commission at the next regular
24 meeting following the occurrence of any vacancy shall fill it for the unexpired term.
25 No person may serve more than two terms as a member of the steering committee;
26 provided, that service for a partial term of one year or less does not count toward
27 the two-term limitation.

28 B. The commission may establish advisory and technical committees composed of
29 state, local, and federal functions. Any advisory or technical committee may, on
30 request of the states concerned, be established to consider any matter of special
31 concern to two or more of the party states.

1 C. The commission may establish such additional committees as its bylaws may
2 provide.

3 Article VII - Finance

4 A. The commission shall advise the governor or designated officer of each party state
5 regarding its budget and estimated expenditures for the period required by the laws
6 of that party state. Each of the commission's budgets of estimated expenditures
7 must contain specific recommendations regarding the amount to be appropriated
8 by each party state.

9 B. The total amount of appropriation requests under any budget must be apportioned
10 among the party states. In making the apportionment, the commission shall devise
11 and employ a formula that takes equitable account of the populations and per
12 capita income levels of the party states.

13 C. The commission may not pledge the credit of any party state. The commission
14 may meet its obligations in whole or in part with funds available to it pursuant to
15 paragraph G of Article III of this compact; provided, that the commission takes
16 specific action setting aside such funds prior to incurring an obligation to be met in
17 whole or in part in this manner. Except when the commission makes use of funds
18 available to it pursuant to paragraph G of Article III, the commission may not incur
19 any obligation prior to the allotment of funds by the party states adequate to meet
20 the obligation.

21 D. The commission shall keep accurate accounts of all receipts and disbursements.
22 The receipts and disbursements of the commission must be subject to the audit
23 and accounting procedures established by its bylaws. However, all receipts and
24 disbursements of funds handled by the commission must be audited annually by a
25 qualified public accountant, and the report of the audit must be included in and
26 become part of the annual report of the commission.

27 E. The accounts of the commission must be open at any reasonable time for
28 inspection by duly constituted officers of the party states and by any person
29 authorized by the commission.

1 F. Nothing contained herein may be construed to prevent commission compliance
2 with laws relating to the audit or inspection of accounts by or on behalf of any
3 government contributing to the support of the commission.

4 Article VIII - Eligible Parties; Entry Into and Withdrawal

- 5 A. This compact has as eligible parties all states, territories, and possessions of the
6 United States, the District of Columbia, and the Commonwealth of Puerto Rico.
7 With respect to any jurisdiction not having a governor, the term "governor", as used
8 in this compact, shall mean the closest equivalent official and the jurisdiction.
- 9 B. A state or eligible jurisdiction may enter into this compact and it becomes binding
10 on the state or jurisdiction when adopted; provided, that in order to enter into initial
11 effect, adoption by at least ten eligible party jurisdictions is required.
- 12 C. Adoption of the compact may be either by enactment of the compact or by
13 adherence to the compact by the governor; provided, that in the absence of
14 enactment, adherence by the governor is sufficient to make a state a party only
15 until December 31, 1967. Any party state may withdraw from this compact by
16 enacting a statute repealing the compact. A withdrawal may not take effect until
17 one year after the governor of the withdrawing state has given notice in writing of
18 the withdrawal to the governors of all other party states. No withdrawal shall affect
19 any liability already incurred by or chargeable to a party state prior to the time of
20 withdrawal.

21 Article IX - Construction and Severability

22 This compact must be liberally construed to effectuate its purposes. The provisions of this
23 compact are severable and if any phrase, clause, sentence, or provision of this compact is
24 declared to be contrary to the constitution of any state or of the United States, or the application
25 of the compact to any government, agency, person, or circumstance is held invalid, the validity
26 of the remainder of this compact and the applicability of the compact to any government,
27 agency, person, or circumstance is not affected. If this compact is held contrary to the
28 constitution of any participating state, the compact must remain in full force and effect as to the
29 state affected and as to all several matters.

NOTE: Present Section 15-64-01.

1 **15.1-04-02. Education commission of the states - Bylaws.** Pursuant to paragraph 1
2 of Article III of the Compact for Education, the education commission of the states shall file a
3 copy of its bylaws and any amendment to its bylaws with the secretary of state.

NOTE: Present Section 15-64-02.

4 **SECTION 5.** Chapter 15.1-05 of the North Dakota Century Code is created and
5 enacted as follows:

6 **15.1-05-01. North Dakota educational telecommunications council - Membership.**

7 The North Dakota educational telecommunications council consists of:

- 8 1. The commissioner of higher education or the commissioner's designee.
- 9 2. The superintendent of public instruction or the superintendent's designee.
- 10 3. The director of the information services division of the office of management and
11 budget.
- 12 4. A representative of the telephone industry, appointed by the governor.
- 13 5. A school board member, appointed by the governor.
- 14 6. A school district superintendent, appointed by the governor.
- 15 7. A schoolteacher, appointed by the governor.

NOTE: Present Section 15-65-02. Present Section 15-65-02 includes provisions regarding the makeup of the Educational Telecommunications Council, the members' terms of office, and the members' compensation. For purposes of clarity, these have been placed in separate sections. The reference to a "school administrator" was changed to a "school district superintendent" to accurately reflect intent, as directed by Department of Public Instruction personnel.

16 **15.1-05-02. North Dakota educational telecommunications council -**

17 **Representation.** The governor shall ensure that at all times the North Dakota educational
18 telecommunications council has a school board member who represents a school district
19 having an enrollment of fewer than five hundred students or a school district superintendent
20 employed by the board of a school district having an enrollment of fewer than five hundred
21 students.

NOTE: Present Section 15-65-02. Present Section 15-65-02 includes provisions regarding the makeup of the Educational Telecommunications Council, the members' terms of office, and the members' compensation. For purposes of clarity, these have been placed in separate sections. The present provision regarding the school board member and the school administrator states: "At all times either the school board member or the school administrator must be from a school with an enrollment of fewer than five hundred students." The rewrite recognizes that school board members represent districts, not schools, and that a school administrator is, according to

Department of Public Instruction personnel, supposed to mean a school district superintendent.

1 **15.1-05-03. North Dakota educational telecommunications council - Term of**
2 **office.** The term of office for each appointed member of the North Dakota educational
3 telecommunications council is three years.

NOTE: Present Section 15-65-02. Present Section 15-65-02 includes provisions regarding the makeup of the Educational Telecommunications Council, the members' terms of office, and the members' compensation. For purposes of clarity, these have been placed in separate sections.

4 **15.1-05-04. North Dakota educational telecommunications council -**
5 **Compensation.** The members of the North Dakota educational telecommunications council
6 appointed by the governor must be reimbursed for actual necessary expenses incurred in the
7 performance of their duties as members of the council at the same rates as provided by law for
8 other state officers and employees. The costs incurred in reimbursing the members of the
9 council for their actual necessary expenses must be paid by the superintendent of public
10 instruction. The other members of the council are not entitled to any compensation or
11 reimbursement for expenses incurred in performing their duties.

NOTE: Present Section 15-65-02.

12 **15.1-05-05. North Dakota educational telecommunications council - Powers and**
13 **duties.** The North Dakota educational telecommunications council shall:

- 14 1. Promote the use of technology and the development of technology systems to
15 enhance educational opportunities within the state.
- 16 2. Cooperate with state agencies and other organizations to develop statewide
17 educational technology systems.
- 18 3. Adopt bylaws for the conduct of its affairs.
- 19 4. Publish the informational material it deems necessary.
- 20 5. Conduct a continuing study to assess the needs, resources, and facilities that are
21 available or which may be required to establish educational technology systems
22 throughout the state.
- 23 6. Solicit and receive moneys from public and private sources and expend the
24 moneys for educational technology projects; provided that the council may also
25 require that a school district provide up to fifty percent in matching funds.

NOTE: Present Sections 15-65-03, 15-65-05, and 15-65-06.

1 **15.1-05-06. Educational telecommunications programs - Contract.** The
2 superintendent of public instruction may contract for the provision of educational
3 telecommunications programs and systems in the areas of elementary, secondary, higher
4 education, adult education, and any other areas that promote cultural development. The
5 duration of a contract under this section may not exceed two years in length.

NOTE: Present Section 15-47-36. Present Section 15-47-36 provides that the Superintendent may contract for a two-year period "with provisions for its renewal for like periods" The rewrite omits the phrase regarding the renewal because a renewal is the same as entering a new contract having identical provisions for another two-year period.

6 **SECTION 6.** Chapter 15.1-06 of the North Dakota Century Code is created and
7 enacted as follows:

8 **15.1-06-01. Schools free and accessible - School ages.**

- 9 1. Each public school must be free, open, and accessible at all times to any child
10 provided:
- 11 a. The child may not enroll in grade one unless the child reaches the age of six
12 before September first of the year of enrollment;
- 13 b. The child may not enroll in kindergarten unless the child reaches the age of
14 five before September first of the year of enrollment; and
- 15 c. The child has not reached the age of twenty-one before September first of the
16 year of enrollment.
- 17 2. Notwithstanding the provisions of subsection 1, a school district may not enroll in
18 grade one a child who is not six years old before September first, unless the child
19 will be six years old before January first and:
- 20 a. The child, by means of developmental and readiness screening instruments
21 approved by the superintendent of public instruction and administered by the
22 school district can demonstrate special talents or abilities; or
- 23 b. The child has completed an approved kindergarten program.

NOTE: Present Section 15-47-01. Present Section 15-47-01 also contains the following provision: "Children who arrive at the age of five years between midnight August thirty-first and midnight December thirty-first may start kindergarten if they have special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district." Because this was already articulated in proposed Section 15.1-22-02, it was omitted from the rewrite of this section.

24 **15.1-06-02. School holidays.**

- 1 1. Schools may not be in session on the following holidays:
 - 2 a. Any Sunday.
 - 3 b. New Year's Day, the first day of January.
 - 4 c. The anniversary of the Declaration of Independence, the fourth day of July.
 - 5 d. Christmas Day, the twenty-fifth day of December.
 - 6 e. Memorial Day, the last Monday in May.
 - 7 f. Thanksgiving Day, the fourth Thursday in November.
 - 8 g. Good Friday, the Friday preceding Easter Sunday.
 - 9 h. Labor Day, the first Monday in September.
 - 10 i. Veteran's Day, the eleventh day of November.
 - 11 j. Any day declared to be a public holiday by the President of the United States
 - 12 or the governor.
- 13 2. Notwithstanding the provisions of subsection 1, if the first day of January, the fourth
- 14 day of July, the eleventh day of November, or the twenty-fifth day of December is a
- 15 Sunday, the school district shall observe the holiday on the following Monday.
- 16 3. Notwithstanding the provisions of subsection 1, if the eleventh day of November is
- 17 a Saturday, the school district shall observe the holiday on the preceding Friday.
- 18 4. The board of a school district may direct that classes not be held on the day of a
- 19 statewide election if the school is used as a polling place on that day.

NOTE: Present Section 15-38-04.1. Present Section 15-38-04.1 provides that "schools must be in session as usual on all other legal holidays which do not fall upon a Saturday or Sunday." This sentence was eliminated in the rewrite because the list of holidays is specific. The sentence regarding the requirement that appropriate patriotic activities be held has been moved to Section 15.1-21-01, regarding course requirements.

20 **15.1-06-03. School year - Definition.** The school year begins on July first and ends
21 on June thirtieth the following year.

NOTE: Present Section 15-47-04.

22 **15.1-06-04. School calendar - Length.**

- 23 1. During each school year, a school district shall provide for a school calendar of at
24 least one hundred eighty days, apportioned as follows:
 - 25 a. One hundred seventy-three full days of instruction;

- 1 b. Three holidays listed in subdivisions b through j of subsection 1 of section
- 2 15.1-06-02 and selected by the school board in consultation with district
- 3 teachers;
- 4 c. Two days for the attendance of teachers at the North Dakota education
- 5 association instructional conference; and
- 6 d. Up to two full days during which parent-teacher conferences are held or which
- 7 are deemed by the school board to be compensatory time for parent-teacher
- 8 conferences held outside regular school hours.
- 9 2. A full day of instruction consists of:
- 10 a. At least five and one-half hours of instruction time for elementary students;
- 11 and
- 12 b. At least six hours of instruction time for high school students.

NOTE: Present Section 15-47-33.

13 **15.1-06-05. School calendar - Modification.** A school district may apply to the
14 superintendent of public instruction for approval of a pilot program in which the district's school
15 calendar is reduced below one hundred eighty days.

- 16 1. The superintendent may approve an application for a pilot program if:
- 17 a. It allows the district to evaluate the modifications in the traditional school
- 18 calendar from the perspective of increased school facility use; and
- 19 b. In the opinion of the superintendent, the program offers educational
- 20 opportunities equivalent to those available in a one-hundred-eighty-day school
- 21 calendar.
- 22 2. A district submitting an application under this section shall specify:
- 23 a. The minimum number of days students will attend school; and
- 24 b. The comparable instructional time.
- 25 3. If the superintendent approves a district's application under this section, the district
- 26 is eligible to receive the per student payments provided under chapter 15.1-28.
- 27 4. A district that operates an approved pilot program under this section for a period of
- 28 three years may apply to the superintendent for permanent approval of the
- 29 program.

- 1 5. The superintendent shall adopt rules governing the submission of applications, the
2 evaluation of proposals, and any other matters necessary for the administration of
3 pilot programs under this section.
- 4 6. A pilot program approved by the superintendent under this section satisfies the
5 requirements for school operation and instructional time required by law.
- 6 7. A pilot program approved by the superintendent under this section does not affect
7 the accrual of teachers' benefits provided by law.

NOTE: Present Section 15-47-33.1. Present Section 15-47-33.1 provides that a school district may seek approval from the Superintendent of Public Instruction for a pilot program in which the district would provide fewer than one hundred eighty days of classroom instruction. The rewrite refers instead to a reduction in the district's school calendar below one hundred eighty days. The law currently requires a one-hundred-eighty-day school calendar but only one hundred seventy-three of those days are devoted to classroom instruction.

8 **15.1-06-06. Approval of public and nonpublic schools.** Each public and nonpublic
9 school in this state offering elementary or secondary education to students must be approved
10 by the superintendent of public instruction. Except as otherwise provided by law, the
11 superintendent may not approve a school unless:

- 12 1. Each classroom teacher holds a valid teaching certificate issued by the education
13 standards and practices board;
- 14 2. The students are offered all subjects required by law; and
- 15 3. The school is in compliance with all local and state health, fire, and safety laws.

NOTE: Present Section 15-34.1-03(1). The present criteria for school approval is set forth in a subsection of the compulsory attendance law. It does not address who should approve the school. The rewrite clarifies that this is a duty of the Superintendent. The committee may wish to further examine this section and suggest additional guidelines such as how often a school is to be "inspected or monitored" to ensure compliance with the approval criteria.

16 **15.1-06-07. Nonpublic high schools - Approval criteria.** The superintendent of
17 public instruction shall approve any nonpublic high school having an enrollment of fifty students
18 or fewer, provided:

- 19 1. The school meets all statutory requirements regarding the subjects to be taught,
20 the length of the school year, and health, fire, and safety standards;
- 21 2. If the school uses telecommunications or other electronic means to deliver
22 curricular programs, the programs are prepared by individuals holding at least
23 baccalaureate degrees and delivered in the presence of an individual who holds a

- 1 North Dakota secondary teaching certificate or who meets or exceeds the average
2 cutoff scores of states that have normed the national teacher's examination;
- 3 3. The school employs at least one state certificated high school teacher to serve in a
4 supervisory capacity for each twenty-five students;
- 5 4. The average composite scholastic achievement test scores of students enrolled in
6 the school or the students' scores achieved on comparable standardized tests
7 meet or exceed the national average test scores; and
- 8 5. The school and its employees are governed by a board of directors that includes
9 parental representation.

NOTE: Present Section 15-41-27.

10 **15.1-06-08. Conditions for accreditation and approval - Waiver.** The
11 superintendent of public instruction may waive any condition for accreditation and approval for a
12 reasonable period of time, provided the waiver encourages innovation, permits experimentation,
13 and has the potential to result in an improved program. The superintendent may waive the
14 conditions only with the concurrence of a majority of a waiver committee composed of one
15 member appointed by the North Dakota education association, one member appointed by the
16 North Dakota council of educational leaders, and one member appointed by the North Dakota
17 school boards association.

NOTE: Present Section 15-21-04.5. Present Section 15-21-04.5 provides that the
Superintendent "may waive any conditions ... imposed by statute" The rewrite
eliminates the phrase "imposed by statute" because accreditation standards are
imposed administratively.

18 **15.1-06-09. Inspection of public schools - Submission of inspection report -**
19 **Correction of deficiencies.**

- 20 1. The state fire marshal or the state fire marshal's designee shall inspect each public
21 school in this state at least once every three years, prepare an inspection report,
22 and provide copies of the report to the superintendent of the school district and the
23 superintendent of public instruction.
- 24 2. a. If a deficiency is noted, the superintendent of the school district shall submit a
25 plan of correction to the state fire marshal or the state fire marshal's designee
26 and shall remedy the deficiency within a time period acceptable to the state

- 1 fire marshal or the state fire marshal's designee and the school board affected
2 by the deficiency, but not later than the next budget period.
- 3 b. If the report discloses an imminent fire hazard, the state fire marshal or the
4 state fire marshal's designee shall immediately notify the school board, the
5 school district superintendent, and the superintendent of public instruction.
6 Upon a recommendation of immediate closure by the superintendent of public
7 instruction, the school board and the school district superintendent may
8 immediately close some or all of the school until the fire hazard is eliminated.
9 In the case of a closure, the school district superintendent shall cooperate
10 with the superintendent of public instruction to make adequate arrangements
11 for the interim education of all affected students.

NOTE: Present Section 15-35-01.2. Present Section 15-35-01.2 does not clearly address notification procedures in the case of nonpublic school inspections. Therefore, a separate section governing nonpublic school inspections was added.

12 **15.1-06-10. Inspection of nonpublic schools - Submission of inspection report -**
13 **Correction of deficiencies.**

- 14 1. The state fire marshal or the state fire marshal's designee shall inspect each
15 nonpublic school in this state at least once every three years, prepare an
16 inspection report, and provide copies of the report to the administrator of the school
17 and the superintendent of public instruction.
- 18 2. a. If a deficiency is noted, the administrator of the school shall submit a plan of
19 correction to the state fire marshal or the state fire marshal's designee and
20 shall remedy the deficiency within a time period acceptable to the state fire
21 marshal or the state fire marshal's designee.
- 22 b. If the report discloses an imminent fire hazard, the state fire marshal or the
23 state fire marshal's designee shall immediately notify the administrator of the
24 school and the superintendent of public instruction. Upon a recommendation
25 of immediate closure by the superintendent of public instruction, the
26 administrator may immediately close some or all of the school until the fire
27 hazard is eliminated. In the case of a closure, the administrator shall
28 cooperate with the superintendent of public instruction to make adequate
29 arrangements for the interim education of all affected students.

NOTE: Present Section 15-35-01.2. Present Section 15-35-01.2 does not clearly address notification procedures in the case of nonpublic school inspections. Therefore, a separate section governing nonpublic school inspections was added.

1 **15.1-06-11. Exit doors - Free of obstructions.** A school principal shall ensure that,
2 during all hours students are in school, any door or doorway that could be used as an exit in
3 case of fire or other emergency remains free of all obstruction and free of any device or
4 mechanism which may impede immediate egress through the door or doorway. This section
5 does not include doors that provide access solely to private offices, supply rooms, or storage
6 rooms.

NOTE: Present Section 15-35-11. Present Section 15-35-11 requires all school doors to be kept unlocked from 8:30 a.m. to 4:30 p.m. on schooldays. The committee determined that a problem would exist if school started at 7:30 a.m. or finished after 4:30 p.m. The committee also thought there should be an exception for private offices, supply rooms, etc. The committee directed that the rewrite reflect the need for appropriate and unobstructed egress in case of fire or other emergencies.

7 **15.1-06-12. Emergency and disaster drills - Implementation.** Each school district
8 superintendent shall implement fire, tornado, and other emergency or disaster drills.

NOTE: Present Section 15-35-09. Present Section 15-35-09 requires teachers to conduct disaster emergency drills at least once each month, except when the weather is inclement and it directs school district superintendents to prescribe rules governing the drills. At the direction of the committee, the rewrite simply directs school district superintendents to implement the drills.

9 **15.1-06-13. Schools - Compliance with health, safety, and sanitation**
10 **requirements.** The superintendent of each school district shall ensure that the schools in the
11 district comply with all health, safety, and sanitation requirements.

NOTE: Present Section 15-35-12. Present Section 15-35-12 requires schools to be kept free from noxious vapors and odors arising from drains, privies, etc. The section was enacted in 1895 and has not been amended since 1913. The committee determined that while the section has outlived its usefulness with respect to outhouses, it should be modernized to require compliance with more current health regulations.

12 **15.1-06-14. Use of schools for purposes other than education.** The board of a
13 school district may permit the district's schools and facilities to be used for purposes other than
14 the education of students, provided the usage does not interfere with the education of students.
15 The board may impose restrictions on the usage provided the restrictions are nondiscriminatory
16 and may impose a charge for the usage.

NOTE: Present Section 15-35-14. Present Section 15-35-14 allows school buildings and facilities to be used for purposes not directly related to the education of students. It provides significant detail regarding the moving of furniture and the types of activities that may be allowed. While the committee directed that the section authorize the use of

school buildings and facilities for purposes other than the education of students, it also directed that the statute refrain from micromanaging details that local boards can adequately address.

1 **15.1-06-15. Solicitations and sales in schools - Permission required - Accounting**
2 **for proceeds - Penalty.**

- 3 1. No person may sell, solicit for sale, or advertise the sale of any merchandise,
4 product, or service on school premises, or organize students for any such purpose,
5 without first obtaining the permission of the school board, the school district
6 superintendent, or the school principal. This section does not apply to a student or
7 school district employee who sells or attempts to sell a single item of personal
8 property or a limited number of personal property items.
- 9 2. The proceeds of any sale, by students or student groups, made for school activities
10 must be accounted for to the school board not more than thirty days after the sale.
- 11 3. Any person who violates any provision of this section is guilty of an infraction.

NOTE: Present Section 15-49-10.1.

12 **15.1-06-16. Disturbance of a public school - Penalty.** It is a class B misdemeanor
13 for any person to:

- 14 1. Willfully disturb a public school that is in session;
- 15 2. Willfully interfere with or interrupt the proper order or management of a public
16 school by an act of violence, boisterous conduct, or threatening language; or
- 17 3. Rebuke, insult, or threaten a teacher in the presence of a student.

NOTE: Present Section 15-49-08.

18 **15.1-06-17. United States flag - Display.** The board of a school district shall display a
19 United States flag on the grounds of each school in the district during each schoolday in
20 reasonable weather.

NOTE: Present Section 15-47-11. (Amended as per committee motion.)

21 **15.1-06-18. School report - Review.**

- 22 1. Annually, each public school principal shall complete a school report on forms
23 provided by the superintendent of public instruction and submit the report to the
24 school district superintendent.

- 1 2. The school district superintendent shall collect the completed reports and forward
2 them to the superintendent of public instruction, who shall submit the reports to the
3 governor.
- 4 3. Upon receiving the completed reports, the governor shall convene an ad hoc
5 committee to review the information and to make any necessary changes in the
6 information-gathering format.
- 7 4. The governor or a designee of the governor shall serve as the chairman of the
8 ad hoc committee.
- 9 5. The membership of the ad hoc committee must include:
10 a. Two individuals selected by the governor from a list of five nominees
11 proposed by the North Dakota council of educational leaders.
12 b. Two individuals selected by the governor from a list of five nominees
13 proposed by the North Dakota education association.
14 c. Two individuals selected by the governor from a list of five nominees
15 proposed by the North Dakota school boards association.
16 d. Two individuals selected by the governor from a list of five nominees
17 proposed by the North Dakota parent-teachers association.
18 e. Two parents of school-age children selected by the governor.
19 f. Two high school students selected by the governor.
20 g. The superintendent of public instruction or a designee of the superintendent.

NOTE: Present Section 15-47-51. Present Section 15-47-51 provides that the school report must be completed each year and that the Governor "may" convene an ad hoc committee to review the report. The committee determined that this was awkward and directed that the rewrite utilize verbiage that makes the duties of the committee more than a mere suggestion. In the proposed rewrite, the Governor is directed to convene an ad hoc committee to review the information and to make any necessary changes in the information-gathering format.

21 **SECTION 7.** Chapter 15.1-07 of the North Dakota Century Code is created and
22 enacted as follows:

23 **15.1-07-01. School district - Corporate powers.**

- 24 1. Each school district in this state is a public school district governed by the
25 provisions of this title. Each school district is a body corporate. Each school
26 district may sue and be sued, contract, and convey any real and personal property
27 that comes into its possession.

- 1 2. The board of education of the city of Fargo is a body corporate. It has the power to
2 sue and be sued and to contract with others. It possesses all the powers usual
3 and incidental to a body corporate.

NOTE: Present Sections 15-47-43 and 15-51-07. Present Section 15-47-43 addresses the legal status of school districts and provisions for changing the name of a district. The committee directed that the concepts be divided into separate sections. Present Section 15-47-43 authorizes a school district to have and use a corporate seal. This is an antiquated provision which has already been eliminated from other sections of this title and is therefore not present in the rewrite.

- 4 **15.1-07-02. School district - Name change.** In order for the name of a school district
5 to be changed, the question must be placed before and approved by a majority of the district's
6 qualified voters at a district election. The school board may place the question on the ballot by
7 resolution and shall place the question on the ballot if it receives a petition signed by one-third
8 of the qualified electors of the district. If a majority of the district's qualified voters approve the
9 name change, the district must be renamed accordingly. The business manager of the district
10 shall provide notification of the new name to the county auditor, the county superintendent of
11 schools, and the superintendent of public instruction.

NOTE: Present section 15-47-43. Present Section 15-47-43 addresses the legal status of school districts and provisions for changing the name of a district. The committee directed that the concepts be divided into separate sections. The committee also directed that the rewrite remove the following present language: "The name of such school district must be substantially as follows:

' _____ Public School District No. _____
of _____ County, State of North Dakota."

The committee was concerned that this does not give enough flexibility in the renaming of a district. The rewrite eliminates the constrictions and places the responsibility for selecting and approving an appropriate name on the electorate of the district.

- 12 **15.1-07-03. District's limit of indebtedness - Resolution.**

- 13 1. The board of a school district may by resolution place on the ballot of any regular
14 or special election the question of increasing the district's limit of indebtedness,
15 beyond that fixed by the constitution, by five percent of the assessed valuation of
16 all taxable property in the district.
- 17 2. The board of a school district shall place on the ballot of the next regular or special
18 election the question of increasing the district's limit of indebtedness, beyond that
19 fixed by the constitution, by five percent of the assessed valuation of all taxable

1 property in the district, if the board receives a petition requesting the increase and
2 signed by at least one-third of the district's qualified electors.

NOTE: Present Section 15-48-01.

3 **15.1-07-04. District's limit of indebtedness - Election - Notice.** If an election is to
4 include a question regarding an increase in the school district's limit of indebtedness, the board
5 of the school district shall ensure that the question is clearly stated in the notice of election. If
6 the board calls a special election to vote on the question of increasing the district's limit of
7 indebtedness, the board shall publish notice of the election in the official newspaper of the
8 district, at least fourteen days before the date of the election.

NOTE: Present Section 15-48-02. Present Section 15-48-02 uses passive language to
require that the notice of election clearly state the question posed to the electorate. The
rewrite makes this a specific duty of the school board. While the committee may choose
to designate an individual or entity other than the board, it is important to require that
"someone" ensure this duty is carried forth.

9 **15.1-07-05. District's limit of indebtedness - Ballot.** In an election to increase a
10 school district's limit of indebtedness, the ballots must state the question in clear and concise
11 language.

NOTE: Present Section 15-48-03. (Amended as per committee motion.)

12 **15.1-07-06. District's limit of indebtedness - Increase.** If a majority of the votes cast
13 are in favor of increasing the school district's limit of indebtedness, the limit is raised to ten
14 percent of the assessed valuation of all taxable property in the district.

NOTE: Present Section 15-48-04.

15 **15.1-07-07. District's limit of indebtedness - Increase - Notification of county**
16 **auditor.** If a majority of the votes cast are in favor of increasing the school district's limit of
17 indebtedness, the president of the school board and the school district business manager shall
18 inform the county auditor, in writing, of the election results and of the fact that the district's limit
19 of indebtedness has been increased to ten percent of the assessed valuation of all taxable
20 property in the district.

NOTE: Present Section 15-48-05. At the direction of the committee, the rewrite
reduces the complications of present Section 15-48-05 to provide that the school board
president and the business manager shall inform the county auditor of the election
results and the new debt limitation.

21 **15.1-07-08. School district funds - Transfers.** At the time of preparing the annual
22 budget, a school board, by resolution, may transfer from the general fund of the district the

1 amount of money, in whole or in part, by which the balance in the general fund exceeds the
2 amount that would be required for the general reserve fund in the ensuing fiscal year, into any
3 sinking funds of the district established and held for the payment of outstanding bonds.

NOTE: Present Section 15-44-10.

4 **15.1-07-09. Sinking fund - Transfers - Increases.** If a school board transfers money
5 into a sinking fund, the board may not consider the money to be cash on hand when computing
6 the budget for the ensuing fiscal year. A school board may not through transfers increase a
7 sinking fund to the extent that the sinking fund is greater than the amount needed to pay the
8 bond issue in full.

NOTE: Present Section 15-44-11.

9 **15.1-07-10. Activities fund.** The board of a school district shall establish an activities
10 fund for the support of school-related extracurricular activities. The school district business
11 manager shall deposit all receipts from extracurricular activities in the activities fund. The
12 business manager shall submit to the school board a monthly report of receipts, expenditures,
13 and balances in the activities fund.

NOTE: Present Section 15-29-13. Present Section 15-29-13 relates to the issue of
warrants, but includes references to an activities fund. For purposes of germaneness,
the latter fund has been given its own section.

14 **15.1-07-11. Incidental revolving fund.** The board of a school district may establish a
15 revolving fund from which to pay incidental expenses. The board shall establish the amount to
16 be retained in the incidental fund and must draw the amount from the general fund of the
17 district. The school district superintendent or another school administrator designated to draw
18 checks on the fund shall submit a monthly report to the school board listing the checks drawn,
19 the payee, and the purpose for which each check was drawn.

NOTE: Present Section 15-29-13. Present Section 15-29-13 relates to the issue of
warrants, but includes references to an incidental fund. For purposes of germaneness,
the latter fund has been given its own section.

20 **15.1-07-12. Negotiable instruments - Payment by business manager.** The
21 business manager shall pay out moneys only upon the presentation of a negotiable instrument
22 authorized by the president of the school board and only if there is sufficient money available
23 for the payment. Upon issuing a negotiable instrument, the business manager shall make a
24 record of the instrument.

NOTE: Present Section 15-29-13. At the direction of the committee, the rewrite updates the reference to warrants and updates the issuance procedure. The rewrite also places the references to activities funds and incidental revolving funds in separate sections.

1 **15.1-07-13. Warrants - Cancellation - Description in minutes.** The board of a school
2 district, at a regular meeting, may cancel all negotiable instruments that have remained unpaid
3 for one year or more. Before canceling a negotiable instrument, the board shall enter in its
4 minutes a brief description of the instrument, including the name of the payee, and the number,
5 date, and amount of each instrument to be canceled. If any party entitled to payment appears
6 and shows cause for the delay in presenting the instrument for payment, the board may issue a
7 new instrument in the amount to which the party is entitled, unless the board is barred from so
8 doing by the statute of limitations.

NOTE: Present Section 15-29-14.

9 **15.1-07-14. Qualified elector.**

- 10 1. An individual who is a qualified elector of this state may:
- 11 a. Vote to elect board members for the school district in which the individual
12 resides.
- 13 b. Serve as a board member for the school district in which the individual
14 resides.
- 15 c. Serve as a judge or clerk of election for the school district in which the
16 individual resides.
- 17 d. Serve as the business manager of a school district.
- 18 2. For the purposes of elections held under this chapter, an individual residing on an
19 air force base is deemed to be a resident of a school district if the school district
20 admits students from the air force base pursuant to a contract and receives impact
21 aid pursuant to Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.], as
22 amended.

NOTE: Present Section 15-47-05. (The committee had by motion directed that subsection 2 be deleted. The chairman thereafter received additional information and asked that the subsection be retained, pending further committee discussion.)

23 **15.1-07-15. School district election - Violation - Penalty.** An individual who willfully
24 violates the provisions of this title in relation to elections is guilty of a class A misdemeanor.

NOTE: Present Section 15-49-01. Present Section 15-49-01 provides that any "judge or clerk of election, or business manager of the school district, or county auditor who

willfully violates the provisions of this title in relation to elections is guilty of a class A misdemeanor." The committee determined that rather than listing a few individuals who might be subject to penalties for election violations, it would be preferable to provide that anyone who violates a school district election law is subject to a penalty.

1 **15.1-07-16. New district - Enumeration.** The board of a school district organized after
2 the annual enumeration has been taken shall proceed immediately to take the enumeration, as
3 provided by law, and after receipt of the enumeration by the superintendent of public instruction
4 through the county superintendent of schools, the newly organized district shall receive its
5 share of apportioned funds.

NOTE: Present Section 15-44-06.

6 **15.1-07-17. School district contracts - Conflict of interest - Penalty.**

- 7 1. No school board member or other school officer may have a conflict of interest in
8 any contract requiring the expenditure of school funds unless the individual has
9 disclosed the conflict to the board and the board has unanimously approved the
10 contract.
- 11 2. For purposes of this section, a conflict of interest means the personal, professional,
12 or pecuniary interest of an individual, the individual's spouse or relative, or the
13 individual's business or professional associate.
- 14 3. After the disclosure required by subsection 1 has been made, a board may engage
15 in future contracts with the individual for the purchase of goods and services,
16 provided that the amount of a contract does not exceed eight thousand dollars.
- 17 4. Any person who violates this section is guilty of a class A misdemeanor.

NOTE: Present Section 15-49-02. Present Section 15-49-02 provides that "no school board member or other school officer may be interested personally, directly or indirectly, in any contract requiring the expenditure of school funds unless such contract has been unanimously approved by the school board, and a finding made and unanimously adopted by the board and entered into the official minutes that the services or property to be furnished are not otherwise obtainable elsewhere at equal cost." The committee was concerned that the section did not adequately define personal interest, direct interest, and indirect interest. The rewrite therefore includes a definition of "conflict of interest" which was derived from phraseology in several sections of the North Dakota Century Code.

18 **15.1-07-18. Offer of reward - Purchase of school supplies - Penalty.** It is a class A
19 misdemeanor for any person to give or offer to a county superintendent of schools, a school
20 board member, or a school district employee a commission, fee, or other reward for the
21 purchase by the district of any textbooks, furniture, or school supplies.

NOTE: Present Section 15-49-11. Present Section 15-49-11 also includes a provision making it a Class A misdemeanor for a county superintendent, school board member, or school district employee to accept a commission, fee, or reward for the purchase of textbooks, furniture, or school supplies. This language was omitted from the rewrite because in proposed Section 15.1-07-19 the identical activity warrants a Class B misdemeanor.

1 **15.1-07-19. Reward for purchase of school supplies - Penalty.** It is a class B
2 misdemeanor for a county superintendent of schools, a school board member, or a school
3 district employee to accept a commission, fee, or other reward for the purchase by the district of
4 any textbooks, furniture, or school supplies.

NOTE: Present Section 15-49-09.

5 **15.1-07-20. Schoolbus driver - Requirements.**

- 6 1. To be eligible to drive a schoolbus or other school vehicle, an individual must:
- 7 a. Hold a valid North Dakota driver's license;
- 8 b. Be free from communicable diseases;
- 9 c. Be in good physical health and have normal use of both hands, both feet, both
10 eyes, and both ears;
- 11 d. Be of sound mental health;
- 12 e. Pass any drug and alcohol screening tests required by the school board; and
- 13 f. Be at least twenty-one years of age, unless the board of a school district
14 determines that an individual not meeting this requirement can safely and
15 adequately perform the required duties.
- 16 2. Each year, the board of a school district shall designate licensed health care
17 professionals, as defined by department of transportation standards, to examine
18 schoolbus and school vehicle drivers.
- 19 3. Prior to commencing duties as the driver of a schoolbus or other school vehicle,
20 whether employed by the school district or by another entity with whom the school
21 board has contracted, and every two years thereafter, an individual shall present to
22 the school board verification by a designated health care professional that the
23 individual has been examined and meets the health requirements of this section.
- 24 4. This section does not prohibit teachers or administrators employed by the district
25 from operating vehicles for the purpose of transporting students to regular or
26 special events related to educational programs in which the students are enrolled.

NOTE: Present Section 15-34.2-14. Present Section 15-34.2-14 contains a provision requiring that an individual seeking employment as the driver of a schoolbus or other school vehicle possess "a good moral character." The committee directed that this phraseology be removed from the rewrite because no guidance is given as to precisely what constitutes good moral character and who should determine whether or not this standard is met. The committee indicated that the members of a school board, in exercising their duties, would examine the background of potential candidates and make appropriate decisions regarding the employment of individuals to transport their students.

- 1 **15.1-07-21. School district business manager - Duties.** The business manager of a
2 school district shall:
- 3 1. Keep a true and accurate record of all school board proceedings.
 - 4 2. Hold all books and records of the district and deliver them to the business
5 manager's successor in office.
 - 6 3. Prepare and submit an annual report to the board and to the county superintendent
7 of schools.
 - 8 4. Authorize the preparation of all negotiable instruments as directed by the board.
 - 9 5. Perform all duties required by law.
 - 10 6. Perform duties required by the board.
 - 11 7. Keep true and accurate district financial records.
 - 12 8. Prepare and submit a school district financial report to the board quarterly or in the
13 case of a business manager for a district having only one-room or two-room
14 schools, to submit the report at the request of the board.
 - 15 9. Produce all district financial records when directed to do so by the board.
 - 16 10. Maintain custody of all district moneys coming into the business manager's hands.
 - 17 11. Pay out district moneys under the business manager's control as directed by the
18 board.
 - 19 12. Receive and maintain custody of all moneys to which the district or the board is
20 entitled.

NOTE: Present Section 15-29-09. The rewrite eliminates the requirement in present Section 15-29-09(3) that the annual report "contain such items as may be required by the superintendent of public instruction."

The rewrite eliminates the requirement in present Section 15-29-09(4) that the business manager countersign all warrants. Instead, it references negotiable instruments and, taking into account modern conveniences such as electronic signatures, merely requires that their issuance be authorized by the business manager.

The rewrite eliminates the requirement in present Section 15-29-09(5) that the business manager perform all duties required under Title 57 and Title 21 and replaces it with the requirement that he perform all duties required "by law."

The rewrite maintains the requirement in present Section 15-29-09(8) that the business manager submit a financial report to the board quarterly, but it eliminates the requirement that the business manager also submit it at such other times as requested by the board, as that matter can be addressed at the local level.

The rewrite eliminates the provision in present Section 15-29-09(11) requiring that the "form of warrant must be prescribed by the superintendent of public instruction and must be so drawn that when signed by the business manager in an appropriate place it becomes a check on the school district depository."

1 **15.1-07-22. School district business manager - Affirmation or oath of office.** An
2 individual appointed as a school district business manager shall take and file an affirmation or
3 oath of office before commencing duties.

NOTE: Present Section 15-47-08. Present Section 15-47-08 addresses oaths of office for school board members and school district business managers. At the direction of the committee, the reference to an oath of office was expanded to include affirmations and the concept was divided between two sections.

4 **15.1-07-23. School district business manager - Bond.** A school district business
5 manager shall furnish to the school board a bond in an amount to be fixed by the school board
6 and equal to at least twenty-five percent of the maximum amount of money subject to the
7 business manager's control at any one time. The bond must be conditioned for the faithful
8 discharge of the business manager's duties, including the maintenance of accurate financial
9 records and the safekeeping and deliverance of all school district property and funds that come
10 into the business manager's control.

NOTE: Present Section 15-29-11.

11 **15.1-07-24. School district business manager - Funds - Accounting.** Unless
12 otherwise provided by law, the business manager of a school district is responsible for the
13 safekeeping of all school district funds. The business manager shall keep a general account of
14 the district's receipts and expenditures and itemized accounts for each class of receipts and
15 expenditures, unless otherwise directed by the superintendent of public instruction.

NOTE: Present Section 15-44-09. Present Section 15-44-09 provides that the "business manager's books or computer systems must show at all times, by entries under proper heads, all receipts of funds and payments made therefrom so as to enable any person readily to ascertain the balance in any fund." Because proposed Section 15.1-07-22 also requires the business manager to keep accurate financial records, the quoted verbiage was omitted.

16 **15.1-07-25. School district records - Open - Exception.**

- 1 1. Except as otherwise provided by law, all records and documents of a school district
2 are open to examination by any person. These records and documents, or copies
3 certified by the business manager, are prima facie evidence of the facts set forth in
4 the records and documents.
- 5 2. If a complaint is filed concerning a school district employee and an administrative
6 investigation is conducted, any record or document generated as part of the
7 administrative investigation is confidential and not subject to the requirements of
8 this section or section 44-04-18, until the investigation is completed. The
9 investigation and any determination of disciplinary action may not exceed sixty
10 days from the date the complaint is filed.

NOTE: Present Section 15-29-10. Present Section 15-29-10 provides that the records of a district are open to any taxpayer of the district. At the direction of the committee, the rewrite provides that the records are open to "any person." The rewrite also changes the reference from "records, vouchers, and papers" to simply "record or document." Present subsection 2 references the source of complaints, i.e., a parent, student, or other person. Because this is all-encompassing, the rewrite omitted the source.

11 **SECTION 8.** Chapter 15.1-08 of the North Dakota Century Code is created and
12 enacted as follows:

13 **15.1-08-01. Military installation - School district formation.** The state board of
14 public school education may form a school district on a military installation provided:

- 15 1. The state board is requested to do so by the base commander of the installation;
- 16 2. The state board schedules and holds a public hearing after publishing notice of the
17 hearing in the official newspaper of the county in which the proposed school district
18 is to be located, at least fourteen days before the date of the hearing; and
- 19 3. The boundaries of the district are coterminous with all lands over which the
20 installation has exclusive concurrent or proprietary jurisdiction.

NOTE: Present Section 15-27.5-01.

21 **15.1-08-02. Military installation - School board members - Terms of office -**
22 **Qualifications - Vacancies.** The board of a school district formed under this chapter consists
23 of five members. The superintendent of public instruction shall adopt rules providing
24 appointment procedures. The superintendent, after consultation with the base commander and
25 with the approval of the state board of public school education, shall appoint board members in
26 April of each year. The board members must reside on the military installation. The school

1 board members shall serve three-year terms except that the superintendent of public instruction
2 shall designate two of the members initially appointed to serve two-year terms and two of the
3 members initially appointed to serve one-year terms. If a vacancy occurs, the school board
4 shall appoint an individual to serve for the remainder of the unexpired term.

NOTE: Present Section 15-27.5-02. Present Section 15-27.5-02 provides that vacancies on a military installation school board are to be filled by the Superintendent of Public Instruction, in consultation with the base commander, and with the approval of the State Board of Public School Education. As directed by the committee, the section was revised so that remaining board members could fill vacancies.

5 **15.1-08-03. Military installation - Organization of school board - Meetings.** A
6 majority of the military installation school board constitutes a quorum. The assent of a majority
7 of the members present is necessary for the transaction of any business. The annual meeting
8 of the school board must be held during the month of July following the appointment to the
9 board, on a date called by the president and convenient to the rest of the members. At the
10 annual meeting in July, the board members shall elect one member to serve as president for a
11 one-year term. Notice of any regular or special meeting must be given, in writing, to each
12 member of the board; provided that the attendance at any meeting, without objection, by any
13 board member constitutes a waiver of the notice required to be given to the member. The
14 board must hold regular meetings for transacting business. Special meetings may be called by
15 the president or by any two members of the board.

NOTE: Present Section 15-27.5-03.

16 **15.1-08-04. Military installation - School board - Duties.** A school board established
17 under this chapter shall:

- 18 1. Give primary consideration to the education and social well-being of the students
19 residing in the school district.
- 20 2. Respect the wishes of the students' parents regarding the provision of education to
21 the students.
- 22 3. Contract for the provision of education to the students residing in the district.
- 23 4. Conduct all board meetings as required by section 44-04-19.

NOTE: Present Section 15-27.5-04. The only substantive change made was the transfer of present subsection 5 (regarding the employment of a school district business manager) to a new section entitled "Military installation - School board - Business manager."

1 **15.1-08-05. Military installation - School board - Business manager.** A school
2 board established under this chapter may employ and compensate a business manager. The
3 individual employed as a business manager may not be a member of the school board. The
4 school board may dismiss or suspend the business manager without notice for serious cause.
5 In other instances, the board may dismiss the business manager upon thirty days' written
6 notice.

NOTE: Present Section 15-27.5-04(5).

7 **15.1-08-06. Military installation - School districts - Application of other laws.**

- 8 1. The duties set forth in section 15.1-09-28 are applicable to the president of a
9 school board governing a military installation district established under this chapter.
- 10 2. The duties set forth in sections 15.1-09-33, 15.1-09-35, and 15.1-09-38 are
11 applicable to a school board governing a military installation district established
12 under this chapter unless other agreements have been reached.
- 13 3. The duties set forth in section 15.1-07-22 are applicable to a business manager of
14 a military installation school district established under this chapter.
- 15 4. The compensation and expense reimbursement levels set forth in section
16 15.1-09-06 are applicable to members of a school board governing a military
17 installation district established under this chapter.
- 18 5. Sections 15.1-07-10 through 15.1-07-13, 15.1-07-24, and 15.1-07-26 are
19 applicable to military installation school districts established under this chapter.

NOTE: Present Section 15-27.5-05.

20 **15.1-08-07. School district agreements.**

- 21 1. This chapter does not affect any agreement entered into prior to March 28, 1989,
22 between the Emerado elementary public school district and the Grand Forks public
23 school district. Any agreement entered into between those school districts
24 continues under the terms provided in the agreement or for as long as both school
25 districts continue to operate and the Grand Forks air force base contracts for full
26 educational services from the Grand Forks public school district.
- 27 2. Before the state board of public school education requests that a school district be
28 established pursuant to this chapter on the Minot air force base, the Glenburn
29 public school district and the Minot public school district must enter into an

- 1 agreement regarding the provision of education to the students residing on the air
2 force base. The agreement must be approved by the state board of public school
3 education. The Minot public school district and the Glenburn public school district,
4 in entering into an agreement, must take into consideration current and potential
5 revenues, including current and potential revenues from property taxes, in lieu of
6 property taxes, and federal and state funds that are distributed to school districts
7 based on census, and losses that may occur as a result of the agreement. The
8 state board of public school education must receive approval from the United
9 States secretary of education prior to the formation of the proposed school district.
- 10 3. Before the state board of public school education requests that a school district be
11 established on a military installation other than the Grand Forks air force base and
12 the Minot air force base pursuant to this chapter:
- 13 a. The school districts providing education to students residing on a military
14 installation must enter into an agreement regarding the provision of education
15 to those students. The agreement must be approved by the state board of
16 public school education. School districts entering into the agreement must
17 take into consideration current and potential revenues and losses that may
18 occur as the result of the agreement; and
- 19 b. The state board of public school education must receive approval from the
20 United States secretary of education regarding the formation of the proposed
21 school district.

NOTE: Present Section 15-27.5-06.

22 **SECTION 9.** Chapter 15.1-09 of the North Dakota Century Code is created and
23 enacted as follows:

24 **15.1-09-01. School board membership - Size and term adjustments.**

- 25 1. The board of a school district is composed of five members, unless:
- 26 a. The electors of the district increase the size of the board under this section;
- 27 b. The size of the board was increased under a prior law; or
- 28 c. The board, on July 1, 1971, was composed of more or fewer than five
29 members, in which case the number of members must remain unchanged
30 unless increased under this section.

- 1 2. The size of any school district board may be increased to either five, seven, or nine
2 members or decreased to seven or five members if a petition is signed by at least
3 one-third of the qualified electors of the district and the change is approved by a
4 majority of the qualified electors of the district voting on the question at a special
5 election called for that purpose.
- 6 3. If a majority of the qualified voters in a district elect to increase the size of the
7 school board, the additional members must be elected to the board at the next
8 annual district election in the same manner as other board members.
- 9 a. If the total number of board members after approval of the increase is five, the
10 terms of two members extend until the first annual election, the terms of two
11 members extend until the second annual election, and the term of the
12 remaining member extends until the third annual election.
- 13 b. If the total number of board members after approval of the increase is seven,
14 the terms of three members extend until the first annual election, the terms of
15 two members extend until the second annual election, and the terms of the
16 remaining two members extend until the third annual election.
- 17 c. If the total number of board members after approval of the increase is nine,
18 the terms of three members extend until the first annual election, the terms of
19 three members extend until the second annual election, and the terms of the
20 remaining three members extend until the third annual election.
- 21 d. The length of the terms specified in this section must be determined by lot.
- 22 e. All board members shall serve for the terms specified in this section and until
23 their successors are elected and qualified.
- 24 f. The length of any term in existence before the increase in board membership
25 and held by a board member who is duly qualified may not be modified.
- 26 g. Terms subsequent to the first term are for the normal period of three years
27 and extend until a successor is elected and qualified.
- 28 4. The voters of a school district shall elect school board members at large. If,
29 however, the district has been reorganized, board members may be elected at
30 large, by geographical area, or at large by geographical area.

- 1 5. An election on a reorganization proposal takes the place of the petition and
2 election requirements of this section. Approval of the reorganization proposal has
3 the same effect as if the approval were by the election provided for in this section.
- 4 6. If the qualified electors of a district approve a reduction in the size of the school
5 board, the excess number of members will serve out existing terms until the
6 number approved by the electors has been reached.
- 7 7. If the board of a school district has elected to convert its members' terms to four
8 years and has also increased the number of its board members, the board by lot or
9 by some other random selection method shall provide for a combination of initial
10 terms of office not to exceed four years for the new members. The combination
11 must equalize to the greatest extent possible the number and length of terms for
12 old board members and for new members to be elected during the next three
13 election years. The members' terms must be staggered and must expire in
14 even-numbered years.
- 15 8. Notwithstanding the provisions of this section, the board of education of the city of
16 Fargo consists of nine members.

NOTE: Present Sections 15-28-01 and 15-51-01. Subsection 8 is a specific reference to the Fargo school board. It is taken from present Section 15-51-01, which is eliminated in the rewrite. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

17 **15.1-09-02. School boards - Terms of office.** The term of each elected member of a
18 school board is three years, except when the member is completing the unexpired term of
19 another. The term of office for a school board member begins at the annual meeting in July
20 following the member's election and continues until a successor is elected and qualified. The
21 term of office for a member of the board of education of the city of Fargo begins at the first
22 regular monthly meeting after the annual school district election held on the third Tuesday of
23 April.

NOTE: Present Sections 15-28-03 and 15-51-01. Present Section 15-28-03 contains a multitude of concepts. The provisions of this section are among those concepts. The language has not been substantively changed. However, for organizational purposes, this language has been placed in a separate section. Other portions of present Section 15-28-03 are included in several of the following new sections. The final sentence is a specific reference to the Fargo school board. It is taken from present Sections 15-51-01 and 15-51-04, both of which are eliminated in the rewrite.

24 **15.1-09-03. School boards - Changes in terms of office.**

- 1 1. A school board by resolution may change the terms of office for its members from
2 three to four years. The resolution must provide that upon the expiration of each
3 member's current three-year term, the term of office for that position on the board
4 will become four years. The resolution may provide for the conversion of one
5 position to a two-year term and, thereafter, to a four-year term. If the resolution so
6 provides, the term must be chosen by lot. If as a result of an extension to four
7 years a term would conclude in an odd-numbered year, the resolution must provide
8 for one transitional three-year term before the four-year term commences.
- 9 2. If a school board changes its terms of office as provided for in this section:
- 10 a. References in this title to annual elections mean biennial elections when
11 applied to the board; and
- 12 b. The election held pursuant to section 15.1-09-31 must be held in
13 even-numbered years.
- 14 3. A school board that has converted the terms of its members to four years may
15 revert to three-year terms by passing a resolution providing for the reversion.
16 When the four-year term of each board member holding office on the date of the
17 resolution's passage expires, the term of office for that position becomes three
18 years.

NOTE: Present Section 15-28-03. Present Section 15-28-03 contains a multitude of concepts. The provisions of this section are among those concepts. For organizational purposes, this language has been placed in a separate section. Other portions of present Section 15-28-03 are included in several new sections. The rewrite of this section, in addressing the conversion of school board member offices from three to four years, eliminates the current stated purpose of the conversion, i.e., "that school board elections like city elections may be held biennially rather than annually." The reason for the conversion is not statutorily significant.

19 **15.1-09-04. Rural members of school board - Definitions.**

- 20 1. a. At least two members of a school board must be rural members if a district
21 contains six or more sections of land, has a city within its boundaries, and a
22 district population of two thousand or fewer.
- 23 b. At least one member of a school board must be a rural member if a district
24 contains six or more sections of land, has within its boundaries a city of more
25 than two thousand but fewer than fifteen thousand, and has at least

- 1 twenty-five families residing on farms outside the corporate limits of the city
2 but within the district and sending children to school in the district.
- 3 c. If the taxable valuation of agricultural property in the rural area of a district
4 containing a city is greater than the taxable valuation of the urban area, the
5 majority of the members of the school board must be rural members.
- 6 d. If the variance in population between the geographic voting areas of a school
7 district is greater than ten percent, all qualified voters in the district may vote
8 for each school board candidate.
- 9 2. For purposes of this section, a rural school board member is one who resides on a
10 farm outside the corporate limits of a city or one who resides within a city that
11 according to the latest federal census has a population of two hundred or fewer
12 and is located within a district that has four or more incorporated cities.
- 13 3. For purposes of this section:
- 14 a. "Agricultural property" means property located outside the limits of an
15 incorporated city and zoned agricultural.
- 16 b. "Rural" means outside the limits of an incorporated city.

NOTE: Present Section 15-28-02.

17 **15.1-09-05. School board - Vacancies - Appointments.**

- 18 1. The board of a school district shall fill by appointment any vacant seat on the
19 board. The term of an individual appointed to fill a vacancy extends until a
20 successor is elected and qualified at the next annual election. If a school board
21 fails to fill a vacancy within sixty days from the time the vacancy occurred, the
22 county superintendent shall call a special election to fill the vacancy. The election
23 must be conducted in the same manner as the annual school district election.
- 24 2. If a vacancy reduces the membership of a school board to less than a quorum, the
25 state board of public school education shall appoint to the school board as many
26 individuals as necessary to achieve a quorum. The school board shall then fill the
27 remaining vacancies. After the vacancies have been filled, any individual
28 appointed by the state board shall resign and the school board shall fill the vacancy
29 in accordance with this section. After resigning, the individual who had been

- 1 appointed by the state board may be reappointed by the school board to fill the
2 vacancy.
- 3 3. The causes for which a vacancy may be declared include a member's death,
4 resignation, removal from office by a court of competent jurisdiction, and relocation
5 to a residence outside the school district.
- 6 4. The business manager shall certify any appointment made under this section to the
7 county superintendent of schools.

NOTE: Present Section 15-29-06. Present Section 15-29-06 provides that the county superintendent must call for a special election if a board fails to fill a vacancy by appointment within 60 days from the time the county superintendent is notified of the vacancy. This verbiage does not indicate whose responsibility it is to notify the county superintendent. The rewrite, therefore, simply requires the county superintendent to call a special election if a board fails to fill a vacancy within 60 days of when it occurred. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

- 8 **15.1-09-06. School board members - Compensation.** Each school board shall set a
9 level of compensation for services payable to its members, provided that no member may
10 receive more than one thousand dollars annually for this purpose. In addition to compensation
11 for services, each member may be reimbursed for all necessary meals and lodging and travel
12 expenses actually incurred while engaged in official business of the board, at the same rate as
13 provided for state officers and employees. Any mileage claimed may not exceed the number of
14 miles [kilometers] between the points traveled as measured by the most usual route.

NOTE: Present Section 15-29-05.

- 15 **15.1-09-07. School district election - Conduct.** Unless otherwise provided by law, a
16 school district election must be conducted and the votes must be canvassed in the same
17 manner as in the election of county officers.

NOTE: Present Section 15-47-06. Present Section 15-47-06 consists of multiple concepts that have been divided into five separate sections.

- 18 **15.1-09-08. School district elections - Candidate filings - Ballots - Stickers.** An
19 individual seeking election to the board of a school district shall prepare and sign a document
20 stating the individual's name and the position for which that individual is a candidate. If the
21 election is held in conjunction with a statewide election, the document must be filed with the
22 school district business manager, or mailed to and in the possession of the business manager,
23 by four p.m. of the sixtieth day before the election. If the election is not held in conjunction with
24 a statewide election, the document must be filed with the school district business manager, or

1 mailed to and in the possession of the business manager, by four p.m. of the thirty-third day
2 before the election.

NOTE: Present Section 15-28-09. The remainder of the provisions in present Section 15-28-09 are included in Section 15.1-09-09.

3 **15.1-09-09. School district elections - Notice.** At least fourteen days before the date
4 of an annual or special school district election, the school board shall publish a notice in the
5 official newspaper of the district stating the time and place of the election and the purpose of
6 the vote. If a school board agrees to hold the election in conjunction with a primary election, the
7 deadline for giving notice of the school district election and the purpose of the vote must meet
8 the publishing requirements of the county. The governing body of the city of Fargo shall publish
9 notice with respect to Fargo school district elections.

NOTE: Present Sections 15-28-06 and 15-51-02. The rewrite of present Section 15-28-06 eliminated the requirement that the notice be signed by the business manager of the school district or the president of the school board. The final sentence is a specific reference to the Fargo School District. It is taken from present Section 15-51-02, which is eliminated in the rewrite.

10 **15.1-09-10. School district elections - Form of notice.** A notice for the election of
11 school board members must state the purpose for the election, the date of the election, and the
12 time at which the polls will open and close.

NOTE: Present Section 15-28-07. (Amended as per committee motion.)

13 **15.1-09-11. School district elections - Preparation of ballots.**

- 14 1. At least twenty days before the election, the business manager shall prepare and
15 cause to be printed, or otherwise uniformly reproduced, an official ballot containing
16 the names of all individuals who have indicated their intent to be candidates by
17 meeting the provisions of section 15.1-09-08. The business manager shall
18 determine by lot, in the presence of the candidates or their representatives, the
19 arrangement of the candidates' names upon the ballot.
- 20 2. The ballot must be nonpartisan in form and include:
- 21 a. The words "official ballot" at the top;
22 b. The name of the school district;
23 c. The date of the election;
24 d. The number of persons to be elected to each office; and

1 e. Below the list of candidates for each office, blank spaces in which names not
2 printed on the ballot may be written.

3 3. An individual who wishes to be a candidate for election, is qualified to hold office,
4 and has failed to meet the filing requirements of this section may provide stickers
5 to be attached to the official ballot by the electors. A sticker must have the name
6 and address of the individual printed on it. The sticker may not be more than
7 one-half inch [12.7 millimeters] in height.

NOTE: Present Section 15-28-09. This section contains provisions from present
Section 15-28-09. The remainder of the provisions are found in the previous section.

Present Section 15-28-09 provides that the sticker referenced in subsection 3 may not
be more than one-half inch in width. This was changed to provide that the sticker may
not be more than one-half inch in height.

8 **15.1-09-12. School district elections - Poll hours.** The school board shall determine
9 the time at which polls must open and close for school district elections. Polls may open at any
10 time after seven a.m. and must be open by eleven a.m. Polls must remain open until
11 seven p.m. and may remain open until eight p.m. In Fargo school district elections, polls must
12 open and close at the times required for city elections.

NOTE: Present Sections 15-28-08 and 15-51-02. The rewrite of present Section
15-28-08 eliminates the requirement that the notice of election must include the poll
hours. This requirement is already stated in the proposed Sections 15.1-09-09 and
15.1-09-10. The final sentence is a specific reference to the Fargo School District. It is
taken from present Section 15-51-02, which is eliminated in the rewrite. (Amended at
the direction of the committee, as per the request of Mr. Dan Huffman, Assistant
Superintendent for Business Services, Fargo Public School District.)

13 **15.1-09-13. Election precincts - Polling places - Election officials.**

14 1. At least thirty-five days prior to the annual election, the board of each school district
15 shall designate one or more precincts for the election. The board shall arrange the
16 precincts in a way that divides the electors of the district as equally as possible.

17 No precinct may have a population in excess of six thousand residents, as shown
18 by the last federal decennial census.

19 2. At least thirty-five days prior to the annual election, the board of each school district
20 shall designate one or more polling places for the election. The board shall locate
21 the polling places as conveniently as possible for the voters in the precinct. Once
22 established by the board, a polling place must remain the polling place for a
23 precinct until it is changed by subsequent action of the board.

1 3. The board shall appoint two election judges and two election clerks for each
2 precinct. Before opening the polls, the judges and clerks shall take an affirmation
3 or oath to perform their duties according to law and to the best of their ability. The
4 affirmation or oath may be administered by any officer authorized to administer
5 oaths or by any of the judges or clerks.

NOTE: Present Section 15-28-04. (Amended at the direction of the committee, as per the request of Mr. Dan Huffman, Assistant Superintendent for Business Services, Fargo Public School District.)

6 **15.1-09-14. School district election - Vote tally.** Upon the closing of the polls, the
7 judges shall count and canvass the votes for each office. Within forty-eight hours after the
8 closing of the polls, the judges and clerks of the election shall sign the returns and file them with
9 the business manager of the school district.

NOTE: Present Section 15-47-06. Present Section 15-47-06 consists of multiple concepts that have been divided into five separate sections.

10 **15.1-09-15. School district election - Declaration of winner.** The school board shall
11 canvass all election returns and shall declare the result of an election within three days of the
12 election and, in the case of a tie, within three days from the determination of a winner. The
13 individual receiving the highest number of votes for an office must be declared elected. The
14 board shall record the result of the election.

NOTE: Present Section 15-47-06. Present Section 15-47-06 consists of multiple concepts that have been divided into five separate sections.

15 **15.1-09-16. School district election - Tie breaker.** If the election results in a tie, the
16 business manager of the district shall notify, in writing, the candidates between whom the tie
17 exists. Within three days after the election, at a time agreed upon by the candidates, the
18 election must be decided in the presence of the judges and clerks of the election, in a manner
19 agreed upon by the candidates. The school district business manager shall make and keep a
20 record of the proceedings.

NOTE: Present Section 15-47-06. Present Section 15-47-06 consists of multiple concepts that have been divided into five separate sections.

21 **15.1-09-17. Notification of elected individuals - Notice to county superintendent**
22 **of schools.** Within five days after a school district election, the business manager of the school
23 district shall provide to each elected individual written notice of the individual's election and of
24 the duty to take an affirmation or oath of office. Within ten days after the election, the business

1 manager shall certify the individuals elected and their terms to the county superintendent of
2 schools.

NOTE: Present Section 15-47-07.

3 **15.1-09-18. School district election - Absentee ballots - Recounts.** Absentee
4 ballots must be available in any school district election in accordance with chapter 16.1-07.
5 Section 16.1-16-01 applies to school district elections, except:

- 6 1. The members of the school board not subject to a recount and not disqualified
7 under subdivision c of subsection 2 of section 16.1-05-02 shall perform the duties
8 of the recount board;
- 9 2. The school district business manager shall perform the duties of the county auditor
10 when the election is not combined with the county;
- 11 3. The school board takes the place of the county canvassing board; and
- 12 4. All expenses of the recount must be paid as provided in section 15.1-09-21.

NOTE: Present Section 15-47-06. Present Section 15-47-06 consists of multiple
concepts that have been divided into five separate sections.

13 **15.1-09-19. Duties of election officials - Other applicable statutes.** Sections
14 16.1-08.1-03.3, 16.1-10-01, 16.1-10-06, 16.1-10-06.1, 16.1-10-07, 16.1-10-08, 16.1-13-22,
15 16.1-13-23, 16.1-13-30, 16.1-15-01, 16.1-15-04, and 16.1-16-04 apply to elections held under
16 sections 15.1-09-09 and 15.1-09-11.

NOTE: Present Section 15-28-10. Present Section 15-28-10 contains a provision
stating that all expenses of school district elections must be paid by the school district.
This concept was placed in Section 15.1-09-21.

17 **15.1-09-20. Election officials - Compensation.** Election officials at school district
18 elections are entitled to receive compensation as provided for election officials in section
19 16.1-05-05. The board of a school district holding the election shall provide for the
20 compensation from school district funds.

NOTE: Present Section 15-28-05.

21 **15.1-09-21. School district elections - Expenses.** A school district is responsible for
22 the payment of all expenses incurred as a result of a school district election.

NOTE: Present Section 15-28-10. This provision, which is found in present Section
15-28-10, was separated from the other concepts also contained in that section and
given its own section.

23 **15.1-09-22. School boards - Annual elections - Poll books.**

- 1 1. The board of a school district shall hold an election each year between April first
2 and June thirtieth to fill all vacancies, including those caused by the expiration of
3 terms of office.
- 4 2. Upon resolution of the school board, the annual election may be held in
5 conjunction with the regular election of a city, as required by state law or by the
6 home rule powers of the city, provided the city is located wholly or partially within
7 the school district. The school board may agree with the governing body of the city
8 to share election costs and responsibilities, including those associated with election
9 personnel, the printing of election materials, the publishing of legal notices, and the
10 use of poll books.
- 11 3. If a school board holds its election in conjunction with a city, references in this
12 chapter to the date of a school board election mean the date of the applicable city
13 election.
- 14 4. If a school board holds its election in conjunction with a city and only one set of poll
15 books is used, the set must reference the voter's eligibility to vote in the city
16 election, in the school district election, or both.

NOTE: Present Section 15-28-03. Present Section 15-28-03 contains a multitude of concepts. Subsections 1 and 2, as rewritten, are two of those concepts. The language has not been substantively changed. However, for organizational purposes, the concepts have been segregated in a separate section. Other portions of present Section 15-28-03 are included in several of the following new sections.

- 17 **15.1-09-23. School boards - Special elections.** In addition to the annual election, a
18 special election may be held at any time and for any lawful purpose, if approved by the school
19 board.

NOTE: Present Section 15-28-03. Present Section 15-28-03 contains a multitude of concepts. The provisions of this section are among those concepts. For organizational purposes, this language has been placed in a separate section. Other portions of present Section 15-28-03 are included in several new sections.

- 20 **15.1-09-24. School boards - Sharing of election expenses - Poll books.** If a school
21 district election is held in conjunction with a primary election, the board of the school district
22 may agree with the governing body of the county or counties in which the district is located to
23 share election costs and responsibilities, including those associated with a canvassing board,
24 election personnel, the printing of election materials, the publishing of legal notices, and the use
25 of poll books.

NOTE: Present Section 15-28-03. Present Section 15-28-03 contains a multitude of concepts. The provisions of this section are among those concepts. For organizational purposes, this language has been placed in a separate section. Other portions of present Section 15-28-03 are included in several new sections.

1 **15.1-09-25. School board members - Affirmation or oath of office.** An individual
2 elected as a member of or appointed to a school board shall take and file with the school district
3 business manager an affirmation or oath of office before commencing duties.

NOTE: Present Section 15-47-08. Present Section 15-47-08 addresses oaths of office for school board members and school district business managers. At the direction of the committee, the reference to an oath of office was expanded to include affirmations and the concept was divided between two sections.

4 **15.1-09-26. Affirmation or oath of office - Administration.** An elected member of a
5 school board may administer any affirmation or oath of office required of school board members
6 or school district personnel.

NOTE: Present Section 15-47-09.

7 **15.1-09-27. Organization of school board - Election of president.** At the annual
8 meeting, school board members shall elect from among themselves a president to serve for
9 one year. Members of the Fargo board of education shall elect their president and a vice
10 president at the first regular monthly meeting following the election of new board members.

NOTE: Present Sections 15-29-03 and 15-51-04. (Amended at the direction of the committee, as per the request of Mr. Dan Huffman, Assistant Superintendent for Business Services, Fargo Public School District.)

11 **15.1-09-28. School board president - Duties.** The president shall preside at all
12 meetings of the school board, appoint all committees subject to approval by the board, provide
13 authorization for the issuance of negotiable instruments, and perform other acts required by
14 law. A vice president may be elected by the board to serve in the absence of the president at
15 any meeting.

NOTE: Present Section 15-29-04. Present Section 15-29-04 provides for the election of a president pro tempore. At the direction of the committee, this was changed to reference a vice president. Present Section 15-29-04 also provides that the president of the school board shall sign all warrants ordered by the board to be drawn upon the business manager for school moneys. At the direction of the committee, this language was updated both to eliminate archaic references and to address the fact that the signature on school district checks is generally that of the school district business manager, not the board president.

16 **15.1-09-29. School board - Quorum - Majority vote.** The board of a school district
17 consists of the members elected according to the provisions of this chapter. A majority of the

1 board constitutes a quorum. The agreement of a majority of those members present is
2 necessary for the transaction of any business.

NOTE: Present Section 15-29-01.

3 **15.1-09-30. School boards - Meetings.**

- 4 1. Each school board shall hold an initial meeting during the month of July following
5 the annual election, except that the initial meeting for the board of education of the
6 city of Fargo must take place at the time of the first regular monthly meeting after
7 its annual election. The president of the school board shall select a meeting date
8 that is convenient to the other board members and shall provide board members
9 with written notice of the meeting.
- 10 2. Once during each month thereafter, a board shall hold a regular meeting for the
11 transaction of business. The board of any school district having only one-room and
12 two-room schools may meet as often as the board deems necessary, but not less
13 than four times in each year.
- 14 3. Special meetings may be called by the president or by any two members of a
15 board. Written notice of a special meeting must be given to each member of a
16 board.
- 17 4. The attendance of a board member at any meeting, without objection, constitutes a
18 waiver of the notice requirement for that member.
- 19 5. A board of a school district operating under an academic cooperative agreement
20 approved by the superintendent of public instruction may participate in multiboard
21 meetings in addition to, instead of, or in conjunction with the regular board
22 meetings required by this section. Multiboard meetings must be for the purpose of
23 pursuing joint academic or cooperative activities and must be held at the times and
24 locations agreed to by the presidents of the participating boards. In addition to any
25 other requirements set forth in section 44-04-20, the presidents of each school
26 board shall ensure that notice of each multiboard meeting in which the school
27 board will participate is published in the local newspapers of general circulation at
28 least one week before the meeting date.

NOTE: Present Section 15-29-02. Present Section 15-29-02 requires that school board members receive "written or printed notices" of meetings. The rewrite references only the traditional legal standard of "written notice." (Amended at the direction of the

committee, as per the request of Mr. Dan Huffman, Assistant Superintendent for Business Services, Fargo Public School District.)

1 **15.1-09-31. School board proceedings - Publication.** Every two years, at the time of
2 a school district's annual election of board members, the electors of the district shall determine
3 whether a record of the board proceedings must be published in the official newspaper of the
4 district. If a majority of the electors voting on the question approve the publication, the school
5 district business manager shall provide for publication of the school board records, including an
6 itemized list of obligations approved for payment. If applicable, the business manager shall
7 request that the proceedings be identified as being published subject to review and revision by
8 the board. The business manager shall ensure that the proceedings are published within a
9 reasonable time after each board meeting. A vote to approve the publication is effective for a
10 period of two years or until disapproved at a succeeding school district election.

NOTE: Present Section 15-28-11.

11 **15.1-09-32. School board members - Attendance at workshop.** Within one year of
12 assuming office, each newly elected school board member shall attend an inservice training
13 workshop hosted by the North Dakota school boards association or its designee. The
14 workshop must include presentations on the role of a school board member, the duties of a
15 school board, and education finance.

NOTE: Present Section 15-29-01.1.

16 **15.1-09-33. School board - Powers.** The board of a school district may:

17 1. Establish a system of free public schools for all children of legal school age
18 residing within the district.

NOTE: Present Section 15-29-08(1) contains the requirement that the free public school furnish school privileges equally and equitably. This was eliminated from the rewrite because federal statutes and case law address civil rights issues and because there is no definition of "equal and equitable" in the context of furnishing school privileges.

19 2. Organize, establish, operate, and maintain elementary, middle, and high schools.

NOTE: Present Section 15-29-08(2) makes reference only to elementary and secondary schools. The rewrite adds the reference to middle schools.

20 3. Have custody and control of all school district property and, in the case of the
21 board of education of the city of Fargo, to have custody and control of all public
22 school property in the city and to manage and control all school matters.

NOTE: Present Sections 15-29-08(9) and 15-51-08.

1 4. Acquire real property and construct school buildings and other facilities.

NOTE: Present Section 15-29-08(2).

2 5. Relocate or discontinue schools and liquidate the assets of the district as required
3 by law; provided no site may be acquired or building constructed, or no school may
4 be organized, established, operated, maintained, discontinued, or changed in
5 location without the approval of the state board of public school education if outside
6 the boundary of the district.

NOTE: Present Section 15-29-08(2).

7 6. Purchase, sell, exchange, and improve real property.

NOTE: Present Section 15-29-08(5) and (7).

8 7. Lease real property for a maximum of one year except in the case of a vocational
9 education facility constructed in whole or in part with financing acquired under
10 chapter 40-57, which may be leased for up to twenty years.

NOTE: Present Section 15-29-08(5).

11 8. Exercise the power of eminent domain to acquire real property for school
12 purposes.

NOTE: Present Section 15-29-08(6).

13 9. Purchase, sell, exchange, and if appropriate, improve school equipment, furniture,
14 supplies, and textbooks.

NOTE: Present Section 15-29-08(8).

15 10. Recruit or contract with others to recruit homes and facilities which provide
16 boarding care for special education students.

NOTE: Present Section 15-29-08(22).

17 11. Provide dormitories for the boarding care of special education students.

NOTE: Present Section 15-29-08(22).

18 12. Insure school district property.

NOTE: Present Section 15-29-08(24).

19 13. Independently or jointly with other school districts, purchase telecommunications
20 equipment or lease a telecommunications system or network.

NOTE: Present Section 15-29-08(28).

1 14. Provide for the education of students by another school district.

NOTE: Present Section 15-29-08(3).

2 15. Contract with federal officials for the education of students in a federal school.

NOTE: Present Section 15-29-08(3).

3 16. Prescribe courses of study in addition to those prescribed by the superintendent of
4 public instruction or by law.

NOTE: Present Section 15-29-08(3).

5 17. Adopt rules regarding the instruction of students, including their admission,
6 transfer, organization, grading, and government.

NOTE: Present Section 15-29-08(13) also requires the board to adopt rules regarding the suspension and expulsion of students. It sets parameters within which a board's rules governing suspension and expulsion must fall. This issue has been included in a new section.

7 18. Join the North Dakota high school activities association and pay membership fees.

NOTE: Present Section 15-29-08(20) contains verbiage extolling the "necessity for an organization of schools to administer a program of interscholastic athletics." Because this amounts to a statement of purpose or legislative intent, it was omitted from the rewrite.

8 19. Adopt alternative curricula for high school seniors who require fewer than four
9 academic units.

NOTE: Present Section 15-29-08(23).

10 20. Contract with, employ, and compensate school district personnel.

NOTE: Present Section 15-29-08(10) also contains the requirement that "every teacher must hold a valid North Dakota teaching certificate issued by the education standards and practices board." This was omitted from the rewrite because it is contained in the sections dealing with teacher qualifications and does not seem relevant to the issue of a board's hiring authority.

11 21. Contract with and provide reimbursement for the provision of teaching services by
12 an individual certified as an instructor in the areas of North Dakota American Indian
13 languages and culture by the education standards and practices board.

NOTE: Present Section 15-29-08.4.

14 22. Suspend school district personnel.

NOTE: Present Section 15-29-08(10).

15 23. Dismiss school district personnel for cause.

NOTE: Present Section 15-29-08(10).

1 24. Participate in group insurance plans and pay all or part of the insurance premiums.

NOTE: Present Section 15-29-08(18).

2 25. Contract for the services of a district superintendent, provided that the contract,
3 which may be renewed, does not exceed a period of three years.

NOTE: Present Section 15-29-08(11) contains verbiage authorizing a board to "pay such a person a reasonable salary." This verbiage is omitted because the rewrite authorizes a board to "compensate school district personnel." The present section also provides that a "superintendent may be required to act as principal or teacher in the school system of the district." This is omitted from the rewrite because the duties that a board may wish to have an individual perform, as part of an employment contract, are not relevant to a board's hiring authority.

4 26. Appoint a principal, certified under rules adopted by the superintendent of public
5 instruction, to perform duties as directed by the school district superintendent.

NOTE: Present Section 15-29-08(21).

6 27. Employ a school district business manager.

NOTE: Present Section 15-29-08(26).

7 28. Suspend or dismiss a school district business manager for cause without prior
8 notice.

NOTE: Present Section 15-29-08(26).

9 29. Suspend or dismiss a school district business manager without cause with thirty
10 days' written notice.

NOTE: Present Section 15-29-08(26).

11 30. Defray the necessary and contingent expenses of the board.

NOTE: Present Section 15-29-08(12) also authorizes the compensation of a school district business manager. The rewrite eliminates this verbiage because it is included in the subsection allowing the board to "contract with, employ, and compensate school district personnel."

12 31. Levy a tax upon property in the district for school purposes.

NOTE: Present Section 15-29-08(15).

13 32. Amend and certify budgets and tax levies, as provided in title 57.

NOTE: Present Section 15-29-08(15).

14 33. Pay membership dues to county and state associations.

NOTE: Present Section 15-29-08(19) includes a legislative recognition of the necessity for school boards to organize on the county and state levels. Because this verbiage is legislative intent, it is omitted from the rewrite.

- 1 34. Designate, at its annual meeting, a newspaper of general circulation as the official
2 newspaper of the district.

NOTE: Present Section 15-29-08(25).

NOTE: Present Section 15-29-08(16), relating to a school census, is omitted from the rewrite because its content is included in proposed Section 15.1-09-46. Present Section 15-29-08(17) is omitted from the rewrite because it is included as proposed Section 15.1-09-35.

3 **15.1-09-34. Contracts by school boards - Bids - Penalty.**

- 4 1. Except as provided in this section, the board of a school district may not enter into
5 a contract involving the expenditure of an aggregate amount greater than eight
6 thousand dollars unless the board has given ten days' notice by publication in the
7 official newspaper of the district, received sealed bids, and accepted the bid of the
8 lowest responsible bidder. This section does not apply to contracts for:
9 a. The personal services of district employees.
10 b. Textbooks and reference books.
11 c. Articles not sold on the open market.
12 d. Patented, copyrighted, or exclusively sold devices or features required to
13 match articles already in use.
14 e. Patented, copyrighted, or exclusively sold articles so distinctive that only one
15 brand can be purchased.
16 f. Building contracts under chapters 48-01.1 and 48-02.
17 g. School transportation services.
18 h. Vehicle fuel.
19 i. Heating fuel.
20 2. If a board member participates in a violation of this section, the member is guilty of
21 a class B misdemeanor.

NOTE: The rewrite of present Section 15-47-15 eliminates the requirement that the exceptions listed in the section be strictly construed. As rewritten, the section proposes a mandate, not a mere suggestion. The committee directed the Legislative Council staff to contact the Superintendent of Public Instruction to determine whether the \$8,000 ceiling referenced in the section needed to be raised. Department of Public Instruction personnel indicated that because the list of exceptions is fairly extensive, the \$8,000

ceiling should not be raised unless the consequences of so doing were studied and understood.

1 **15.1-09-35. Reports by school boards on conditions of schools.** Upon the
2 conclusion of each school year, the board of a school district shall:

- 3 1. Prepare a report regarding the condition of all schools in the district, including their
4 financial condition and the educational progress of students enrolled in each
5 school;
- 6 2. Forward a copy of the report to the county superintendent of schools; and
- 7 3. Publish in the official newspaper of the school district that portion of the report
8 which deals with the financial condition of each school.

NOTE: Present Section 15-29-08(17).

9 **15.1-09-36. School board - Authority over student fees.**

- 10 1. A school board may:
 - 11 a. Require that a student pay a security deposit for the return of textbooks,
12 materials, supplies, or equipment.
 - 13 b. Assess a student a use charge if a textbook or other item covered under
14 subsection 1 has received undue wear.
 - 15 c. Require that a student furnish personal or consumable items.
 - 16 d. Require that a student pay an admission fee or other charges for
17 extracurricular or noncurricular activities if the student's attendance is
18 optional.
 - 19 e. Require that a student pay a fee or a premium for any authorized student
20 health and accident benefit plan.
 - 21 f. Require that a student pay a fee for personal athletic equipment and apparel;
22 provided the board shall allow a student to use the student's own equipment
23 and apparel if it meets reasonable health and safety standards established by
24 the board.
 - 25 g. Require that a student pay a fee in any program which generates a product
26 that becomes the personal property of the student.
 - 27 h. Require that a student pay a fee for behind-the-wheel driver's education
28 instruction.

- 1 i. Require that a student pay a fee for goods, including textbooks, and services
2 provided in connection with any postsecondary level program or any program
3 established outside regular elementary, middle school, or secondary school
4 programs, including vocational and technical programs, and adult or
5 continuing education programs.
- 6 j. Require that a student pay any other fees and charges permitted by statute.
- 7 2. A board may waive any fee if a student or the student's parent or guardian is
8 unable to pay the fee.
- 9 3. A board may not deny or abridge a student's rights or privileges, including the
10 receipt of grades and diplomas, because of the nonpayment of fees. A board may,
11 however, withhold a student's diploma for failure to pay for costs incurred by the
12 student's own negligence or choice, including fines for damaged textbooks and
13 school equipment, library fines, and materials purchased from the school at the
14 option of the student.
- 15 4. Nothing in this section precludes the operation of a school store where students
16 may purchase school supplies and materials.
- 17 5. If a board charges fees not authorized by law and refuses to discontinue the
18 charges when directed to do so by the superintendent of public instruction, the
19 superintendent shall withhold the per student and transportation aid payments to
20 which the district is entitled for each student charged an unauthorized fee.

NOTE: Present Section 15-43-11.2. Because this section governs the authority of school boards to impose fees upon students, it was moved from the chapter regarding textbooks to the chapter regarding school boards. Both the present section and the rewritten section reference extracurricular and "noncurricular" activities. (See subdivision d of subsection 1 of the rewrite.) The committee might wish to determine whether the reference to a "noncurricular" activity is sufficiently clear.

- 21 **15.1-09-37. Duties of school board - Postsecondary instructional programs -**
22 **Fees.** A school board may charge reasonable fees for goods, including textbooks, and services
23 provided in connection with any postsecondary instructional program, including vocational and
24 technical programs, adult or continuing education programs, and similar education programs
25 beyond grade twelve or outside of established elementary, middle school, and secondary
26 education programs.

NOTE: Present Section 15-43-11.4.

1 **15.1-09-38. Duties of school board - Employment of relatives.** The board of a
2 school district may not employ as a teacher an individual who is related to a member of the
3 board by blood or marriage, unless a majority of the board members, plus one, vote their
4 concurrence with the employment.

NOTE: Present Section 15-29-08(10). This section is taken from verbiage found under the powers and duties of school boards.

5 **15.1-09-39. Districts in bordering states - Contract.**

- 6 1. Notwithstanding any other provision of law, the board of a school district in this
7 state may contract with the board of a school district in another state for the joint
8 operation and maintenance of school facilities and for joint activities, if the districts
9 are contiguous. To be valid, the contract must be approved by the superintendent
10 of public instruction and by a majority of the qualified electors residing in the
11 district.
- 12 2. In assessing the contract, the superintendent shall consider the district's
13 enrollment, its valuation, and its longevity.
- 14 3. If the superintendent approves the contract, the board shall submit the contract to
15 the electorate of the district, for approval, at an annual or a special election.
- 16 4. The board shall publish notice of the election in the official newspaper of the district
17 at least fourteen days before the election. The notice must include a statement
18 regarding the purpose of the election and the terms of the contract.
- 19 5. On the ballot, the board shall seek the voters' permission to execute the proposed
20 contract, as approved by the superintendent of public instruction.
- 21 6. If the voters approve the execution of the contract, the board may levy and collect
22 taxes to carry out the contract pursuant to law.
- 23 7. If a district that is a party to a contract under this section dissolves, any district to
24 which the land of the dissolved district is attached shall assume the contractual
25 responsibilities.

NOTE: Present Section 15-47-39. Upon the recommendation of the Superintendent of Public Instruction, the committee directed that this section be updated and that the specific ballot language in the present section be simplified. The rewrite eliminates the statutory mandate of specific language and requires that the board seek the voters' permission to execute the proposed contract.

1 **15.1-09-40. Sharing of levied taxes - Contract.** The boards of two or more school
2 districts may contract to share levied taxes in all or a portion of their respective districts. The
3 rate of taxes to be levied on any property in the joint taxing area or district is the rate of tax
4 provided for in the contract, not exceeding any levy limitations applicable to the property. The
5 auditor of each county in which all or a portion of a contracting district is located shall fix and
6 levy taxes on that portion of the property which is described in the contract and is located in the
7 county at the rate set by the contract.

NOTE: Whereas present Section 15-47-40.1 authorizes districts to enter into
"interdistrict cooperative agreements to share levied taxes" the rewrite simply authorizes
districts to "contract" for the sharing of levied taxes.

8 **15.1-09-41. School board authority - Reward for destruction of school property.**
9 The board of a school district may offer and pay a reward to any person who furnishes
10 information leading to the apprehension and conviction of one appropriating or destroying
11 property or equipment belonging to the district.

NOTE: Present Section 15-47-25. Upon the recommendation of the Superintendent of
Public Instruction, the committee determined that the present reward limit of \$3,000
should be eliminated. The committee indicated that a school board is quite capable of
assessing its financial limitations together with the nature of the crime committed and
establishing an appropriate reward.

12 **15.1-09-42. Educational meetings - Attendance by school district personnel.** The
13 board of a school district shall allow each district superintendent, principal, and teacher to
14 attend the North Dakota education association's annual instructional conference without loss of
15 pay. The board shall by contract address employees' attendance at other educational meetings
16 and matters of compensation resulting from their attendance.

NOTE: Present Section 15-47-14 provides that boards must allow the stated school
district personnel to attend "any meeting of the North Dakota education association and
other educational associations" Because the term "educational associations" is all
inclusive, it is open to question whether it is necessary to refer to a specific association
in this section. At the direction of the committee, the second sentence of present
Section 15-47-14, which provides "that the period during which teachers are in
attendance at a North Dakota education association meeting not to exceed two days
must be included as days of classroom instruction ..." was eliminated because it is
already included in proposed Section 15.1-06-04. (Amended at the direction of the
committee, in consultation with representatives of the North Dakota Education
Association and the North Dakota School Boards Association.)

17 **15.1-09-43. Purchase of schoolbus - Payment period.** The board of a school district
18 may purchase a bus body, a chassis, or a complete bus, provided the body, chassis, or
19 complete bus meets standards provided by section 39-21-27.1. A board may use money in its

1 general fund to purchase a bus body, a chassis, or a complete bus on an installment plan,
2 provided the plan does not extend beyond six years.

NOTE: Present Section 15-34.2-12 provides that "[s]chool boards are required to advertise for bids in accordance with the provisions of section 15-47-15." Because this provision is redundant, it was omitted from the rewrite.

3 **15.1-09-44. Schoolbuses - Use of nonprofit organizations.** The board of a school
4 district may make a schoolbus available to a nonprofit organization for use in conjunction with
5 the organization's activities. The board shall negotiate the terms of usage with the organization.
6 The terms must address rental charges and insurance coverage. The driver of a schoolbus
7 used by a nonprofit organization under this section must satisfy the requirements for a
8 schoolbus driver set forth in section 15.1-07-21.

NOTE: Present Section 15-34.2-18.

9 **15.1-09-45. Storage facilities for schoolbuses.** The board of a school district may
10 lease for purchase, purchase, or construct a storage facility for schoolbuses upon advertised
11 bids as provided in section 15.1-09-34. For these purposes, the board may use money in the
12 district's general fund or building fund provided the money is not otherwise obligated.

NOTE: Present Section 15-34.2-13.

13 **15.1-09-46. School district census.** The board of a school district shall conduct a
14 census during the month of May in each odd-numbered year. The census must enumerate all
15 district residents under age eighteen as of August thirty-first and include their names and the
16 names and addresses of their parents. The board shall approve the census and forward a copy
17 of the census to the county superintendent prior to July fifteenth of the year in which the census
18 is taken. The county superintendent shall submit a summary of the census to the
19 superintendent of public instruction.

NOTE: Present Section 15-47-13 provides that the census must be made upon forms prescribed by the Superintendent of Public Instruction and furnished by the county superintendent of schools. It also requires that the board submit the forms to the county superintendent and that the county superintendent in turn submit the forms to the Superintendent of Public Instruction. At the direction of the committee, the rewrite simply requires that the Superintendent adopt rules regarding the standardization of the census, that the school boards provide copies to their county superintendents, and that the county superintendents provide summaries to the Superintendent of Public Instruction. (Amended at the direction of the committee, as per the request of Ms. Lois Olson, Walsh County Superintendent of Schools.)

20 **15.1-09-47. Board of education of city of Fargo - Taxing authority.**

- 1 1. The board of education of the city of Fargo may levy taxes, as necessary for any of
2 the following purposes:
- 3 a. To purchase, exchange, lease, or improve sites for schools.
- 4 b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their
5 appurtenances.
- 6 c. To procure, exchange, improve, and repair school apparatus, books, furniture,
7 and appendages, but not the furnishing of textbooks to any student whose
8 parent is unable to furnish the same.
- 9 d. To provide fuel.
- 10 e. To defray the contingent expenses of the board, including the compensation
11 of employees.
- 12 f. To pay teacher salaries after the application of public moneys, which may by
13 law be appropriated and provided for that purpose.
- 14 2. The question of authorizing or discontinuing the unlimited taxing authority of the
15 board of education of the city of Fargo must be submitted to the qualified electors
16 of the Fargo school district at the next regular election upon resolution of the board
17 of education or upon filing with the board a petition containing the signatures of
18 qualified electors of the district equal in number to twenty percent of the individuals
19 enumerated in the most recent school district census. However, if the electors
20 approve a discontinuation of the unlimited taxing authority, their approval of the
21 discontinuation may not affect the tax levy effective for the calendar year in which
22 the election is held. In addition, the minimum levy may not be less than the levy
23 that was in force at the time of the election. The board may increase its levy in
24 accordance with section 57-15-01. If the district experiences growing enrollment,
25 the board may increase the levy by an amount equal to the amount levied the
26 preceding year per student times the number of additional students enrolled during
27 the new year.

NOTE: Present Section 15-51-11.

28 **15.1-09-48. Board of education of city of Fargo - Tax collection.** The board of
29 education of the city of Fargo has the power to levy taxes and to cause such taxes to be
30 collected in the same manner as other city taxes. The board of education shall cause the rate

1 for each purpose to be certified by the business manager to the city auditor in time to be added
2 to the annual tax list of the city. It is the duty of the city auditor to calculate and extend upon the
3 annual assessment roll and tax list any tax levied by the board of education. The tax must be
4 collected as other city taxes are collected. If the city council fails to levy any tax for city
5 purposes or fails to cause an assessment roll or tax list to be made, the board of education may
6 cause an assessment roll and tax list to be made and submit the roll to the city auditor with a
7 warrant for the collection of the tax. The board of education may cause the tax to be collected
8 in the same manner as other city taxes are collected or as otherwise provided by resolution of
9 the board.

NOTE: Present Section 15-51-12. The rewrite reflects the fact that the business manager of the Fargo School District is responsible for those duties delegated under present law to a "secretary."

10 **15.1-09-49. Board of education of city of Fargo - Taxes for buildings.** The amount
11 to be raised for teacher salaries and contingent expenses must be such only as together with
12 the public money coming to the city from any source is sufficient to establish and maintain
13 efficient and proper schools for students in the city. The tax for purchasing, leasing, or
14 improving sites and the building, purchasing, leasing, enlarging, altering, and repairing of
15 schools may not exceed in any one year fifteen mills on the dollar valuation of the taxable
16 property of the city. The board of education may borrow, and when necessary shall borrow, in
17 anticipation of the amount of the taxes to be raised, levied, and collected.

NOTE: Present Section 15-51-13.

18 **15.1-09-50. Board of education of city of Fargo - Powers.** In addition to the powers
19 granted to all school boards by section 15.1-09-32, the board of education of the city of Fargo
20 has the power and duty:

- 21 1. To organize, establish, and maintain schools in the city and to change and
22 discontinue the schools; and to liquidate the assets of discontinued schools outside
23 the district boundaries, as authorized by the state board of public school education.
- 24 2. To lease houses or rooms for school purposes, lease lots or sites for schools, and
25 fence real property.
- 26 3. To build, enlarge, alter, improve, and repair schools and appurtenances upon lots
27 or sites now owned or leased for school purposes.

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

NOTE: Present Section 15-51-17. This section includes only those school board powers that are not listed in Section 15.1-09-32 or which are not clearly delineated in Section 15.1-09-32.

16 **15.1-09-51. Board of education of city of Fargo - School property.**

- 17 1. The title to all schools, sites, lots, furniture, books, apparatus, and appurtenances,
- 18 belonging to the city, and used for school purposes, under the control of the board
- 19 of education are vested in the city of Fargo for the use of the schools. While used
- 20 for or appropriated to school purposes, the same may not be:
- 21 a. Levied upon or sold by virtue of any warrant, execution, or other process;
- 22 b. Subject to any judgment or lien; or
- 23 c. Subject to taxation for any purpose.
- 24 2. The city in its corporate capacity is competent to take hold of and dispose of any
- 25 real or personal estate transferred to it by gift, grant, bequest, or devise, for the use
- 26 of the public schools of the city, whether the property is transferred to the city or to
- 27 any person for the use of the schools.

NOTE: Present Section 15-51-20.

1 **15.1-09-52. Board of education of city of Fargo - Ownership of real property.**

2 Whenever any real property is purchased by the board, the transfer or grant and conveyance of
3 the property must be taken to the "city of Fargo for the use of the schools" and whenever any
4 sale is made by the board, it must be so resolved and placed upon the records of the board.
5 The conveyance must be executed, in the name of the city of Fargo, by the president of the
6 board and attested to by the business manager. The president and the business manager may
7 execute conveyances upon a sale or exchange, with or without full covenants or warranty, on
8 behalf of the city.

NOTE: Present Section 15-51-21. The rewrite reflects the fact that the business manager of the Fargo School District is responsible for those duties delegated under present law to a "secretary."

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

11 **15.1-10-01. County committee - Appointment - Compensation.**

- 12 1. The county superintendent of schools, with the approval of the board of county
13 commissioners, shall appoint residents, equal in number to the board of county
14 commissioners, to serve as a county committee for purposes of school district
15 annexations, dissolutions, and reorganizations.
- 16 2. The term of office for county committee members is three years, staggered so that
17 one term expires each year.
- 18 3. If a vacancy occurs, the county superintendent, with the approval of the board of
19 county commissioners, shall appoint an individual to serve for the unexpired
20 portion of the term. If a county committee member fails, refuses, or is unable to
21 perform the required duties, the county superintendent, upon being petitioned by a
22 majority of the school board presidents representing districts having territory wholly
23 or partially within the county, shall declare the position of the member vacant and
24 shall appoint a new member to the committee.
- 25 4. Each member is entitled to compensation at the rate of sixty-two dollars and fifty
26 cents per day and to reimbursement for expenses from the biennial appropriation
27 for the superintendent of public instruction, as provided by law for state officers, if
28 they are attending committee meetings or performing duties directed by the
29 committee.

NOTE: Present Section 15-27.1-03. At the committee's direction, the language providing that county committees must consist of one resident from each county commissioner district was changed to require that the county committee be equal in size to the board of county commissioners. This caused the elimination of other language providing for changes to the committee in the event county commissioner districts are altered. The committee wanted this change because many counties no longer have county commissioner districts. The committee also requested that the compensation level be raised from the current \$25 to \$62.50 per day.

1 **15.1-10-02. County committee - Chairman - Meetings.** The members of the county
2 committee shall elect one member to serve as chairman for one year and until a successor is
3 chosen. Meetings of the committee must be held upon the call of the chairman or a majority of
4 the committee members.

NOTE: Present Section 15-27.1-04. The language regarding the county superintendent's duty to serve as the secretary of the committee was placed in a separate section.

5 **15.1-10-03. County committee - Secretary.** The county superintendent of schools is
6 the secretary of the committee but may not vote. The county superintendent is entitled to
7 compensation from the employing county for actual and necessary expenses incurred while in
8 the performance of required duties.

NOTE: Present Section 15-27.1-04. The language of this section was taken from present Section 15-27.1-04 and placed in a separate section because it does not seem germane to the section's other topics (the election of a county committee chairman and the calling of meetings).

9 **15.1-10-04. State's attorney to represent committee.** Each county's state's attorney
10 shall serve as legal counsel to the county committee. The state's attorney shall defend the
11 committee and any of its officers in legal proceedings relating to the conduct or business of the
12 committee. If providing this defense would cause a conflict with the other duties of the state's
13 attorney, the board of county commissioners, at county expense, shall employ a special
14 counsel to represent the committee in the proceedings.

NOTE: Present Section 15-27.1-05.

15 **SECTION 11.** Chapter 15.1-11 of the North Dakota Century Code is created and
16 enacted as follows:

17 **15.1-11-01. County superintendent of schools - Employment - Qualifications.**

18 1. Except as provided in section 15.1-11-02, each board of county commissioners
19 shall employ a county superintendent of schools on a full-time or a part-time basis.

20 An individual hired under this section:

- 1 a. Must hold a baccalaureate degree from a regional or nationally accredited
- 2 institution of higher education approved for teacher education.
- 3 b. Must hold a valid North Dakota teacher's certificate.
- 4 c. Must have experience teaching at an approved elementary, middle, or
- 5 secondary school.
- 6 d. Must be approved by a majority of the school board presidents representing
- 7 school districts having their administrative headquarters in the county.
- 8 e. Serves until the individual resigns or is discharged by the board of county
- 9 commissioners at the direction of a majority of the school board presidents
- 10 referenced in subdivision d.
- 11 2. The presidents of the school boards referenced in subsection 1 shall perform the
- 12 duties of school boards, as set forth in sections 15.1-15-01 through 15.1-15-04 and
- 13 15.1-16-18, with respect to the evaluation, renewal, and discharge of an individual
- 14 hired under this section.

NOTE: Present Sections 15-22-01 and 15-22-02. This section, as rewritten, simplifies the process for hiring a county superintendent of schools. Under present law, the school board presidents whose districts are headquartered in a county must nominate a candidate and then the board of county commissioners must approve the candidate. The process continues until a selection is made. As rewritten, an individual employed by a board of county commissioners as a county superintendent must be approved by the school board presidents. This section also includes the qualifications for county superintendents found in present Section 15-22-02. At the request of the committee, the rewrite does not include the requirement that the individual have "successful teaching" experience, only that the individual have "teaching" experience.

15 **15.1-11-02. County superintendent of schools - Assignment of duties - Waiver.**

- 16 1. Notwithstanding any other provision of law, a board of county commissioners may
- 17 by majority vote choose not to employ a county superintendent of schools,
- 18 provided the board of county commissioners:
- 19 a. Obtains from the superintendent of public instruction a form that lists all
- 20 statutory duties to be otherwise performed by a county superintendent and
- 21 provides for the assignment of all such statutory duties to, and the
- 22 performance of such statutory duties by, one or more individuals;
- 23 b. Obtains the consent of a majority of the school board presidents representing
- 24 school districts having their administrative headquarters in the county; and

- 1 c. Submits the completed form to the superintendent of public instruction and
2 obtains written approval of the assignments from the superintendent.
- 3 2. a. The superintendent of public instruction may waive the requirements of
4 subsection 1 with respect to any board of county commissioners which, on or
5 before June 30, 1999, assigned to qualified persons the duties of the county
6 superintendent of schools, provided:
- 7 (1) The assignment of duties was set forth in a written plan;
8 (2) The written plan was filed with the legislative council; and
9 (3) The superintendent of public instruction determines that the written plan
10 substantially complies with the requirements of subsection 1.
- 11 b. The determination of the superintendent regarding the waiver is final.

NOTE: Present Section 15-22-01.1. This section, as rewritten, creates an approval process for counties to engage in before they may choose not to employ a county superintendent. One area the committee may want to examine in connection with this section and the previous section relates to the qualifications of county superintendents. The previous section maintains the requirement that the county superintendent be a certificated teacher. This section, however, sets no requirements regarding the capacity, ability, or educational background of the individual who will be assigned the duties of a county superintendent. (Amended as per committee motion.)

- 12 **15.1-11-03. County superintendent of schools - Salary.** The county superintendent
13 of schools is entitled to receive a salary, as determined under section 11-10-10.

NOTE: Present Section 15-22-04. Because counties are given the option of hiring a county superintendent on a full-time or a part-time basis, this section eliminates language regarding the determination of salary if a county superintendent is employed jointly by several counties.

- 14 **15.1-11-04. County superintendent of schools - Duties.** A county superintendent of
15 schools shall:

- 16 1. Serve as the superintendent of all schools in a county except those schools in
17 districts that employ a district superintendent of schools.
- 18 2. Receive copies of and review, in a timely manner, all reports submitted to the
19 superintendent of public instruction by school districts having their administrative
20 headquarters in the county.
- 21 3. Compile reports containing statistics and any other information requested by the
22 superintendent of public instruction and forward the reports at the time and in the
23 manner directed by the superintendent of public instruction.

- 1 4. If requested by a school district, assist in planning, coordinating, and providing
- 2 education and related services.
- 3 5. Promote coordination and cooperation among the school districts and the
- 4 multidistrict special education units within the county.
- 5 6. Assist school districts in taking advantage of incentive programs administered by
- 6 the superintendent of public instruction.
- 7 7. As secretary of the county committee:
- 8 a. Provide to the public information regarding the annexation of property to
- 9 another school district;
- 10 b. Provide to the public all forms necessary for the annexation of property to
- 11 another school district;
- 12 c. Compile information regarding school district annexations and dissolutions
- 13 and provide such information to the appropriate county committees, at the
- 14 time and in the manner directed by the superintendent of public instruction;
- 15 and
- 16 d. Compile information regarding school district annexations, reorganizations,
- 17 and dissolutions, and provide such information to the state board of public
- 18 school education, at the time and in the manner directed by the state board.
- 19 8. Perform any other duties required by law.

NOTE: Present Sections 15-22-09, 15-22-18, and 15-29-07. Subsection 2 of this section eliminates a listing of specific reports to be reviewed by the county superintendent, because the list under current law ends with "and any other reports" required by the Superintendent. The section also includes language requiring that the county superintendents "review" the reports, rather than merely "receive and transmit" them.

Subsection 3 of this section is a rewrite of present Section 15-22-18. The significant difference is the omission of language providing that the board of county commissioners withhold the last check of each year, payable as salary to a county superintendent, until the Superintendent of Public Instruction acknowledges the receipt of the annual report. According to testimony, this requirement is not being met. The section requiring counties to employ county superintendents does provide that the presidents of the school boards representing districts having their administrative headquarters in the county perform the duties of school boards, as set forth in present Sections 15-47-27 and 15-47-38, with respect to the evaluation, renewal, and discharge of an individual hired under this section. This would include appropriately dealing with the failure to perform required duties. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

1 **15.1-11-05. Preservation of records.** The county superintendent of schools shall
2 provide for the preservation of all property that is acquired in an official capacity and which has
3 educational value and interest or which records official acts by the county superintendent. At
4 the conclusion of the county superintendent's employment, the county superintendent shall
5 deliver the property to the superintendent's successor.

NOTE: Present Section 15-22-14. This section, as rewritten, removes references to a seal and authorizes the county superintendent to "provide for the preservation of property" rather than requiring the county superintendent personally preserve the property.

6 **15.1-11-06. Clerks - Office and supplies.** The board of county commissioners shall
7 determine the number and salaries of administrative assistants for the county superintendent of
8 schools and shall furnish a suitable office for the county superintendent, together with all
9 necessary equipment, furniture, and supplies. If the board of county commissioners fails to do
10 so, the county superintendent may provide the same and the board of county commissioners
11 shall audit and pay the reasonable expenses so incurred.

NOTE: Present Section 15-22-07. This section, as rewritten, changes references from "office assistants and clerks" to "administrative assistants." As directed by the committee, it maintains language that would allow the county superintendent to obtain and furnish an office in the event that the board of county commissioners refuses to do so and it maintains language providing that in such a circumstance, the board of county commissioners is still responsible for costs incurred.

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

14 **15.1-12-01. Definitions.** In this chapter, unless the context otherwise requires:

- 15 1. "Annexation" means the alteration of a school district's boundaries through the
16 removal of real property from one school district and its attachment to another
17 contiguous school district.
- 18 2. "Contiguous" means two or more tracts of real property which share a common
19 point or which would share a common point but for an intervening road or right of
20 way.
- 21 3. "Dissolution" means the process through which a school district ceases to function
22 and the subsequent attachment of its real property to other school districts.
- 23 4. "Reorganization" means the formation of a new school district through the
24 combination, in whole or in part, of two or more school districts.
- 25 5. "State board" means the state board of public school education.

NOTE: Present Section 15-27.1-01. This section modernized the language found in current law and removed some definitions deemed unnecessary. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

1 **15.1-12-02. Annexation of property to school district - Exchange - Petition -**

2 **Requirements.** An individual may petition to have property in one school district annexed to
3 another school district by an exchange of property with property in a contiguous school district.

4 In order to be approved:

- 5 1. The petitioner must reside within the boundary of the property to be exchanged;
- 6 2. The petitioner must obtain the written approval of one qualified elector from each
7 residence within the boundary of the property referenced in subsection 1;
- 8 3. The petitioner must obtain written authorization for the exchange of property from
9 the owner of the property to be exchanged in the adjacent district, provided that the
10 owner need not reside on the property to be exchanged;
- 11 4. The difference in the taxable valuation of the property involved in the exchange
12 may not exceed one thousand dollars;
- 13 5. Each property involved in the exchange is contiguous with the school district to
14 which it is being annexed; and
- 15 6. Except as otherwise provided, the annexation by an exchange of property under
16 this section is subject to, and meets, all other statutory requirements regarding
17 annexations.

NOTE: Present Section 15-27.2-02. At the recommendation of the legal counsel for the State Board of Public School Education, this section omits the following language: "If a school board is aggrieved by the refusal of another school board to approve the exchange of property, the aggrieved board may appeal the other's decision to the county committee and, if necessary, to the state board." (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

18 **15.1-12-03. Annexation of property to school district - Eligibility.** Real property
19 may be annexed to a school district provided:

- 20 1. The property to be annexed constitutes a single area that is contiguous to the
21 school district;
- 22 2. The property to be annexed does not constitute an entire school district;
- 23 3. The annexation petition is signed by two-thirds of the qualified electors residing on
24 the property to be annexed;

- 1 4. The annexation petition is filed with the county superintendent of schools for the
- 2 county in which a majority of the property to be annexed is located;
- 3 5. A public hearing is held by the county committee or the county committees, as
- 4 required in section 15.1-12-05;
- 5 6. The annexation petition is approved by at least one county committee; and
- 6 7. The annexation petition is approved by the state board.

NOTE: Present Section 15-27.2-01. This section was divided into two sections. This section covers the generic steps of annexing property and the following section covers the details of the annexation petition. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

7 **15.1-12-04. Annexation of property to school district - Petition requirements.**

- 8 1. A petition to request the annexation of property must:
 - 9 a. Be obtained from the county superintendent of schools;
 - 10 b. Identify all property to be annexed, before circulation;
 - 11 c. Identify one child whose place of residence is on the property to be annexed
 - 12 and whose parent has stated an intention to send the child to a public school
 - 13 in the district receiving the property during the school year following the
 - 14 proposed effective date of the annexation;
 - 15 d. Be signed in the presence of the petition carrier; and
 - 16 e. Be submitted to the county superintendent of the county in which all or most
 - 17 of the property to be annexed is located.
- 18 2. Any person who wishes to add or remove that person's name from the annexation
- 19 petition may do so until five p.m. on the last business day before the public hearing
- 20 by the county committee; provided the person appears before the county
- 21 superintendent to request the action.
- 22 3. This section does not apply to annexations involving an exchange of property.

NOTE: Present Section 15-27.2-01. This section is substantively the same as that found in present Section 15-27.2-01. In current law, that section addresses both general provisions regarding annexations and the requirements for the annexation petition itself. The committee directed that these concepts be separated in order to clarify the language. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

23 **15.1-12-05. Annexation of property to school district - Hearing.**

- 1 1. Upon receiving a petition for the annexation of property to a school district, the
2 county superintendent shall schedule and give notice of a public hearing regarding
3 the annexation.
- 4 2. The county superintendent shall publish notice of the public hearing in the official
5 newspaper of the county in which the major portion of each affected school
6 district's real property is situated, at least fourteen days prior to the date of the
7 hearing. If no newspaper is published in the county, the county superintendent
8 shall publish the notice in a newspaper in an adjoining county in this state.
- 9 3. Prior to the hearing, the county committee shall:
 - 10 a. Determine the number of qualified electors residing on the property to be
11 annexed;
 - 12 b. Ensure that two-thirds of such qualified electors have signed the petition; and
 - 13 c. Ensure that all other statutory requirements regarding the petition have been
14 met.
- 15 4. At the hearing, the county committee shall accept testimony and documentary
16 evidence regarding:
 - 17 a. The value and amount of property held by each affected school district;
 - 18 b. The amount of all bonded and other indebtedness incurred by each affected
19 district;
 - 20 c. The equitable adjustment of all property, assets, debts, and liabilities among
21 the affected districts;
 - 22 d. The taxable valuation of each affected district and the projected valuation
23 under the proposed annexation;
 - 24 e. The size, geographical features, and boundaries of each affected district;
 - 25 f. The number of students in each affected district;
 - 26 g. The general population of each affected district;
 - 27 h. Each school in the district, including its name, location, condition, the grade
28 levels it offers, and the distance that students living in the petitioned area
29 would have to travel to attend school;
 - 30 i. The location and condition of roads, highways, and natural barriers in each
31 affected district;

- 1 j. Conditions affecting the welfare of students residing on the property to be
- 2 annexed;
- 3 k. The boundaries of other governmental entities;
- 4 l. The educational needs of communities in each affected district;
- 5 m. Potential savings in school district transportation and administrative services;
- 6 n. The potential for a reduction in per student valuation disparities between the
- 7 affected districts;
- 8 o. The potential to equalize or increase the educational opportunities for
- 9 students in each affected district; and
- 10 p. All other relevant factors.
- 11 5. Following consideration of the testimony and documentary evidence presented at
- 12 the hearing, the committee shall make specific findings of fact and approve or deny
- 13 the annexation. If the annexation is approved, the county superintendent shall
- 14 forward all minutes, records, documentary evidence, and other information
- 15 regarding the proceeding and the county committee's decision to the state board
- 16 for final approval of the annexation.
- 17 6. a. Except as provided in this subsection, the state board shall conduct a hearing,
- 18 accept and consider testimony and documentary evidence regarding the
- 19 proposed annexation, make specific findings, and approve or deny the
- 20 annexation.
- 21 b. If no opposition is presented to the county committee at the hearing and the
- 22 county committee approves the annexation, the state board may review the
- 23 record of the county committee and give final approval to the annexation
- 24 without holding its own hearing.
- 25 7. If the school districts involved in a proposed annexation include property in more
- 26 than one county, but the major portion of each district's property is in the same
- 27 county, the county committee of that county shall consider the annexation petition.
- 28 8. If the school districts involved in a proposed annexation are situated in more than
- 29 one county and the major portion of each district's property is not in the same
- 30 county, the county committees of those counties encompassing the major portion
- 31 of each school district shall jointly consider the annexation petition. If the

1 annexation is approved by at least one county committee, the county
2 superintendent of schools for the county in which the property described in the
3 annexation petition is located shall submit the annexation petition and the record of
4 the hearing to the state board for final approval.

5 9. If a county committee denies the annexation, another petition involving any of the
6 same property may not be submitted to the county committee for a period of three
7 months from the date on which the original petition was filed with the county
8 superintendent. A petition involving any of the same property cited in the original
9 petition may not be considered by a county committee more than twice in a
10 twelve-month period.

11 10. If the state board denies the annexation, another petition involving any of the same
12 property may not be submitted to the county committee for a period of three
13 months after the state board's denial. A petition involving any of the same property
14 cited in the original petition may not be considered by the state board more than
15 twice in a twelve-month period.

16 11. a. If an annexation petition is considered by a single county committee, the
17 decision of the county committee may be appealed to the state board.
18 b. If an annexation petition is considered by more than one county committee
19 and at least one county committee approves the annexation, the decision may
20 be appealed to the state board.
21 c. If an annexation petition is considered by more than one county committee
22 and denied by each county committee, the decision may not be appealed to
23 the state board.

24 12. Each annexation must receive final approval from the state board.

25 13. A decision of the state board with respect to an annexation petition may be
26 appealed to the district court of the judicial district in which the property to be
27 annexed is located.

NOTE: Present Section 15-27.2-04. (Amended at the direction of the committee, as
per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

28 **15.1-12-06. Transfer of real property upon annexation, reorganization, or**
29 **dissolution.** The legal title to all real property owned by a school district and annexed to
30 another school district, included in a reorganized district, or subjected to dissolution, vests in the

1 board of the reorganized school district or of the district to which the property is annexed or
2 attached on the effective date of the reorganization, annexation, or dissolution. If the
3 reorganized district or district to which the property is annexed or attached includes less than
4 the whole of the former district, legal title to the real property of the former district vests in the
5 board of the school district in which the property is situated on the effective date of the
6 reorganization, annexation, or dissolution. A certificate prepared by a licensed attorney, citing
7 the legal description of the property and stating that the property has become annexed,
8 attached, or reorganized with another school district, must be recorded in the office of the
9 register of deeds of the county in which the property is located.

NOTE: Present Section 15-27.1-10. The substantive change made in this section has to do with the preparation and filing of the certificate of title. Under present law, the certificate is to be prepared by the county superintendent. This was changed to require preparation by a licensed attorney. Under current law, it is stated that the certificate "may" be recorded in the office of the register of deeds. This was changed to provide that the certificate "must" be recorded in the office of the register of deeds. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

10 **15.1-12-07. Annexation of property to school district - Effective date.** Annexations
11 under this chapter become effective on July first following final approval by the state board.

NOTE: Present Section 15-27.2-05. The committee determined that this section contains an amalgamation of thoughts, most of which are either unnecessary or addressed elsewhere. The committee directed that the section be cleaned up to reflect its main purpose, i.e., the effective date of annexations.

12 **15.1-12-08. Payment of school district levies after annexation or dissolution.**

13 Upon state board approval of an annexation or dissolution:

- 14 1. The land annexed or attached to the receiving school district is subject to all of the
15 receiving school district's levies, except those to retire bonded debt existing before
16 the annexation or attachment, unless determined otherwise by the state board in
17 approving the annexation or dissolution; and
- 18 2. The land annexed to the receiving school district is not subject to any of the levies
19 of the school district from which it was detached, except those to retire bonded
20 debt existing before the annexation, unless determined otherwise by the state
21 board in approving the annexation.

NOTE: Present Section 15-27.1-12. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

1 **15.1-12-09. Tax levies for equalization between school districts limited -**
2 **Remittance tax.** When the amount to be levied on each of several districts or parts of districts
3 affected by a change in school district boundaries has been determined, a list of the amounts
4 must be made, and the respective amounts must be set forth opposite the name of the district
5 to which it is chargeable. The entire levy must be stated substantially in the form provided for
6 certifying school taxes, must be addressed to the county auditor, and must be signed by a
7 majority of the members of the county committee or committees. Opposite the several
8 descriptions of property on the tax list must be entered the names of the school districts within
9 which the property is situated. The levy is a valid levy on the taxable property of each district.
10 Not more than fifteen mills of the levy may be extended against the taxable property in any one
11 year, and the levy, not exceeding fifteen mills on the dollar, must be extended from year to year
12 until the whole amount has been levied. The county auditor shall preserve the levies and shall
13 extend the several rates from year to year as required by law for school district taxes. The tax
14 must be collected at the same time and in the same manner as other taxes are collected, and
15 paid over to the proper school district within which the property upon which the tax is paid is
16 situated. The proceeds of taxes upon parts of districts lying outside of the district with which
17 they are equalized must be paid to the business manager of the school district within which the
18 property is situated. The taxes levied for equalization purposes must be in addition to all other
19 taxes for school purposes. This section does not apply to school district reorganizations,
20 except where specifically referenced.

NOTE: Present Section 15-47-21. The Assistant Attorney General representing the
State Board of Public School Education recommends that this section be eliminated.

21 **15.1-12-10. School district reorganization - Initiation of a reorganization plan.** In
22 order for two or more school districts or contiguous portions of two or more school districts to
23 initiate a reorganization process, the board of each participating school district must:
24 1. Vote to pursue the reorganization;
25 2. Prepare a reorganization plan;
26 3. Approve the reorganization plan; and
27 4. Submit the plan to the county committee or committees having jurisdiction over the
28 greater portion of property in each participating school district.

NOTE: Present Section 15-27.3-01.1. This section adds the first line of present
Section 15-27.3-02, which provides that the reorganization plan, once adopted by the

school boards, must be submitted to the appropriate county committee or committees.
(Amended at the direction of the committee, as per the request of Ms. Leah Ann
Schneider, Assistant Attorney General.)

1 **15.1-12-11. School district reorganization - Contents of plan - Public hearing -**

2 **Testimony and evidence.**

- 3 1. The reorganization plan required by section 15.1-12-10 must include:
- 4 a. A map showing the boundaries of each participating district and of the
- 5 proposed new district;
- 6 b. The demographic characteristics of each participating district, including the
- 7 population per age group;
- 8 c. The number of students enrolled in each participating district during the
- 9 current school year and during the ten preceding school years;
- 10 d. Projected student enrollments for the ensuing ten years;
- 11 e. The location and condition of all school buildings and facilities in each
- 12 participating district and intended uses for the buildings and facilities;
- 13 f. Proposals for the construction, modification, or improvement of school
- 14 buildings and facilities located within the boundaries of the new district;
- 15 g. Proposals for course offerings by the new district;
- 16 h. Proposals regarding the administrative structure of the new district and the
- 17 number of full-time equivalent personnel to be employed by the new district;
- 18 i. Proposals regarding the number of members who will constitute the board of
- 19 the new district and the manner in which the members are to be elected;
- 20 j. Proposals regarding the provision of transportation to students attending the
- 21 new district;
- 22 k. The identification of other governmental entities, including multidistrict special
- 23 education units and area vocational and technology centers, which may
- 24 provide services to the new district;
- 25 l. The taxable valuation and per student valuation of each participating district
- 26 and the taxable valuation and per student valuation of the new district;
- 27 m. The amount of all bonded and other indebtedness incurred by each
- 28 participating district;

- 1 n. A proposal for the equitable distribution of all property, assets, debts, and
2 liabilities of each participating district;
- 3 o. A proposed budget for the new district and a proposed general fund levy,
4 provided that tax levies submitted to and approved by the state board as part
5 of a reorganization plan are not subject to mill levy limitations otherwise
6 provided by law; and
- 7 p. Any other information that the participating school districts wish to have
8 considered by the county committee or the state board.
- 9 2. Upon receiving a reorganization plan, the county superintendent shall schedule
10 and give notice of a public hearing regarding the plan.
- 11 3. The county superintendent shall publish the notice in the official newspaper of the
12 county at least fourteen days prior to the date of the hearing.
- 13 4. If no newspaper is published in the county, the county superintendent shall publish
14 the notice in the official newspaper of an adjoining county in this state.
- 15 5. Prior to the hearing, the county committee shall review the reorganization plan and
16 ensure that all statutory requirements have been met.
- 17 6. At the hearing, the county committee shall accept testimony and documentary
18 evidence regarding the reorganization plan.
- 19 7. Following consideration of the testimony and documentary evidence presented at
20 the hearing, the committee shall approve or deny the reorganization plan.
- 21 8. If the plan is approved by at least one county committee, the county superintendent
22 shall forward all minutes, records, documentary evidence, and other information
23 regarding the proceeding and the county committee's decision to the state board
24 for final approval.
- 25 9. To become effective, a reorganization plan must meet all statutory requirements
26 and must receive approval by both the state board and a majority of electors
27 residing within the boundaries of the proposed new district.

NOTE: Present Section 15-27.3-05. The proposed verbiage omits the concept that if a county committee fails to schedule a hearing, there must be a petition process, asking the county committee to schedule a hearing. The law directs the county committee to schedule a hearing upon receipt of a reorganization plan. If there is a refusal to do so, it is appropriate to institute a mandamus action in the courts, rather than a petition process asking the committee to observe the law. This section also includes verbiage duplicated

in present Section 15-27.3-04. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

1 **15.1-12-12. School district reorganization - Approved plan - Special election -**
2 **Formation of new district.**

- 3 1. If the state board approves a reorganization plan, together with the proposed
4 adjustments of property, debts, and liabilities among the participating districts, the
5 state board shall notify each county superintendent of schools having jurisdiction
6 over real property in the proposed new district. A county superintendent receiving
7 notice under this section shall call a special election in order that the electors
8 residing within the boundaries of the proposed new district may approve or reject
9 the reorganization plan. The election must be held between July first and
10 December thirty-first of the year in which the plan is approved by the state board.
11 If there are insufficient days left in the year to meet the notice requirements of this
12 section, the election must be held the following year.
- 13 2. The county superintendent shall give notice of the election by publishing the time,
14 date, and place of the election in the official newspaper of the county, at least
15 fourteen days prior to the date of the election.
- 16 3. The election notice must:
- 17 a. State that the election has been called for the purpose of approving or
18 rejecting a plan to form a new school district;
- 19 b. Describe the boundaries of the proposed new district; and
- 20 c. Include a statement describing the adjustment of property, debts, and
21 liabilities proposed in the plan, together with the proposed tax levy.
- 22 4. The county superintendent shall appoint judges and clerks of the election. The
23 election must be conducted in the same manner and the polls must open and close
24 at the same time as specified for school district elections.
- 25 5. The result of the elections must be certified by the participating school boards and
26 delivered to the county superintendent within three days after the closing of the
27 polls.
- 28 6. If a majority of electors residing within each school district vote to approve the
29 reorganization plan, the county superintendent shall make the necessary

1 adjustments of property, debts, and liabilities and perform all duties required by law
2 in order to establish and organize the new school district.

NOTE: Present Section 15-27.3-08. This section omits the requirement that the election must be held at the place or places determined convenient by the county superintendent. This section adds the requirement in subsection 5 that the election be certified by the participating school boards. Presently, it is not clear who is responsible for the certification. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

3 **15.1-12-13. School district reorganization - Vote on issuance of bonds -**

4 **Reorganization plan.**

- 5 1. If the reorganization plan proposes the issuance of bonds under chapter 21-03, the
6 question of the bond issuance may be voted on at the same election as that for
7 which approval of the reorganization plan is sought; provided:
- 8 a. Each of the school boards involved in the reorganization adopts, by a majority
9 vote, an identical initial resolution required by chapter 21-03; and
 - 10 b. All of the terms of chapter 21-03 are complied with, except that if there is a
11 conflict with section 15.1-12-15 regarding how the election will proceed, the
12 terms of section 15.1-12-15 prevail.
- 13 2. If the reorganization is not approved, the result of the vote on the bond issuance is
14 void.

NOTE: Present Section 15-27.3-07.1. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

15 **15.1-12-14. School district reorganization - Proposal rejection - Revision - New**
16 **election.**

- 17 1. If the electors reject the reorganization plan, the county committee may, after a
18 period of three months from the date of the special election, hold a public hearing
19 as provided for in section 15.1-12-11 to consider a revised reorganization plan
20 proposed by the participating school districts. If the county committee approves a
21 revised plan, the county superintendent shall submit the revised plan to the state
22 board for approval.
- 23 2. If the state board approves the revised plan, it shall notify the county
24 superintendent of schools. A county superintendent receiving notice under this
25 section shall follow the procedures set forth in this chapter for calling a special
26 election to approve or reject the revised plan. If a majority of the electors residing

1 within each school district vote to approve the revised reorganization plan, the
2 county superintendent shall make the necessary adjustments of property, debts,
3 and liabilities and perform all duties required by law in order to establish and
4 organize the new school district.

NOTE: Present Section 15-27.3-11. As pointed out by the Department of Public Instruction staff, present Section 15-27.3-11 has an inherent problem. It allows the county committee, the adjudicatory body, to revise a reorganization plan that was rejected by voters, and submit the revision to the state board for approval. Department staff suggested that this was an inappropriate role for the county committee and that what should be drafted is a provision allowing the county committee to consider revisions made by or suggested by others. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

5 **15.1-12-15. School district reorganization - School boards - Assumption of**
6 **duties.**

- 7 1. Upon approval of a reorganization plan by the electors, in accordance with section
8 15.1-12-12, a school board for the reorganized district must be elected at the next
9 regular school district election or at a special election called by the county
10 superintendent of schools for that purpose. The first school board election in a
11 newly reorganized district is governed by chapter 15.1-09.
12 2. Members of newly formed school boards representing reorganized districts may
13 not enter upon the duties of office until the time specified in section 15.1-12-19,
14 except as provided in sections 15.1-12-16 and 15.1-12-17. Prior to the completion
15 of a reorganization, the board of an existing district may not contract or obligate the
16 district, except with the approval of the county committee.

NOTE: Present Section 15-27.3-12. The rewrite of this section eliminates language regarding the existence, powers, and duties of old and new school boards because the language is duplicated by that in present Section 15-27.3-15. The rewrite also eliminates the statement that future elections are governed by the laws pertaining to such elections. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

17 **15.1-12-16. School district reorganization board - Duties.**

- 18 1. The board of a reorganized school district established under this chapter shall
19 negotiate with the district's teachers, as provided by chapter 15.1-16, and may
20 contract with the teachers' representative organization prior to the effective date of
21 the reorganization. If by five p.m. on July first of the year the reorganized district
22 begins operations, a negotiated agreement has not been entered into between the

1 board and the teachers pursuant to statute, no teacher employed by the board may
2 receive less in salary and benefits than that teacher received for the preceding
3 school year. For purposes of this section, "salary and benefits" means salary,
4 insurance benefits, teachers' fund for retirement contributions, personal leave, sick
5 leave, accumulated sick leave, extracurricular salary, reduction-in-force policy,
6 grievance procedures, and recall procedures.

7 2. On or before February first of the year in which the reorganization becomes
8 effective, the board of the reorganized school district shall hold a public hearing to
9 present the curriculum, course offerings, and staff positions to be available during
10 the coming school year. The board shall publish notice of the hearing in the official
11 newspaper of each county having land in the reorganized district, at least fourteen
12 days prior to the date of the hearing.

13 3. By five p.m. on April fifteenth of the year in which the reorganization becomes
14 effective, the board of the reorganized school district shall notify in writing each
15 teacher employed by the districts being reorganized, whether or not the teacher will
16 be offered a contract of employment with the reorganized district.

NOTE: Present Section 15-27.3-13. As requested by the committee, the rewrite does
include time deadlines with the provisions requiring notice. (Amended at the direction of
the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney
General.)

17 **15.1-12-17. School district reorganization - Issuance of bonds - Procedure.**

18 Before a reorganization is effective, the board of a reorganized school district established under
19 this chapter may proceed in accordance with chapter 21-03 to issue bonds for purposes
20 specified in that chapter if the bond issuance is provided for by the approved reorganization
21 plan.

NOTE: Present Section 15-27.3-13.1.

22 **15.1-12-18. School district reorganization - Elementary schools.** An elementary
23 school in existence at the time a reorganization becomes effective may be closed upon
24 approval of the board. Unless otherwise directed by the superintendent of public instruction, a
25 school closed under this section may be reopened only upon resolution of the school board and
26 only at the beginning of a school year that follows by at least ninety days the date of the school
27 board's closure vote.

NOTE: Present Section 15-27.3-14. The committee directed that present Section 15-27.3-14 be reworked because it presently provides that a board may reopen a school at any time and then proceeds to limit the times when a board may reopen a school. The committee was equally concerned about the provision requiring a four-fifths vote for the closure of an elementary school. The committee determined that the provision is not problematic if there is a five-member school board. However, if a district is governed by either a larger or a smaller board, the percentages are not similar. The rewrite, therefore, provides for a majority vote.

1 **15.1-12-19. School district reorganization - Approval of plan - Effective date -**
2 **Transfer of all property.** A reorganization plan takes effect on the first day of July following its
3 approval by the voters. Within thirty days from the effective date of the reorganization,
4 personnel from school districts incorporated in whole or in part into a reorganized district shall
5 turn over to the board of the reorganized district all property and assets as required by the
6 approved reorganization plan. Unless otherwise provided, debts, obligations, and liabilities of
7 the districts or parts of districts incorporated into the reorganized district become the debts,
8 obligations, and liabilities of the reorganized district.

NOTE: Present Section 15-27.3-15.

9 **15.1-12-20. School district reorganization - Sale or removal of school buildings.**
10 The board of a reorganized district may sell or move a school building located in the district. If
11 a petition calling for the sale of a school building is signed by a majority of the qualified electors
12 residing within the boundaries of a former school district now wholly located within the
13 boundaries of the reorganized district, and is submitted to the board, the board shall sell the
14 building. If the petition calls for the board to move the building, the board shall move the
15 building to the location designated in the petition. The board shall deposit proceeds of the sale
16 in either the district's general fund or the building fund. If the purchaser or recipient of the
17 building is a political subdivision of this state, the board, upon a unanimous vote, may sell the
18 building for less than its fair market value.

NOTE: Present Section 15-27.3-17.

19 **15.1-12-21. School district reorganization - Cost of elections.** If the electors reject
20 a reorganization plan, the cost of the election must be borne by each school district that had
21 real property included in the proposed district. The percentage of the total cost for which each
22 district is obligated is the same as the percentage that the district's real property included in the
23 proposed reorganized district bears to the total amount of real property in the proposed

1 reorganized district. If the electors approve a reorganization plan, the cost of the election is
2 borne by the newly reorganized district.

NOTE: Present Section 15-27.3-18. The committee directed that the rewrite eliminate inaccuracies in phraseology, especially that which requires "each" district to pay "all" costs.

3 **15.1-12-22. School district reorganization - Changes in plan.**

4 1. All provisions of a reorganization plan, except those relating to boundaries and
5 geographic voting areas, may be changed upon the concurrence of a majority of
6 the qualified electors voting on the question. The question may be placed before
7 the voters at a regular or special election upon a motion of the school board and
8 shall be placed before the voters upon receipt by the board of a petition signed by
9 at least:

- 10 a. Twenty-five percent of the qualified electors residing in the district, if the
11 population of the district, as determined by the county superintendent, is less
12 than twenty-five qualified electors;
- 13 b. Twenty percent of the qualified electors residing in the district, if the
14 population of the district is at least twenty-five but not more than four
15 thousand; or
- 16 c. Fifteen percent of the qualified electors residing in the district, if the population
17 of the district is greater than four thousand.
- 18 2. Notwithstanding the provisions of subsection 1, if a school district has been
19 reorganized for at least ten years, the boundaries of geographic voting areas may
20 be changed upon the concurrence of a majority of qualified electors voting on the
21 question.
- 22 3. By resolution, the board in a reorganized district may change to at large voting for
23 school board members, if there is a variance of more than ten percent in the
24 population between any of the district's established geographic areas with resident
25 candidates.

NOTE: Present Section 15-27.3-19. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

26 **15.1-12-23. School district reorganization - Board - Powers after five years -**
27 **Exceptions.**

- 1 1. Beginning five years after the effective date of the reorganization, the board of a
2 reorganized district may exercise all powers granted to a school board by law,
3 regardless of limitations contained in the district's reorganization proposal.
4 2. Notwithstanding the provisions of subsection 1, the board of a reorganized district
5 may change geographic voting areas only in accordance with section 15.1-12-24.

NOTE: Present Section 15-27.3-20. The rewrite eliminates the reference to changes in transportation provisions because this is already covered in proposed Section 15.1-12-24.

6 **15.1-12-24. School district reorganization - Proportionate tax rate on agricultural**
7 **property.** A school district that for school purposes imposed on agricultural property a
8 proportionate tax rate different from the school district levy on other taxable property, as
9 permitted by repealed sections 15-53.1-37 and 15-53.1-38 on December 31, 1984, shall
10 continue to levy the proportionate tax rate unless the school board is directed, by a majority of
11 the district's qualified electors voting on the question, to discontinue the proportionate tax rate.
12 No other school board may impose a proportionate tax rate on different classes of property
13 within the district.

NOTE: Present Section 15-27.3-21.

14 **15.1-12-25. Nonoperating school district - Reorganization or dissolution.** A school
15 district that ceases to provide educational services within the district must, within one year,
16 become through a process of reorganization or dissolution, part of a district operating an
17 approved school. If a school district affected by this section has not become part of a district
18 operating an approved school within the prescribed time limit, the school district must be
19 dissolved. This section does not apply to military installation school districts.

NOTE: Present Section 15-27.1-11. The provisions of present Section 15-27.2-11 have been divided into two sections. The first deals with the closure of a nonoperating school. The second deals with the transportation of students residing within the attached area. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

20 **15.1-12-26. Nonoperating school district - Transportation.** The school board of the
21 district to which a nonoperating district is attached shall provide transportation to students
22 residing within the boundaries of the attached land in the same manner that transportation is
23 provided to all other students in the district.

NOTE: Present Section 15-27.1-11. The provisions of present Section 15-27.1-11 have been divided into two sections. The first deals with the closure of a nonoperating

school. The second deals with the transportation of students residing within the attached area.

1 **15.1-12-27. Dissolution of school district - Grounds.**

- 2 1. A county committee shall initiate proceedings to dissolve a school district and
3 attach the property to other operating school districts when it is notified in writing by
4 the county superintendent of schools whose jurisdiction includes the administrative
5 headquarters of the district that:
- 6 a. The district is financially unable to effectively and efficiently educate its
7 students;
- 8 b. The district has not operated a school as required by section 15.1-12-25; or
9 c. A school board has determined that dissolution is in the best interest of its
10 students.
- 11 2. Except as provided in subsection 3, a county committee shall initiate proceedings
12 under section 15.1-12-28 to attach real property to an operating school district
13 when it is notified in writing by the county superintendent that:
- 14 a. Real property has been severed from its school district by the expansion of a
15 city and the severed portion is not contiguous with its district; or
16 b. There exists real property that does not belong to a school district.
- 17 3. If a school district reorganization plan which does not include all real property in a
18 district is approved by the electors, the county committee shall, within forty-five
19 days after the election, hold a hearing under section 15.1-12-30 to attach the
20 remaining property to one or more operating districts.
- 21 4. Receipt of notice by a county committee under this section:
- 22 a. Renders an annexation petition involving any real property in the district void,
23 unless the annexation has already been approved by the state board; and
24 b. Prohibits the acceptance of a new annexation petition involving any real
25 property in the district until all dissolution proceedings have been completed.
- 26 5. One or more annexation petitions may not be used to annex all of the real property
27 in a school district to surrounding school districts.

NOTE: Present Section 15-27.4-01. At the direction of the committee, the rewrite attempts to clarify the circumstances under which dissolution proceedings must be instituted and those under which attachment proceedings must be instituted. The

rewrite also clarifies the procedure to be followed when a reorganization proposal does not include all property in the district.

Whereas the present law calls for a dissolution if a district is unable to levy sufficient taxes to carry on normal school operations, the rewrite provides that dissolution proceedings must be instituted when a district is financially unable to "effectively and efficiently" educate its students. This wording is suggested as a replacement for the reference to "normal school operations," which is open to interpretation.

The rewrite eliminates the requirement that a school board determine that dissolution is in the best interest of its students when the objective is liquidation. This section governs those instances when dissolution proceedings are mandatory, not when they are voluntary.

The rewrite eliminates the provisions regarding an effective date for the dissolution. This is already addressed in proposed Section 15.1-12-30.

The rewrite eliminates the provision that annexation procedures under present Chapter 15-27.2 may not be used to annex, through one or more annexation petitions, all of the territory in a school district to surrounding school districts. This provision is included in proposed Section 15.1-12-03.

The rewrite also eliminates self-evident provisions regarding the effects of prior school district elections, the right of electors residing in the attached territory to vote in school district elections, and the requirement that districts provide for the education of their students during the dissolution process. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

1 **15.1-12-28. Notice of dissolution - Hearing - Order of attachment.**

- 2 1. The county superintendent shall schedule and give notice of a public hearing
3 regarding the dissolution of the district and the subsequent attachment of the
4 property to other districts. The county superintendent shall publish the notice in the
5 official newspaper of each county that encompasses property in the dissolving
6 district and in the official newspaper of each county that encompasses property in
7 a district adjacent to the dissolving district, at least fourteen days prior to the date
8 of the hearing. The county superintendent shall provide notice of the public
9 hearing to the business manager of each school district adjacent to the dissolving
10 district.
11 2. At the hearing, the board of the dissolving district may propose a particular manner
12 of dissolution.
13 3. The county committee shall consider testimony and documentary evidence
14 regarding:
15 a. The value and amount of property held by the dissolving school district;

- 1 b. The amount of all indebtedness, including the amount of all outstanding
- 2 bonds;
- 3 c. The distribution of property among adjacent districts;
- 4 d. The taxable valuation of the dissolving district and the projected valuation of
- 5 adjacent districts;
- 6 e. The size, geographical features, and boundaries of the dissolving district and
- 7 of adjacent districts;
- 8 f. The number of students in the dissolving district and in adjacent districts;
- 9 g. The general population of the dissolving district and adjacent districts;
- 10 h. The location, condition, and accessibility of schools in the dissolving district
- 11 and in adjacent districts;
- 12 i. The location and condition of roads, highways, and natural barriers in the
- 13 dissolving district and in adjacent districts;
- 14 j. The high schools attended by students residing in the dissolving district and in
- 15 adjacent districts;
- 16 k. Conditions affecting the welfare of students in the dissolving district and in
- 17 adjacent districts;
- 18 l. The boundaries of other governmental entities;
- 19 m. The educational needs of communities in the dissolving district and in
- 20 adjacent districts;
- 21 n. Potential savings in school district transportation and administrative services;
- 22 o. The anticipated future use of the dissolving districts' buildings, sites, and
- 23 playfields;
- 24 p. The potential for a reduction in per student valuation disparities;
- 25 q. The potential to equalize or increase the educational opportunities for
- 26 students from the dissolving district and for students in adjacent districts; and
- 27 r. All other relevant factors.
- 28 4. After the hearing, the county committee shall make findings of fact. Subject to final
- 29 approval by the state board, the county committee may order the district dissolved
- 30 and its real property attached to one or more contiguous, operating school districts.

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

NOTE: Present Section 15-27.4-02. Present Section 15-27.4-02 requires the county committee to consider factors listed in an annexation section and relate them to dissolution proceedings. At the direction of the committee, the factors to be considered in a dissolution are listed in this section, just as they are listed in the chapters relating to school district reorganizations and annexations. If in the future the Legislative Assembly wishes to amend any of the factors, that can be easily and clearly accomplished.

The rewrite eliminates language directing that the county committee may order a dissolution if doing so will, "in its judgment, provide the best educational opportunities for the students of the public schools and the wisest use of public funds for the support of the public school system in the school districts and attached territory," because doing otherwise would probably be considered arbitrary and capricious and subject to judicial intervention. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

- 21 **15.1-12-29. Unobligated cash balance of dissolved districts - Distribution.** Any
22 unobligated cash balance not exceeding ten thousand dollars must be held in a separate fund
23 by the auditor of the county having the greatest share of the dissolved school district's land.

1 The county auditor shall hold the fund for one year after the effective date of the dissolution.
2 During that year, the county auditor shall accept assets and pay unresolved debts attributable
3 to the dissolved school district. After one year the county auditor shall distribute the remaining
4 cash balance among the school districts to which the real property of the dissolved district was
5 attached. Unless otherwise directed by the order of dissolution, the distribution to each shall be
6 the same percentage as the taxable valuation at the time of the attachment order.

NOTE: Present Section 15-27.4-02.1. (Amended at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.)

7 **15.1-12-30. Unobligated cash balance of dissolved districts - Tax credits or**
8 **refunds.**

- 9 1. Any unobligated cash balance in excess of ten thousand dollars is a credit for real
10 property owners within the boundaries of the dissolved school district against taxes
11 levied by the district in which their property is now situated. The county auditor
12 shall base the credit on the five-year average of the total mills levied for education
13 by the dissolved district. If property from the dissolved district is attached to more
14 than one school district, the credit that eligible real property owners receive must
15 be the same percentage of the unobligated cash balance as the taxable valuation
16 of the individual's property bears to the total taxable valuation of the dissolved
17 district's property at the time of the attachment order.
- 18 2. Upon approval of the board of county commissioners, any school district required
19 to provide a tax credit under subsection 1 may provide a cash refund in lieu of the
20 tax credit. At the request of the county auditor, the school district holding the
21 unobligated cash balance shall pay to the county treasurer the amount to be paid
22 to those who own real property within the dissolved district. The treasurer shall
23 issue the refund to the owner of the property as shown on the county's assessment
24 list at the time of payment. If there is a lien for unpaid taxes against the property,
25 the treasurer shall first apply the property owner's tax credit toward any
26 outstanding balance. Any amount remaining may then be paid to the property
27 owner. The cash refunds must be calculated proportionately to the total taxable
28 value of the dissolved district during the last year taxes were levied.

NOTE: Present Section 15-27.4-03.

1 **SECTION 13.** Chapter 15.1-19 of the North Dakota Century Code is created and
2 enacted as follows:

3 **15.1-19-01. Legal surname - Use.** Personnel in a public school district, a nonpublic
4 school, a preschool program, and a child care facility shall use a student's legal surname for
5 registration, for the maintenance of all records regarding the student, and in all communications
6 requiring the use of a surname.

NOTE: Present Section 15-47-48.

7 **15.1-19-02. Corporal punishment - Prohibition.**

- 8 1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict
9 corporal punishment on a student.
- 10 2. This section does not prohibit a school district employee from using the degree of
11 force necessary:
 - 12 a. To quell a physical disturbance that threatens physical injury to an individual
13 or damage to property;
 - 14 b. To quell a verbal disturbance;
 - 15 c. For self-defense;
 - 16 d. For the preservation of order; or
 - 17 e. To obtain possession of a weapon or other dangerous object within the
18 control of a student.
- 19 3. For purposes of this section, corporal punishment means the willful infliction of
20 physical pain on a student; willfully causing the infliction of physical pain on a
21 student; or willfully allowing the infliction of physical pain on a student. Physical
22 pain or discomfort caused by athletic competition or other recreational activities
23 voluntarily engaged in by a student is not corporal punishment.
- 24 4. The board of each school district shall develop policies setting forth standards for
25 student behavior and procedures to be followed if the standards are not met.

NOTE: Present Section 15-47-47.

26 **15.1-19-03. Period of silence.** A classroom teacher may require that the students
27 observe a period of silence for meditation or prayer for up to one minute at the beginning of
28 each schoolday. A school board may require that students observe a period of silence for up to
29 one minute at the beginning of each schoolday.

NOTE: Present Section 15-47-30.1.

1 **15.1-19-04. Religious instruction - Excuse of student.** At the request of a student's
2 parent or guardian, the student's school principal shall permit a student to be excused for up to
3 one hour each week in order to obtain religious instruction.

NOTE: Present Section 15-34.2-17. Present Section 15-34.2-17 directs the school board to release a student for religious instruction. At the direction of the committee, this responsibility was placed on the student's school principal. The present section also requires that the times for such release be prescribed by the board after consultation with the student's parent or guardian. The committee indicated that appropriate arrangements could be made without warranting a specific sentence in the statutes.

4 **15.1-19-05. Birth control device - Distribution - Restriction.** No person while acting
5 in an official capacity as an employee or agent of a school district may distribute a birth control
6 device to a student. This section does not apply to the distribution of a birth control device by
7 an employee or agent to a child of that employee or agent.

NOTE: Present Section 15-47-50.

8 **15.1-19-06. Abortion referrals.** No person while acting in an official capacity as an
9 employee or agent of a school district may refer a student to another person, agency, or entity
10 for the purpose of obtaining an abortion. This provision does not extend to private
11 communications between the employee or agent and a child of the employee or agent.

NOTE: Present Section 15-47-49.

12 **15.1-19-07. Communicable parasites - Detection and eradication.** The board of a
13 school district may contract with licensed health care personnel to assist in the detection and
14 eradication of communicable parasites.

NOTE: Present Section 15-47-22. Present Section 15-47-22 provides that upon being petitioned in writing by a majority of the school board members of the county, the board of county commissioners may employ one or more licensed physicians, or graduate nurses duly registered and licensed to practice nursing under the laws of the state, whose duty it is to visit the schools in the county and to examine and inspect pupils attending the schools. The school board of any school district, when petitioned to do so by a majority of the persons having children attending the schools of the district, may employ one or more licensed physicians, or graduate nurses duly registered and licensed to practice nursing in this state, to visit the schools in the district to examine and inspect the children attending such schools.

Based on the recommendation of the Superintendent of Public Instruction, the committee directed that this section be replaced with one that would allow boards to contract with medical personnel for purposes such as head lice inspection.

15 **15.1-19-08. Homeless child - Education.**

- 1 1. A homeless child is entitled to a free public school education, in the same manner
2 as that provided to other public school students, in accordance with the Stewart B.
3 McKinney Homeless Assistance Act [Pub. L. 100-77; 101 Stat. 525; 42 U.S.C.
4 11431 et seq.].
- 5 2. A school district shall allow a nonresident homeless child to attend school.
- 6 3. For the purposes of this section, "homeless child" means a homeless individual as
7 described in the Stewart B. McKinney Homeless Assistance Act [Pub. L. 100-77,
8 section 103(a); 101 Stat. 485; 42 U.S.C. 11302] and as defined in rules adopted by
9 the superintendent of public instruction.
- 10 4. The superintendent of public instruction shall adopt rules to implement this section.
11 The rules must provide for the educational placement of homeless children
12 according to the child's best interest.

NOTE: Present Section 15-47-01.1 directs the Superintendent of Public Instruction to adopt and publish administrative rules under Chapter 28-32. The publication requirement was omitted because that is covered by other laws.

13 **15.1-19-09. Students - Suspension and expulsion - Rules.**

- 14 1. The board of a school district shall adopt rules regarding the suspension and
15 expulsion of a student. The rules must provide for a procedural due process
16 hearing that allows a student's parent or representative to participate in the
17 hearing.
- 18 2. A student may be suspended for up to ten days for insubordination, habitual
19 indolence, disorderly conduct, or for violating a school district weapons policy.
- 20 3. A student enrolled in an alternative education program for which state per student
21 payments are available may be suspended for up to twenty days for
22 insubordination, habitual indolence, disorderly conduct, or for violating a school
23 district weapons policy.
- 24 4. A student, including one enrolled in an alternative education program, may be
25 expelled from school for insubordination, habitual indolence, disorderly conduct, or
26 for violating a school district weapons policy; provided the expulsion does not last
27 beyond the termination of the current school year.

NOTE: Present Sections 15-29-08(13), 15-38-13.1, and 15-38-13.2. The sections listed above all reference the suspension and expulsion of students. Present section 15-29-08(13) provides that a student may be suspended or expelled for, among other

activities, violation of a school district weapon's policy. The rewrite includes this as a reason for the suspension or expulsion of a student enrolled in an alternative education program.

1 **15.1-19-10. Possession of a weapon - Policy - Expulsion from school.**

- 2 1. The board of each school district shall adopt a policy governing the possession of
3 weapons on school property or at a school function and provide for the punishment
4 of any student found to be in violation of the policy.
- 5 2. In the policy required by subsection 1, a board shall:
- 6 a. Prohibit the possession of a firearm by a student on school property or at
7 school functions;
- 8 b. Provide for the immediate suspension from school of any student found to be
9 in violation of the policy;
- 10 c. Provide that within ten days of the student's suspension, the student shall
11 have a hearing before the school board regarding the violation of the policy;
- 12 d. Provide that the school board shall consider testimony and evidence at the
13 hearing regarding the violation of the policy;
- 14 e. Provide that the board may expel the student for up to one year; and
- 15 f. Provide that the school district superintendent or the principal of a school in a
16 district that does not employ a superintendent may modify the order of the
17 board in accordance with criteria established by the board.
- 18 3. If a board expels a student under this section, the board may authorize the
19 provision of educational services to the student in an alternative setting.
- 20 4. Actions under this section may not conflict with chapter 15.1-33 and the Individuals
21 With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400
22 et seq.].
- 23 5. This section does not apply to any student participating in a school-sponsored
24 shooting sport, provided the student informs the school principal of the student's
25 participation and the student complies with all requirements set by the principal
26 regarding the safe handling and storage of the firearm.
- 27 6. For purposes of this section:
- 28 a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197;
29 18 U.S.C. 921].

- 1 b. "School property" includes all land within the perimeter of the school site and
2 all school buildings, structures, facilities, and school vehicles, whether owned
3 or leased by a school district, and the site of any school-sponsored event or
4 activity.

NOTE: Present Sections 15-49-12 and 15-49-13. Present Section 15-49-13 provides that if a student brings a weapon onto school property, punishment must include "immediate suspension from school and expulsion for at least one year." The section then provides that a school district superintendent may modify an expulsion on a case-by-case basis in accordance with criteria established by the board. The section also provides that "before expelling a student, a school board shall, within ten days of the student's suspension, provide the student with a hearing before the school board at which time the school board must take testimony and consider evidence, including the existence of mitigating circumstances." It appears that expulsion is therefore not mandatory.

While the rewrite attempts to clarify these provisions, the intent of the section is not clear and should be carefully reviewed for accuracy.

The rewrite also changes the definition of "school property." The present definition could arguably prohibit a student from hunting on "school land," i.e., property controlled and managed by the Board of University and School Lands.

- 5 **15.1-19-11. School safety patrols - Establishment - Adoption of rules.** The board
6 of a school district or the governing body of a nonpublic school may authorize a school principal
7 or administrator to establish a safety patrol and to appoint students to the safety patrol. Any
8 student age eleven or older is eligible for appointment to a safety patrol, provided the student's
9 parent has filed written permission with the school principal or administrator. The
10 superintendent of public instruction shall adopt rules to guide safety patrol members in the
11 conduct of their duties and shall specify the identification to be worn and the signals to be used
12 by safety patrol members while on duty.

NOTE: Present Section 15-47-44.1.

- 13 **15.1-19-12. School safety patrols - Immunity from liability.** The superintendent of
14 public instruction, schools, school boards and individual school board members, governing
15 boards and individual governing board members, administrators, principals, teachers, safety
16 patrol members whether students or adults, and parents of safety patrol student members are
17 immune from any liability that might otherwise be incurred as a result of an injury to a safety
18 patrol member or as a result of an injury caused by an act or omission on the part of a safety
19 patrol member while on duty, provided that the persons substantially complied with the rules to
20 guide safety patrol members, as adopted by the superintendent of public instruction.

NOTE: Present Section 15-47-44.2.

1 **SECTION 14.** Chapter 15.1-24 of the North Dakota Century Code is created and
2 enacted as follows:

3 **15.1-24-01. Grants - Design - Coordination.**

4 1. The superintendent of public instruction shall adopt rules regarding the
5 implementation of chemical abuse prevention programs in this state's schools.

6 The rules may include:

7 a. Community involvement through a citizens' advisory committee.

8 b. An assessment of services and resources available locally.

9 c. An assessment of student and staff needs.

10 d. The coordination of activities with public and private entities.

11 e. The development of an implementation plan.

12 f. An evaluation mechanism.

13 g. The development of a budget to fund the program.

14 2. If funds are appropriated or otherwise become available, the superintendent shall
15 call for and review school district applications for development of a program.

16 School districts may apply for funds independently or jointly. The superintendent
17 shall award the funds according to the merit of each application.

18 3. The superintendent shall develop a plan for the coordination of services with other
19 agencies, including the department of human services, the state department of
20 health, the department of transportation, and law enforcement agencies.

NOTE: Present Section 15-21.1-03. This section evidences an extensive cleanup of existing law. It removes references to "designated staff," because all of the Superintendent's duties may be delegated. The effect of listing what rules "may include" is a statutory list of suggestions. If the intent is that the rules are to contain the items in the list, then the mandatory verb "shall" should be used.

21 **15.1-24-02. Staff.** The superintendent of public instruction may employ an individual as
22 a chemical abuse project coordinator. The coordinator shall:

23 1. Develop rules, in consultation with other private and public entities.

24 2. Disseminate rules developed under this chapter.

25 3. Provide communities, through their schools, with technical assistance in the
26 planning and implementation of a chemical abuse and prevention program.

27 4. Collect data for reporting and program evaluation purposes.

- 1 5. Facilitate coordination of this program with prevention and educational programs
- 2 conducted by other state agencies.
- 3 6. Provide the superintendent of public instruction with a written program evaluation.
- 4 7. Serve as a resource specialist to schools regarding the development and
- 5 implementation of chemical abuse prevention programs.

NOTE: Present Section 15-21.1-04.

6 **15.1-24-03. Chemical abuse preassessment team - Building level support team.**

7 Any school may appoint a chemical abuse preassessment team consisting of a school
8 counselor, a social worker, and other appropriately trained individuals or a school may use a
9 building support team to carry out chemical abuse prevention services under this chapter. The
10 team shall review and act upon law enforcement reports of chemical abuse violations by
11 students. Within fourteen days of receiving a report, the team shall determine whether to
12 provide to the student, or if the student is a minor to the student's parent or guardian,
13 information regarding chemical abuse and school and community services available to assist
14 individuals who engage in chemical abuse.

NOTE: Present Section 15-21.1-05.

15 **15.1-24-04. Treatment or assistance records - Confidential.** Any record of a
16 student's medical treatment, use of a chemical abuse assistance program, or other individual
17 record generated under this chapter, is confidential. It is not part of the student's educational
18 record and may not be released without the written consent of the student, or if the student is a
19 minor, without the written consent of the student's parent.

NOTE: Present Section 15-21.1-06.

20 **15.1-24-05. Law enforcement agencies - Duty to inform team.**

- 21 1. A law enforcement agency shall notify a school principal in writing if the agency
- 22 has probable cause to believe that a student enrolled in the school has violated
- 23 section 5-01-08, 19-03.1-23, 39-08-01, or 39-08-18. The law enforcement agency
- 24 shall provide the notice within two weeks of an incident.
- 25 2. The principal shall forward the notice to the school's chemical abuse
- 26 preassessment team or support team referenced in section 15.1-25-03.

- 1 3. The provisions of subsection 1 do not apply if, in the opinion of the law
2 enforcement agency, providing the notice would jeopardize the conclusion of a
3 criminal investigation.

NOTE: Present Section 15-21.1-07. The sections referenced in present Section 15-21.1-07 and in this section relate to:

5-01-08. Persons under twenty-one years of age prohibited from manufacturing, purchasing, consuming, or possessing alcoholic beverages or entering licensed premises - Penalty - Exceptions - Referrals to addiction facilities.

19-03.1-23. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.

39-08-18. Open bottle law - Penalty.

- 4 **15.1-24-06. Report of chemical abuse - Immunity from liability.** Any individual,
5 other than the alleged violator, who in good faith reports or furnishes information regarding
6 another's alleged chemical abuse to the chemical abuse preassessment team or the support
7 team referenced in section 15.1-25-03, is immune from any liability, civil or criminal, that might
8 otherwise result from the report. For the purpose of any proceeding, the good faith of a person
9 reporting or furnishing information is presumed.

NOTE: Present Section 15-21.1-09. Present Section 15-21.1-08, relating to the duty of teachers to report chemical abuse, is now Section 15.1-18-04.

- 10 **SECTION 15.** Chapter 15.1-25 of the North Dakota Century Code is created and
11 enacted as follows:

- 12 **15.1-25-01. Postsecondary enrollment options program.** Any North Dakota student
13 enrolled in grade eleven or twelve in a public high school is eligible to receive high school and
14 postsecondary credit for the successful completion of an academic course offered by any
15 postsecondary institution accredited by a regional accrediting organization or a vocational
16 course offered by a postsecondary institution in a program accredited by a national or regional
17 accrediting organization recognized by the United States department of education.

NOTE: Present Section 15-41.1-01.

- 18 **15.1-25-02. Permission to enroll - Notification - Credits.** Before enrolling in a course
19 for credit under this chapter, the student must obtain written permission from the student's

1 school district superintendent. The student's school district superintendent shall determine the
2 number of credits for which the student is eligible and shall include the number of credits on the
3 document granting permission required by this section. For purposes of determining credit, a
4 three-semester-hour course offered by a postsecondary institution is equivalent to a full
5 semester high school course. Upon the student's successful completion of the course, the
6 postsecondary institution shall notify the student's school district superintendent of that fact.

NOTE: Present Section 15-41.1-02.

7 **15.1-25-03. Costs of attendance - Responsibility of student.** The student and the
8 student's parent or legal guardian are responsible for all costs of attendance at a postsecondary
9 institution under this chapter. For purposes of this section, "costs" includes tuition, fees,
10 textbooks, materials, equipment, and other necessary charges related to the course in which
11 the student has enrolled.

NOTE: Present Section 15-41.1-03.

12 **15.1-25-04. Transportation - Responsibility of student.** The student and the
13 student's parent or legal guardian are responsible for transportation arrangements and all costs
14 of transportation associated with a student's attendance at a postsecondary institution under
15 this chapter.

NOTE: Present Section 15-41.1-04.

16 **15.1-25-05. Per student payments - Extracurricular activities.** A student attending a
17 postsecondary institution under this chapter is deemed to be in attendance at the student's
18 school district of residence for purposes of calculating per student payments and for purposes
19 relating to the student's eligibility to participate in high school extracurricular activities.

NOTE: Present Section 15-41.1-05.

20 **15.1-25-06. Courses - Statutory and regulatory exemption.** The courses for which
21 dual high school and postsecondary credit are available under this chapter are postsecondary
22 courses and are exempt from any statutory or regulatory provisions otherwise applicable to high
23 school courses and to the individuals by whom high school courses are taught.

NOTE: Present Section 15-41.1-06.

24 **SECTION 16.** Chapter 15.1-26 of the North Dakota Century Code is created and
25 enacted as follows:

1 **15.1-26-01. Definitions - Adult and adult basic and secondary education.** For
2 purposes of this chapter, unless the context otherwise requires:

- 3 1. "Adult" means any person who is beyond the age of compulsory school
4 attendance.
- 5 2. "Adult basic and secondary education" means:
- 6 a. Instructional services for adults who:
- 7 (1) Do not have the basic literacy skills necessary to function effectively in
8 society;
- 9 (2) Do not have a certificate of graduation from a school providing
10 secondary education; or
- 11 (3) Have not reached a level of education equivalent to that required for a
12 certificate of graduation to be issued.
- 13 b. Education for adults whose inability to speak, read, or write English is a
14 substantial impairment of their ability to obtain or retain employment
15 commensurate with their ability.

NOTE: Present Section 15-21-04.4. Present Section 15-21-04.4 contains the following sentence: "The education must be designed to help eliminate the inability and raise the level of education of such adults with a view to making them less likely to become dependent on others, to improving their ability to benefit from educational or occupational training and increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities." Because this appears to be a statement of purpose rather than a definition, it was omitted.

16 **15.1-26-02. Adult basic and secondary education programs - Coordination.** The
17 superintendent of public instruction shall coordinate adult basic and secondary education
18 programs and shall administer state and federal funding for the programs.

NOTE: Present Section 15-21-04.2. Present Section 15-21-04.2 authorizes the Superintendent to "hire a director and such assistants as may be necessary for this purpose." This was eliminated from the rewrite of this section because the rewrite of present Section 15-21-03 provides the superintendent with general hiring authority.

19 **15.1-26-03. Adult basic and secondary education programs - Availability.** The
20 board of a school district may make adult basic and secondary education programs available to
21 any individual over sixteen years of age who is unable to attend the public schools of the
22 district.

NOTE: Present Section 15-46-01.

1 **15.1-26-04. Funding for adult basic and secondary education programs.** The
2 board of a school district may use school district funds to aid and promote adult basic and
3 secondary education programs and may charge a reasonable fee for enrollment in such
4 programs.

NOTE: Present Section 15-46-04.

5 **15.1-26-05. General equivalency diplomas - Copies.** The superintendent of public
6 instruction may charge up to three dollars for each general equivalency diploma issued, up to
7 ten dollars for certified copies of general equivalency diplomas, and up to two dollars for copies
8 of transcripts belonging to individuals pursuing general equivalency diplomas. The
9 superintendent shall forward any money generated under this section to the state treasurer for
10 deposit in the revolving printing fund in the state treasury and may expend the money to cover
11 costs associated with the administration of the general equivalency diploma program.

NOTE: Present Section 15-21-13.3. (Amended as per committee motion.)

12 **15.1-26-06. General educational development test results - Confidentiality.** The
13 results of general educational development tests maintained by the superintendent of public
14 instruction are confidential and are not open for public inspection. This section does not
15 prohibit the superintendent of public instruction from making an individual's test results available
16 at the written request of the individual.

NOTE: Present Section 15-21-13.4. (Amended as per committee motion.)

17 **15.1-26-07. Adult basic and secondary education fund - Continuing appropriation.**
18 The superintendent of public instruction may receive and accept money from any public or
19 private source for adult basic and secondary education programs. Any money received for
20 adult basic and secondary education programs but not specifically appropriated by the
21 legislative assembly must be deposited in the adult basic and secondary education fund in the
22 state treasury. All money in the fund, and any interest upon moneys in the fund, is appropriated
23 to the superintendent of public instruction for the purpose of administering and implementing
24 adult basic and secondary education programs. Any funds appropriated under this section are
25 not subject to section 54-44.1-11.

NOTE: Present Section 15-21-04.3.

26 **SECTION 17. REPEAL.** Chapters 15-21, 15-21.2, 15-22, 15-27.1, 15-27.2, 15-27.3,
27 15-27.4, 15-27.5, 15-27.6, 15-27.7, 15-28, 15-41.1, 15-46, 15-48, 15-49, 15-51, 15-54, 15-64,

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Legislative Assembly

1 15-65, sections 15-21.1-01, 15-21.1-02, 15-21.1-05, 15-21.1-06, 15-21.1-07, 15-21.1-09,
2 15-29-01, 15-29-01.1, 15-29-03, 15-29-03.1, 15-29-04, 15-29-06, 15-29-07, 15-29-09,
3 15-29-10, 15-29-11, 15-29-13, 15-29-14, 15-34.2-12, 15-34.2-13, 15-34.2-14, 15-34.2-17,
4 15-34.2-18, 15-35-09, 15-35-11, 15-35-12, 15-35-14, 15-38-04.1, 15-38-06, 15-38-13,
5 15-38-13.1, 15-38-13.2, 15-41-01, 15-41-02, 15-41-03, 15-41-04, 15-41-05, 15-41-07,
6 15-41-08, 15-43-11.1, 15-43-11.2, 15-43-11.3, 15-43-11.4, 15-44-06, 15-44-09, 15-44-10,
7 15-44-11, 15-47-01.1, 15-47-02.1, 15-47-05, 15-47-07, 15-47-08, 15-47-09, 15-47-10,
8 15-47-11, 15-47-12, 15-47-13, 15-47-14, 15-47-16, 15-47-21, 15-47-22, 15-47-24, 15-47-29,
9 15-47-30.1, 15-47-31, 15-47-32, 15-47-33.1, 15-47-36, 15-47-37, 15-47-40, 15-47-40.1,
10 15-47-41, 15-47-43, 15-47-47, 15-47-48, 15-47-49, and 15-47-50 of the North Dakota Century
11 Code and sections 15-21.1-03, 15-21.1-04, 15-29-02, 15-29-05, 15-29-08, 15-29-08.4,
12 15-35-01.2, 15-41-27, 15-47-01, 15-47-04, 15-47-06, 15-47-15, 15-47-25, 15-47-30, 15-47-33,
13 15-47-39, 15-47-44.1, 15-47-44.2, and 15-47-51 of the 1997 Supplement to the North Dakota
14 Century Code are repealed.