

Introduced by

1 A BILL for an Act to create and enact a new chapter to title 25 of the North Dakota Century
2 Code, relating to the creation of the department of vision services; to amend and reenact
3 sections 15-47-27.2, 15.1-02-07, 25-06-02, 25-06-02.1, 25-06-03, 25-06-04, 25-06-05,
4 25-06-09, and 50-06-01.4 of the North Dakota Century Code, relating to the North Dakota
5 school for the blind and the provision of services to individuals who are blind or visually
6 impaired; to repeal sections 25-06-07, 50-06.1-13, and 50-06.1-14 of the North Dakota Century
7 Code, relating to instruction at the North Dakota school for the blind, the licensure of vending
8 facility operators who are blind, and the rehabilitation teaching program; and to provide a
9 continuing appropriation.

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

11 **SECTION 1. AMENDMENT.** Section 15-47-27.2 of the 1999 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **15-47-27.2. Teachers employed by the North Dakota youth correctional center,**
14 **school for the deaf, and school for the blind.**

- 15 1. The term "teacher", as used in this section, means a contracted state employee
16 licensed by the education standards and practices board to teach in this state,
17 whose primary task is to provide direct instruction in a classroom, or on an
18 individualized basis, and whose work schedule must be in accordance with the
19 school calendar, guidance counselors, school librarians, itinerant outreach
20 teachers, and vocational and other technological resource personnel who are
21 required to meet the same teaching and licensure requirements. The term does
22 not include superintendents, assistant superintendents, principals, supervisory
23 personnel, substitutes, and all paraprofessionals.

2. The director of the department of vision services for the school for the blind, the
superintendent of public instruction for the school for the ~~blind and the school for~~
~~the deaf~~, and the director of the division of juvenile services with the approval of
the director of the department of corrections and rehabilitation for the North Dakota
youth correctional center in administering the schools under their authority shall
develop contracts for employment of teachers in their departments and establish
teacher personnel policies needed for administration of the schools. The contracts
may include assignment of job duties, teacher salaries, hours, and job titles, a
school calendar, and a salary schedule. The personnel policies adopted under this
section must include job descriptions and nonrenewal, discipline, and dismissal
procedures, and must seek to harmonize the rights of teachers with law governing
state employees. The director of the department of vision services, the
superintendent of public instruction, and the director of the division of juvenile
services with the approval of the director of the department of corrections and
rehabilitation shall work together in the development of personnel policies for
teachers employed by their respective departments. Each teacher is entitled to
receive a printed copy of a master agreement, which consists of a policy manual
and an individualized contract specifying the annual school calendar and each
teacher's contracted hours, rate of pay, job title, salary schedule, applicable
benefits, and other details pertinent to a teacher's employment.

SECTION 2. AMENDMENT. Section 15.1-02-07 of the 1999 Supplement to the North
Dakota Century Code is amended and reenacted as follows:

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

1. The superintendent of public instruction may lease surplus portions of real
property, including buildings and improvements, owned by the state and
administered by the superintendent of public instruction at the school for the ~~blind,~~
~~the school for the deaf~~; and the division of independent study.
2. The superintendent may lease the unused portion of a building only after
consultation with and adherence to conditions set by the administrator of the state
fire and tornado fund.
3. A lease agreement under this section may not exceed five years.

4. A lease agreement under this section must provide that:

a. It is cancelable by the state without liability at the end of any ~~state~~ fiscal
biennium; or

b. It is renewable at the sole discretion of the superintendent of public instruction
at the beginning of each fiscal biennium.

5. The superintendent may set additional terms and conditions for leases under this
section.

6. The attorney general shall review any lease under this section and approve its
legal adequacy before its execution.

7. The superintendent may expend revenues from leases under this section only with
legislative approval.

SECTION 3. A new chapter to title 25 of the North Dakota Century Code is created and
enacted as follows:

Department of vision services. There is created a department of vision services.

Director of department of vision services. The governor shall appoint the director of
the department of vision services. The director shall serve at the pleasure of the governor. The
director is entitled to receive compensation in the amount established by the governor, within
the limits of legislative appropriations.

Duties of department of vision services. Notwithstanding any other law, the
department of vision services shall:

1. Provide vocational rehabilitation services to any individual who is blind or visually
impaired, provided the individual is determined eligible by the department to
receive the services.

2. Administer the North Dakota school for the blind.

Rehabilitation services - Eligibility. The department shall provide the following
rehabilitation services to eligible individuals who are blind or visually impaired:

1. Physical restoration.

2. Transportation to determine the nature and extent of rehabilitation services for
which an individual may be eligible.

3. Occupational licenses.

1 4. Customary occupational tools and equipment, excluding computer-related assistive
2 technology devices needed to overcome visual disability as an impediment to
3 employment.

4 5. Maintenance.

5 6. Training books and materials.

6 **Review of determinations regarding eligibility.** The department shall adopt rules to
7 govern the review of determinations made by the department regarding an individual's eligibility
8 for services under this chapter. An individual who is blind or visually impaired, or the
9 individual's parent or legal guardian, may request a review of any determinations made by the
10 department under this chapter.

11 **Cooperation with other entities.** The department shall cooperate with any public or
12 private entity in providing for the vocational rehabilitation of individuals who are blind or visually
13 impaired.

14 **Acceptance of benefits of federal acts - Cooperation with federal government.**
15 The department shall accept all the provisions and benefits of federal legislative acts to assist
16 states in providing for the vocational rehabilitation of individuals who are blind or visually
17 impaired. The department shall comply with any conditions necessary to secure the full benefit
18 of the acts.

19 **Custody and payment of vocational rehabilitation funds.** The department shall
20 administer all funds received from federal and state sources for the vocational rehabilitation of
21 blind or visually impaired individuals. All moneys received must be placed in the custody of the
22 state treasurer and must be paid in accordance with legislative appropriations by the office of
23 management and budget as directed by the department.

24 **Department to license blind operators and operate vending facilities - Continuing**
25 **appropriation of income.** The department shall act as the state licensing agency to license
26 the operators of vending facilities on federal property within the state to the extent permitted or
27 required by the Randolph-Sheppard Act [Pub. L. 74-732; 20 U.S.C. 107]. The department may
28 take any action, consistent with the provisions of that Act, for the purpose of providing blind
29 persons with remunerative employment, enlarging the economic opportunities of the blind, and
30 stimulating the blind to greater efforts in striving to make themselves self-supporting. If there is
31 no blind licensee operating a vending facility on federal property, the department may operate

1 or contract for the operation of a vending facility, provided that all income from such a vending
2 facility is distributed in a manner consistent with the requirements of such Act. There is
3 appropriated on a continuing basis all income from vending facilities which the department
4 operates, or contracts to operate, consistent with the requirements of such Act and the
5 regulations and policies of the United States secretary of education, promulgated thereunder,
6 for the purposes of:

7 1. Maintenance and replacement of equipment.

8 2. Purchase of new equipment.

9 3. Management services.

10 4. Assurance of a fair minimum return to operators of vending facilities.

11 5. Retirement or pension funds, health insurance contributions, and provision for paid
12 sick leave and vacation time, if it is determined by a majority vote of blind licensees
13 licensed by the department, after the department provides to each such licensee
14 full information on all matters relevant to such proposed program, that income
15 should be used for such purposes.

16 **Establishment of rehabilitation teaching program - Authorization of positions.**

17 The department of vision services may establish two rehabilitation teacher positions, one
18 half-time teacher, and one half-time supervisor position for the rehabilitation of individuals who
19 are blind or visually impaired. Each teacher shall provide rehabilitation teaching services that
20 may include evaluation, counseling, adjustment training, communication, mobility, and other
21 rehabilitation services to individuals who are blind or visually impaired. Those services must be
22 provided in the home of the individuals, nursing homes, intermediate care facilities, senior
23 citizen centers, and other facilities and centers in which one may find individuals who are blind
24 or visually impaired. Rehabilitation teachers may provide aids and appliances as well as
25 assistance with meal planning, medication management, transportation needs, and recreation
26 and social needs. Rehabilitation teachers may provide orientation to blindness instruction for
27 those working directly with or otherwise involved in daily activities of individuals who are blind or
28 visually impaired, including home health aides, homemakers, senior companions, the staff of
29 nursing homes, other professionals, paraprofessionals, and family members.

30 **North Dakota school for the blind - Lease of unused real property.**

1. The department of vision services may lease surplus portions of real property, including buildings and improvements, owned by the state and administered by the department of vision services at the school for the blind.
2. The department may lease the unused portion of a building only after consultation with and adherence to conditions set by the administrator of the state fire and tornado fund.
3. A lease agreement under this section may not exceed five years.
4. A lease agreement under this section must provide that:
 - a. It may be canceled by the state without liability at the end of any fiscal biennium; or
 - b. It is renewable at the sole discretion of the department of vision services at the beginning of each fiscal biennium.
5. The department of vision services may set additional terms and conditions for leases under this section.
6. The attorney general shall review any lease under this section and approve its legal adequacy before its execution.
7. The department of vision services may expend revenues from leases under this section only with legislative approval.

SECTION 4. AMENDMENT. Section 25-06-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

25-06-02. ~~Object of school~~ School for the blind - Duties and responsibilities.

1. The school for the blind is a statewide resource and referral center for the provision of services to all residents of this state, including vision specific consultations, evaluations, information, and training and loans of adaptive devices, equipment, and materials. It shall receive and educate blind and partially blind children who are residents of this state and who, because of this handicap, are not able to receive an appropriate education in the public schools of this state who are blind or visually impaired.
2. The school for the blind shall:
 - a. Collect and distribute information on vision service programs available in the state.

- b. Assist residents to access appropriate vision services.
 - c. Provide vision services, including vision-specific consultations, evaluations, information, training, and loans of adaptive devices, equipment, and materials.
 - d. Receive and educate residents of this state who are blind or visually impaired and who, because of being blind or visually impaired, are not able to receive an appropriate education in the public schools of this state.
 - e. Provide instruction in general subjects and instruction in vision-specific subjects, including orientation, mobility, braille, braille music, daily living skills, technology, vocational training, and recreation.
3. For purposes of this chapter, a blind person is an individual who is totally blind or whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than twenty degrees; and a visually impaired person is an individual with an impairment in vision which, even with correction, adversely affects the individual's functional ability.

SECTION 5. AMENDMENT. Section 25-06-02.1 of the North Dakota Century Code is amended and reenacted as follows:

25-06-02.1. School for the blind - ~~Appointment of superintendent, budget, staff, and reporting structure~~ Superintendent. The director of the department of vision services shall serve as the superintendent of the school for the blind is appointed by and reports to the superintendent of public instruction. The school for the blind must have a separate budget and separate staff from the department of public instruction.

SECTION 6. AMENDMENT. Section 25-06-03 of the North Dakota Century Code is amended and reenacted as follows:

25-06-03. Superintendent to possess certain qualifications. The individual selected by the governor to serve as the director of the department of vision services and the superintendent of the school for the blind must possess those qualifications, educational and otherwise, as in the opinion of the superintendent of public instruction may qualify that person the individual to instruct and minister to the needs of blind persons individuals who are blind or visually impaired.

SECTION 7. AMENDMENT. Section 25-06-04 of the North Dakota Century Code is amended and reenacted as follows:

25-06-04. Qualifications for admission to school for the blind - Residents of state entitled to free education. Applicants for admission to the school for the blind must be blind or ~~partially blind~~ visually impaired and unable to make suitable progress in the public schools of the state. The superintendent, ~~with the approval of the superintendent of public instruction, of the school for the blind~~ may determine the age required for admission. The superintendent shall furnish application blanks upon request, and no person may be admitted to the institution until the application giving ~~such~~ the information ~~as required by the superintendent of public instruction requires~~ as required by the superintendent of public instruction has been returned to and approved by the superintendent ~~of the school for the blind~~. An applicant admitted to the school for the blind must be furnished transportation by the school as provided in the student's individualized education program at the most economical rate possible, and yet meet the student's needs. Each ~~such~~ applicant who is a resident of this state and who, because of blindness and other ~~handicaps~~ disabilities is unable to receive an education in the public schools, is entitled to receive an education in the school for the blind at the expense of the state.

SECTION 8. AMENDMENT. Section 25-06-05 of the North Dakota Century Code is amended and reenacted as follows:

25-06-05. Admission of nonresidents. Blind or visually impaired children of suitable age who are not residents of this state may enroll in the school for the blind upon payment in advance of the cost of the education as determined by the superintendent of public instruction. Nonresident children, however, may not be received to the exclusion of children who are residents of this state.

SECTION 9. AMENDMENT. Section 25-06-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

25-06-09. ~~Blind persons~~ Individuals who are blind - Duty to report. ~~It is the duty of every~~ Each public school superintendent, physician, ophthalmologist, oculist, optometrist, nurse, clinic, hospital, and social and welfare agency in this state ~~to~~ shall report in writing to the superintendent of the North Dakota school for the blind the name, age, and residence of ~~persons~~ any individual under the age of twenty-one years who ~~are~~ is blind ~~within the definition of blindness as set forth in this section, as defined in this chapter, and in such cases to~~ furnish

1 ~~such additional pertinent information as requested by the superintendent of the North Dakota~~
2 ~~school for the blind may request. All reports must be forwarded to the superintendent of the~~
3 ~~school for the blind within thirty days after diagnosis, examination, or discovery. For the~~
4 ~~purposes of this chapter, a blind person is defined as one who is totally blind or whose central~~
5 ~~visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or~~
6 ~~the widest diameter of the visual field is no greater than twenty degrees.~~

7 **SECTION 10. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-06-01.4. Structure of the department.** The department includes the state hospital;
10 the regional human service centers; a vocational rehabilitation unit; and other units or offices
11 and administrative and fiscal support services as the executive director determines necessary.
12 The department must be structured to promote efficient and effective operations and, consistent
13 with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the
14 discharge of the following functions not otherwise by law made the responsibility of another
15 state agency:

- 16 1. Administration of programs for children and families, including adoption services
17 and the licensure of child-placing agencies, foster care services and the licensure
18 of foster care arrangements, child protection services, children's trust fund, state
19 youth authority, licensure of day care homes and facilities, services to unmarried
20 parents, refugee services, in-home community-based services, and administration
21 of the interstate compacts on the placement of children and juveniles.
- 22 2. Administration of programs for persons with developmental disabilities, including
23 licensure of facilities and services, and the design and implementation of a
24 community-based service system for persons in need of habilitation.
- 25 3. Administration of aging service programs, including nutrition, transportation,
26 advocacy, social, ombudsman, recreation, and related services funded under the
27 Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and
28 community-based services, licensure of adult family care homes, committee on
29 aging, and the fund matching program for city or county tax levies for senior citizen
30 activities and services.

1 4. Administration of mental health programs, including planning and implementing
2 preventive, consultative, diagnostic, treatment, and rehabilitative services for
3 persons with mental or emotional disorders and psychiatric conditions.

4 5. Administration of programs for crippled children, including the provision of services
5 and assistance to crippled children and their families, and the development and
6 operation of clinics for the identification, screening, referral, and treatment of
7 crippled children.

8 6. Administration of alcohol and drug abuse programs, including establishing quality
9 assurance standards for the licensure of programs, services, and facilities,
10 planning and coordinating a system of prevention, intervention, and treatment
11 services, providing policy leadership in cooperation with other public and private
12 agencies, and disseminating information to local service providers and the general
13 public.

14 7. Administration of economic assistance programs, including temporary assistance
15 for needy families, food stamps, fuel assistance, child support enforcement,
16 refugee assistance, work experience, work incentive, and quality control.

17 8. Administration of medical service programs, including medical assistance for needy
18 persons, early and periodic screening, diagnosis and treatment, utilization control,
19 and claims processing.

20 The executive director shall consult with and maintain a close working relationship with the
21 state department of health; ~~with, the department of vision services,~~ the department of
22 corrections and rehabilitation, ~~and the superintendents superintendent~~ of the school for the deaf
23 ~~and the school for the blind~~ to develop programs for developmentally disabled persons; and
24 with the superintendent of public instruction to maximize the use of resource persons in regional
25 human service centers in the provision of special education services. The executive director
26 shall also maintain a close liaison with county social service agencies.

27 **SECTION 11. REPEAL.** Sections 25-06-07, 50-06.1-13, and 50-06.1-14 of the North
28 Dakota Century Code are repealed.