

# EDUCATION

## CHAPTER 149

### SENATE BILL NO. 2065

(Appropriations Committee)

## DICKINSON STATE UNIVERSITY STUDENT UNION BONDS

AN ACT to provide for the issuance and sale of self-liquidating, tax-exempt bonds for renovating and expanding the student union at Dickinson state university; to provide an appropriation; and to declare an emergency.

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

#### **SECTION 1. State board of higher education - Bond issuance - Purposes.**

The state board of higher education, in accordance with chapter 15-55, may issue and sell self-liquidating, tax-exempt bonds in an amount not exceeding \$1,500,000 for the purpose of renovating and expanding the student union at Dickinson state university for the period beginning with the effective date of this Act and ending June 30, 2001. The bonds issued under the provisions of this Act may not become a general obligation of the state of North Dakota.

**SECTION 2. USE OF BOND PROCEEDS - APPROPRIATION.** The proceeds resulting from the sale of bonds authorized under section 1, or so much of the sum as may be necessary, plus any available funds received from federal, private, or other sources, not to exceed a total of \$3,700,000 of all funds for the project, are hereby appropriated for the purpose of renovating and expanding the student union at Dickinson state university for the period beginning with the effective date of this Act and ending June 30, 2001. Any unexpended balance from the sale of bonds must be placed in sinking funds for the retirement of the authorized bonds.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 3, 1999

Filed March 4, 1999

**CHAPTER 150****SENATE BILL NO. 2134**

(Education Committee)

(At the request of the Board of University and School Lands)

**COMMISSIONER OF UNIVERSITY AND SCHOOL  
LANDS TERM**

AN ACT to amend and reenact section 15-02-02 of the North Dakota Century Code, relating to the term of office of the commissioner of university and school lands; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 15-02-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-02-02. Term of office - Vacancy.** The term of office of the commissioner is ~~two~~ four years beginning July first of the year following the general election of the board members and ending June thirtieth of the fourth calendar year after appointment or until his a successor is appointed and qualified. The commissioner is ~~subject to removal at the pleasure of the board. In case of vacancy by death, removal, resignation, or any other cause, the board shall fill the vacancy by appointment~~ may be removed for cause at any time during the commissioner's term of office, by a vote of four or more board members. Upon vacancy by death, resignation, or removal, the board shall appoint a commissioner for the remainder of the four-year term.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

Approved March 18, 1999  
Filed March 19, 1999

**CHAPTER 151****HOUSE BILL NO. 1083**

(Appropriations Committee)

(At the request of the Board of University and School Lands)

**BOARD OF UNIVERSITY AND SCHOOL LANDS  
INVESTMENT FEES**

AN ACT to amend and reenact section 15-03-16 of the North Dakota Century Code, relating to continuing appropriations for the board of university and school lands.

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

**SECTION 1. AMENDMENT.** Section 15-03-16 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-03-16. Appropriation for investments.** There is hereby appropriated annually the sum necessary for the payment of fees for investments of controlled by the board of university and school lands, including accrued interest, and related investment management fees, trustee fees, consulting fees, appraisal fees, and custodial fees for the funds under the control of the board. Each payment must be made from the fund for which the investment is made. For the purpose of this section, the term investments includes all unclaimed property held in trust, financial securities, surface lands, and minerals for which the board is responsible.

Approved April 8, 1999

Filed April 8, 1999

## CHAPTER 152

### SENATE BILL NO. 2088

(Education Committee)

(At the request of the Board of University and School Lands)

## SCHOOL TRUST LAND PAYMENTS, LEASING, AND SALES

AN ACT to create and enact a new section to chapter 15-04 of the North Dakota Century Code, relating to payments for county services benefiting school trust lands; and to amend and reenact sections 15-04-10, 15-06-26, and 15-07-20 of the North Dakota Century Code, relating to leasing and sale of school trust lands.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-04-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-04-10. Leasing to be by auction - Requirements governing.** The commissioner of university and school lands, or such other person appointed by the commissioner, shall conduct the leasing of the lands. The leasing must be at public auction, to the highest bidder, and must be held at the county seat. The auction must commence on the day and time specified in the advertisement for the leasing. Notice must be given when the land is offered for lease, that all bids are subject to approval by the board. ~~Lands that have not been subdivided specially must be offered for lease in tracts of one quarter section each, except as provided in section 15-08-25. Lands specially subdivided may be offered for lease in the smallest subdivision thereof.~~

**SECTION 2.** A new section to chapter 15-04 of the North Dakota Century Code is created and enacted as follows:

**County services benefiting school trust lands - Payment.** On or before March first of each year, the board of university and school lands shall pay a fee to the board of county commissioners of each county in which the state retains original grant lands. The board of county commissioners shall forward a prorated portion of any fee received under this section to the organized townships in which the original grant lands are located for use in the repair, maintenance, and construction of roads and bridges and shall use the remainder of the fee for the repair, maintenance, and construction of roads and bridges in unorganized townships in which original grant lands are located. The total fees paid under this section may not exceed five percent of the net revenue generated from the original grant lands in that county during the year preceding the payment. For purposes of this section, net revenue means the gross revenue from surface management, less any administrative and operating expenses, but does not include any moneys that must be deposited in a permanent trust fund.

**SECTION 3. AMENDMENT.** Section 15-06-26 of the North Dakota Century Code is amended and reenacted as follows:

**15-06-26. Manner of sale - Purchase price.** At the time appointed for the sale, the commissioner of university and school lands, the commissioner's deputy, or any other person appointed by the commissioner shall proceed to sell or offer for sale the land so advertised to be sold at public auction to the highest bidder. The sale must be held at the county seat, in the county in which the land is situated. ~~Lands that have not been subdivided specially must be offered in tracts of one quarter section, and those subdivided must be sold in the smallest subdivision thereof. No~~ A tract may not be sold for less than the fair market value thereof or for less than ten dollars per acre [.40 hectare]. ~~If the tract to be sold consists of grant lands once sold on contract and the contract has been canceled, and the lands form a single farm unit, the entire tract may be sold as a single tract and farm unit.~~

**SECTION 4. AMENDMENT.** Section 15-07-20 of the North Dakota Century Code is amended and reenacted as follows:

**15-07-20. Leasing of nongrant lands.** The board of university and school lands may lease nongrant lands under ~~such~~ reasonable rules ~~and regulations~~ as it may establish. ~~Such~~ The rules ~~and regulations~~ may provide for leasing with or without advertisement or competitive bidding. Leases made under ~~the provisions of~~ this section must be for cash only, and the rental must be collected in advance except that the board may collect a share of a conservation reserve program payment paid by the federal government. ~~No~~ A lease of nongrant lands may not extend for a period of more than ~~four~~ five years, except ~~pasture lands may be leased for a period of five years and~~ any land accepted into the conservation reserve program may have a lease term that coincides with the term of the conservation reserve program contract if so provided in the lease. Leases may be renewed at the discretion of the board. When nongrant lands are leased without advertisement or competitive bidding, the board shall determine the rental by taking into consideration the nature and adaptability of the lands and the improvements thereon.

Approved April 9, 1999  
Filed April 9, 1999

## CHAPTER 153

### HOUSE BILL NO. 1084

(Education Committee)

(At the request of the Board of University and School Lands)

### SCHOOL TRUST LAND IMPROVEMENT DEPRECIATION

AN ACT to amend and reenact section 15-08-26 of the North Dakota Century Code, relating to depreciation of school trust land surface improvement costs.

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

**SECTION 1. AMENDMENT.** Section 15-08-26 of the North Dakota Century Code is amended and reenacted as follows:

**15-08-26. Removal of or payment for improvements upon termination of lease.**

The lessee of any lands under the control of the board of university and school lands, within one hundred twenty days after the expiration date or cancellation date of a lease may remove any nonpermanent improvements placed upon ~~such the~~ lands by the lessee if ~~such the~~ removal can be accomplished without material damage to the land. Permanent improvements may not be placed on the land without written consent of the commissioner of university and school lands. A lessee requesting a permit to place permanent improvements on the land shall complete an application form prepared by the commissioner. ~~If a lessee desires payment for any approved permanent improvements, the commissioner shall determine the cost and may require the lessee to submit all documentation deemed necessary by the commissioner.~~ The cost of completing the permanent improvement is the lessee's expense. The commissioner may approve depreciation of all or a portion of the cost of the permanent improvement over a period not to exceed ten years. The commissioner may also require the lessee to submit all documentation deemed necessary by the commissioner to determine the cost. The cost may not include any reimbursements to the lessee and may be depreciated over a period not to exceed ten years. The next lessee or purchaser, in addition to paying the purchase price or rental of the land, shall pay to the preceding lessee the undepreciated cost, if any. The commissioner may cancel any undepreciated cost of constructing a permanent improvement if the lessee fails to offer the minimum bid for the land and the land is not leased at the next auction at which the land is offered or if the lessee fails to comply with the conditions of the lease agreement.

Permanent improvements placed on the property must be deemed the property of the state. For purposes of this section, permanent improvements include ~~such things as~~ buildings, wells, dams, waterholes, waterlines, and trees and nonpermanent improvements include ~~such things as~~ fences, corrals, water tanks, and feed bunks.

Approved March 8, 1999

Filed March 8, 1999

## CHAPTER 154

### SENATE BILL NO. 2215

(Senator Holmberg)

### STATE BOARD OF HIGHER EDUCATION MEMBERSHIP

AN ACT to amend and reenact section 15-10-02 of the North Dakota Century Code, relating to membership of the state board of higher education; and to repeal sections 15-10-01.1, 15-10-03, 15-10-04, 15-10-05, 15-10-06, 15-18-03, 15-18-04.2, 15-18-05, 15-55-18, 15-55-19, and subsection 11 of section 57-15-06.7 of the North Dakota Century Code, relating to assumption of jurisdiction over junior colleges, appointments and membership of the state board of higher education, and tax levies for the financing of residual or other junior college fiscal obligations.

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

**SECTION 1. AMENDMENT.** Section 15-10-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-02. Membership of state board of higher education - ~~Qualifications of members - Advisory representatives~~ Faculty adviser.**

1. The state board of higher education shall ~~consist~~ consists of ~~seven~~ eight members, all of whom must be ~~qualified electors and taxpayers of the state who must have resided in this state for five years immediately preceding their respective appointments.~~ The members of the board ~~must be appointed by the governor and confirmed by the senate.~~ Nominations must be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by the unanimous action of the president of the North Dakota education association, the chief justice of the supreme court, and the superintendent of public instruction. There may not be on said board at any one time more than one graduate of any one of the institutions under the jurisdiction of the board. No person employed by any institution under the control of the board may serve as a member of the board, nor may any employee of any such institution be eligible for membership on the board for a period of two years following the termination of employment. In addition to the regular board members, a nonvoting advisory representative from the North Dakota student association and one from the council of college faculties may attend and provide input at all board meetings. Each year the North Dakota student association executive board shall select one member to serve as its representative for a term of one year. The student advisory representative must be a resident of North Dakota and a student in good academic standing, enrolled in a minimum of six credits. The council of college faculties shall each year select one member to serve as its representative. The student advisory representative and the council of college faculties representative are entitled to receive necessary expenses ~~for travel~~ in accordance with section 6 of article VIII of the Constitution of North Dakota.

2. The council of college faculties shall annually appoint one individual to serve as an adviser to the state board. The adviser may attend and participate in all meetings of the state board but may not vote.

<sup>113</sup> **SECTION 2. REPEAL.** Sections 15-10-01.1, 15-10-03, 15-10-04, 15-10-05, 15-10-06, 15-18-03, 15-18-04.2, 15-18-05, 15-55-18, and 15-55-19 of the North Dakota Century Code and subsection 11 of section 57-15-06.7 of the 1997 Supplement to the North Dakota Century Code are repealed.

Approved March 17, 1999  
Filed March 17, 1999

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<sup>113</sup> Section 57-15-06.7 was also amended by section 1 of Senate Bill No. 2382, chapter 499, and section 3 of Senate Bill No. 2358, chapter 501.

## CHAPTER 155

### HOUSE BILL NO. 1165

(Appropriations Committee)

(At the request of the State Board of Higher Education)

### HIGHER EDUCATION INSTITUTION DEPOSITS

AN ACT to amend and reenact section 15-10-12 of the North Dakota Century Code, relating to deposit with the state treasurer of funds received by board of higher education institutions.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-10-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-12. Board may accept gifts and bequests - ~~State treasurer to have custody of school funds~~ Deposit of funds.** The state board of higher education may, subject to the limitations of section 15-10-12.1, receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests must be used for the specific purpose for which they are donated or given. A special revenue fund, for each institution of higher education under the control of the board or subject to its administration, must be maintained within the state treasury and all institutional income from tuition collections must be placed in the special fund for the use of the institution for which the money was raised. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the Constitution of North Dakota must be deposited in the special revenue fund of each institution and expended in accordance with section 1 of article IX of the Constitution of North Dakota. Moneys in the special revenue fund are subject to legislative appropriations. All other funds, unless restricted by the terms of a grant, donation, or bequest, received by the institutions from federal, state, and local grants and contracts, indirect cost recoveries, special student fees, room and board fees and other auxiliary enterprise fees, student activity fees, continuing education program fees, internal service fund revenues, and all other revenues must be deposited in the institution special revenue funds. The state treasurer shall immediately transfer the funds deposited in the special revenue funds to institution accounts in the Bank of North Dakota. Biennial estimates of revenue and expenditures of the other funds by source of funds must be presented at the same time biennial budget requests for appropriations from the special revenue fund and state general fund are prepared and submitted to the office of the budget pursuant to section 15-10-15. Payments from each institution's general fund appropriation must be made in amounts as may be necessary for the operation and maintenance of each institution, except that at the close of the biennium the balance of funds not paid from the general fund appropriation must be deposited in the special revenue funds of the institutions. All

such appropriations are subject to proration in the same manner as other appropriations are prorated if insufficient funds are available to meet expenditures from the general fund. Sinking funds for the payment of interest and principal of institutional revenue bonds must be deposited pursuant to section 15-55-06.

Approved April 8, 1999

Filed April 8, 1999

## CHAPTER 156

### HOUSE BILL NO. 1398

(Representative Dalrymple)  
(Senator Nething)

## HIGHER EDUCATION INSTITUTION BUILDING PROJECTS

AN ACT relating to the authority of a state agency or institution to expand a building project; and to amend and reenact sections 15-10-12.1 and 15-55-10 of the North Dakota Century Code, relating to limitations on buildings and other campus improvements.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-10-12.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-12.1. Acceptance of buildings and campus improvements - ~~Approval of budget section~~ Legislative approval.** The state board of higher education may not authorize the construction of buildings and campus improvements on land under the control of the board which are financed by donations, gifts, grants, and bequests without the consent of the legislative assembly. During the time the legislative assembly is not in session, except for the six months preceding the convening of a regular session, and unless otherwise restricted by previous legislative action or other law, the state board of higher education may, with the approval of the budget section of the legislative council, may authorize the use of land under the control of the board and construct buildings and campus improvements thereon which are financed by donations, gifts, grants, and bequests. The budget section approval must include a specific dollar limit for each building or campus improvement project. The budget section may establish guidelines regarding the types of gifts for minor improvements which do not require the approval of the budget section based upon the financial impact of such construction projects upon the state of North Dakota. The state board of higher education may, with the approval of the budget section, may authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. The budget section may prescribe such conditions for the sale of the property as it ~~deems~~ determines necessary, including, ~~but not limited to,~~ requiring an appraisal and the advertisement for bids. If the state board of higher education submits a request to the budget section for approval, the legislative council shall notify each member of the legislative assembly of the date of the budget section meeting at which the request will be considered and provide a copy of the meeting agenda to each member of the legislative assembly. The chairman of the budget section shall allow any member of the legislative assembly an opportunity to present testimony to the budget section regarding any such request.

**SECTION 2. AMENDMENT.** Section 15-55-10 of the North Dakota Century Code is amended and reenacted as follows:

**15-55-10. Limitation on buildings and other campus improvements and issuance of bonds.** No building ~~or buildings~~ or other campus ~~improvements~~ improvement may be erected or constructed under this chapter, and no bonds may

be issued for the payment of the cost of any building ~~or buildings~~ or other campus improvements improvement under the terms of this chapter, ~~save and except for such specified buildings or other campus improvements as may be from time to time designated and unless~~ authorized by legislative act, nor may any ~~such building or buildings~~ or other campus improvements improvement be erected at a cost exceeding the amount fixed by the legislative assembly ~~in such act~~ as the maximum to be expended for ~~such buildings~~ the building or other campus improvements improvement undertaken under this chapter. ~~Such~~ The legislative authorization may be aggregated and the appropriation of the proceeds of the bonds for the construction of the buildings or improvements are not subject to cancellation under the provisions of section 54-44.1-11. ~~Authorization for the issuance of bonds by the 1969 legislative assembly and authorizations of previous legislative assemblies, however, expire on July 1, 1973, unless bonds have been issued for the construction of buildings or improvements in the amounts so authorized or a contract for the design of the building has been signed by the board of higher education prior to such date.~~ Authorization for the issuance of bonds by ~~succeeding the legislative assemblies~~ assembly expires four years after the effective date of the authorization unless bonds have been issued for the construction of buildings or improvements in the amounts so authorized or a contract for the design of the building has been signed by the board of higher education ~~prior to such~~ before the expiration date or the authorization specifies a different expiration date. Refunding bonds may be issued by the state board of higher education under the provisions of this chapter without legislative act to refund, at or ~~prior to~~ before the maturity of or pursuant to any privilege of prepayment reserved in or granted with respect to, any bonds issued to pay the cost of buildings or other campus improvements designated and authorized by legislative act.

**SECTION 3. Authorization of expansion of building projects by legislative assembly or budget section.** Notwithstanding any other provision of law, a state agency or institution may not significantly change or expand a building construction project beyond what has been approved by the legislative assembly unless the legislative assembly, or the budget section of the legislative council if the legislative assembly is not in session, approves the change or expansion of the project or any additional expenditure for the project. For the purposes of this section, a significant change or expansion includes the construction of an addition to a building, including skywalks or other type of enclosed walkway, or any other substantial increase in the area of the building, but does not include the construction of building entrances and stairwells.

Approved April 7, 1999  
Filed April 8, 1999

## CHAPTER 157

### HOUSE BILL NO. 1186

(Education Committee)

(At the request of the State Board of Higher Education)

### HIGHER EDUCATION LAW REVISIONS

AN ACT to amend and reenact sections 15-10-14.1, 15-10-17, and 15-62.3-01 of the North Dakota Century Code, relating to higher education reports, powers and duties of the state board of higher education, and definitions for the tuition assistance grant program; and to repeal sections 15-10-17.1, 15-10-18.1, 15-10-20, 15-10-23, 15-10-25.1, 15-10-34, 15-11-02, 15-11-05, 15-11-07, 15-11-21, 15-11-23, 15-11-24, 15-11-25, 15-11-31, 15-12-05, 15-12-13, 15-12-14, 15-12-15, 15-12-16, 15-12-17, 15-12-19, 15-13-05, 15-13-06, 15-13-07, 15-13-08, 15-13-09, 15-13-10, 15-13-11, and 15-13-12 of the North Dakota Century Code, relating to conduct of students, waiver of tuition for youth correctional center graduates, tuition at model schools, lease of building sites, out-of-state travel, authorization of contingency funds, colleges that may be united with the state university, courses of instruction, persons eligible as students, furnishing of supreme court reports to the law school, location of the university of North Dakota alumni building, control over the alumni building, contract for heat and light at the alumni building, assembly hall at the university, annual faculty report to state board of higher education, economic survey, state director of economic survey, collection of mineral samples, publishing of economic maps, publishing of agricultural experiment station reports, name of economic survey, annual report of normal school president, normal school degrees, separate funds for normal schools, normal schools' students' loan funds, administration of students' loan funds, participation in students' loan funds, rules governing students' loan funds, authorization to pledge rentals from residential units, and a dormitory at Mayville state university.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-10-14.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-14.1. ~~Biennial report~~ Higher education reports.** The state board of higher education ~~may shall~~ submit a ~~biennial report to the governor and to the secretary of state for the educational institutions under its control as provided by law. If submitted, the report must cover enrollments, major functions and programs, and major goals and objectives, and the extent of achievement of those goals and objectives. The report must also include summaries of financial reports, a narrative explaining the significance of that data, and other information the board may choose~~ the reports required pursuant to section 15-10-14.2 and such other reports as may be requested by the legislative assembly or governor.

<sup>114</sup> **SECTION 2. AMENDMENT.** Section 15-10-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-17. Specific powers and duties of board of higher education.** The state board of higher education has all the powers and shall perform all the duties necessary to the control and management of the institutions described in this chapter, including:

1. To appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under its control, and to fix their salaries within the limits of legislative appropriations therefor, and to fix the terms of office and to prescribe the duties thereof, provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the person or persons involved request that the meeting shall be open to other persons or the public.
2. To ~~have supervision and control of the grounds, buildings, and all other property of such institutions, and to authorize such institutions to maintain confidential records containing personal information regarding their prospective, current, or former students or regarding patients at the medical center rehabilitation hospital at the university of North Dakota, with the information in such records subject to release by the institution only upon a court order or the express or implied consent of the student or patient involved. A prospective, current, or former student shall be deemed to have consented to the release of all records to a prospective employer upon application for employment to that employer, provided the position is of such a nature as to require security clearance. The board may procure all necessary apparatus, instruments, and appurtenances for instruction in said schools within the limits of legislative appropriations therefor~~ regulate the conduct of students, staff, faculty, and visitors, and authorize the employment of law enforcement officers, with concurrent jurisdiction with other law enforcement officers to enforce laws and regulations at its institutions.
3. To adopt rules, and regulations, ~~and~~ bylaws for the government of each of ~~such~~ the institutions and of all ~~the~~ their departments and branches thereof.
4. To determine the ~~moral and educational~~ qualifications of applicants for admission to the various courses of instruction, to prescribe by rule criteria for the admission of students, and to ensure that the criteria for admission are applied to all applicants in a uniform and nondiscriminatory manner, regardless of the school or educational setting from which an applicant obtained a high school diploma or its equivalent. No instruction, either sectarian in religion or partisan in politics, shall ever be allowed in any department of such institutions, and no sectarian or partisan test shall ever be allowed or exercised in the election of professors, teachers, or other officers of the institutions, or in the admission of students, or for any other purpose ~~whatsoever~~.

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<sup>114</sup> Section 15-10-17 was also amended by section 2 of House Bill No. 1443, chapter 562.

5. ~~To prescribe rules and regulations for the management of the libraries, cabinets, museums, laboratories, and all other property of the institutions under its control, and for the care and preservation thereof, with suitable penalties and forfeitures by way of damages for their violation, which may be collected by action in the name of the board in any court having jurisdiction.~~
6. To prescribe the books or works to be used in the several courses of instruction; and to confer such degrees and to grant such certificates or diplomas for the work done as are usual or appropriate in similar institutions.
7. 6. To confer upon the delegate to institution officers and faculty, through bylaws, the power to suspend or expel students for misconduct or for other causes prescribed in such bylaws.
8. 7. To act in consultation with the president of each institution to minister to provide for the needs and proper development of each institution in harmony with the best interests of the people of the state, and to improve higher and technical education in the state.
9. 8. To coordinate and correlate the work in the different institutions to prevent wasteful duplication and to develop cooperation among the institutions in the exchange of instructors and students.
10. 9. To fix registration or matriculation tuition and fees and other incidental fees to be paid by students in the various institutions under its control or in any department thereof when not otherwise provided by law.
11. ~~To fix and charge fees for instruction furnished in the professional schools and colleges and for extra studies.~~
12. 10. To make recommendations in regard to needed legislation for the institutions under its control.
13. 11. To establish a retirement program as an alternative to chapter 15-39.1 for employees of institutions under its control subject to the following guidelines:
  - a. Benefits under the program shall be provided through annuity contracts purchased by the board but which shall become the property of the participants;
  - b. The cost of the annuity contracts shall be defrayed by contributions made pursuant to rules of the state board of higher education;
  - c. Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates then being paid by the Bank of North Dakota shall be transferred to the employee's account in the alternate program. Such election shall be made prior to July 1, 1980, and shall relinquish all rights the eligible employee or the employee's

beneficiary may have to benefits provided in chapters 15-39 and 15-39.2; and

- d. ~~Employees of Bismarck state college and university of North Dakota - Lake Region coming under the jurisdiction of the board who are members of the teachers' fund for retirement may elect prior to July 1, 1985, to continue membership in the teachers' fund for retirement in lieu of the alternate retirement program. If an employee does not elect to continue membership in the teachers' fund for retirement, membership in that fund will terminate and the employee will become a member of the alternate retirement program established by the board effective July 1, 1985. An employee of the above-named colleges who becomes a member of the alternate retirement program may elect prior to July 1, 1985, to have the employee's assessments and employer's contributions in the teachers' fund for retirement with interest transferred by the board of trustees of the teachers' fund for retirement to the employee's account in the alternate retirement program. If an employee elects to transfer the employee's assessment and employer's contributions together with interest to the alternate retirement program, the employee relinquishes all rights the employee or the employee's beneficiary may have to benefits provided in chapters 15-39, 15-39.1, and 15-39.2; and~~
- e. ~~Employees of institutions under the control of the state board of higher education who are members of the public employees retirement system and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system prior to March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapter 54-52.~~

The board shall provide for the administration of the alternate retirement program and establish rules therefor consistent with the foregoing guidelines. Nothing in this subsection shall be construed in derogation of any existing retirement programs approved by the board.

44. 12. To determine policy for purchasing by the institutions of higher education in coordination with the office of management and budget as provided by law.
45. 13. To establish by rule an early retirement program for faculty and officers of the board as defined by the board. The limitations on severance pay pursuant to section 54-14-04.3 and on requiring the employee to pay contributions to continue on the state uniform group insurance program upon retirement or upon termination of employment pursuant to section 54-52.1-03 shall not apply to the early retirement program.
46. 14. To adopt rules to protect the confidentiality of ~~proprietary information received from sponsors of research conducted by the institutions as well as information generated by that research. No rule promulgated by the board may in any way limit or otherwise affect the applicability or implementation of any rule or regulation of the state department of health. Each grant or contract involving confidential information must be explained in the institution's report to the board of grants and contracts received and must be reviewed at the board's public meeting~~ student records, medical records, and, consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial information.
47. 15. To authorize and encourage institutions of higher education under its control to enter into partnerships, limited liability companies, joint ventures, or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer.

**SECTION 3. AMENDMENT.** Section 15-62.3-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-62.3-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Accredited private institution" means an institution of higher learning located in North Dakota which is operated privately and not controlled or administered by any state agency or subdivision of the state, and which is accredited by the north central association of colleges and secondary schools or the accrediting association of Bible colleges.
2. "Agency" means the state board of higher education.
3. "Baccalaureate degree" means the degree customarily granted upon completion of a course of study normally requiring four academic years of college work.
4. "Final unmet financial need" means that need which remains after deducting any amounts available from the United States department of education in the form of a basic educational opportunity grant, or from the state of North Dakota in the form of a North Dakota student assistance grant or a tuition assistance grant, or both.
5. "Financial need" means the difference between (a) the student's financial resources available, including those available from the student's parents as determined by a need analysis ~~as defined in the 1977-78 student financial aid handbook issued by the~~ completed according to United

States department of education regulations, and (b) the student's anticipated annual expense while attending the accredited private institution. Financial need for each student must be calculated each year.

6. "Full-time resident student" means a North Dakota resident, pursuant to section 15-10-19.1, who is enrolled at an accredited private institution in a course of study including at least one hundred eighty instructional hours per semester.
7. "Half-time resident student" means a North Dakota resident who is enrolled at an accredited private institution in a course of study including at least ninety instructional hours per semester.
8. "Qualified student" means a full-time or half-time resident student who has established financial need and who is making satisfactory progress towards graduation.
9. "Tuition assistance grant" means a grant by the state of North Dakota to a qualified student.

**SECTION 4. REPEAL.** Sections 15-10-17.1, 15-10-20, 15-10-23, 15-10-25.1, 15-10-34, 15-11-02, 15-11-05, 15-11-07, 15-11-21, 15-11-23, 15-11-24, 15-11-25, 15-11-31, 15-12-05, 15-12-13, 15-12-14, 15-12-15, 15-12-16, 15-12-17, 15-12-19, 15-13-05, 15-13-06, 15-13-07, 15-13-08, 15-13-09, 15-13-10, 15-13-11, and 15-13-12 of the North Dakota Century Code and section 15-10-18.1 of the 1997 Supplement to the North Dakota Century Code are repealed.

Approved March 15, 1999  
Filed March 15, 1999

## CHAPTER 158

### SENATE BILL NO. 2056

(Senator G. Nelson)  
(Representative Dorso)

### STATE BOARD OF HIGHER EDUCATION REPORTS

AN ACT to amend and reenact section 15-10-14.2 of the North Dakota Century Code, relating to reports by the state board of higher education to the legislative council and the governor.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-10-14.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-10-14.2. Higher education system review - Plan - Report to legislative assembly council.**

1. In ~~October 1996~~ 2002, and every six years thereafter, the state board of higher education shall ~~meet with~~ report to the legislative council and the governor ~~to review on~~ the status of the university system, ~~and to establish~~ including the long-term goals and objectives that will best serve the citizens of this state.
2. During each year ~~after the meetings~~, except those years when reports are required by subsection 1, the state board of higher education shall:
  - a. Prioritize the long-term goals, including defining and meeting student and institutional expectations regarding teaching and learning, the curriculum, the quality of campus life, and educational services;
  - b. Develop specific directions for the pursuit of the goals given priority;
  - c. Develop measurable criteria in order to determine the rate of progress toward achieving the goals given priority; and
  - d. Develop specific timelines within which the goals given priority must be attained.
3. In ~~October 1997~~ 2003, and every six years thereafter, the state board of higher education shall ~~meet with~~ report to the legislative council and the governor and ~~shall~~ present the directions, criteria, and timelines the board developed in accordance with subsection 2.
4. The state board of higher education shall also present to the legislative council and the governor options for generating within the university system the revenues needed to ensure attainment of the goals given priority.

5. The state board of higher education shall ~~meet with~~ report to the legislative council and the governor at least once during each ~~intervening~~ year, except those years when reports are required by subsections 1 and 3, and shall present a progress report regarding its goals and objectives, together with any other information requested by the legislative council or the governor.

Approved March 4, 1999

Filed March 5, 1999

## CHAPTER 159

### SENATE BILL NO. 2220

(Senators W. Stenehjem, Holmberg, St. Aubyn)  
(Representatives Delmore, Kliniske, Poolman)

## UND WINTER SPORTS FACILITY AUTHORIZATION

AN ACT to authorize construction of a winter sports facility at the university of North Dakota; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. Lease of land - Construction of arena - Authority.** The state board of higher education may negotiate the terms of and enter into an agreement with the university of North Dakota foundation or other entity for the lease of approximately thirty-two acres [12.95 hectares] of land, which was originally gifted to the university of North Dakota, and may do all things necessary and proper to approve the terms of the lease, the plans and design, the title of the building and parking area, and to facilitate the construction with private sector dollars of a winter sports facility at the university of North Dakota, and to provide for its subsequent operation and management.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 29, 1999

Filed March 29, 1999

**CHAPTER 160****SENATE BILL NO. 2314**

(Senators St. Aubyn, DeMers, Holmberg, W. Stenehjem)  
(Representatives Poolman, Svedjan)

**STATE BOARD OF HIGHER EDUCATION  
LEASE-PURCHASE AGREEMENT APPROVAL**

A BILL to authorize the state board of higher education to approve a lease-purchase agreement.

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

**SECTION 1. Lease-purchase agreement - Approval.** The state board of higher education may approve a lease-purchase agreement or modify an existing agreement between the university of North Dakota and a health services provider for the construction and lease of a medical facility to be constructed with private sector dollars on state land, and to do all things necessary and proper to approve the terms of the lease, the plans and design of the building, the title of the building, and the facilitation of its construction. The state board of higher education may approve any additional terms necessary to provide for the purchase of the medical facility by a payment-in-kind transfer provided the board deems the transfer to be in the best interests of the university and further provided that there is no negative fiscal impact to the university. For purposes of this section, payment in kind may include the subsequent donation of an existing university-owned building. The provisions of sections 54-01-05.2 and 54-01-05.5 do not apply to the transfer and conveyance authorized by this section.

Approved March 17, 1999  
Filed March 17, 1999

## CHAPTER 161

### SENATE BILL NO. 2029

(Legislative Council)  
(Budget Section)

## NONRESIDENT TUITION APPROVAL AND AGREEMENTS

AN ACT to amend and reenact sections 15-10-18, 15-10.1-02, and 15-10.1-03 of the North Dakota Century Code, relating to the approval by the budget section of nonresident tuition rates at institutions of higher education, reciprocal tuition agreements, and agreements for the remission of nonresident tuition.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-10-18 of the North Dakota Century Code is amended and reenacted as follows:

**15-10-18. Tuition of nonresidents at schools under control of state board of higher education.** At all state institutions of higher education, tuition must be charged and collected from each nonresident student in such amount as must be determined by the state board of higher education; ~~with the approval of the budget section of the legislative council.~~

**SECTION 2. AMENDMENT.** Section 15-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-10.1-02. Agreements - Reciprocal basis.** ~~Notwithstanding the provisions of section 15-10-18, the~~ The state board of higher education is hereby authorized to may enter into agreements with public or private institutions of higher education, or the governing boards thereof, in this state and in contiguous states on a reciprocal basis in order to accomplish the following:

1. To enable a student at any institution party to such an agreement to take a specialized course or courses at a different institution from that in which he is enrolled, with or without the payment of tuition charges at the other institution.
2. To enable a student enrolled in any of the institutions party to the agreement to attend another institution party to such agreement without being required to pay nonresident tuition fees and in accordance with the terms of such agreement.

**SECTION 3. AMENDMENT.** Section 15-10.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**15-10.1-03. Remission of nonresident tuition - Agreements.** ~~Notwithstanding the provisions of section 15-10-18, the~~ The state board of higher education may enter into agreements for the remission of nonresident tuition for designated categories of students at state institutions of higher education. Such agreements must have as their purpose the mutual improvement of educational advantages for residents of this state and such other states or institutions of other states with whom agreements are made.

Approved March 19, 1999

Filed March 19, 1999

## CHAPTER 162

### HOUSE BILL NO. 1188

(Education Committee)

(At the request of the Education Standards and Practices Board)

### TEACHERS' LICENSES

AN ACT to amend and reenact subsection 6 of section 15-19-01, sections 15-19-04, 15-21-01, 15-21-18, 15-22-02, subsections 3 and 4 of section 15-27.6-13, subsections 1 and 2 of section 15-27.6-14, subsection 10 of section 15-29-08, subsection 1 of section 15-34.1-03, subsection 2 of section 15-34.1-06, sections 15-34.1-07, 15-34.1-08, 15-34.1-09, subdivision c of subsection 3 of section 15-34.1-12, subsection 1 of section 15-34.1-12.1, sections 15-36-01, 15-36-01.1, 15-36-08, 15-36-11, 15-36-12, 15-36-14.1, 15-36-15, 15-36-16, 15-36-17, 15-36-18, 15-37-01, 15-38-16, 15-38-17, 15-38-18, 15-38-18.2, subsection 6 of section 15-38.1-02, subsection 11 of section 15-39.1-04, subsection 5 of section 15-40.1-07, section 15-40.1-08, subdivision b of subsection 2 of section 15-40.2-08, section 15-41-25, subsections 2 and 3 of section 15-41-27, subsection 1 of section 15-45-02, subsection 1 of section 15-47-27.2, sections 15-47-28 and 15-47-30, subsection 12 of section 15-47-38.2, sections 15-47-42 and 15-47-46, subsection 14 of section 54-44.3-20, and subsection 4 of section 54-52-01 of the North Dakota Century Code, or in the alternative to amend and reenact sections 15.1-01-02, 15.1-02-01, 15.1-06-07, and 15.1-11-01 of the North Dakota Century Code, relating to joint meetings involving the education standards and practices board and changing references from teachers' certificates to teachers' licenses.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 6 of section 15-19-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. Pupils exempt from the compulsory school attendance laws pursuant to subsection 5 of section 15-34.1-03 may enroll in correspondence courses offered through the division of independent study. These students may study their correspondence lessons in their learning environment under the supervision of a parent. The tests for the correspondence study must be administered by a ~~certified~~ licensed teacher employed either by the public school district in which the parent resides or a state-approved private or parochial school.

**SECTION 2. AMENDMENT.** Section 15-19-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-19-04. Duty of teachers, county and state officers, and institutions.** The state board of public school education and the superintendent or a member of the department of public instruction designated by the superintendent shall approve the content of courses offered, ~~requirements for certification of teachers~~ monitor compliance with sections 15-41-25 and 15-47-46, approve credits granted for each course, and do all other things necessary to integrate the correspondence program into other programs administered or supervised by the department of public instruction. The division of independent study may advertise its correspondence

program, however, the state board of public school education and the superintendent of public instruction shall ensure that the program in no way competes with the public schools of this state for the enrollment of students, encourages students to leave the public schools, or duplicates the facilities of the public schools through offering correspondence courses to students having access to such courses in the public schools.

**SECTION 3. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-21-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-21-01. Superintendent of public instruction - Qualifications - Term of office.** There must be elected by the qualified electors of the state, at the time of choosing members of the legislative assembly, a superintendent of public instruction who must have attained the age of twenty-five years, who must have the qualifications of an elector for that office, and who must be the holder of a ~~teacher's certificate~~ professional teaching license of the highest grade issued in this state. ~~He~~ The superintendent shall have ~~his~~ an office at the seat of government, and ~~his~~ the superintendent's term of office is four years.

**SECTION 4. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-21-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-21-18. Joint meetings of board of higher education, the education standards and practices board, state board for vocational and technical education, and state board of public school education.** The state board of higher education, the education standards and practices board, and the members of the state board for vocational and technical education in their capacity as both the state board for vocational and technical education and the state board of public school education, shall hold at least one joint meeting each year at the joint call of the director for vocational and technical education, the executive director of the education standards and practices board, the superintendent of public instruction, and the commissioner of higher education for the purpose of coordinating their programs; cooperating in professional growth and development opportunities for kindergarten through grade twelve staff; and cooperating in any other manner that accomplishes the objectives of the ~~three~~ four boards involved.

**SECTION 5. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-22-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-22-02. Qualifications.** The county superintendent of schools must be a bachelor degree graduate of a regional or nationally accredited college or university approved for teacher education, must hold a valid ~~teacher's certificate~~ professional teaching license, and successful experience in teaching in an approved elementary or secondary school. This section is not retroactive but anyone serving as county superintendent on July 1, 1957, shall show evidence annually of work toward a bachelor degree in teacher education.

**SECTION 6. AMENDMENT.** If House Bill No. 1034 does not become effective, subsections 3 and 4 of section 15-27.6-13 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. "Open teaching positions" means a full-time or part-time teaching position that is not filled by a ~~certificated~~ licensed teacher and which is

or will be maintained during any school year within the term of the teacher's recall rights.

4. "Qualified by ~~certification~~ licensure" means a teacher is qualified pursuant to the laws of this state and the rules of the education standards and practices board to serve as a teacher in a particular class or subject area.

**SECTION 7. AMENDMENT.** If House Bill No. 1034 does not become effective, subsections 1 and 2 of section 15-27.6-14 of the North Dakota Century Code are amended and reenacted as follows:

1. When the contract of a teacher employed by a school district involved in reorganization pursuant to chapter 15-27.6 is not renewed under the provisions of subsection 5 of section 15-47-38 because of a reduction in force, the teacher is entitled to first preference for any open teaching positions in the reorganized school district for which the teacher is qualified by ~~certification~~ licensure. The right of recall continues until July first of the year that is two years subsequent to the date of the nonrenewal. Among teachers who have recall rights and who are qualified by ~~certification~~ licensure, the teacher with the longest continuous service within a school district involved in the reorganization is entitled to first preference. In the event that teachers entitled to recall under this section have equal continuous service within a district involved in the reorganization, then the academic preparation beyond a bachelor's degree must be used to determine which teacher is entitled to first preference under this section.
2. The teacher may exercise rights under this section by providing the reorganized school district with a written demand for recall rights within thirty days of the current school district's written notice of nonrenewal. The teacher shall inform the reorganized school district of any changes in the teacher's address during the period of the teacher's recall rights. When an open position exists within the reorganized school district, the reorganized school district shall send written notice of the open position, including details of the position's requirements to all teachers who are qualified for the position by ~~certification~~ licensure. A written notice must contain, in descending order of preference, the names of teachers entitled to recall rights. Any teacher who fails to accept recall rights in writing, within fourteen days after the teacher has received a letter by certified mail, is deemed to have waived recall rights against that position. The open position must be offered to the teacher who is entitled to preference under this section and who has accepted recall rights for the open position.

**SECTION 8. AMENDMENT.** If House Bill No. 1034 does not become effective, subsection 10 of section 15-29-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10. To contract with, employ, and pay all teachers in the schools and, for cause, to dismiss or suspend any teacher when the interests of the school may require it. Except as provided in section 15-29-08.4, every teacher must hold a valid North Dakota ~~teaching certificate~~ professional teaching license issued by the education standards and practices board. No person who is related to any member of the board by blood or

marriage may be employed as a teacher without the concurrence of two-thirds of the board.

**SECTION 9. AMENDMENT.** Subsection 1 of section 15-34.1-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. That the child is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools and the superintendent of public instruction. Except as provided in section 15-41-27, no such school shall be approved unless the teachers therein are ~~legally certificated~~ licensed in the state of North Dakota in accordance with section 15-41-25 and chapter 15-36, the subjects offered are in accordance with sections 15-38-07, 15-41-06, and 15-41-24, and such school is in compliance with all municipal and state health, fire, and safety laws.

<sup>115</sup> **SECTION 10. AMENDMENT.** Subsection 2 of section 15-34.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. a. A parent is qualified to supervise a program of home education if the parent is ~~certified~~ licensed to teach in North Dakota; has a baccalaureate degree; or has met or exceeded the cut-off score of the national teacher exam given in North Dakota, or in any other state if North Dakota does not offer such a test.
- b. A parent who has a high school diploma or a general education development certificate is qualified to supervise home education but must be monitored by a ~~certificated~~ licensed teacher during the first two years the parent supervises home education or until the child being instructed completes the third grade, whichever is later. If the child being instructed receives a composite standardized achievement test score below the fiftieth percentile nationally, the monitoring required by this section must continue during the following school year or longer if the child has not achieved the fiftieth percentile. If testing is not required by section 15-34.1-07 in either of the first two years of monitoring, the time of monitoring may not be extended except upon the mutual consent of the parent and the monitor. Once a parent has completed the monitoring requirements for one child, the parent may not be monitored with respect to other children being educated at home.

**SECTION 11. AMENDMENT.** Section 15-34.1-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-34.1-07. Home education - Quality assurance.** The following minimum indices of quality education are established:

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<sup>115</sup> Section 15-34.1-06 was also amended by section 1 of Senate Bill No. 2199, chapter 167.

1. A standardized achievement test used by the public school in the school district in which the parent resides or, if requested by the parent, a nationally normed standardized achievement test must be given to each child receiving home education in grades three, four, six, eight, and eleven. The test must be given in the child's learning environment or, at the option of the child's parent, in the public school and must be administered by a ~~certificated~~ licensed teacher. The cost of the test is the responsibility of the local school district, if it is a test used by the district. The cost of administering the test is the responsibility of the local school if it is district administered by a ~~certificated~~ licensed teacher employed by the district. The cost of the test is the responsibility of the parent if the test requested is not used by the local school district and the cost of having the test administered is the responsibility of the parent if it is administered by a ~~certificated~~ licensed teacher secured by the parent. Results of such testing must be filed with the local public school superintendent. If the parent resides in a school district which does not employ a local school superintendent, the results must be filed with the county superintendent of schools for the county of the parent's residence.
  
2. If the child's basic composite score on a standardized achievement test falls below the thirtieth percentile nationally, the child must be professionally evaluated for a potential learning problem by a multidisciplinary assessment team according to guidelines established by the superintendent of public instruction. If the multidisciplinary assessment team evaluation determines that the child is not disabled according to the eligibility criteria established by the superintendent of public instruction, the parent providing instruction may continue to conduct home education, upon filing with the superintendent of the public school district, or county superintendent if there is no local superintendent, a plan of remediation to address the academic deficiencies of the child. An annual determination of reasonable academic progress conducted by the local school district superintendent must be based on the child's plan of remediation. If such a plan is not filed, the parent is deemed to be in violation of the compulsory attendance requirement of section 15-34.1-01 and the child no longer qualifies for home education. Such plan of remediation must be developed in consultation with and with the approval of a ~~state-certificated~~ state-licensed teacher selected by the parent. Costs associated with the consultation are the responsibility of the parent. The plan of remediation must remain in effect until such time as the child demonstrates reasonable academic progress by achieving a basic composite score on a standardized achievement test at or above the thirtieth percentile or a score indicating one year of academic progress as compared to a score on a test from the previous school year. The test may be one required by this section or one administered in an additional grade level, at the option of the parent. The plan of remediation may be amended from time to time in consultation with and with the approval of the ~~state-certificated~~ state-licensed teacher in order to accommodate the academic needs of the child. If a plan of remediation is no longer in effect and the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a plan of remediation must again be developed and instituted. If the evaluation of the multidisciplinary assessment team determines that the child is disabled, but does not have a developmental disability, according to the eligibility criteria established by the superintendent of public instruction, that the child requires specially designed instruction

due to the disability, and that this instruction cannot be provided without special education and related services, the parent providing instruction may continue to provide home education, upon filing with the superintendent of the public school district an individualized education program plan, developed privately or through the local school district, indicating that the child's need for special education is being appropriately addressed by persons qualified to provide special education or related services. An annual determination of reasonable academic progress conducted by the local school district superintendent must be based on the child's individualized education plan. If such a plan is not filed, the parent is deemed to be in violation of the compulsory attendance requirements of section 15-34.1-01, and the child no longer qualifies for home education. A child who is once evaluated by a multidisciplinary team need not be reevaluated for a potential learning problem upon scoring below the thirtieth percentile on a subsequent standardized achievement test unless the reevaluation is performed pursuant to the provision of special education and related services.

3. Any ~~certificated~~ licensed teacher monitoring home education shall spend, at a minimum, an average of one hour per week in contact with the first student and in conjunction with the parent. With two or more children under supervision, the teacher shall spend, at a minimum, an additional one-half hour per month for each child under the teacher's supervision who is receiving home education. The time may be reduced proportionately if the child is in attendance in a public school or an approved nonpublic school. The teacher shall evaluate the student's progress and report the student's progress at least twice annually to the local public school superintendent. If the school district does not employ a local school superintendent, the report must be filed with the county superintendent of schools for the county of the child's residence. If a monitor is required by section 15-34.1-06, the school district shall, at the request of the parent, provide the monitor at school district expense. A monitor retained by the parent must be compensated by the parent.

**SECTION 12. AMENDMENT.** Section 15-34.1-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-34.1-08. State aid.** For purposes of allocating foundation aid and other state assistance to local school districts, a student receiving home education is deemed enrolled in the school district in which the student resides if the student is monitored by a ~~certificated~~ licensed teacher employed by the public school district in which the parent resides. A school district is entitled to one-half of the per student payment provided in section 15-40.1-06 times the appropriate factor in section 15-40.1-07 or 15-40.1-08 for each such student. When a student is supervised in home education and is enrolled in classes in the public school, proportionate payments must be made as provided in sections 15-40.1-07 and 15-40.1-08. The total amount may not exceed the equivalent of one full foundation aid payment.

**SECTION 13. AMENDMENT.** Section 15-34.1-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-34.1-09. Monitoring or administration by a ~~certificated~~ licensed teacher.** Any ~~certificated~~ licensed teacher who monitors a child receiving home education or who administers a standardized achievement test to a child receiving home education must notify the child's public school district of residence that the teacher is providing

such monitoring or administration. The parent of any child receiving home education who is monitored by or taking a test administered by a ~~certificated~~ licensed teacher not employed by a public school district is responsible for the costs of the monitoring or test administration.

<sup>116</sup> **SECTION 14. AMENDMENT.** Subdivision c of subsection 3 of section 15-34.1-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- c. A description of the instructional plan to be followed during the school year, together with an attestation by a licensed psychologist and a North Dakota ~~certificated~~ licensed teacher that the instructional plan is appropriate for the child.

<sup>117</sup> **SECTION 15. AMENDMENT.** Subsection 1 of section 15-34.1-12.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. On or before November first, February first, and May first of each school year, a parent providing home schooling to an autistic child under section 15-34.1-12 shall file with the superintendent of the child's school district of residence progress reports prepared by a licensed psychologist, an occupational therapist, a speech pathologist, and a ~~certificated~~ licensed teacher. If at any time the licensed psychologist, the occupational therapist, the speech pathologist, and the ~~certificated~~ licensed teacher agree that adequate progress is not being made, they shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team.

**SECTION 16. AMENDMENT.** Section 15-36-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-01. Teachers' ~~certificates~~ licenses - Criteria to be established.** The education standards and practices board shall determine the criteria for teacher ~~certification~~ licensure for school terms beginning on or after July 1, 1995. The criteria shall be based upon standards which include considerations of character, adequate educational preparation, and general fitness to teach in the public schools of this state. After holding a public hearing, the board shall ~~issue~~ adopt rules concerning the issuance of ~~teachers' certificates~~ professional teaching licenses, and ~~certificates~~ licenses must be issued by the board's office in accordance with the rules. However, any teacher who has graduated from college in an accredited teacher education program on or before September 1, 1980, may not be required to earn any college credits in native American or other multicultural courses in order to be ~~certificated or recertificated~~ licensed or relicensed. Nothing in this section may be interpreted to affect the validity of ~~life~~ certificates in existence on July 1, ~~1973~~ 1999, nor does this section affect vocational education certificate qualifications as provided in chapter 15-20.1. Certificates in effect remain in effect until their expiration date. Subsequent renewals must be issued as licenses.

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<sup>116</sup> Section 15-34.1-12 was also amended by section 1 of House Bill No. 1064, chapter 168.

<sup>117</sup> Section 15-34.1-12.1 was also amended by section 2 of House Bill No. 1064, chapter 168.

**SECTION 17. AMENDMENT.** Section 15-36-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-01.1. ~~Teachers' certificates~~ Professional teaching licenses - Student transcript.** A student who has met all the criteria necessary to receive a ~~teacher's certificate~~ professional teaching license, but who has not graduated from a college or university, may request a copy of the student's completed transcript from the college or university the student attended. Within ten days of the request by the student, the college or university shall mail a copy of the transcript to the ~~educational~~ education standards and practices board showing that the student has met all the criteria necessary to receive a ~~teacher's certificate~~ professional teaching license except graduation. The transcript must indicate areas in which the student has a major or minor.

<sup>118</sup> **SECTION 18. AMENDMENT.** Section 15-36-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-08. Fees for ~~certificates~~ licenses.** The education standards and practices board must determine a fee for each ~~certificate~~ professional teaching license issued by this state; ~~and no certificate may be issued for a period of less than one school year.~~ The fees must be deposited and disbursed in accordance with section 54-44-12.

<sup>119</sup> **SECTION 19. AMENDMENT.** Section 15-36-11 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-11. ~~Certificate~~ License required.** A person must hold a valid North Dakota ~~teacher's certificate~~ professional teaching license in order to be permitted or employed to teach in any public school in this state.

<sup>120</sup> **SECTION 20. AMENDMENT.** Section 15-36-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-12. ~~Certificate~~ Professional teaching license must be exhibited to business manager of the school district - Completion of term after expiration of ~~certificate~~ license.** No teacher is entitled to receive any compensation for the time the teacher teaches in a public school without a ~~certificate to teach which lawfully is issued and in force in the county in which the school is taught~~ professional teaching license. Prior to receiving a salary for the first month taught in a school district, a teacher must exhibit ~~the teacher's certificate~~ a professional teaching license to the business manager of the school district. If a ~~teacher's certificate~~ professional teaching license expires by its own limitations within six weeks of the close of the term, the teacher may finish the term without reexamination or renewal thereof. This section does not apply to any person providing teaching services in accordance with section 15-29-08.4.

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<sup>118</sup> Section 15-36-08 was also amended by section 1 of Senate Bill No. 2075, chapter 172.

<sup>119</sup> Section 15-36-11 was also amended by section 1 of House Bill No. 1370, chapter 170.

<sup>120</sup> Section 15-36-12 was also amended by section 4 of House Bill No. 1035, chapter 164.

**SECTION 21. AMENDMENT.** Section 15-36-14.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-14.1. State's attorney - Duty to notify the education standards and practices board and the administrator's professional practices board.** The state's attorney shall notify the education standards and practices board or the administrator's professional practices board in the case of a school administrator, in writing, whenever a ~~certificated~~ licensed teacher or administrator is convicted of a felony or a class A misdemeanor.

**SECTION 22. AMENDMENT.** Section 15-36-15 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-15. Revocation of ~~teacher's certificates~~ professional teaching license - Grounds - Effect.** The education standards and practices board or the administrator's professional practices board in the case of a school administrator may suspend for a period of time, or revoke and annul any ~~teacher's or administrator's certificate~~ professional teaching license granted in this state upon any or all of the following grounds:

1. For any cause which would have authorized or required the education standards and practices board to refuse to grant the ~~certificate~~ license if the facts were known at the time when the ~~certificate~~ license was granted.
2. For incompetency, immorality, intemperance, or cruelty of the ~~certificate holder~~ licensee.
3. The ~~certificate holder~~ licensee has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of an offense determined by the education standards and practices board or the administrator's professional practices board in the case of a school administrator to have a direct bearing upon a person's ability to serve the public as a teacher or administrator, or the education standards and practices board or the administrator's professional practices board determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
4. For the refusal by the ~~certificate holder~~ licensee to perform the duties of a teacher or the general neglect of the work of the school.
5. For the breach, by the ~~certificate holder~~ licensee, of a contract with any school district.
6. Serious violation or a series of violations of the professional codes and standards promulgated in accordance with law.

The revocation of a ~~certificate~~ license shall terminate the employment of the ~~certificate holder~~ licensee by the school in which the holder is employed when the ~~certificate~~ license is revoked, but the ~~holder~~ licensee must be paid to the time the notice of revocation is received. Appeals from any order of revocation may be taken to the district court of Burleigh County as provided by chapter 28-32.

**SECTION 23. AMENDMENT.** Section 15-36-16 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-16. Proceedings to suspend, revoke, or annul ~~certificate~~ license.** The education standards and practices board or the administrator's professional practices board in the case of a school administrator, upon the receipt of a complaint alleging grounds to suspend for a period of time, revoke, or annul any ~~person's teacher's certificate~~ professional teaching license as set forth in section 15-36-15, and upon the determination that sufficient evidence exists to sustain the charges in the complaint, shall conduct proceedings in accordance with chapter 28-32. Upon completion of the proceedings, if the education standards and practices board or the administrator's professional practices board finds that grounds to annul, revoke, or suspend for a period of time do exist, the appropriate board shall issue an order in the manner provided in chapter 28-32 to annul, revoke, or suspend for a period of time the ~~teacher's certificate~~ professional teaching license of such person as provided in section 15-36-15.

**SECTION 24. AMENDMENT.** Section 15-36-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-17. Notice to be given when ~~teacher's certificate~~ professional teaching license is revoked.** When a ~~teacher's certificate~~ professional teaching license is revoked, the education standards and practices board or the administrator's professional practices board shall notify the business manager of the school district or the secretary of the board of education, as the case may be, of the district wherein the teacher is employed, and shall notify the teacher of the revocation through the business manager of the school district. The appropriate board also shall notify each county superintendent of schools in the state and shall enter an action in the case upon the records of the superintendent's office. Upon being notified that the ~~teacher's certificate~~ individual's professional teaching license has been revoked, the teacher or administrator shall return the ~~certificate~~ license to the appropriate board, and if the teacher or administrator neglects so to do, that the board may issue notice of the revocation by publication in the official newspaper of the county in which the teacher or administrator last was employed.

**SECTION 25. AMENDMENT.** Section 15-36-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-18. School guidance and counseling services - Providers.** Notwithstanding any other law, guidance and counseling services at the elementary and secondary school level may be provided by a person holding a graduate degree in counseling from a state-approved school counseling program, with coursework and an internship in school counseling, as required for all counselors by the superintendent of public instruction, provided the person has a valid North Dakota ~~teaching certificate~~ professional teaching license or will obtain one within seven years from the date of first employment under the provisions of this section. The education standards and practices board shall adopt rules relating to the background check of a person hired under this section. All costs associated with a background check are the responsibility of the person being hired. The education standards and practices board shall monitor a person hired under this section to ensure that the person annually completes at least one-seventh of the total credits required for that person to obtain a ~~teaching certificate~~ professional teaching license as determined on the date of first employment under this section.

**SECTION 26. AMENDMENT.** Section 15-37-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-37-01. Teacher's oath.** Every person who applies for a certificate license to teach in any of the public schools of the state shall subscribe to the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the state of North Dakota, and that I will faithfully discharge the duties of my position, according to the best of my ability.

The oath or affirmation must be executed in duplicate, and one copy thereof must be filed with the education standards and practices board when the application for a certificate license is made, and the other copy must be retained by the person who subscribes to such oath or affirmation. No certificate license may be issued unless a duly witnessed or notarized oath or affirmation has been filed.

**SECTION 27. AMENDMENT.** Section 15-38-16 of the North Dakota Century Code is amended and reenacted as follows:

**15-38-16. Responsibilities of the teaching profession.** The legislative assembly hereby declares the profession of teaching in the public schools of this state to be a profession affected by high public interest, and that it is in the best interest of the state that such profession be recognized and that it accept its professional responsibilities in the development and promotion of high standards of ethics, conduct, and professional performance and practices. For the purposes of sections 15-38-16 through 15-38-19, the "profession of teaching" or "teaching profession" means persons engaged in teaching in the public schools and persons providing related administrative, supervisory, or other services in the public schools requiring certification licensure from the ~~department of public instruction~~ education standards and practices board.

**SECTION 28. AMENDMENT.** Section 15-38-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-38-17. Education standards and practices board and administrator's professional practices board.** The education standards and practices board consists of nine members. The governor shall appoint four classroom teachers from public schools, one classroom teacher from a private school, one school board member, two school administrators, and one dean of a college of education. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member. The administrator's professional practices board consists of five members from the education standards and practices board. The administrator's professional practices board includes the two school administrators who are members of the education standards and practices board, the one school board member who is a member of the education standards and practices board, and two teacher members who are members of and are selected by the education standards and practices board. The term of office of members of the education standards and practices board and the administrator's professional practices board shall be three years commencing on ~~January~~ July first of the year of the appointment. Vacancies ~~shall~~ must be filled for an unexpired term in the same manner as original appointments. ~~No~~ A person may not serve for more than two consecutive terms as a member of either board. Members of the current teachers' professional practices commission may serve out their remaining terms.

The education standards and practices board and the administrator's professional practices board shall each annually select a chairman and vice chairman, and the executive director of the education standards and practices board or the executive director's designee shall serve as secretary. Meetings of either board

must be held after ten days' notice to all members at the call of the chairman or upon request in writing of a majority of either board. A majority ~~shall constitute~~ constitutes a quorum and a majority of the quorum ~~shall have~~ has authority to act upon any matter properly before either board. Each board shall adopt its own rules of order and procedure not inconsistent with sections 15-38-16 through 15-38-19 and shall hold meetings pursuant to the provisions of sections 15-38-16 through 15-38-19.

The members of each board ~~shall~~ are entitled to receive twenty-five dollars for each day actually engaged in the service of the appropriate board and ~~shall~~ must be paid actual and necessary traveling and other expenses at the same rate as for employees of the state. ~~No~~ A member of either board ~~shall~~ may not lose the member's regular salary or the above compensation while serving on official business of the appropriate board.

<sup>121</sup> **SECTION 29. AMENDMENT.** Section 15-38-18 of the North Dakota Century Code is amended and reenacted as follows:

**15-38-18. Duties of the education standards and practices board.** It is the duty of the board to supervise the ~~certification~~ licensure of teachers, to set standards for and approve teacher preparation programs, to develop and revise, consistent with state law, professional codes or standards relating to ethics, conduct, and professional performance and practices and to provide recommendations for in-service education of persons engaged in the profession of teaching in the public schools. In the development of professional codes and standards, the board shall solicit the assistance of members of the teaching profession and representatives of school administrators, school board members, teacher education professors, and other interested citizens. The board shall adopt approved or revised codes and standards as rules in accordance with chapter 28-32. The board may enter into agreements with other states to acquire reciprocal approval of teacher preparation programs, apply for and receive federal or other funds on behalf of the state for purposes related to its duties, and to perform any other duty that relates to the improvement of instruction through teacher education, professional development, and continuing education programs. The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota. The board shall appoint an executive director to serve at its discretion. The executive director shall perform the duties assigned by the board. The board shall authorize the employment of staff necessary for the sound and economic administration of its duties, responsibilities, and functions. The executive director shall hire the staff, subject to the approval of the board.

<sup>122</sup> **SECTION 30. AMENDMENT.** Section 15-38-18.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-38-18.2. Education standards and practices board - Initial ~~certification~~ licensure of teachers - Background.** The education standards and practices board shall check, or cause to be checked, the background of each applicant for initial ~~certification~~ licensure as a teacher. The board shall require each applicant for

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<sup>121</sup> Section 15-38-18 was also amended by section 2 of Senate Bill No. 2075, chapter 172.

<sup>122</sup> Section 15-38-18.2 was also amended by section 3 of Senate Bill No. 2075, chapter 172.

~~certification~~ licensure to file a complete set of the applicant's fingerprints, taken by a law enforcement officer, and all other information necessary to complete a state and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

**SECTION 31. AMENDMENT.** Subsection 6 of section 15-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

6. "Teachers" means and includes all public school employees ~~certificated~~ licensed under chapter 15-36 and employed primarily as classroom teachers.

<sup>123</sup> **SECTION 32. AMENDMENT.** Subsection 11 of section 15-39.1-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11. "Teacher" means:
  - a. All persons ~~certified~~ licensed to teach in this state by the education standards and practices board who are contractually employed in teaching, supervisory, administrative, or extracurricular services in any state institution or by any school board or other governing body of any school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers employed in any state institution or in the school system of any school district in this state.
  - b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, the professional staff of the state board for vocational and technical education, the professional staff of the division of independent study, the executive director and professional staff of the North Dakota education association who are members of the fund on July 1, 1995, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association who are members of the fund on July 1, 1995.
  - c. The executive director and professional staff of the North Dakota council of school administrators who are members of the fund on July 1, 1995, and ~~certified~~ licensed staff of teachers centers, but only if the person was previously a member of and has credits in the fund.

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<sup>123</sup> Section 15-39.1-04 was also amended by section 1 of Senate Bill No. 2070, chapter 175.

- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

<sup>124</sup> **SECTION 33. AMENDMENT.** Subsection 5 of section 15-40.1-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. For high schools having an approved alternative education program, the amount of money resulting from multiplying the factor in:
  - a. Subsection 1 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has less than seventy-five students in average daily membership.
  - b. Subsection 2 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has seventy-five or more, but less than one hundred fifty students in average daily membership.
  - c. Subsection 3 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has one hundred fifty or more, but less than five hundred fifty students in average daily membership.
  - d. Subsection 4 times the number of students registered in the alternative education program times the educational support per student as provided in section 15-40.1-06 if the alternative education program has five hundred fifty or more students in average daily membership.

Every high school district must receive at least as much in total payments as it would have received if it had the highest number of students in the next lower category. Payments may not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only ~~certificated~~ licensed teachers have been employed, and the other standards prescribed by this chapter have been met. Payments must be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district must be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation or students enrolled in less than four units of standard high school work who are in their fourth year of high school coursework and who are enrolled in approved alternative high school curriculum programs, proportionate payments must be made to the public school district in which the student is enrolled for specific courses.

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<sup>124</sup> Section 15-40.1-07 was also amended by section 4 of Senate Bill No. 2162, chapter 169.

School districts offering high school summer school programs are eligible for proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction. The superintendent may adopt rules regarding eligibility for school districts to receive proportionate payments for summer education programs. The proportionate payment made under this section during the biennium for high school summer school programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for foundation aid and transportation aid during the biennium.

<sup>125</sup> **SECTION 34. AMENDMENT.** Section 15-40.1-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-08. Elementary per student payments - Amount.** Payments must be made from state funds to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, employing teachers holding valid ~~certificates or permits~~ licenses in accordance with section 15-47-46 and chapter 15-36, adjusted as provided in section 15-40.1-09, as follows:

1. For each one-room rural school, the amount of money resulting from multiplying the factor 1.28 adjusted by sixty-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through eight in average daily membership, up to a maximum of sixteen students, times the educational support per student provided in section 15-40.1-06. There must be paid .9 times each additional student in its school in grades one through eight in average daily membership times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty students in average daily membership. If the one-room rural school is located in a school district with another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six as provided in subsections 2 through 4. If the one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5. Beginning July 1, 1998, the factor is 1.28 adjusted by seventy-five percent of the difference between 1.28 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
2. For each elementary school in school districts having under one hundred students in average daily membership in grades one through six, the amount of money resulting from multiplying the factor 1.09 adjusted by sixty-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this

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<sup>125</sup> Section 15-40.1-08 was also amended by section 6 of Senate Bill No. 2162, chapter 169.

category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher, times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. Beginning July 1, 1998, the factor is 1.09 adjusted by seventy-five percent of the difference between 1.09 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

3. For each elementary school in school districts having one hundred or more students in average daily membership in grades one through six, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary students in grades one through six, the amount of money resulting from multiplying the factor .905 adjusted by sixty-five percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. Beginning July 1, 1998, the factor is .905 adjusted by seventy-five percent of the difference between .905 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
4. For each elementary school in school districts having an average daily membership of one thousand or more elementary students in grades one through six, the amount of money resulting from multiplying the factor .95 adjusted by sixty-five percent of the difference between .95 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. Beginning July 1, 1998, the factor is .95 adjusted by seventy-five percent of the difference between .95 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
5. For each of the above classes of elementary schools, except for one-room rural schools that are not located in a district with another school having students in grade seven or eight, there must be paid to each school the amount of money resulting from multiplying the factor 1.01 adjusted by sixty-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades seven and eight in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in

average daily membership in each classroom or for each teacher. Beginning July 1, 1998, the factor is 1.01 adjusted by seventy-five percent of the difference between 1.01 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

6. For each elementary school having students under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, the amount of money resulting from multiplying the factor 1.01 adjusted by sixty-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of special education students in that school under the compulsory age for school attendance in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06. Beginning July 1, 1998, the factor is 1.01 adjusted by seventy-five percent of the difference between 1.01 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
7. For each elementary school providing a kindergarten that is established according to provisions of section 15-45-01, the amount of money resulting from multiplying the factor .50 adjusted by sixty-five percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in average daily membership in each classroom or for each teacher times the educational support per student, as provided under section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. The full per student payment may be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period must receive a proportionately smaller per student payment. Beginning July 1, 1998, the factor is .50 adjusted by seventy-five percent of the difference between .50 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

The superintendent of public instruction shall make proportionate payments to each public school district educating students who are also enrolled in nonpublic schools.

Every school district must receive at least as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.

**SECTION 35. AMENDMENT.** Subdivision b of subsection 2 of section 15-40.2-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- b. Tutoring services upon claim of the admitting facility, provided that the tutoring services are delivered by a ~~certified~~ licensed and

qualified teacher according to rules established by the superintendent of public instruction.

<sup>126</sup> **SECTION 36. AMENDMENT.** Section 15-41-25 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-41-25. High schools - Teacher qualification.** Except as provided in section 15-29-08.4, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 shall have a valid ~~teacher's certificate~~ professional teaching license and shall have a major or minor in the course areas or fields that the teacher is teaching if the high school is to receive any approval by the department of public instruction. However, a teacher granted a ~~certificate~~ license to teach in the disciplines of trade, industrial, technical, and health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which the teacher is employed may not affect the approval of the employing school district.

**SECTION 37. AMENDMENT.** If House Bill No. 1034 does not become effective, subsections 2 and 3 of section 15-41-27 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. If the school uses telecommunications or other electronic means to deliver curricular programs, the programs are prepared by persons holding at least baccalaureate degrees and delivered in the presence of a person who holds a North Dakota ~~secondary~~ professional teaching certificate license or who meets or exceeds the average cutoff scores of the states that have normed the national teacher's examination.
3. The school employs at least one state ~~certificated~~ licensed high school teacher to serve in a supervisory capacity for each twenty-five students.

**SECTION 38. AMENDMENT.** Subsection 1 of section 15-45-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. All kindergarten teachers must hold valid ~~certificates~~ licenses issued under rules adopted by the education standards and practices board as provided in chapter 15-36.

**SECTION 39. AMENDMENT.** Subsection 1 of section 15-47-27.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The term "teacher", as used in this section, means a contracted state employee ~~holding a professional certificate and certified~~ licensed by the education standards and practices board to teach in this state, whose primary task is to provide direct instruction in a classroom, or on an individualized basis, and whose work schedule must be in accordance with the school calendar, guidance counselors, school librarians, itinerant outreach teachers, and vocational and other technological resource personnel who are required to meet the same teaching and

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<sup>126</sup> Section 15-41-25 was also amended by section 1 of Senate Bill No. 2142, chapter 184.

~~certification licensure~~ requirements. The term does not include superintendents, assistant superintendents, principals, supervisory personnel, substitutes, and all paraprofessionals.

**SECTION 40. AMENDMENT.** Section 15-47-28 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-28. Suspension of ~~teacher's certificate~~ professional teaching license for breach of contract.** In the event of breach of contract on the part of a teacher or administrator, the education standards and practices board or the administrator's professional practices board shall suspend a ~~teacher's certificate~~ the individual's professional teaching license for a period not to exceed one year, during which time it is unlawful for such teacher or administrator to receive payment for teaching or administration in the public schools of North Dakota.

**SECTION 41. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-47-30 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-30. Suspension and revocation of ~~teachers' certificates~~ professional teaching licenses for wearing religious garb.** Any public school teacher or administrator who violates the provisions of section 15-47-29 shall have the ~~teacher's certificate~~ individual's professional teaching license suspended by the education standards and practices board or the administrator's professional practices board for one year, and upon the conviction of the teacher or administrator for a second such offense, the ~~teacher's certificate~~ individual's professional teaching license must be permanently revoked and annulled by the education standards and practices board or the administrator's professional practices board as provided by law.

**SECTION 42. AMENDMENT.** Subsection 12 of section 15-47-38.2 of the North Dakota Century Code is amended and reenacted as follows:

12. A school board dismissing a superintendent for cause shall report the dismissal to the ~~teachers' professional practices commission~~ administrator's professional practices board. The school board by unanimous vote may suspend the superintendent from regular duty if such action is deemed desirable during the dismissal process. If the superintendent is dismissed, the board may determine the superintendent's salary or compensation as of the date of suspension. If the final decision is favorable to the superintendent, there may be no abatement of salary or compensation.

<sup>127</sup> **SECTION 43. AMENDMENT.** Section 15-47-42 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-42. Status and authority of student and eminence-credentialed teachers.** Any student teacher or eminence-credentialed teacher hired or assigned in this capacity must be given the same legal authority and status as if the student or eminence-credentialed teacher were a ~~certificated employee of licensed teacher~~ employed by the school district. The authority of the student or

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<sup>127</sup> Section 15-47-42 was also amended by section 6 of House Bill No. 1035, chapter 164.

eminence-credentialed teacher extends to all aspects of student management or discipline, the handling of confidential student records, and to all other aspects of legal authority granted to ~~certificated~~ licensed teachers in the state. The student or eminence-credentialed teacher must be deemed a ~~certificated employee of licensed teacher employed by~~ the district with respect to acts performed by the student or eminence-credentialed teacher at the direction, suggestion, or consent of the district employees under whose supervision and control the student or eminence-credentialed teacher performs duties, whether or not the duties are performed entirely in the presence of district employees assigned to supervise the student or eminence-credentialed teacher, and must be deemed an employee of the school district within the meaning of sections 32-12.1-05 and 39-01-08 relating to liability insurance carried by political subdivisions. For purposes of this section, "eminence-credentialed teacher" means a person providing teaching services in accordance with section 15-29-08.4.

<sup>128</sup> **SECTION 44. AMENDMENT.** Section 15-47-46 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-46. Teacher qualification - Kindergarten through grade eight - Exceptions.**

1. Except as provided in subsections 2 through 4 or section 15-29-08.4, all teachers teaching kindergarten through grade eight must hold a professional teaching certificate license and:
  - a. A minimum of a kindergarten endorsement to teach kindergarten;
  - b. A major, minor, or endorsement in elementary education to teach elementary education in grades one through eight; or
  - c. An endorsement in kindergarten or elementary education from the education standards and practices board attained prior to or within two years of the assignment to teach kindergarten or elementary education. An endorsement may be obtained by completing teaching requirements and a minimum number of credit hours in courses prescribed by the education standards and practices board.
2. A teacher who holds a professional teaching certificate license and a major or an endorsement in middle school education attained prior to, or within two years of, the assignment to teach middle school may teach grades five through eight.
3. A teacher who holds a professional teaching certificate license and a major or minor in the course area or field in which the teacher is teaching may teach grades seven and eight.
4. A teacher who holds a professional teaching certificate license from the education standards and practices board and meets the requirements of the superintendent of public instruction may teach special education,

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<sup>128</sup> Section 15-47-46 was also amended by section 7 of House Bill No. 1035, chapter 164.

foreign language, art, music, physical education, business education, and computer education in kindergarten through grade eight.

<sup>129</sup> **SECTION 45. AMENDMENT.** Subsection 14 of section 54-44.3-20 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14. ~~Certificated~~ Licensed teachers engaged in teaching at the North Dakota youth correctional center, the school for the blind, and the school for the deaf.

<sup>130</sup> **SECTION 46. AMENDMENT.** Subsection 4 of section 54-52-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; ~~certified~~ licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

<sup>131</sup> **SECTION 47. AMENDMENT.** Section 15.1-01-02 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

**15.1-01-02. Joint meetings - State board of public school education - State board of higher education - Education standards and practices board - State board for vocational and technical education.** The state board of public school education, the state board of higher education, the education standards and practices board, and the state board for vocational and technical education shall meet together at least once each year at the call of the superintendent of public instruction, the commissioner of higher education, the executive director of the education standards and practices board, and the director of vocational and technical education for the purposes of:

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

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<sup>129</sup> Section 54-44.3-20 was also amended by section 12 of House Bill No. 1019, chapter 19, and section 1 of Senate Bill No. 2291, chapter 473.

<sup>130</sup> Section 54-52-01 was also amended by section 1 of Senate Bill No. 2071, chapter 478, and section 1 of House Bill No. 1257, chapter 482.

<sup>131</sup> Section 15.1-01-02 was created by section 1 of House Bill No. 1034, chapter 196.

**SECTION 48. AMENDMENT.** Section 15.1-02-01 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

<sup>132</sup> **SECTION 49. AMENDMENT.** Section 15.1-06-07 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

1. The school meets all statutory requirements regarding the subjects to be taught, the length of the school year, and health, fire, and safety standards;
2. If the school uses telecommunications or other electronic means to deliver curricular programs, the programs are prepared by individuals holding at least baccalaureate degrees and delivered in the presence of an individual who holds a North Dakota secondary professional teaching certificate license or who meets or exceeds the average cutoff scores of states that have normed the national teacher's examination;
3. The school employs at least one state certificated licensed high school teacher to serve in a supervisory capacity for each twenty-five students;
4. The average composite scholastic achievement test scores of students enrolled in the school or the students' scores achieved on comparable standardized tests meet or exceed the national average test scores; and
5. The school and its employees are governed by a board of directors that includes parental representation.

<sup>133</sup> **SECTION 50. AMENDMENT.** Section 15.1-11-01 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

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<sup>132</sup> Section 15.1-06-07 was created by section 6 of House Bill No. 1034, chapter 196.

<sup>133</sup> Section 15.1-11-01 was created by section 11 of House Bill No. 1034, chapter 196.

1. Except as provided in section 15.1-11-02, each board of county commissioners shall employ a county superintendent of schools on a full-time or a part-time basis. An individual hired under this section:
  - a. Must hold a baccalaureate degree from a regional or nationally accredited institution of higher education approved for teacher education.
  - b. Must hold a valid North Dakota ~~teacher's certificate~~ professional teaching license.
  - c. Must have experience teaching at an approved elementary, middle, or secondary school.
  - d. Must be approved by a majority of the school board presidents representing school districts having their administrative headquarters in the county.
  - e. Serves until the individual resigns or is discharged by the board of county commissioners at the direction of a majority of the school board presidents referenced in subdivision d.
2. The presidents of the school boards referenced in subsection 1 shall perform the duties of school boards with respect to the evaluation, renewal, and discharge of an individual hired under this section.

**SECTION 51. MEASURES ENACTED BY THE FIFTY-SIXTH LEGISLATIVE ASSEMBLY RELATING TO EDUCATION STANDARDS AND PRACTICES BOARD.** The legislative council may insert appropriate references in any measure enacted by the fifty-sixth legislative assembly which refers to the terms "certificate, certification, teacher's certificate, certificated teacher", or other similar terms referring to certificates issued by the education standards and practices board consistent with usages contained in this Act. References inserted may be adjusted to suit context and grammar of the sections and must be inserted so as to harmonize the legislative measure with regard to the name change from certificate to license provided by this Act.

Approved March 22, 1999  
Filed March 22, 1999

## CHAPTER 163

### HOUSE BILL NO. 1434

(Representative Nichols)

## STATE BOARD FOR VOCATIONAL AND TECHNICAL EDUCATION POWERS AND DUTIES

AN ACT to amend and reenact section 15-20.1-03 of the North Dakota Century Code, relating to the powers and duties of the state board for vocational and technical education.

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

**SECTION 1. AMENDMENT.** Section 15-20.1-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-20.1-03. Powers and duties of state board relating to vocational education.**

The state board shall have all authority necessary to cooperate with the United States department of education, or other department or agency of the United States of America in the administration of acts of Congress relating to vocational education, including the following powers and duties:

1. To administer any legislation enacted by the legislative assembly of this state pursuant to or in conformity with acts of Congress relating to vocational education.
2. To administer the funds provided by the federal government and by this state for the promotion of vocational education, and to contract with:
  - a. Any public or private institution or agency, board of trustees of any agricultural and training school, or school district of this state; or
  - b. Any public or private institution or agency, or political subdivision, of another state.
3. To formulate plans for the promotion of vocational education in such subjects as are an essential and integral part of the public school system of education in this state.
4. To provide for the preparation of teachers.
5. To fix the compensation of such officers and assistants as may be necessary to administer the federal acts and the provisions of this chapter relating to vocational education and to pay the same and other necessary expenses of administration from any funds appropriated for such purpose.
6. To make studies and investigations relating to vocational education.
7. To promote and aid in the establishment of schools, departments, or classes, and to cooperate with local communities in the maintenance of vocational schools, departments, or classes.

8. To prescribe the qualifications and provide for the certification of teachers, directors, and supervisors.
9. To cooperate with governing bodies of school districts and with organizations and communities in the maintenance of classes for the preparation of teachers, directors, and supervisors of vocational education, to maintain classes for such purposes under its own direction and control, and to establish and control, by general regulations, the qualifications to be possessed by persons engaged in the training of vocational teachers.
10. To coordinate new and existing farm management programs offered by any state agency or entity.
11. To create and expand marketing clubs as adjuncts to new and existing farm management programs.

Approved April 7, 1999

Filed April 8, 1999

## CHAPTER 164

### HOUSE BILL NO. 1035

(Legislative Council)  
(Education Services Committee)

## EDUCATION TITLE REVISION CROSS-REFERENCES

AN ACT to amend and reenact section 11-10-10.5, subsection 1 of section 12.1-05-05, sections 15-20.2-04, 15-36-12, 15-41-25, 15-47-42, subsection 1 of section 15-47-46, section 15-59.2-02, subsection 5 of section 40-01.1-04, subsection 1 of section 54-07-01.2, and subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to cross references to statutes in the education title.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 11-10-10.5 of the North Dakota Century Code is amended and reenacted as follows:

**11-10-10.5. County superintendent of schools - Officer.** For purposes of sections 11-10-10, 11-10-15, and 11-10-20, the county superintendent of schools employed by the board of county commissioners is an officer of the county. ~~Notwithstanding any other provision of law except section 15-22-01, a~~ A board of county commissioners ~~may by majority vote shall employ a person who meets the qualifications provided in section 15-22-02 to serve as the~~ county superintendent of schools ~~on a part-time basis, as provided for in section 15.1-11-01, or assign the duties of the county superintendent of schools, as provided for in section 15.1-11-02.~~

**SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-05-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in section ~~15-47-47~~ 15.1-19-02, a parent, guardian, or other person responsible for the care and supervision of a minor, or other person responsible for the care and supervision of ~~such~~ a minor for a special purpose, or a person acting at the direction of any of the foregoing persons, may use reasonable force upon the minor for the purpose of safeguarding or promoting ~~his~~ the minor's welfare, including prevention and punishment of ~~his~~ the minor's misconduct, and the maintenance of proper discipline. The force may be used for this purpose, whether or not it is "necessary" as required by subsection 1 of section 12.1-05-07. The force used must not create a substantial risk of death, serious bodily injury, disfigurement, or gross degradation.

**SECTION 3. AMENDMENT.** Section 15-20.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.2-04. Center boards - Appointment of members - Terms - Compensation - Vacancies.** An area vocational and technology center must be operated by a center board of not less than five members nor more than a total of one member for each participating district; provided, however, that each participating school district with three hundred or more high school students must be allowed one member for each three hundred high school students or fraction thereof with a limitation of not more than three members from any one school district. Center board members

must be members of the school boards. The terms of office of the members of center boards must be for at least one year and terminate upon the expiration of their terms on their respective school boards. Members are eligible for reappointment to center boards. Center board members shall receive the same compensation and expenses for attending center board meetings or for otherwise engaging in official business for the center as provided in section ~~15-29-05~~ 15.1-09-06 for members of school boards. Compensation and expenses of center board members must be paid out of center funds.

Vacancies on a center board must be filled by the school board whose representation was lost when the vacancy occurred.

<sup>134</sup> **SECTION 4. AMENDMENT.** Section 15-36-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-12. Certificate must be exhibited to business manager of the school district - Completion of term after expiration of certificate.** No teacher is entitled to receive any compensation for the time the teacher teaches in a public school without a certificate to teach which lawfully is issued and in force in the county in which the school is taught. Prior to receiving a salary for the first month taught in a school district, a teacher must exhibit the teacher's certificate to the business manager of the school district. If a teacher's certificate expires by its own limitations within six weeks of the close of the term, the teacher may finish the term without reexamination or renewal thereof. This section does not apply to any person providing teaching services in accordance with subsection 21 of section ~~15-29-08.4~~ 15.1-09-33.

**SECTION 5. AMENDMENT.** Section 15-41-25 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-41-25. High schools - Teacher qualification.** Except as provided in subsection 21 of section ~~15-29-08.4~~ 15.1-09-33, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 shall have a valid teacher's certificate and shall have a major or minor in the course areas or fields that the teacher is teaching if the high school is to receive any approval by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, and health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which the teacher is employed may not affect the approval of the employing school district.

<sup>135</sup> **SECTION 6. AMENDMENT.** Section 15-47-42 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-42. Status and authority of student and eminence-credentialed teachers.** Any student teacher or eminence-credentialed teacher hired or assigned in this capacity must be given the same legal authority and status as if the student or eminence-credentialed teacher were a certificated employee of the school district. The authority of the student or eminence-credentialed teacher extends to all aspects

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<sup>134</sup> Section 15-36-12 was also amended by section 20 of House Bill No. 1188, chapter 162.

<sup>135</sup> Section 15-47-42 was also amended by section 43 of House Bill No. 1188, chapter 162.

of student management or discipline, the handling of confidential student records, and to all other aspects of legal authority granted to certificated teachers in the state. The student or eminence-credentialed teacher must be deemed a certificated employee of the district with respect to acts performed by the student or eminence-credentialed teacher at the direction, suggestion, or consent of the district employees under whose supervision and control the student or eminence-credentialed teacher performs duties, whether or not the duties are performed entirely in the presence of district employees assigned to supervise the student or eminence-credentialed teacher, and must be deemed an employee of the school district within the meaning of sections 32-12.1-05 and 39-01-08 relating to liability insurance carried by political subdivisions. For purposes of this section, "eminence-credentialed teacher" means a person providing teaching services in accordance with subsection 21 of section 15-29-08.4 15.1-09-33.

<sup>136</sup> **SECTION 7. AMENDMENT.** Subsection 1 of section 15-47-46 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2 through 4 or subsection 21 of section 15-29-08.4 15.1-09-33, all teachers teaching kindergarten through grade eight must hold a teaching certificate and:
  - a. A minimum of a kindergarten endorsement to teach kindergarten;
  - b. A major, minor, or endorsement in elementary education to teach elementary education in grades one through eight; or
  - c. An endorsement in kindergarten or elementary education from the education standards and practices board attained prior to or within two years of the assignment to teach kindergarten or elementary education. An endorsement may be obtained by completing teaching requirements and a minimum number of credit hours in courses prescribed by the education standards and practices board.

**SECTION 8. AMENDMENT.** Section 15-59.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-59.2-02. Organizational plan - Contents.** The organizational plan to be submitted to the superintendent of public instruction must include the number of members on the multidistrict special education board, how each district will be represented, selection of officers, terms of office, meeting times, requirements for a quorum, and such other items as may be required by regulation of the superintendent of public instruction. Representatives on the multidistrict board must be appointed by the school boards of the participating districts. Compensation for board members must be the same as that allowed school board members pursuant to section ~~15-29-05~~ 15.1-09-06.

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<sup>136</sup> Section 15-47-46 was also amended by section 44 of House Bill No. 1188, chapter 162.

<sup>137</sup> **SECTION 9. AMENDMENT.** Subsection 5 of section 40-01.1-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. With respect to a school district:
  - a. Execution of a joint powers agreement between the school district and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to chapter 54-40.3 or as otherwise specifically provided by law, including the exercise of the general powers to make contract for joint educational endeavors ~~pursuant to section 15-47-32~~, or an agreement between the school district and a tribal government pursuant to chapter 54-40.2.
  - b. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.
  - c. An increase or decrease in the number of school board members pursuant to section ~~15-28-01~~ 15.1-09-01.
  - d. ~~A cooperative arrangement pursuant to chapter 15-27.7.~~
  - e. Sharing of officers with other school districts or other political subdivisions pursuant to chapter 11-10.3.
  - f. e. School district ~~restructuring~~, annexation, or reorganization ~~pursuant to chapter 15-27.6, 15-27.2, or 15-27.3.~~
  - g. f. Transfer of a power or function of the school district to the county pursuant to chapter 54-40.5.
  - h. g. That any other action be taken that is permitted by law.
  - i. h. That no action be taken.

**SECTION 10. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, ~~15-21-17~~, 15-38-17, 15-39.1-05.1, ~~15-65-02~~ 15.1-01-01, 15.1-05-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, 50-06.1-16, 54-34.3-10, 54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:

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<sup>137</sup> Section 40-01.1-04 was also amended by section 4 of Senate Bill No. 2045, chapter 242, and section 65 of House Bill No. 1275, chapter 278.

- a. The aeronautics commission.
- b. The milk marketing board.
- c. The dairy promotion commission.
- d. The state banking board.
- e. The state credit union board.
- f. The advisory board of directors to the Bank of North Dakota.
- g. The pardon advisory board.
- h. The state parole board.
- i. The state board of public school education.
- j. The education standards and practices board and the administrator's professional practices board.
- k. The board of trustees for the teachers' fund for retirement.
- l. The educational telecommunications council.
- m. The state game and fish advisory board.
- n. The health council.
- o. The air pollution control advisory council.
- p. The board of animal health.
- q. The administrative committee on veterans' affairs.
- r. The committee on aging.
- s. The committee on employment of people with disabilities.
- t. The commission on the status of women.
- u. The North Dakota council on the arts.
- v. The state historical board.
- w. The Yellowstone-Missouri-Fort Union commission.
- x. The state water commission.
- y. The state water pollution control board.

**SECTION 11. AMENDMENT.** Subsection 4 of section 57-39.2-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, and the gross receipts from educational, religious, or charitable activities, unless the activities are held in a publicly owned facility, where the entire amount of net receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section ~~45-29-13~~ 15.1-07-12. This exemption does not apply to regular retail sales that are in direct competition with retailers. Gross receipts from educational, religious, or charitable activities held in a publicly owned facility are exempt if the sponsoring organization is a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

Approved April 9, 1999

Filed April 9, 1999

## CHAPTER 165

### HOUSE BILL NO. 1151

(Education Committee)

(At the request of the State Board for Vocational and Technical Education)

## POSTSECONDARY EDUCATIONAL INSTITUTION OPERATION AUTHORIZATION

AN ACT to create and enact a new section to chapter 15-20.4 of the North Dakota Century Code, relating to a voluntary application for an authorization to operate a postsecondary educational institution; to amend and reenact sections 15-20.4-01, 15-20.4-02, 15-20.4-03, 15-20.4-04, 15-20.4-05, 15-20.4-09, 15-20.4-10, 15-20.4-11, 15-20.4-12, 15-20.4-13, and 15-20.4-14 of the North Dakota Century Code, relating to authorization to operate postsecondary educational institutions and approval of agent permits; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-20.4-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-01. Definitions.** As used in this chapter:

1. ~~"Agent" means any person owning any interest in, employed by, or representing for remuneration, a postsecondary educational institution within or outside this state, who, by solicitation in any form made in this state, enrolls or seeks to enroll a resident of this state for education offered by such institution, or offers to award educational credentials, for remuneration, on behalf of any such institution, or who holds himself out to residents of this state as representing a postsecondary educational institution for any such purpose.~~
2. ~~"Agent's permit" means a nontransferable written authorization issued to a natural person by the board which allows that person to solicit or enroll any resident of this state for education in a postsecondary educational institution.~~
3. ~~"Authorization to operate" or like term means approval of the board to operate or to contract to operate a postsecondary educational institution in this state.~~
4. 2. "Board" means the state board for vocational and technical education.
5. 3. "Education" or "educational services" or like term includes, ~~but is not limited to,~~ any class, course, or program of training, instruction, or study.
6. 4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or

satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution operating in this state.

7. 5. "Entity" includes, ~~but is not limited to,~~ any company, firm, society, association, partnership, corporation, limited liability company, and trust.
8. 6. "Executive officer" means the director of vocational and technical education.
9. 7. "Postsecondary educational institution" includes, ~~but is not limited to,~~ an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, operating in this state, offering educational credentials, or offering instruction or educational services (primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance) for attainment of educational, professional, or vocational objectives.
40. 8. "To grant" includes awarding, selling, conferring, bestowing, or giving.
44. 9. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.
42. 10. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

**SECTION 2. AMENDMENT.** Section 15-20.4-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-02. Exemptions.** The following education and educational institutions are exempted from the provisions of this chapter:

1. Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as

determined by the board and any educational consortium that includes one or more of the institutions.

7. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
8. Schools of barbering regulated under chapter 43-04.
9. Schools of cosmetology regulated under chapter 43-11.
10. Schools of nursing regulated under chapter 43-12.1.
11. Schools instructing on the manner of conducting games of chance which are regulated under chapter 53-06.1.
12. Schools instructing on the manner of conducting auction sales which are regulated under chapter 51-05.1.
13. Postsecondary educational institutions not operating in this state.

**SECTION 3. AMENDMENT.** Section 15-20.4-03 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-03. Board powers and duties.** The board has, in addition to the powers and duties now vested in it by law, the following powers and duties to:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate; ~~or for an agent's permit,~~ shall meet:
  - a. Before such authorization ~~or permit~~ may be issued; and
  - b. To continue such authorization ~~or permit~~ in effect.

The criteria and standards developed will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions ~~and applications for agent's permits.~~ Authorization to operate an academic or professional postsecondary educational institution offering educational credentials shall be issued only upon approval of the executive officer and the commissioner of the board of higher education or his designee.
3. Maintain a list of postsecondary educational institutions ~~and agents~~ authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public, and must be sent to the superintendents of all school districts, to county

superintendents of schools, and to guidance counselors certified by the department of public instruction.

4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this chapter; provided, however, that nothing contained in any such reciprocity agreement may be construed as limiting the board's powers, duties, and responsibilities with respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary educational institution, ~~or an application for issuance or renewal of any agent's permit,~~ or with respect to the enforcement of any provision of this chapter, or any of the rules or regulations promulgated hereunder.
5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution now or hereafter operating in this state proposes to discontinue its operation.
6. Promulgate such rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter, and to hold such hearings as it may deem advisable in accordance with chapter 28-32 or as required by law in developing such rules, regulations, and procedures, or in aid of any investigation or inquiry.
7. Investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter; and in connection therewith to subpoena any persons, books, records, or documents pertaining to such investigation. The board may require answers in writing under oath to questions propounded by the board, and may administer an oath or affirmation to any person in connection with any investigation. The board may, after hearing, revoke or suspend authorizations to operate ~~and agent permits~~. Subpoenas issued by the board are enforceable by any district court.
8. Require fees and bonds from postsecondary educational institutions ~~and agents~~ in such sums and under such conditions as it may establish; provided, that fees established may not exceed the reasonable cost of the service being provided.
9. Exercise other powers and duties implied but not enumerated in this section but in conformity with the provisions of this chapter which, in the judgment of the board, are necessary in order to carry out the provisions of this chapter.

**SECTION 4. AMENDMENT.** Section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-04. Minimum standards - Exceptions.** All postsecondary educational institutions must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution ~~demitted~~

operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Upon completion of the accreditation process, the institution shall submit evidence of accreditation, or a substantial good faith showing of progress toward such status. Only upon accreditation shall an institution become eligible for a regular authorization to operate. This section does not apply to ~~nonacademic or nonprofessional~~ postsecondary educational institutions ~~domiciled~~ operating in this state and enrolling ~~a limited number of ten or fewer~~ students ~~as determined by the board~~.

**SECTION 5. AMENDMENT.** Section 15-20.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-05. Prohibition.** ~~No~~ A person, agent, group, or entity of whatever kind, alone or in concert with others, may not:

1. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. ~~Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, a postsecondary educational institution not exempted from the provisions of this chapter, whether such institution is within or outside this state, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to the provisions of this chapter.~~
3. ~~Accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter.~~
4. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state; ~~whether such person, agent, group, or entity is located within or without this state,~~ unless such person, ~~agent,~~ group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.
5. 3. Use the term "university", "institute", or "college" without authorization to do so from the board.
6. 4. Grant, or offer to grant, educational credentials, without authorization to do so from the board.
7. 5. Seek to incorporate within the state as a postsecondary educational institution without first obtaining a currently valid authorization to operate from the board, which authorization must be presented to the secretary of state upon application for articles of incorporation.

**SECTION 6.** A new section to chapter 15-20.4 of the North Dakota Century Code is created and enacted as follows:

**Voluntary application for authorization to operate.** Although a postsecondary educational institution not operating in this state is exempt from this chapter by section 15-20.4-02, the institution may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary educational institution not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

**SECTION 7. AMENDMENT.** Section 15-20.4-09 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-09. Remedy of defrauded student - Treble damages.** Any person defrauded by a misrepresentation made by an agent of a postsecondary educational institution, by any advertisement or circular issued by the a postsecondary educational institution or agent, or by any person who sells textbooks to the institution or to the pupils thereof, may recover from such institution; agent, or person three times the amount paid.

**SECTION 8. AMENDMENT.** Section 15-20.4-10 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-10. Board review.** Any person aggrieved by a decision of the board respecting denial or revocation of an authorization to operate, ~~or of an agent's permit,~~ or the placing of conditions thereon, whether on initial application or on application for renewal, and any person aggrieved by the imposition of a penalty by the board under section 15-20.4-12, has the right to a hearing and review of such decision by the board and to judicial review in accordance with chapter 28-32.

**SECTION 9. AMENDMENT.** Section 15-20.4-11 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-11. Violations - Civil penalty.** Any person, group, or entity, or any owner, officer, agent, or employee thereof, who violates the provisions of section 15-20.4-05, or who fails or refuses to deposit with the board the records required by the board under this chapter, is subject to a civil penalty not to exceed one hundred dollars for each violation. Each day's failure to comply with the provisions of said sections is a separate violation. Such fine may be imposed by the board in an administrative proceeding or by any court of competent jurisdiction.

**SECTION 10. AMENDMENT.** Section 15-20.4-12 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-12. Violations - Criminal penalty.** Any person, group, or entity, or any owner, officer, agent, or employee thereof, who willfully violates the provisions of section 15-20.4-05, or who willfully fails or refuses to deposit with the board the records required by the board under this chapter, is guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15-20.4-14.

**SECTION 11. AMENDMENT.** Section 15-20.4-13 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-13. Jurisdiction of courts - Service of process.** Any postsecondary educational institution not exempt from this chapter, ~~whether or not a resident of or having~~ which has a place of business in this state, and which instructs or educates,

or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, submits such institution, and if a natural person ~~his~~, the person's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-20.4-14. Service of process upon any such institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section limits or affects the right to serve any process as prescribed by the North Dakota Rules of Civil Procedure.

**SECTION 12. AMENDMENT.** Section 15-20.4-14 of the North Dakota Century Code is amended and reenacted as follows:

**15-20.4-14. Enforcement - Injunction.**

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary educational institution ~~or an agent thereof~~ is found, at the request of the board or on ~~his~~ the attorney general's own motion, may bring any appropriate action or proceeding (including injunctive proceedings, or criminal proceedings pursuant to section 15-20.4-12) in any court of competent jurisdiction for the enforcement of the provisions of this chapter.
2. Whenever it appears to the board that any person, ~~agent~~, group, or entity is, is about to, or has been violating any of the provisions of this chapter or any of the lawful rules, regulations, or orders of the board, the board may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the board in any court of competent jurisdiction in this state against such person, group, or entity, for the purpose of enjoining such violation or for an order directing compliance with the provisions of this chapter, and all rules, regulations, and orders issued hereunder. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has, and is in addition to any right of criminal prosecution provided by law; provided, however, the board may not obtain a temporary restraining order without notice to the person, group, or entity affected. The existence of board action with respect to alleged violations of this chapter does not operate as a bar to an action for injunctive relief pursuant to this section.

**SECTION 13. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 9, 1999  
Filed April 9, 1999

## CHAPTER 166

### SENATE BILL NO. 2079

(Education Committee)

(At the request of the State Board of Public School Education)

## STATE BOARD OF PUBLIC SCHOOL EDUCATION ANNEXATION APPEALS

AN ACT to amend and reenact subsection 6 of section 15-27.2-04 of the North Dakota Century Code, or in the alternative to amend and reenact subsection 11 of section 15.1-12-05 of the North Dakota Century Code, relating to state board of public school education annexation appeals.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** If House Bill No. 1034 does not become effective, subsection 6 of section 15-27.2-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. If the school districts involved in the proposed annexation are situated in more than one county, the county committee of the county encompassing the major portion of each school district shall ~~consider and jointly effect the annexation if a majority of the members of each of such county committees approves~~ hear the annexation and the county committees shall vote separately on whether to approve or deny the annexation. If the annexation is approved by a majority of the members of one or both of the two county committees, or if the annexation is denied by both county committees and the petitioners express an intention to appeal the matter to the state board, the county superintendent of the county in which the annexing district is located shall submit the annexation to the state board for approval or disapproval, and ~~in such instance approval of the annexation shall have the same effect as approval by all county committees~~ denial.

**SECTION 2. AMENDMENT.** Subsection 11 of section 15.1-12-05 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

11.
  - a. ~~If an annexation petition is considered by a single county committee, the decision of the county committee may be appealed to the state board.~~
  - b. ~~If an annexation petition is considered by more than one county committee and at least one county committee approves the annexation, the decision may be appealed to the state board.~~

- e. ~~If an annexation petition is considered by more than one county committee and denied by each~~ Regardless of how many county committee committees consider the annexation, the decision may ~~not~~ be appealed to the state board.

Approved March 11, 1999

Filed March 11, 1999

## CHAPTER 167

### SENATE BILL NO. 2199

(Senators Kilzer, B. Stenehjem, Wanzek)  
(Representatives Carlisle, Carlson, R. Kelsch)

## HOME EDUCATION EXTRACURRICULAR ACTIVITY PARTICIPATION

AN ACT to create and enact a new section to chapter 15-34.1 of the North Dakota Century Code, relating to participation in extracurricular activities by students receiving home education; to amend and reenact subsection 4 of section 15-34.1-06 of the North Dakota Century Code, relating to home education; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>138</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 15-34.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Every parent supervising home education shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including any standardized achievement test results. A parent shall furnish these records to any school to which the child may transfer upon request of the superintendent or other administrator of that public school district. A parent intending to supervise home education for the parent's child shall file an annual statement with the superintendent of the public school district in which the child resides. If the school district does not employ a local school superintendent, the statement must be filed with the county superintendent of schools for the county of the child's residence. The statement must be filed at least fourteen days prior to the beginning of home education or within fourteen days of establishing the child's residency within the district. The statement must include:
  - a. The names and addresses of the parent who will supervise and the child who will receive home education;
  - b. The date of birth and grade level of each child receiving home education;
  - c. The intention of the parent to supervise home education;
  - d. The qualifications of the parent who will supervise home education;

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<sup>138</sup> Section 15-34.1-06 was also amended by section 10 of House Bill No. 1188, chapter 162.

- e. A list of courses or extracurricular activities in which the child intends to participate in the public school district in which the child intends to enroll and the public school district offering the courses;
- f. A list of extracurricular activities in which the child intends to participate and the public school district or approved nonpublic school offering the activities;
- g. Proof of an immunization record as it relates to section 23-07-16; and
- g. h. Proof of identity as it relates to section 54-23.2-04.2.

**SECTION 2.** A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

**Home education - Participation in extracurricular activities.**

1. A child receiving home education may participate in extracurricular activities either;
  - a. Under the auspices of the child's school district of residence; or
  - b. Under the auspices of an approved nonpublic school, if permitted by the administrator of the school.
2. For purposes of this section, a child participating under the auspices of the child's school district of residence is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the district.
3. For purposes of this section, a child participating under the auspices of an approved nonpublic school is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the school.
4. Once a child's parent has selected the public school district or the approved nonpublic school in which the child will participate for purposes of extracurricular activities, and has provided notification of the selection through the statement required by subsection 4 of section 15-34.1-06, the child is subject to the transfer rules as provided in the constitution and bylaws of the North Dakota high school activities association.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 29, 1999  
Filed March 29, 1999

## CHAPTER 168

### HOUSE BILL NO. 1064

(Representatives Boehm, R. Kelsch, Renner)  
(Senator Freborg)

## HOME EDUCATION OF AUTISTIC CHILDREN

AN ACT to amend and reenact sections 15-34.1-12 and 15-34.1-12.1 of the North Dakota Century Code, relating to the provision of home education to developmentally disabled children with autism.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>139</sup> **SECTION 1. AMENDMENT.** Section 15-34.1-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-34.1-12. (~~Effective through June 30, 1999~~) Children with autism - Home school education.** Notwithstanding any other law, a parent ~~or legal guardian~~ may provide home ~~schooling~~ education to a developmentally disabled child with autism if:

1. The child has been determined to be autistic by a licensed psychologist;
2. The child's parent ~~or legal guardian~~ qualifies to provide home ~~schooling~~ education under section 15-34.1-06;
3. The child's parent ~~or legal guardian~~ files with the superintendent of the child's school district of residence:
  - a. A notice that the child will ~~be~~ receive home ~~schooling~~ education;
  - b. A copy of the child's diagnosis of autism prepared and attested to by a licensed psychologist; and
  - c. ~~A description of the instructional plan to be followed during the school year, together with an attestation by a licensed psychologist and a North Dakota certified teacher that the instructional plan is appropriate for the child. An individualized education program developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute individualized education program, developed and followed, according to section 15-34.1-12.1, by an individualized education program team selected by and compensated by the child's parent.~~

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<sup>139</sup> Section 15-34.1-12 was also amended by section 14 of House Bill No. 1188, chapter 162.

<sup>140</sup> SECTION 2. AMENDMENT. Section 15-34.1-12.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-34.1-12.1. (~~Effective through June 30, 1999~~) Children with autism - Home school education - Progress reports.**

1. On or before November first, February first, and May first of each school year, a parent providing home ~~schooling~~ education to an autistic child under section 15-34.1-12 shall file with the superintendent of the child's school district of residence progress reports prepared by a ~~licensed psychologist, an occupational therapist, a speech pathologist, and a certified teacher~~ the individualized education program team selected under section 15-34.1-12. If at any time the ~~licensed psychologist, the occupational therapist, the speech pathologist, and the certified teacher~~ agree individualized education program team agrees that adequate progress is not being made, they the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction. ~~The superintendent of public instruction shall provide a report and recommendations regarding the home schooling of developmentally disabled children with autism under this section and section 15-34.1-12 to the legislative council.~~

Approved March 11, 1999  
Filed March 11, 1999

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<sup>140</sup> Section 15-34.1-12.1 was also amended by section 15 of House Bill No. 1188, chapter 162.

## CHAPTER 169

### SENATE BILL NO. 2162

(Education Committee)

(At the request of the Office of Management and Budget)

### SCHOOL DISTRICT REIMBURSEMENT, SUPERINTENDENTS, AND OPERATION

AN ACT to provide for the reimbursement of certain reorganized districts; to create and enact a new section to chapter 15-29 of the North Dakota Century Code, or in the alternative to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to the joint employment of school district superintendents; to create and enact two new sections to chapter 15-40.1 of the North Dakota Century Code, relating to nonoperating schools and proportionate payments for summer school programs; to amend and reenact sections 15-35-01.1, 15-40.1-06, 15-40.1-07, 15-40.1-07.3, 15-40.1-08, subsection 1 of section 57-15-14.2, and section 57-15-17.1 of the North Dakota Century Code, relating to school construction approval, educational support per student, and payment factors; to provide an appropriation; to provide for a legislative council study; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** If House Bill No. 1034 does not become effective, a new section to chapter 15-29 of the North Dakota Century Code is created and enacted as follows:

School district superintendent - Joint employment - Accreditation. The superintendent of public instruction may not impose through the accreditation process any penalties or sanctions on a school district for employing a superintendent jointly with one or more other districts. The superintendent may not require, through the accreditation process, that an employee of a school district having fewer than one hundred students in high school spend more than thirty-three percent of the employee's time performing the duties of a school principal if the school district employs a superintendent jointly with one or more other districts.

**SECTION 2. AMENDMENT.** Section 15-35-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **15-35-01.1. Approval required for certain school district construction projects.**

1. Notwithstanding the powers and duties of school boards ~~of public school districts otherwise~~ provided by law, all construction, purchase, repair, improvement, renovation, or modernization of any school building or facility within a school district estimated by the school boards to cost in excess of twenty-five thousand dollars may not be commenced unless approved by the superintendent of public instruction.
2. ~~No such~~ The superintendent of public instruction may not approve the construction, purchase, repair, improvement, renovation, or modernization of any school building or facility ~~may be approved~~ unless the school district proposing the project ~~demonstrates~~:

- a. Demonstrates the need for the project, the educational utility of the project, ~~fiscal need~~, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project, or demonstrates potential utilization of the project by a future reorganized school district; and
  - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the state board of public school education.
3. In the event of disagreement between the superintendent of public instruction and the school board applying for approval of a construction project under this section, the school board may appeal the application to the state board of public school education and the decision of the state board approving or disapproving the application is final.
- ~~2.~~ 4. For purposes of this section, "facility" includes a parking lot, athletic complex, or any other improvement to real property owned by the school district.
  - ~~3.~~ 5. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15-35-01.2, unless the cost of the improvements exceeds seventy-five thousand dollars.

**SECTION 3. AMENDMENT.** Section 15-40.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-06. Declaration of legislative intent - Educational support per student - School district equalization factor - Limitations.**

1. It is the intent of the legislative assembly; ~~not considering any separate and supplemental payments as may be provided by law,~~ to support elementary and secondary education in this state from state funds ~~based on the educational cost per student.~~ For purposes of this section, state funds include all appropriations for foundation aid, tuition apportionment, supplemental per student payments, special education, vocational education, transportation aid, school district technology, the governor's school, teacher centers, and the leadership in educational administration development consortium. For purposes of distributing state funds, the superintendent of public instruction shall determine the educational cost per student. In determining the educational cost per student, the ~~following criteria~~ superintendent may not be used use:
    - a. Expenditures for capital outlay for buildings and sites, or debt service.
    - b. Expenditures from school activities and school lunch programs.
    - c. Expenditures for the cost of transportation, including the cost of schoolbuses.
2. a. The educational support per student during the first year of the ~~1997-99~~ 1999-2001 biennium must be ~~one thousand nine hundred~~

~~fifty four~~ two thousand one hundred forty-five dollars and for the second year of the ~~1997-99~~ 1999-2001 biennium the educational support per student must be ~~two thousand thirty two~~ two thousand two hundred thirty dollars and is the basis for calculating grants-in-aid on a per student basis as provided in sections 15-40.1-07 and 15-40.1-08.

- b. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07.
  - c. School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be supported for the ~~1991-92 school year~~ or for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of students in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per student in the unaccredited school for each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.
  - d. School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the ~~1992-93 school year~~ or for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of students in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.
3. In determining the amount of payments due school districts for tuition apportionment provided in section 15-44-03, and per student aid under this section, the amount of tuition apportionment, foundation aid, special education aid, and transportation aid for which a school district is

eligible must be added together, and from that total, the following amounts must be subtracted:

- a. The product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.
  - b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of three-fourths of the actual expenditures, plus an additional twenty thousand dollars.
4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:
- a. Annual average daily membership report.
  - b. Annual school district financial report.
  - c. The September tenth fall enrollment report.
  - d. The personnel report forms for certified and noncertified employees.
5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

<sup>141</sup> **SECTION 4. AMENDMENT.** Section 15-40.1-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07. High school per student payments - Amount - Proportionate payments.** Payments must be made each year from state funds to each school district operating a high school and to each school district contracting to educate high school students in a federal school, subject to adjustment as provided in section 15-40.1-09, as follows:

1. For each high school district having under seventy-five students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.625 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student as provided in section 15-40.1-06. ~~Beginning July 1, 1998, the factor is 1.625 adjusted by seventy five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~

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<sup>141</sup> Section 15-40.1-07 was also amended by section 33 of House Bill No. 1188, chapter 162.

2. For each high school district having seventy-five or more, but less than one hundred fifty students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.335 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. ~~Beginning July 1, 1998, the factor is 1.335 adjusted by seventy five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
3. For each high school district having one hundred fifty or more, but less than five hundred fifty students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.24 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. ~~Beginning July 1, 1998, the factor is 1.24 adjusted by seventy five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
4. For each high school district having a total high school enrollment of five hundred fifty or more students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.14 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. ~~Beginning July 1, 1998, the factor is 1.14 adjusted by seventy five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
5. For high schools having an approved alternative education program, the amount of money resulting from multiplying the factor in:
  - a. Subsection 1 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has less than seventy-five students in average daily membership.
  - b. Subsection 2 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has seventy-five or more, but less than one hundred fifty students in average daily membership.

- c. Subsection 3 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has one hundred fifty or more, but less than five hundred fifty students in average daily membership.
- d. Subsection 4 times the number of students registered in the alternative education program times the educational support per student as provided in section 15-40.1-06 if the alternative education program has five hundred fifty or more students in average daily membership.

Every high school district must receive at least as much in total payments as it would have received if it had the highest number of students in the next lower category. Payments may not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, and the other standards prescribed by this chapter have been met. Payments must be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district must be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation or students enrolled in less than four units of standard high school work who are in their fourth year of high school coursework and who are enrolled in approved alternative high school curriculum programs, proportionate payments must be made to the public school district in which the student is enrolled for specific courses. ~~School districts offering high school summer school programs are eligible for proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction. The superintendent may adopt rules regarding eligibility for school districts to receive proportionate payments for summer education programs. The proportionate payment made under this section during the biennium for high school summer school programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for foundation aid and transportation aid during the biennium.~~

**SECTION 5. AMENDMENT.** Section 15-40.1-07.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07.3. Per student payments - Reorganization of school districts.**

1. If any school district receiving per student payments calculated under section 15-40.1-07 reorganizes with another school district under chapter 15-27.3 or 15-27.6 before August 1, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school student as each separate school district received for each high school student prior to the reorganization, for a period of four years.
2. If any school district receiving per student payments calculated under this chapter reorganizes with another school district under chapter 15-27.3 or 15-27.6 after July 31, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school and elementary student as each separate school

district received for each high school and elementary student prior to the reorganization, for a period of four years.

3. The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1 or 2, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the reorganization.
4. Notwithstanding the provisions of any other law, no school district may receive less in per student payments for the first year of its reorganization than the total amount that the districts participating in the reorganization received in per student payments for the school year immediately preceding the reorganization. If less than a whole school district participated in a reorganization, the superintendent of public instruction shall prorate the payments to which the newly reorganized district is entitled under this subsection.

<sup>142</sup> **SECTION 6. AMENDMENT.** Section 15-40.1-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-08. Elementary per student payments - Amount.** Payments must be made from state funds to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, employing teachers holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36, adjusted as provided in section 15-40.1-09, as follows:

1. For each one-room rural school, the amount of money resulting from multiplying the factor 1.28 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through eight in average daily membership, up to a maximum of sixteen students, times the educational support per student provided in section 15-40.1-06. There must be paid .9 times each additional student in its school in grades one through eight in average daily membership times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty students in average daily membership. If the one-room rural school is located in a school district with another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six as provided in subsections 2 through 4. If the one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5. ~~Beginning July 4, 1998, the factor is 1.28 adjusted by seventy-five percent of the difference between 1.28 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~

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<sup>142</sup> Section 15-40.1-08 was also amended by section 34 of House Bill No. 1188, chapter 162.

2. For each elementary school in school districts having under one hundred students in average daily membership in grades one through six, the amount of money resulting from multiplying the factor 1.09 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher, times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. ~~Beginning July 1, 1998, the factor is 1.09 adjusted by seventy-five percent of the difference between 1.09 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
3. For each elementary school in school districts having one hundred or more students in average daily membership in grades one through six, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary students in grades one through six, the amount of money resulting from multiplying the factor .905 adjusted by ~~sixty-five~~ seventy-five percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. ~~Beginning July 1, 1998, the factor is .905 adjusted by seventy-five percent of the difference between .905 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
4. For each elementary school in school districts having an average daily membership of one thousand or more elementary students in grades one through six, the amount of money resulting from multiplying the factor .95 adjusted by ~~sixty-five~~ seventy-five percent of the difference between .95 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. ~~Beginning July 1, 1998, the factor is .95 adjusted by seventy-five percent of the difference between .95 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
5. For each of the above classes of elementary schools, except for one-room rural schools that are not located in a district with another school having students in grade seven or eight, there must be paid to each school the amount of money resulting from multiplying the factor 1.01 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.01 and the factor representing the five-year average cost of education

per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades seven and eight in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. ~~Beginning July 1, 1998, the factor is 1.01 adjusted by seventy-five percent of the difference between 1.01 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~

6. For each elementary school having students under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, the amount of money resulting from multiplying the factor 1.01 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of special education students in that school under the compulsory age for school attendance in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06. ~~Beginning July 1, 1998, the factor is 1.01 adjusted by seventy-five percent of the difference between 1.01 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~
7. For each elementary school providing a kindergarten that is established according to provisions of section 15-45-01, the amount of money resulting from multiplying the factor .50 adjusted by ~~sixty-five~~ seventy-five percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in average daily membership in each classroom or for each teacher times the educational support per student, as provided under section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. The full per student payment may be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period must receive a proportionately smaller per student payment. ~~Beginning July 1, 1998, the factor is .50 adjusted by seventy-five percent of the difference between .50 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.~~

The superintendent of public instruction shall make proportionate payments to each public school district educating students who are also enrolled in nonpublic schools.

Every school district must receive at least as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.

**SECTION 7.** A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Summer school programs - Proportionate payments.**

1. A school district that offers high school summer school programs is entitled to receive proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction.
2. A school district that offers remedial elementary summer school programs is entitled to receive proportionate payments provided the programs comply with rules adopted by the superintendent of public instruction.
3. The superintendent of public instruction may adopt rules regarding proportionate payments for remedial elementary summer school programs and high school summer school programs.
4. Proportionate payments made under this section during a biennium for summer school programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for foundation aid and transportation aid during the biennium, or eight million dollars, whichever is less. No more than seventy-five percent of the amount made available under this subsection may be used to support high school summer school programs and no more than twenty-five percent of the amount made available under this subsection may be used to support remedial elementary summer school programs.

**SECTION 8.** A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Nonoperating school districts - Education of students - State payments.**

1. Notwithstanding the provisions of any other law, a school district operating on the effective date of this Act may become a nonoperating district, provided:
  - a. The board of the district terminates the operation of all public schools in the district;
  - b. The board provides for the education in other school districts of all kindergarten, elementary, and secondary school students residing in the district; and
  - c. The board pays to other school districts educating its students the full per student cost of education in the receiving district.
2. The board of a nonoperating school district shall continue to employ, on a full-time or a part-time basis, one person qualified to manage the finances of the district.
3. The board of a nonoperating school district is governed by all laws applicable to the board of an operating school district.
4. In lieu of all other state payments, a nonoperating school district under this section is entitled to receive an amount equal to the per student payment determined under section 15-40.1-06 and multiplied by the

number of students ages six through seventeen who reside in the district, as established by the latest available school district census, less the product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.

5. A school district may be nonoperational for no more than three school years.
6. At or before the conclusion of the three-year period, the nonoperating school district must become, through reorganization or dissolution, part of one or more operating school districts.
7. A school district that has become a nonoperating district and has accepted state payments, as provided for by this section, may not revert to an independent operating district.

**SECTION 9.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**School district superintendent - Joint employment - Accreditation.** The superintendent of public instruction may not impose through the accreditation process any penalties or sanctions on a school district for employing a superintendent jointly with one or more other districts. The superintendent may not require, through the accreditation process, that an employee of a school district having fewer than one hundred students in high school spend more than thirty-three percent of the employee's time performing the duties of a school principal if the school district employs a superintendent jointly with one or more other districts.

<sup>143</sup> **SECTION 10. AMENDMENT.** Subsection 1 of section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

1. A school board of any school district may levy an amount sufficient to cover general expenses including the costs of the following:
  - a. Board and lodging for high school students as provided in section 15-34.2-06.
  - b. The teachers' retirement fund as provided in section 15-39.1-28.
  - c. Tuition for students in grades seven through twelve as provided in section 15-40.2-12.
  - d. Special education program as provided in section 15-59-08.
  - e. The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.
  - f. A final judgment obtained against a school district.

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<sup>143</sup> Section 57-15-14.2 was also amended by section 1 of House Bill No. 1196, chapter 500.

- g. The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund for contracted employees of a multidistrict special education board.
- h. The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.
- i. Unemployment compensation benefits.
- j. The removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any method approved by the United States environmental protection agency and any repair, replacement, or remodeling that results from such removal or abatement, any remodeling required to meet specifications set by the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36], and any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school.
- k. Participating in cooperative vocational education programs approved by the state board.
- l. Maintaining a vocational education program approved by the state board and established only for that school district.
- m. Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.
- n. Establishing and maintaining school library services.
- o. Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.
- p. Establishing free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term.
- q. Establishing, maintaining, and conducting a public recreation system.
- r. The district's share of contribution to finance an interdistrict cooperative agreement authorized by section 15-47-40.1.

<sup>144</sup> **SECTION 11. AMENDMENT.** Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-17.1. Multiyear asbestos abatement and required remodeling levy by school district.**

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of ~~providing~~:
  - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
  - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36]; and
  - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsection 3, must be placed in a separate fund known as the asbestos abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos abatement.
3. All revenue accruing from up to five mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.
4. Any moneys remaining in the asbestos abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos abatement project and any funds remaining in the required remodeling fund after completion of the remodeling projects must be transferred to the general fund of the school district upon the order of the school board.

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<sup>144</sup> Section 57-15-17.1 was also amended by section 2 of House Bill No. 1196, chapter 500.

**SECTION 12. REIMBURSEMENT - REORGANIZED DISTRICTS.** In distributing per student payments for the 1997-99 biennium, the superintendent of public instruction shall ensure that no school district reorganized after June 30, 1997, and before July 1, 1999, receives less in per student payments for the first year of its reorganization than the districts participating in the reorganization received in per student payments for the school year immediately preceding the reorganization.

**SECTION 13. LEGISLATIVE COUNCIL STUDY OF EDUCATIONAL EQUITY AND FUTURE EDUCATIONAL DELIVERY.** The legislative council shall study the provision of education to public school students in this state and shall examine the manner in which education to public school students will be delivered in the ensuing five, ten, and twenty years. Within this study, the council shall address demographic changes as they affect equity of educational opportunities with respect to courses, facilities, and extracurricular activities; equity with respect to teacher availability and qualifications; equity with respect to the organization and administration of school districts; and taxpayer equity in both rural and urban school districts. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-seventh legislative assembly.

**SECTION 14. APPROPRIATION - CONTINGENT DISTRIBUTIONS.**

1. a. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,500,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing supplemental payments to school districts, for the biennium beginning July 1, 1999, and ending June 30, 2001.
- b. During the first year of the biennium, the superintendent shall distribute \$1,750,000 of the appropriated amount as supplemental per student payments to each school district in the state on the basis of average daily membership and \$1,000,000 of the appropriated amount to assist school districts whose 1999-2000 fall enrollment is less than the district's 1994-1995 fall enrollment. The superintendent shall base the latter payments on each eligible school district's proportionate share of the total statewide decline during the five-year period, provided that no school district is eligible to receive payments for declining enrollments in excess of five hundred students.
- c. During the second year of the biennium, the superintendent shall distribute the remaining \$750,000 as supplemental per student payments to each school district in the state on the basis of average daily membership.
2. a. If any funds appropriated by the legislative assembly to the grants - foundation aid and transportation line item remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the first \$1,000,000 of such contingent funds as supplemental per student payments to each school district in the state on the basis of average daily membership.
- b. The superintendent shall distribute the next \$1,000,000 of such contingent funds to assist school districts experiencing declines in

student enrollment under the terms provided for by subdivision b of subsection 1.

- c. The superintendent shall distribute the next \$2,000,000 of such contingent funds to school districts eligible to receive reorganization bonuses, as provided for by Senate Bill No. 2441, as approved by the fifty-sixth legislative assembly, and shall distribute any remaining funds as supplemental per student payments to each school district in the state on the basis of average daily membership.

**SECTION 15. REORGANIZATION BONUSES - LEGISLATIVE**

**INTENT.** If insufficient funds exist to fully reimburse all school districts eligible for reorganization bonuses, as provided for by Senate Bill No. 2441, as approved by the fifty-sixth legislative assembly, the fifty-seventh legislative assembly shall consider introduction of an emergency measure to adopt a deficiency appropriation in an amount necessary to provide the full reimbursement.

**SECTION 16. EMERGENCY.** Sections 2, 7, and 12 of this Act are declared to be an emergency measure.

Approved April 20, 1999

Filed April 20, 1999

## CHAPTER 170

### HOUSE BILL NO. 1370

(Representatives Nottestad, Drovdal, Grumbo, L. Thoreson)  
(Senators Holmberg, Wardner)

## TEACHING CERTIFICATE REQUIREMENTS

AN ACT to create and enact a new section to chapter 15-36 of the North Dakota Century Code, relating to enforcement of requirements concerning teaching certificates; and to amend and reenact section 15-36-11 of the North Dakota Century Code, relating to requirements to hold teaching certificates.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>145</sup> **SECTION 1. AMENDMENT.** Section 15-36-11 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-11. Certificate required.** ~~A person~~ Except as provided by section 2 of this Act, an individual must hold a valid North Dakota teacher's certificate in order to be permitted or employed to teach in any public school in this state.

**SECTION 2.** A new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

**Exception to certificate requirement.** An individual without a valid certificate who is teaching under contract with a school may teach and be employed to teach if approved by the education standards and practices board. The education standards and practices board shall establish by rule the terms and conditions of approval. The terms and conditions may include payment of fines to the board, enrollment in and completion of continuing education courses, and a deadline for filing a completed application. Approval to teach and be employed to teach without a valid North Dakota certificate may only be granted if the individual has previously held a valid North Dakota certificate, currently holds a valid teaching certificate or license in another jurisdiction, or has filed a completed application with the board.

Approved March 25, 1999  
Filed March 25, 1999

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<sup>145</sup> Section 15-36-11 was also amended by section 19 of House Bill No. 1188, chapter 162.

## CHAPTER 171

### HOUSE BILL NO. 1274

(Representatives Brandenburg, Grumbo, Haas, Nottestad, Wikenheiser)  
(Senator Wardner)

### TEACHER CERTIFICATION

AN ACT to create and enact two new sections to chapter 15-36 of the North Dakota Century Code, relating to the interim reciprocal certification of teachers; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

##### **Interim reciprocal teaching certificate - Period of validity.**

1. The education standards and practices board shall grant an interim reciprocal teaching certificate in accordance with sections 15-47-46 and 15-41-25 to an individual who holds a valid regular teaching license or certificate from another state, provided:
  - a. The certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in elementary education, middle-level education, or a content area taught in public high school;
  - b. The certification requires the completion of a professional education sequence from a state-approved teacher education program, including supervised student teaching;
  - c. The individual submits to a background check as required of initial applicants in section 15-38-18.2;
  - d. The background check reveals nothing for which a North Dakota applicant would be denied initial certification; and
  - e. The individual submits a plan for meeting all requirements necessary to become a certificated teacher in this state.
2. An interim reciprocal certificate granted under this section is valid for two years. The individual shall submit evidence of progress on the individual's educational plan to the education standards and practices board at the end of the two-year period. The interim reciprocal certificate may be renewed for one additional two-year period if satisfactory progress is demonstrated.
3. Notwithstanding any other law, an interim reciprocal certificate granted under this section is the equivalent of a teaching certificate granted under chapter 15-36.

**SECTION 2.** A new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

**Reciprocal acceptance of teaching certificates - Report.** On or before July 1, 2001, the education standards and practices board shall pursue the reciprocal acceptance of teaching certificates issued by other states. The education standards and practices board shall present a progress report regarding implementation of the program to the legislative council or to a committee designated by the council before October 1, 2000.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 14, 1999  
Filed April 14, 1999

## CHAPTER 172

### SENATE BILL NO. 2075

(Education Committee)

(At the request of the Education Standards and Practices Board)

### TEACHING CERTIFICATES, FEES, AND ENDORSEMENTS

AN ACT to amend and reenact sections 15-36-08, 15-38-18, 15-38-18.2, and 15-41-25 of the North Dakota Century Code, relating to provisional teaching certificates, application fees, and education standards and practices board equivalency endorsements; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>146</sup> **SECTION 1. AMENDMENT.** Section 15-36-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-36-08. Fees for certificates.** The education standards and practices board must determine a fee for each certificate issued by this state; ~~and no.~~ Except for provisional teaching certificates which are valid for forty days and issued pursuant to rules adopted by the board, a certificate may not be issued for a period of less than one school year. The fees must be deposited and disbursed in accordance with section 54-44-12.

<sup>147</sup> **SECTION 2. AMENDMENT.** Section 15-38-18 of the North Dakota Century Code is amended and reenacted as follows:

**15-38-18. Duties of the education standards and practices board.** It is the duty of the board to supervise the certification of teachers; <sup>1</sup> to set standards for and approve teacher preparation programs; <sup>2</sup> to issue minor equivalency endorsements; to develop and revise, consistent with state law, professional codes or standards relating to ethics, conduct, and professional performance and practices; <sup>3</sup> and to provide recommendations for in-service education of persons engaged in the profession of teaching in the public schools. In the development of professional codes and standards, the board shall solicit the assistance of members of the teaching profession and representatives of school administrators, school board members, teacher education professors, and other interested citizens. The board shall adopt approved or revised codes and standards as rules in accordance with chapter 28-32. The board may enter into agreements with other states to acquire reciprocal approval of teacher preparation programs, apply for and receive federal or other funds on behalf of the state for purposes related to its duties, and to perform any other duty that relates to the improvement of instruction through teacher education, professional development, and continuing education programs. The board has the

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<sup>146</sup> Section 15-36-08 was also amended by section 18 of House Bill No. 1188, chapter 162.

<sup>147</sup> Section 15-38-18 was also amended by section 29 of House Bill No. 1188, chapter 162.

powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota. The board shall appoint an executive director to serve at its discretion. The executive director shall perform the duties assigned by the board. The board shall authorize the employment of staff necessary for the sound and economic administration of its duties, responsibilities, and functions. The executive director shall hire the staff, subject to the approval of the board.

<sup>148</sup> **SECTION 3. AMENDMENT.** Section 15-38-18.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-38-18.2. Education standards and practices board - Initial certification of teachers - Application fee - Background.** The education standards and practices board may charge an application fee established by the board by rule. The education standards and practices board shall check, or cause to be checked, the background of each applicant for initial certification as a teacher. The board shall require each applicant for certification to file a complete set of the applicant's fingerprints, taken by a law enforcement officer, and all other information necessary to complete a state and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure. The board may adopt by rule, procedures for issuing forty-day provisional teaching certificates to applicants for initial licensure pending completion of the background check. A provisional teaching certificate may be renewed upon approval of the board. An applicant for a provisional teaching certificate may be charged a fee established by the board by rule, but no fee may be imposed for the renewal of a provisional teaching certificate.

**SECTION 4. AMENDMENT.** Section 15-41-25 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-41-25. High schools - Teacher qualification.** Except as provided in section 15-29-08.4, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 ~~shall~~ must have a valid teacher's certificate and ~~shall~~ must have a major or minor or a minor equivalency endorsement issued by the education standards and practices board in the course areas or fields that the teacher is teaching if the high school is to receive any approval by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, ~~and~~ or health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which the teacher is employed may not affect the approval of the employing school district.

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<sup>148</sup> Section 15-38-18.2 was also amended by section 30 of House Bill No. 1188, chapter 162.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 13, 1999  
Filed April 14, 1999

## CHAPTER 173

### SENATE BILL NO. 2074

(Education Committee)

(At the request of the Education Standards and Practices Board)

## TEACHING CERTIFICATE DENIAL OR REVOCATION

AN ACT to create and enact a new section to chapter 15-36 of the North Dakota Century Code, relating to grounds for the automatic denial or revocation of teaching certificates; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

#### **Crimes against a child and sexual offenses - Denial of or immediate revocation of teaching certificate.**

1. Notwithstanding any other law, the education standards and practices board shall deny an application for a teaching certificate and shall revoke immediately the teaching certificate of an individual, other than an administrator, who has been found guilty of a crime against a child or a sexual offense. Notwithstanding any other law, the administrator's professional practices board shall revoke immediately the teaching certificate of an administrator who has been found guilty of a crime against a child or a sexual offense.
2. An individual, other than an administrator, who is denied a teaching certificate or who has had a teaching certificate revoked under subsection 1 may file a request with the education standards and practices board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. An administrator who has had a teaching certificate revoked under subsection 1 may file a request with the administrator's professional practices board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. The scope of the hearing is limited to determining whether the individual was convicted of a crime against a child or a sexual offense and whether the conviction has been overturned on appeal.
3. A final decision denying a teaching certificate or revoking a teaching certificate under this section is appealable pursuant to chapter 28-32. A court may not stay the decision pending an appeal. A court shall affirm the decision denying a teaching certificate or revoking a teaching certificate unless the court finds that the individual was not convicted of a crime against a child or a sexual offense or that the conviction was overturned on appeal.
4. The education standards and practices board or, in the case of a school administrator, the administrator's professional practices board, may impose a fee against a certificate holder to reimburse the education standards and practices board or, in the case of a school administrator,

the administrator's professional practices board, for all or part of the costs of administrative actions that result in disciplinary action against the certificate holder under this section.

5. As used in this section:
  - a. "Conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt overturned on appeal.
  - b. "Crime against a child" means violation of sections 12.1-16-01, 12.1-16-02, 12.1-16-03, 12.1-16-04, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-05, 12.1-17-06, 12.1-17-07, 12.1-17-07.1, 12.1-17-10, 12.1-18-01, 12.1-18-02, 12.1-18-03, 12.1-29-01, 12.1-29-02, or 12.1-29-03, or an equivalent ordinance, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
  - c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or 12.1-22-03.1, or chapter 12.1-27.2, or an equivalent ordinance.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 14, 1999  
Filed April 14, 1999

**CHAPTER 174****HOUSE BILL NO. 1059**  
(Representative Keiser)**EDUCATION FACTFINDING COMMISSION  
COMPENSATION**

AN ACT to amend and reenact section 15-38.1-04 of the North Dakota Century Code, relating to compensation for members of the education factfinding commission.

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

**SECTION 1. AMENDMENT.** Section 15-38.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-38.1-04. Compensation of commission and factfinders.** Members of the commission ~~shall~~ are entitled to receive fifty compensation at the rate of sixty-two dollars and fifty cents per day for their attendance at regular or special and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission or in the performance of such special duties as the commission may direct. In addition to such compensation, they shall receive an allowance for actual and necessary travel and subsistence expenses while performing commission functions away from their places of residence. Factfinders, appointed by the commission, including commission members when so serving, must be reimbursed as factfinders, are entitled to reimbursement for expense on the same basis expenses in the same manner as members of the commission and shall receive such to compensation as established by the commission shall from time to time establish.

Approved March 8, 1999  
Filed March 8, 1999

## CHAPTER 175

### SENATE BILL NO. 2070

(Government and Veterans Affairs Committee)  
(At the request of the Teachers' Fund for Retirement)

### TFFR ADMINISTRATION

AN ACT to amend and reenact subsections 2 and 9 of section 15-39.1-04, subsections 1 and 4 of section 15-39.1-10, sections 15-39.1-11, 15-39.1-12, 15-39.1-16, subsection 2 of section 15-39.1-17, sections 15-39.1-20, and 15-39.1-24 of the North Dakota Century Code, relating to definitions, eligibility for benefits, vesting, early retirement, annuities, death of member, withdrawals, and purchase of additional credit under the teachers' fund for retirement; and to repeal section 15-39.1-12.1 of the North Dakota Century Code, relating to partial service retirements under the teachers' fund for retirement.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>149</sup> **SECTION 1. AMENDMENT.** Subsections 2 and 9 of section 15-39.1-04 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. "Beneficiary" means the person designated in writing by the member ~~or, in the absence of such designation, the member's surviving spouse, if any~~ except that in the absence of such designation, if the member is married, the member's spouse must be the primary beneficiary. If the member is married, and if the member wishes to name an alternate beneficiary, the member's spouse must consent in writing to the member's designation. If the member dies without having named a contingent beneficiary to receive any remaining benefits due after the death of the beneficiary, the primary beneficiary may name a contingent beneficiary.
9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a school year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" with respect to a member who begins participation in the plan under former chapter 15-39, or chapter 15-39.1 or 15-39.2 after June 30, 1996, may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B), as amended by the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103-66; 107 Stat. 312]. The annual compensation limit is one hundred fifty thousand dollars, as adjusted by the commissioner of the internal revenue service for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B). "Salary" does not include fringe benefits such as payments for unused sick leave, personal

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<sup>149</sup> Section 15-39.1-04 was also amended by section 32 of House Bill No. 1188, chapter 162.

leave, vacation leave, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, referee pay, busdriver pay, janitorial pay, or salary received by a member in lieu of previously employer-provided fringe benefits ~~under an agreement between the member and participating employer entered into within sixty months before retirement.~~

<sup>150</sup> **SECTION 2. AMENDMENT.** Subsections 1 and 4 of section 15-39.1-10 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. The following members are eligible to receive monthly lifetime retirement benefits under this section:
  - a. All members who have ~~completed five~~ earned three years of teaching credit and who have attained the age of sixty-five years.
  - b. All members who have ~~completed five~~ earned three years of teaching credit and who have a combined total of years of service credit and years of age which equals eighty-five.
4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code, and the regulations issued under that section, as applicable to governmental plans.

**SECTION 3. AMENDMENT.** Section 15-39.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-11. Vesting of rights.** When any member has paid assessments ~~for a period of five~~ and earned three years ~~for~~ of service in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12.

**SECTION 4. AMENDMENT.** Section 15-39.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-12. Early retirement.** Any teacher who has acquired a vested right to a retirement annuity as set forth in section 15-39.1-11 and who has attained age fifty-five may retire prior to the normal retirement age as set forth herein but the benefits to which ~~he~~ the member is then entitled must be reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement from the earlier of age sixty-five or the age at which current service plus age equals eighty-five.

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<sup>150</sup> Section 15-39.1-10 was also amended by section 1 of Senate Bill No. 2069, chapter 177.

**SECTION 5. AMENDMENT.** Section 15-39.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-16. Option of teachers eligible to receive annuities.** The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:

Option one. Upon the death of the teacher, the reduced retirement allowance must be continued throughout the life of, and paid to, the person as the teacher has nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the person designated dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option two. Upon the death of the teacher, one-half of the reduced retirement allowance must be continued throughout the life of, and paid to, the person as the teacher has nominated by written designation filed with the board at the time of retirement. If the person designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if the designated beneficiary dies on or after July 1, 1989, must begin on the first day of the month following the death of the person designated.

Option three. Upon the death of the teacher within five years of the commencement of annuity payments, the payments must be continued for the remainder of the five-year period to the person as the teacher has nominated by written designation filed with the board ~~at the time of retirement.~~

Option four. Upon the death of the teacher within ten years of the commencement of annuity payments, the payments must be continued for the remainder of the ten-year period to the person as the teacher has nominated by written designation filed with the board ~~at the time of retirement.~~

Option five. Level retirement income with social security option, which is available to teachers retiring before social security is payable.

The amount of the reduced retirement allowance payable upon the exercise of any of these options must be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and the teacher's designated beneficiary. A member's spouse, if any, must consent in writing to the member's choice of benefit payment option for any benefit payments commencing after June 30, 1999. The board may rely on the member's representations about that person's marital status in determining the member's marital status. The spouse's written consent must be witnessed by a notary or a plan representative. If the spouse does not consent, or cannot be located, the member's annuity benefit must be paid using option two, the fifty percent joint and survivor option.

**SECTION 6. AMENDMENT.** Subsection 2 of section 15-39.1-17 of the North Dakota Century Code is amended and reenacted as follows:

2. If the death of a member who has acquired a vested interest should occur prior to retirement, then the member's beneficiary may apply for a

refund of the member's assessments accumulated with interest. If there is no beneficiary, then the same must be paid to the surviving children, or if none, to the member's estate; provided, however, that if no probate proceedings have been instituted within thirty days of the death of the member, then to the heirs at law who file claim with the fund within one hundred fifty days of the death of the member. In lieu of a refund, the beneficiary may elect either to receive a monthly annuity in accordance with option one under section 15-39.1-16, with the amount of the annuity being determined as though the deceased member had retired under the option on the day benefits commence to the beneficiary; or the beneficiary may elect to receive for sixty months an amount equal to the monthly annuity the member would have received if the member had attained age sixty-five and retired, based on the member's credited service to date of death. If any ~~applicant for an annuity member~~ under this section has not paid into the fund assessments equal to the amounts required to be paid under section 15-39.1-09, the ~~member applicant~~ shall pay any deficiency into the fund before receiving the annuity.

**SECTION 7. AMENDMENT.** Section 15-39.1-20 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-20. Withdrawal from fund.** When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may, after a period of one hundred twenty days, withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter. The accumulated assessments of a member who ceases to be eligible to participate in the fund before ~~accumulating five years of service credit~~ becoming vested must be automatically refunded. The assessments plus interest earned, if not claimed by the member, must be returned in the fiscal year following the date of termination. The automatic refund must be waived provided the member presents the board with a statement of intent to return to teach in North Dakota within thirty-six months after eligibility to participate in the fund ceases. The board may waive the automatic refund for members who present to the board a statement of intent to return to teach in North Dakota within a period exceeding thirty-six months after eligibility to participate in the fund ceases. ~~For distributions made after January 1, 1993, notwithstanding any provision of the plan to the contrary that would otherwise limit a member's refund election under this chapter, a~~ A member may elect, at the time and under rules ~~established~~ adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member as allowed under section 401(a)(31) of the Internal Revenue Code.

**SECTION 8. AMENDMENT.** Section 15-39.1-24 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-24. Purchase of additional credit.** Prior to retirement a teacher who provides proof of eligibility under rules adopted by the board may purchase additional credit for use toward retirement in the following instances and manner:

1. Any A teacher may purchase service credit for years of elementary or secondary teaching service at an accredited out-of-state public, private, or parochial school ~~or educational institution supported by public taxation out of North Dakota.~~ However, a teacher must complete five

years of creditable service in this state before the teacher is eligible to purchase the first five years of service credit for out-of-state teaching under this subsection. The teacher may purchase any part of the remaining years of service credit for out-of-state teaching with each year of service credit conditional upon the teacher completing one additional year of creditable service in this state following the out-of-state teaching. The years of out-of-state teaching service do not qualify for credit in this state if the years claimed also qualify for retirement benefits from an out-of-state retirement system.

2. Any A teacher not qualified to receive military credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] or Veterans' Reemployment Rights Act of 1991 [Pub. L. 93-508; 88 Stat. 3150] who has received an honorable discharge from military service of the United States of America may receive purchase military credit for no more than four years of active service, upon filing application and proof with the board and subject to the terms of this chapter upon teaching one year in North Dakota subsequent to military service. Members qualified to receive military credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] shall only pay member assessments plus interest pursuant to rules adopted by the board. For those individuals becoming eligible to receive military credit under the Uniformed Services Employment and Reemployment Rights Act after June 30, 1991, the employer shall pay the required employer contribution for military service.
3. A teacher who attends a college, university, or other recognized school for two consecutive semesters or three consecutive quarters, other than summer sessions, for the purpose of improving the teacher's qualifications in the teaching profession is entitled to have credited such periods while in attendance at that college, university, or school, not to exceed three years of teaching service, under this chapter. To be eligible for purchasing credit under this subsection, the teacher must have taught at least one full school year in North Dakota immediately preceding entrance into the college, university, or school, or, immediately following such training, the teacher must have taught not less than one full school year in a public school or state institution of this state. A teacher may purchase service credit for credit lost while on an approved leave of absence from teaching duties.
4. A teacher may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. Service credit for a legislative session must be purchased within one year after the adjournment of that legislative session. As an alternative to a teacher purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement by which payment for service credit for time spent during each legislative session by the teacher serving as a member of the legislative assembly is made pursuant to section 15-39.1-09. The agreement must provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary without reduction for a leave of absence taken by the teacher during the legislative session.

5. ~~A teacher may purchase credit for years of elementary or secondary teaching service as an administrator or teacher in the field of education if employed by an agency of the United States government teaching school age children. The maximum service that may be purchased under this subsection is ten years.~~
6. ~~An active~~ A teacher who is elected president of a professional educational organization recognized by the board and who serves in a full-time capacity in lieu of teaching may purchase service credit for the time spent serving as president. ~~The service credit must be purchased within one year after the teacher leaves the position.~~ As an alternative to purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement under which payment for service credit for the time spent as president of the professional educational organization is made pursuant to section 15-39.1-09. The agreement must provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary as president.
7. A teacher may purchase service credit for years of elementary or secondary teaching service in an accredited North Dakota private or parochial school.
8. A teacher who has at least five years of teaching service credit in the fund may purchase credit not based on service for use toward retirement eligibility and benefits. The purchase of service credit for such nonqualified service as defined under section 415(n) of the Internal Revenue Code is limited to an aggregate of five years.
9. A teacher who had that person's North Dakota teaching service interrupted by military service in any branch of the United States armed forces and received an honorable discharge may receive credit for military service pursuant to applicable federal veterans' rights acts including the Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] or the Veterans' Reemployment Rights Act of 1991 [Pub. L. 93-508; 88 Stat. 3150].
10. With the exception of military service, purchased service credit is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system.
11. The fund may accept rollovers from other qualified plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirements of section 408 of the Internal Revenue Code.
- 8: 12. Except as provided in subsections 2, 4, and 6, the The amount of additional service eligible to be purchased under this section must be credited to the teacher when the teacher has made the required payment. ~~In all cases~~ Except as provided in subsections 4, 6, and 9, the purchase cost must be on an actuarial equivalent basis.

**SECTION 9. REPEAL.** Section 15-39.1-12.1 of the North Dakota Century Code is repealed.

Approved March 5, 1999  
Filed March 5, 1999

## CHAPTER 176

### SENATE BILL NO. 2204

(Senators Holmberg, Krebsbach, Robinson, W. Stenehjem, Wardner)

### TFFR MEMBERSHIP

AN ACT to amend and reenact section 15-39.1-09 of the North Dakota Century Code, relating to membership in the teachers' fund for retirement.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-39.1-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-09. Membership in fund and assessments - Employer payment of employee contribution.**

1. Except as provided in subsection 2 of section 15-39.1-10.3 and subsection 3, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the fund seven and seventy-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official of the governmental body shall certify the governmental body payments and remit the payments monthly to the fund.
2. Each employer, at its option, may pay the teacher contributions required by subsection 1 for all compensation earned after June 30, 1983. The amount paid must be paid by the employer in lieu of contributions by the employee. If an employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining income tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the teacher in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these teacher contributions from the same source of funds used in paying compensation to the teachers. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases. If teacher contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as teacher contributions made prior to the date the contributions were assumed by the employer. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.

3. A person, except the superintendent of public instruction, who is certified to teach in this state by the education standards and practices board and who is first employed and entered upon the payroll of the superintendent of public instruction after January 6, 2001, may elect to become a participating member of the public employees retirement system. An election made by a person to participate in the public employees retirement system under this subsection is irrevocable.

Approved March 19, 1999

Filed March 19, 1999

## CHAPTER 177

### SENATE BILL NO. 2069

(Government and Veterans Affairs Committee)  
(At the request of the Teachers' Fund for Retirement)

### TFFR BENEFITS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to postretirement benefit adjustments under the teachers' fund for retirement; to amend and reenact subsection 2 of section 15-39.1-10 of the North Dakota Century Code, relating to the computation of benefits under the teachers' fund for retirement; and to provide for application.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>151</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 15-39.1-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The amount of retirement benefits is one and ~~seventy-five~~ eighty-eight hundredths percent of the final average monthly salary of the member multiplied by the number of years of credited service. For the purposes of this subsection, final average monthly salary means one thirty-sixth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any three years of service under the fund.

**SECTION 2.** A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

**Postretirement adjustment.** An individual who on June 30, 1999, is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive a monthly increase equal to an amount determined by taking two dollars per month multiplied by the member's number of years of service credit plus one dollar per month multiplied by the number of years since the member's retirement.

**SECTION 3. APPLICATION OF ACT.** Section 1 of this Act applies only to individuals who begin receiving benefits from the fund under chapter 15-39.1 after June 30, 1999, and applies to those benefits payable after June 30, 1999. Section 2 of this Act applies to benefits payable after June 30, 1999.

Approved March 15, 1999  
Filed March 16, 1999

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<sup>151</sup> Section 15-39.1-10 was also amended by section 2 of Senate Bill No. 2070, chapter 175.

## CHAPTER 178

### SENATE BILL NO. 2282

(Senators C. Nelson, Wardner)  
(Representatives Maragos, Stefonowicz)

### TFFR PARTICIPATION

AN ACT to amend and reenact section 15-39.1-19.1 of the North Dakota Century Code, relating to participation in the teachers' fund for retirement by retired persons who have resumed teaching; to provide an effective date; and to provide an expiration date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-39.1-19.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **15-39.1-19.1. Annuities discontinued on resumption of teaching.**

1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until sixty calendar days have elapsed from the member's retirement date. ~~A~~ Except as otherwise provided in this section, a retired member may then return to covered employment for a maximum of ninety working days and continue receiving a monthly retirement benefit. For purposes of this section, a working day is four or more hours of teaching. The board may waive this restriction in emergency situations. Should the retired member's employment exceed the ninety-day maximum limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office will result in the loss of one month's annuity benefit. ~~The~~ Except as otherwise provided in this section, the retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ninety-day maximum. ~~Any~~ A retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the ninety-day maximum. The employer shall pay the required contributions in a like manner.
2. A retired member may return to teaching for up to one year without losing any benefits provided at least fifty percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation. Employee and employer assessments under this arrangement must be paid by the person's employer. Assessments must be paid on the total salary earned by the retired member without regard to the amount of money placed in an educational foundation. A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and

after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment. For purposes of this subsection, a school district's educational foundation must be a nonprofit or charitable organization exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].

3. Upon the teacher's subsequent retirement, the member's benefit must be resumed as follows:
4.
  - a. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity the first day of the month following the teacher's re-retirement.
  2. b. If the teacher subsequently retires with more than two years of additional credited service, the retired person's annuity is the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment. The new annuity is payable the first day of the month following the member's re-retirement.

**SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** This Act becomes effective on August 1, 1999, or on the date the board of trustees of the teachers' fund for retirement receives a letter ruling from the internal revenue service that this Act does not jeopardize the qualified status of the teachers' fund for retirement, whichever date is later, and is effective for two years from that date. The board shall notify the legislative council of the effective date of this Act.

Approved March 23, 1999  
Filed March 23, 1999

## CHAPTER 179

### SENATE BILL NO. 2146

(Education Committee)

(At the request of the Office of Management and Budget)

### SCHOOL AID PAYMENT

AN ACT to amend and reenact sections 15-40.1-05 and 15-44-03 of the North Dakota Century Code, relating to payment of state school aid by the superintendent of public instruction.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-40.1-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-05. Distribution of payments to school districts - Duty of ~~office of management and budget~~ superintendent of public instruction.** The superintendent of public instruction shall ~~certify to the office of management and budget a list of all school districts in the state, together with a statement of~~ determine the total payments made to each respective school district during the previous fiscal year. The ~~office of management and budget~~ superintendent shall pay each school district ten percent of ~~the~~ that amount ~~certified~~, within the limits of legislative appropriation, on or before July fifteenth, August first, September first, and October first of each year. The superintendent of public instruction shall determine what amounts in addition to those payments are necessary to constitute the remainder of the payments due to each school district for the current school year; ~~and shall certify to the office of management and budget a list of all school districts in the state, together with a statement of the payments due them.~~ On or before November first, the ~~office of management and budget~~ superintendent of public instruction shall pay to each school district, within limits of legislative appropriation, the amounts needed in addition to the above payments to constitute fifty percent of the sum found to be due under this chapter. On or before the first day of December, January, February, March, and April, payments equal to one-fifth of the total remaining payments must be made to each respective school district. If funds appropriated for distribution to school districts for per student and transportation aid become available after April first, the superintendent shall distribute the payments no later than June thirtieth.

**SECTION 2. AMENDMENT.** Section 15-44-03 of the North Dakota Century Code is amended and reenacted as follows:

**15-44-03. Certificate by office of management and budget - Apportionment by superintendent of public instruction - Warrant - Payment.** The office of management and budget on or before the third Monday in February, April, August, October, and December in each year, shall certify to the superintendent of public instruction the amount of the state tuition fund. The superintendent shall apportion such fund among the several school districts of the state in proportion to the number of children of school age residing in each as shown by the last enumeration provided for by law, and shall ~~certify to the office of management and budget and state treasurer~~ pay the amount apportioned to the respective school districts. ~~Immediately upon receipt of the apportionment from the superintendent of public instruction, the office of management and budget shall pay each school district the amount to which it is entitled~~ Payments from the state tuition fund ~~and such payments must be~~

combined with and paid at the same time as ~~per-pupil~~ per student payments pursuant to section 15-40.1-05.

Approved March 8, 1999

Filed March 8, 1999

**CHAPTER 180****SENATE BILL NO. 2381**

(Senators Flakoll, C. Nelson)  
(Representatives Clark, Hawken, B. Thoreson)

**LIMITED ENGLISH PROFICIENCY STUDENT  
PAYMENTS**

AN ACT to amend and reenact section 15-40.1-07.7 of the North Dakota Century Code, relating to per student payments for limited English proficient students.

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

**SECTION 1. AMENDMENT.** Section 15-40.1-07.7 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07.7. Per student payments - Limited English proficient students.**

1. In addition to any other payments provided for by this chapter, each school district is entitled to receive ~~three~~ four hundred dollars for each student who has been assessed by the student's school district and determined to have negligible or very limited English language skills as evidenced by a classification of level I or II using the Woodcock-Munoz language survey.
2. In order to receive the full payment provided for in this section, a school district must complete the student assessment required by subsection 1 and forward the results to the superintendent of public instruction on or before October ~~first~~ twenty-fifth of each school year. The superintendent shall distribute the payments no later than May thirtieth of each school year. The superintendent shall prorate payments under this section for any students registering in the school district after October first or departing the school district prior to the completion of the school year.

Approved April 16, 1999  
Filed April 16, 1999

## CHAPTER 181

### SENATE BILL NO. 2257

(Senators Naaden, Freborg)

### SPECIAL EDUCATION PAYMENT DISTRIBUTION

AN ACT to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to the distribution of per student special education payments after closure of a school district; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**School district closure - Distribution of per student special education payments.**

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of per student special education payments to which the former school district would have been entitled under section 15-40.1-07.6 for the provision of special education services during its final year of operation and shall pay a percentage of the total amount to each North Dakota school district that enrolls students who attended the former school district during the prior school year. Each of the school districts eligible for a payment under this section is entitled to receive that percentage of the total amount which is the same as the percentage that the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.
2. The superintendent of public instruction shall make payments under this section in the manner and at the time provided for other state payments in section 15-40.1-05.
3. The total special education payments to which a school district that ceased to exist between the completion of the 1996-97 school year and the commencement of the 1997-98 school year is entitled must be distributed as provided in subsection 1 on or before June 30, 1999.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 22, 1999  
Filed March 22, 1999

## CHAPTER 182

### HOUSE BILL NO. 1490

(Representatives D. Johnson, Delmore, Monson, Nowatzki)  
(Senators Tomac, Wanzek)

## WEATHER- OR EMERGENCY-RELATED SCHOOL CLOSURES

AN ACT to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to the closure of schools in weather emergencies; to amend and reenact section 15-47-33 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-06-04 of the North Dakota Century Code, relating to length of the school year; and to repeal section 15-40.1-09.1 of the North Dakota Century Code, relating to the closure of schools due to emergencies.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Weather or other emergency conditions - Closure of schools - Foundation aid.**

If because of severe weather or other emergency conditions a school or school district remains closed or provides less than a full day of instruction, the school or school district shall make every effort to reschedule classes so that students receive at least one hundred seventy-three full days of instruction. Any school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of foundation aid, the governor waive the rescheduling in whole or in part. The governor may not grant a waiver for less than a full day of instruction.

**SECTION 2. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-47-33 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-33. Length of elementary and secondary school year term.**

1. All elementary and secondary schools in this state shall provide for a school term of at least one hundred eighty days apportioned as follows:
  - a. One hundred seventy-three full days of instruction;
  - b. Three holidays listed in subsections 2 through 10 of section 15-38-04.1 selected by the school board in consultation with district teachers;
  - c. Two days for the attendance of teachers at the North Dakota education association instructional conference; and
  - d. Up to two full days during which parent-teacher conferences are held, or which are deemed by the school board to be compensatory

time for parent-teacher conferences held outside normal school hours.

2. A full day of instruction:
  - a. Consists of at least five and one-half hours ~~of instruction time~~ for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
  - b. Consists of at least six hours ~~of instruction time~~ for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.
3. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
4. A school that does not qualify under the provisions of subsection 3 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.

<sup>152</sup> **SECTION 3. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

1. During each school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
  - a. One hundred seventy-three full days of instruction;
  - b. Three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
  - c. Two days for the attendance of teachers at the North Dakota education association instructional conference; and
  - d. Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours.

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<sup>152</sup> Section 15.1-06-04 was created by section 6 of House Bill No. 1034, chapter 196, and amended by section 2 of Senate Bill No. 2344, chapter 187.

2. A full day of instruction consists of:
  - a. At least five and one-half hours of instruction time for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
  - b. At least six hours of instruction time for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.
3. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
4. A school that does not qualify under the provisions of subsection 3 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.

**SECTION 4. REPEAL.** Section 15-40.1-09.1 of the North Dakota Century Code is repealed.

Approved April 19, 1999

Filed April 19, 1999

## CHAPTER 183

### SENATE BILL NO. 2202

(Senators Bowman, Christmann, Lyson, Wardner)  
(Representative Drovdal)

## FEDERAL MINERAL ROYALTY DISTRIBUTION

AN ACT to amend and reenact section 15-40.1-13 of the North Dakota Century Code, relating to distribution of mineral royalties to counties and school districts; to provide a continuing appropriation; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-40.1-13 of the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-13. Receipts from federal funds - Distribution to counties and school districts.** All moneys paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L. 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.], must be credited to the state general fund and must be distributed only pursuant to ~~the terms of this chapter section.~~ Such

Three months following the calendar quarters ending in March, June, September, and December, the state auditor shall certify to the state treasurer the amount of money the state received during the preceding calendar quarter for royalties under the Act of Congress cited above. The state treasurer shall allocate the percentage of the total moneys received as required by this section among the counties in which the minerals were produced based on the proportion each county's mineral royalty revenue bears to the total mineral royalty revenue received by the state for that calendar quarter. The state treasurer shall pay the amount calculated to each county. The moneys must be used by the counties for planning, construction, and maintenance of public facilities, and the provision of public services.

The percentage of mineral royalty revenues received by the state under the Act of Congress cited above which is to be allocated and paid to the counties under this section is ten percent for collections in 2000, twenty percent for collections in 2001, thirty percent for collections in 2002, forty percent for collections in 2003, and fifty percent for collections in 2004 and thereafter. The funds needed to make the distribution to counties provided for in this section are hereby appropriated on a continuing basis for making these payments.

The balance of all revenue received under the Act of Congress cited above must be distributed only to school districts under this chapter and such moneys must be deemed the first moneys withdrawn or expended from the general fund for state school aid purposes.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for all revenues received under the Act of Congress cited in section 1 of this Act after December 31, 1999.

Approved April 16, 1999  
Filed April 16, 1999

## CHAPTER 184

### SENATE BILL NO. 2142

(Education Committee)

(At the request of the Superintendent of Public Instruction)

### TEACHING MINOR EQUIVALENCY

AN ACT to amend and reenact section 15-41-25 of the North Dakota Century Code, relating to teaching high school courses under previously granted minor equivalency authority.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>153</sup> **SECTION 1. AMENDMENT.** Section 15-41-25 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-41-25. High schools - Teacher qualification.** Except as provided in section 15-29-08.4, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 ~~shall~~ must have a valid teacher's certificate and ~~shall~~ must have a major or minor in the course areas or fields that the teacher is teaching if the high school is to receive any approval by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, ~~and~~ or health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which the teacher is employed ~~may~~ does not affect the approval of the employing school district. Any minor equivalency previously granted by the superintendent of public instruction remains valid.

Approved March 15, 1999  
Filed March 15, 1999

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<sup>153</sup> Section 15-41-25 was also amended by section 36 of House Bill No. 1188, chapter 162.

## CHAPTER 185

### SENATE BILL NO. 2335

(Senators Lee, Freborg, C. Nelson)  
(Representatives Koppang, L. Thoreson)

## POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

AN ACT to amend and reenact section 15-41.1-01 of the North Dakota Century Code, relating to the postsecondary enrollment options program.

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

**SECTION 1. AMENDMENT.** Section 15-41.1-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-41.1-01. Postsecondary enrollment options program.** Any North Dakota student enrolled in grade eleven or twelve in a public high school is eligible to receive high school and postsecondary credit for the successful completion of ~~an~~ a postsecondary level academic course offered by any postsecondary institution accredited by a regional accrediting organization or a postsecondary level vocational course offered by a postsecondary institution in a program accredited by a national or regional accrediting organization recognized by the United States department of education, provided the course is taught by a faculty member of the postsecondary institution.

Approved March 22, 1999  
Filed March 23, 1999

## CHAPTER 186

### SENATE BILL NO. 2066

(Senator Freborg)

## SCHOOL DISTRICT MOTOR VEHICLE BID REQUIREMENTS

AN ACT to amend and reenact section 15-47-15 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-09-34 of the North Dakota Century Code, relating to school district bid requirements for used motor vehicles.

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

**SECTION 1. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-47-15 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-15. School contracts - Advertisement for bids - Publication - Exceptions - Penalty.**

1. Except as provided in this section, a school board may not enter into a contract involving the expenditure of an aggregate amount greater than ~~eight~~ twenty-five thousand dollars unless the school board has given ten days' notice by at least one publication in the official newspaper of the school district, received sealed bids, and accepted the bid of the lowest responsible bidder who in the opinion of the school board will best serve the interests of the school district. The provisions of this section do not apply to ~~contracts for~~:
  1. ~~Personal~~ Contracts for the personal services of employees of the district.
  2. ~~School text~~ Contracts for the purchase of school textbooks or reference books.
  3. ~~Articles~~ The purchase of articles not sold on the open market.
  4. ~~Patented~~ The purchase of patented, copyrighted, or exclusively sold devices or features required to match articles already in use.
  5. ~~Patented~~ The purchase of patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
  6. f. Building contracts under chapters 48-01.1 and 48-02.
  7. g. School transportation services or fuel for vehicles the purchase of which is made by direct negotiation with a contractor using the procedure described in section 15-34.2-07.1.

8. h. The purchase of heating fuel which is made by direct negotiation with a contractor using the procedure described in section 15-34.2-07.1.

Such exceptions must be strictly construed:

- i. The purchase of a used motor vehicle, including a schoolbus, motorbus, or van, intended primarily for the transportation of students.
2. For purposes of this section, a "used motor vehicle" means a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of eighteen thousand miles [28967 kilometers].
3. Any member of a school board who participates in a violation of this section is guilty of a class B misdemeanor.

<sup>154</sup> **SECTION 2. AMENDMENT.** Section 15.1-09-34 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

1. Except as provided in this section, the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than ~~eight~~ twenty-five thousand dollars unless the school board has given ten days' notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. This section does not apply to contracts for:
- The personal services of district employees.
  - Textbooks and reference books.
  - Articles not sold on the open market.
  - Patented, copyrighted, or exclusively sold devices or features required to match articles already in use.
  - Patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
  - Building ~~contracts~~ construction projects under chapters 48-01.1 and 48-02.
  - School transportation services.
  - Vehicle fuel.

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<sup>154</sup> Section 15.1-09-34 was created by section 9 of House Bill No. 1034, chapter 196.

- i. Heating fuel.
  - j. The purchase of a used motor vehicle, including a schoolbus, motorbus, or van, intended primarily for the transportation of students.
2. For purposes of this section, a "used motor vehicle" means a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of eighteen thousand miles [28967 kilometers].
  3. A board member who participates in a violation of this section is guilty of a class B misdemeanor.

Approved April 7, 1999

Filed April 8, 1999

## CHAPTER 187

### SENATE BILL NO. 2344

(Senator Freborg)

### SCHOOL YEAR LENGTH

AN ACT to amend and reenact section 15-47-33 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-06-04 of the North Dakota Century Code, relating to length of the school year.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-47-33 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **15-47-33. Length of elementary and secondary school year term.**

1. All elementary and secondary schools in this state shall provide for a school term of at least one hundred eighty days apportioned as follows:
  - a. One hundred seventy-three full days of instruction;
  - b. Three holidays listed in subsections 2 through 10 of section 15-38-04.1 selected by the school board in consultation with district teachers;
  - c. Two days for the attendance of teachers at the North Dakota education association instructional conference; and
  - d. Up to two full days during which parent-teacher conferences are held, or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside normal school hours.
2. A full day of instruction:
  - a. Consists of at least five and one-half hours of instruction time for elementary students; and
  - b. Consists of at least six hours of instruction time for high school students.
3. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.

<sup>155</sup> **SECTION 2. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

1. During each school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
  - a. One hundred seventy-three full days of instruction;
  - b. Three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
  - c. Two days for the attendance of teachers at the North Dakota education association instructional conference; and
  - d. Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours.
2. A full day of instruction consists of:
  - a. At least five and one-half hours of instruction time for elementary students; and
  - b. At least six hours of instruction time for high school students.
3. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.

Approved April 19, 1999  
Filed April 19, 1999

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<sup>155</sup> Section 15.1-06-04 was created by section 6 of House Bill No. 1034, chapter 196, and amended by section 3 of House Bill No. 1490, chapter 182.

## CHAPTER 188

### HOUSE BILL NO. 1224

(Representatives Delmore, Drovdal, Hanson, Hawken)  
(Senators Cook, Kelsh)

### TEACHER SUSPENSIONS

AN ACT to amend and reenact subsection 4 of section 15-47-38 of the North Dakota Century Code, relating to teacher suspensions.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 15-47-38 of the North Dakota Century Code is amended and reenacted as follows:

4. The school board by unanimous vote may suspend the teacher from regular duty if such action is deemed desirable during the process of determining if cause for dismissal exists. A school board shall address the matter of a teacher's suspension in an executive session, unless both the teacher and the school board agree that the matter may be addressed in the presence of other persons or at an open meeting. If, upon final decision, the teacher is dismissed, the board may in its discretion determine the teacher's salary or compensation as of the date of suspension. If the final decision is favorable to the teacher, there shall be no abatement of salary or compensation.

Approved March 15, 1999  
Filed March 15, 1999

## CHAPTER 189

### HOUSE BILL NO. 1349

(Representatives Hawken, Maragos)  
(Senators T. Mathern, Watne)

## SCHOOL SAFETY PATROLS

AN ACT to amend and reenact section 15-47-44.1 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-19-11 of the North Dakota Century Code, relating to school safety patrols.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** If House Bill No. 1034 does not become effective, section 15-47-44.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-47-44.1. School safety patrols - Establishment - Adoption of standards.**

The board of a public school district or the governing body of a nonpublic school may authorize school principals or administrators to establish safety patrols at schools under their control and to appoint students to the safety patrols. Any student ~~age eleven or older~~ enrolled in grade five or higher is eligible for appointment to a safety patrol, provided the student's parent or legal guardian has filed written permission with the school principal or administrator. The superintendent of public instruction shall adopt standards to guide safety patrol members in the conduct of their duties and shall specify the identification to be worn and the signals to be used by safety patrol members while on duty.

<sup>156</sup> **SECTION 2. AMENDMENT.** Section 15.1-19-11 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

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

Approved March 19, 1999  
Filed March 22, 1999

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<sup>156</sup> Section 15.1-19-11 was created by section 13 of House Bill No. 1034, chapter 196.

**CHAPTER 190****SENATE BILL NO. 2410**

(Senator Holmberg)

**EARLY CHILDHOOD TEACHING CERTIFICATES**

AN ACT to create and enact a new section to chapter 15-47 of the North Dakota Century Code, relating to an early childhood education teaching certificate.

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

**SECTION 1.** A new section to chapter 15-47 of the North Dakota Century Code is created and enacted as follows:

**Early childhood education teaching certificate.** The education standards and practices board shall develop and implement an optional early childhood education teaching certificate. The optional early childhood education teaching certificate may be used in nonparental settings such as early childhood programs, preschool programs, and head start programs.

Approved April 17, 1999

Filed April 19, 1999

**CHAPTER 191****HOUSE BILL NO. 1233**

(Representative R. Kelsch)

**SCHOOL FOOD SERVICE PERSONNEL TRAINING AND  
CERTIFICATES**

AN ACT to create and enact a new section to chapter 15-54 of the North Dakota Century Code, relating to training for food service personnel; and to repeal section 15-54-08 of the North Dakota Century Code, relating to health certificates for school food service personnel.

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

**SECTION 1.** A new section to chapter 15-54 of the North Dakota Century Code is created and enacted as follows:

**Food service personnel - Training.** Each individual who manages the food service operation of a public or nonprofit private agency, school, institution, organization, corporation, limited liability company, firm, foundation, or entity, with which the superintendent of public instruction has entered into an agreement under section 15-54-03, shall undergo initial and continuing training regarding the safe handling, preparation, and service of food. The superintendent of public instruction shall by rule prescribe the nature, scope, and frequency of the training.

**SECTION 2. REPEAL.** Section 15-54-08 of the North Dakota Century Code is repealed.

Approved March 19, 1999

Filed March 22, 1999

## CHAPTER 192

### SENATE BILL NO. 2154

(Education Committee)

(At the request of the Superintendent of Public Instruction)

### SPECIAL EDUCATION FUNDS AND POLICIES

AN ACT to create and enact a new subsection to section 15-40.1-07.6 of the North Dakota Century Code, relating to authority of the superintendent of public instruction to withhold state special education funds; and to amend and reenact section 15-59-02.1 of the North Dakota Century Code, relating to special education policies.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-59-02.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-59-02.1. Legislative intent - Special education.** This statement of legislative intent is provided to define more clearly the relationship between the federal government, state, school districts, and parents of students with disabilities in the provision of special education and related services. State special education policies are directed to achieving the purposes set out in the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.]. State funding along with federal resources are matched with local funds to achieve these purposes. "Related services" means transportation and such developmental and corrective or supportive services required to assist a student with disabilities to benefit from special education.

The school administrator or the administrator's appointed representative or director of special education other than the student's teacher is responsible for bringing together professionals and parents to share assessment information related to all areas of suspected disability, develop an individualized education program plan for the student with disabilities, and make recommendations for required special education and related services.

~~The legislative assembly believes that in order to assure equality of services that are provided for by limited state funds, the superintendent of public instruction will be required to approve a contract for services based on an individualized education program developed for each student with disabilities placed in a private school program or in programs outside the student's original special education unit.~~

The legislative assembly recognizes that a student with disabilities whose individualized education program so requires is entitled to an educational program in excess of one hundred eighty days per year if regression caused by an interruption in educational programming, together with a student's limited recoupment capacity, renders it impossible or unlikely that the student will attain the level of self-sufficiency and independence from caretakers that the student would otherwise be expected to reach in view of the disability. ~~All summer programs attended by these students must have approval of the superintendent of public instruction before receiving foundation aid or state special education reimbursement.~~

In the case of students with disabilities who require boarding care away from the family residence in order to receive special education and related services in an approved program, it is the intent of the legislative assembly that the instructional costs and costs of related services, including boarding care, be borne by state special education funds and school district funds.

"All students with disabilities have the right to a free appropriate public education" means that all students with disabilities have the right to special education and related services which must be provided at public expense, under public supervision and direction and at no cost to parents. "At no cost" means specifically designed instruction and related services as described in the student's individualized education program plan provided without charge but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

School districts must require use of family insurance, or similar third-party payments, in whatever amount is allowed, as long as there is no financial loss to the student or the student's parent, for determining a student's medically related disability or other required related services which results in the student's need for special education. It is the school district's responsibility to assume costs not covered by the insurer or similar third party in the above situation.

The school district in which a student with disabilities resides is responsible to provide transportation for the student as prescribed in the student's individualized education program.

Costs of transportation for the student to attend an approved special education program are the responsibility of the school district with aid from the superintendent of public instruction.

The district of residence may use any reasonably prudent and safe means of transportation at its disposal to carry out the requirements of the individualized education program. Such means may include a regularly scheduled schoolbus, public or commercial transportation where appropriate, charter or specially contracted transportation, or transportation provided by the parent of a student with disabilities or other responsible party at school district expense.

If the transportation between the district of residence and the educational facility is provided by the parents, the reimbursement to the school district from department of public instruction funds must be for mileage costs only and may not include per diem costs for meals, lodging, lost wages, or other costs of any kind.

As the department of human services has authority under chapter 25-16 to provide early intervention services to meet the needs of children with disabilities ages zero through two years, the legislative assembly recognizes this provision and requires the superintendent of public instruction, the state department of health, and the department of human services to cooperate in planning and coordinating programs for these children.

**SECTION 2.** A new subsection to section 15-40.1-07.6 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

The superintendent of public instruction may enforce the department's determination of a complaint by withholding state special education funds due a school district that is found to be in violation of providing a free appropriate public education in an amount equal to the cost of meeting the affected individual students' needs.

Approved April 13, 1999

Filed April 14, 1999

**CHAPTER 193****SENATE BILL NO. 2041**

(Legislative Council)  
(Education Finance Committee)

**SCHOOL CONSTRUCTION LOANS**

AN ACT to amend and reenact subsection 1 of section 15-60-10 of the North Dakota Century Code, relating to school construction loans.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 15-60-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The board may authorize the use of moneys deposited in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02 for the purpose of funding loans described in this chapter. The outstanding principal balance of loans funded under this chapter may not exceed ~~twenty-five~~ forty million dollars. The board may adopt policies and rules for funding school construction loans.

Approved March 15, 1999  
Filed March 15, 1999

## CHAPTER 194

### SENATE BILL NO. 2139

(Education Committee)

(At the request of the Bank of North Dakota)

### STATE GUARANTEE LOAN PROGRAM

AN ACT to amend and reenact section 15-62.1-02 of the North Dakota Century Code, relating to the powers and duties of the Bank of North Dakota in its administration of the state guarantee loan programs; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-62.1-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-62.1-02. Powers and duties of the agency.** The agency has the following powers and duties under this chapter:

1. To guarantee all loans which satisfy the requirements set forth in title IV, part B, of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.; Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581], as amended through December 31, ~~1996~~ 1998, upon terms, conditions, and application procedures commensurate with the federal Higher Education Act of 1965 [20 U.S.C. 1001 et seq.; Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581], as amended through December 31, ~~1996~~ 1998, if federal coinsurance of student loans guaranteed by the agency is available. If at any time the agency determines that student loans made under the terms and conditions of federal coinsurance programs are no longer adequately serving the needs of North Dakota students attending postsecondary institutions, or if federal coinsurance is no longer available, the agency shall notify the industrial commission or its designee. Upon approval of the industrial commission or its designee, the agency shall guarantee student loans without federal coinsurance pursuant to rules made by the agency relating to terms for applicant eligibility in accordance with the provisions of this chapter. ~~If loans are guaranteed without federal coinsurance, the agency may not adopt eligibility requirements or loan limits for student loans to qualify for guarantee by the agency which are more restrictive than those eligibility requirements or loan limits existent as of the date the industrial commission approves the guarantee of loans without federal coinsurance or the date of the termination of programs providing for federal coinsurance of loans guaranteed by the agency.~~ Students whose loans are guaranteed by the agency must be students who have been accepted for enrollment or are attending eligible postsecondary institutions located within or without this state, and whose loans are for the purpose of assisting them in meeting their expenses of postsecondary education. Students who are accepted for enrollment or are attending eligible proprietary or postsecondary institutions of higher education on at least a half-time basis, as determined by the institutions, are eligible to have loans guaranteed by the agency. The agency shall, by rule, establish

minimum qualifications for a person to be deemed a part-time student for purposes of this chapter.

2. To take, hold, expend, and administer, on behalf of the state from any source any real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the agency may be a general obligation of the state of North Dakota, nor may be payable out of any moneys except those made available to the agency under this chapter. Nothing in this chapter may be construed to authorize the agency to borrow funds for any use relating to the administration of the state guarantee loan programs.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 5, 1999

Filed March 5, 1999

## CHAPTER 195

### SENATE BILL NO. 2138

(Education Committee)

(At the request of the Bank of North Dakota)

### LOAN GUARANTEE RESERVE FUNDS

AN ACT to amend and reenact section 15-62.1-05 of the North Dakota Century Code, relating to adequate federal loan guarantee reserve funds; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-62.1-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-62.1-05. Establishment and maintenance of adequate guarantee funds - Appropriation.** The agency may enter into an agreement with the federal government for the coinsurance of loans guaranteed under this program. The agency shall establish and at all times maintain from funds appropriated under this chapter adequate guarantee reserve funds in special accounts in the Bank of North Dakota unless required by title IV, part B, of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581 20 U.S.C. 1001 et seq.], as amended through December 31, 1998, to be invested elsewhere. The fund for loans which are coinsured by the federal government must be maintained at a minimum amount equal to ~~two percent of the unpaid principal amount of the loans~~ the requirements set forth in title IV, part B, of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581 20 U.S.C. 1001 et seq.], as amended through December 31, 1998. The fund for loans which are not coinsured by the federal government may not be less than one-tenth of the dollar value of the ~~total portion~~ unpaid principal balance of such the loans. Funds appropriated under this chapter and designated as guarantee agency reserve funds for loans that are not coinsured by the federal government must be administered separately and segregated from reserve funds for loans that are coinsured by the federal government. ~~The agency is authorized to enter into an agreement with the federal government for the coinsurance of loans guaranteed under this program.~~ The securities in which the moneys in the reserve funds may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the respective guarantee loan programs and income in excess of that required to pay the cost of administering the programs must be deposited in the respective reserve fund that corresponds to the source of the initial invested funds. The proceeds of ~~such~~ reserve funds received from federal, state, or private sources for the purpose of guaranteeing loans made to students as provided in this chapter are hereby appropriated as a continuing appropriation for the payment of defaulted loans guaranteed by each respective fund.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 5, 1999  
Filed March 5, 1999

## CHAPTER 196

### HOUSE BILL NO. 1034

(Legislative Council)  
(Education Services Committee)

### EDUCATION TITLE REVISION

AN ACT to create and enact title 15.1 of the North Dakota Century Code, relating to elementary and secondary education; to repeal chapter 15-21, sections 15-21.1-01, 15-21.1-02, 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, 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, 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, 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, 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, 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, 15-41-03, 15-41-04, 15-41-05, 15-41-07, 15-41-08, 15-41-27, chapter 15-41.1, sections 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, chapter 15-46, sections 15-47-01, 15-47-01.1, 15-47-02.1, 15-47-04, 15-47-05, 15-47-06, 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, 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, 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, 15-47-41, 15-47-43, 15-47-44.1, 15-47-44.2, 15-47-47, 15-47-48, 15-47-49, 15-47-50, 15-47-51, chapters 15-48, 15-49, 15-51, 15-64, and 15-65 of the North Dakota Century Code, relating to elementary and secondary education provisions addressed in the creation of North Dakota Century Code title 15.1; to provide penalties; and to provide a continuing appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>157</sup> **SECTION 1.** Chapter 15.1-01 of the North Dakota Century Code is created and enacted as follows:

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

1. The state board of public school education consists of the superintendent of public instruction and:
  - a. An individual representing Barnes, Cass, Grand Forks, Griggs, Nelson, Steele, and Traill counties;
  - b. An individual representing Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh counties;

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<sup>157</sup> Section 15.1-01-02 was amended by section 47 of House Bill No. 1188, chapter 162.

- c. An individual representing Dickey, Emmons, LaMoure, Logan, McIntosh, Ransom, Richland, and Sargent counties;
  - d. An individual representing Burleigh, Eddy, Foster, Kidder, McLean, Sheridan, Stutsman, and Wells counties;
  - e. An individual representing Burke, Divide, McKenzie, Mountrail, Ward, and Williams counties; and
  - f. An individual representing Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, and Stark counties.
2. All board members other than the superintendent of public instruction must be qualified electors and must reside in one of the counties they represent.
  3. The governor shall appoint new board members from a list of three names submitted by a committee consisting of the president of the North Dakota education association, the president of the North Dakota council of educational leaders, and the president of the North Dakota school boards association. Two of the state board members must be members of the North Dakota school boards association. Appointees serve for six-year terms, staggered so that the terms of two members expire on June thirtieth of each even-numbered year. If a vacancy occurs, the governor shall appoint an individual to serve for the duration of the unexpired term.
  4. Board members are entitled to receive compensation at the rate of sixty-two dollars and fifty cents per day and reimbursement for expenses, from the biennial appropriation for the superintendent of public instruction, as provided by law for state officers, if they are attending board meetings or performing duties directed by the board. No compensation may be paid under this section to any member who receives compensation or a salary as a state employee or official.
  5. The superintendent of public instruction shall serve as the executive director and secretary of the board. The superintendent shall call meetings as necessary, carry out the policies of the board, and employ personnel necessary to perform the board's duties. The board shall annually elect one member to serve as the chairman.

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

1. Coordinating elementary and secondary education programs, vocational and technical education programs, and higher education programs.
2. Cooperating in the provision of professional growth and development opportunities for elementary and secondary teachers and administrators.

3. Ensuring cooperation in any other jointly beneficial project or program.

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

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

<sup>158</sup> **SECTION 2.** Chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

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

**15.1-02-02. Salary and traveling expenses.** The superintendent of public instruction is entitled to receive an annual salary of fifty-eight thousand two hundred seventy-two dollars and is entitled to reimbursement for actual and necessary expenses incurred in the same manner as other state officials.

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

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

1. Shall supervise the provision of elementary and secondary education to the students of this state.
2. Shall supervise the establishment and maintenance of schools and provide advice and counsel regarding the welfare of the schools.
3. Shall supervise the development of course content standards.
4. Shall supervise the assessment of students.

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<sup>158</sup> Section 15.1-02-03 was amended by section 28 of Senate Bill No. 2013, chapter 35.

5. Shall serve as an ex officio member of the board of university and school lands.
6. Shall keep a complete record of all official acts and appeals.
7. As appropriate, shall determine the outcome of appeals regarding education matters.
8. Shall direct school district annexation, reorganization, and dissolution and employ and compensate personnel necessary to enable the state board of public school education to carry out its powers and duties regarding school district annexation, reorganization, and dissolution.

**15.1-02-05. Federal government - Contracts.** The superintendent of public instruction may contract with an agency of the federal government:

1. For and on behalf of the department of public instruction.
2. For and on behalf of a school district, with the consent of the school district board.

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

**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.

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

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

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

**15.1-02-10. Biennial report - Distribution.** The superintendent of public instruction shall make the biennial report available to each member of the legislative assembly upon request. The superintendent shall provide a copy of the report to each state officer and to the legislative council. The superintendent shall provide eight copies of the report to the state library.

**15.1-02-11. Superintendent of public instruction - Accreditation of schools - Rules.** The superintendent of public instruction may adopt rules governing the accreditation of public and nonpublic schools.

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

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

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

**15.1-03-02. Revolving school district equipment and software fund - Continuing appropriation.** There is established in the department of public instruction a revolving school district equipment and software fund for the cooperative purchase by school districts of equipment and software. The superintendent shall place a service charge on any purchases to cover costs incurred in compiling purchase orders, preparing invoices, recording payments from school districts, and shipping the purchased goods. Clerical and related costs associated with the operation of the revolving fund must be paid from the fund. The superintendent shall use any moneys remaining in the fund at the end of a fiscal year to support conferences regarding computers and related technology. Moneys received by the fund are appropriated for the purposes provided in this section.

**15.1-03-03. Revolving printing fund - Instructional materials - Continuing appropriation.** A school district may purchase at cost instructional materials developed and printed by the superintendent of public instruction. The superintendent shall deposit all moneys collected from schools as payment for the instructional materials into a special fund in the state treasury known as the revolving printing fund. All moneys deposited into the revolving printing fund are hereby appropriated to the superintendent on a continuing basis for the development and printing of instructional materials. If on July first of any year the balance in the revolving printing fund exceeds fifty thousand dollars, the state treasurer shall transfer the amount in excess of fifty thousand dollars to the state general fund.

**SECTION 4.** Chapter 15.1-04 of the North Dakota Century Code is created and enacted as follows:

**15.1-04-01. Compact for education.** The compact for education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

## COMPACT FOR EDUCATION

### Article I - Purpose and Policy

- A. It is the purpose of this compact to:
1. Establish and maintain close cooperation and understanding among executive, legislative, professional, educational, and lay leadership on a nationwide basis at the state and local levels.
  2. Provide a forum for the discussion, development, crystalization, and recommendation of public policy alternatives in the field of education.
  3. Provide a clearinghouse for information on matters relating to education problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.
  4. Facilitate the improvement of state and local education systems so that all of them will be able to meet adequate and desirable goals in

a society that requires continuous qualitative and quantitative advances in educational opportunities, methods, and facilities.

- B. It is the policy of this compact to encourage and promote local and state initiatives in the development, maintenance, improvement, and administration of education systems and institutions in a manner that will accord with the needs and advantages of diversity among localities and states.
- C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own education system and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare, and economic advancement of each state are supplied in significant part by persons educated in other states.

#### Article II - State Defined

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

#### Article III - The Commission

- A. The education commission of the states, hereinafter called "the commission", is hereby established. The commission consists of seven members representing each party state. One of the members must be the governor and two must be members of the state legislative assembly selected by its respective houses. The governor shall appoint the remaining four members, all of whom serve at the pleasure of the governor. If the laws of a state prevent legislators from serving on the commission, the governor shall appoint six members, all of whom shall serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements that a state may establish for the appointment and service of its members on the commission, the guiding principle for the composition of the membership on the commission from each party state is that the members representing the state must, by virtue of their training, experience, knowledge, or affiliations, be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, and lay and professional, as well as public and nonpublic educational leadership. Of those appointees, one must be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may not be more than ten nonvoting commissioners selected by the steering committee for terms of one year. The nonvoting commissioners shall represent leading national organizations of professional educators or individuals concerned with educational administration.
- B. The members of the commission are entitled to one vote each on the commission. No action of the commission is binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor of the action. Action of the commission may be only at a meeting at which a majority of the commissioners are

present. The commission shall meet at least once a year. In its bylaws, and subject to any directions and limitations contained in the bylaws, the commission may delegate the exercise of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV, and the adoption of the annual report pursuant to this article.

- C. The commission shall have a seal.
- D. The commission shall elect annually, from among its members, a chairman, who must be a governor, a vice chairman, and a treasurer. The commission shall provide for the appointment of an executive director. The executive director shall serve at the pleasure of the commission and, together with the treasurer and other personnel deemed appropriate by the commission, shall be bonded in an amount determined by the commission. The executive director shall be secretary.
- E. Notwithstanding the civil service, personnel, or other merit system laws of a party state, the executive director, subject to the approval of the steering committee, shall appoint, remove, or discharge personnel as necessary for the performance of the functions of the commission, and shall fix the duties and compensation of the personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.
- F. The commission may borrow, accept, or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
- G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the commission or services borrowed pursuant to this article must be reported in the annual report of the commission. The report must include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.
- H. The commission may establish and maintain facilities for transacting its business. The commission may acquire, hold, and convey real and personal property and any interest therein.
- I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind the bylaws. The commission shall publish its bylaws in convenient form and shall file a copy of the bylaws and any amendment to the bylaws, with the appropriate agency or officer in each of the party states.
- J. The commission annually shall make to the governor and legislative assembly of each party state a report covering the activities of the

commission for the preceding year. The commission may make additional reports, as it deems desirable.

#### Article IV - Powers

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

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

#### Article V - Cooperation With Federal Government

- A. If the laws of the United States specifically so provide, or if administrative provision is made within the federal government, the United States may be represented on the commission by not more than ten representatives. Representatives of the United States must be appointed and serve in the manner provided by or pursuant to federal law, and may be drawn from any branch of the federal government. No representative may have a vote on the commission.
- B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common education policies of the states, and may advise the agency or officer concerning any matter of mutual interest.

#### Article VI - Committees

- A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee must

consist of governors, one-fourth must consist of legislators, and the remainder must consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the commission must be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee do not affect its authority to act, but the commission at the next regular meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person may serve more than two terms as a member of the steering committee; provided, that service for a partial term of one year or less does not count toward the two-term limitation.

- B. The commission may establish advisory and technical committees composed of state, local, and federal functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.
- C. The commission may establish such additional committees as its bylaws may provide.

#### Article VII - Finance

- A. The commission shall advise the governor or designated officer of each party state regarding its budget and estimated expenditures for the period required by the laws of that party state. Each of the commission's budgets of estimated expenditures must contain specific recommendations regarding the amount to be appropriated by each party state.
- B. The total amount of appropriation requests under any budget must be apportioned among the party states. In making the apportionment, the commission shall devise and employ a formula that takes equitable account of the populations and per capita income levels of the party states.
- C. The commission may not pledge the credit of any party state. The commission may meet its obligations in whole or in part with funds available to it pursuant to paragraph G of Article III of this compact; provided, that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in this manner. Except when the commission makes use of funds available to it pursuant to paragraph G of Article III, the commission may not incur any obligation prior to the allotment of funds by the party states adequate to meet the obligation.
- D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission must be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited annually by a qualified public

accountant, and the report of the audit must be included in and become part of the annual report of the commission.

- E. The accounts of the commission must be open at any reasonable time for inspection by duly constituted officers of the party states and by any person authorized by the commission.
- F. Nothing contained herein may be construed to prevent commission compliance with laws relating to the audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### Article VIII - Eligible Parties; Entry Into and Withdrawal

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

#### Article IX - Construction and Severability

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

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

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

**15.1-05-01. North Dakota educational telecommunications council - Membership.** The North Dakota educational telecommunications council consists of:

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

**15.1-05-02. North Dakota educational telecommunications council - Representation.** The governor shall ensure that at all times the North Dakota educational telecommunications council has a school board member who represents a school district having an enrollment of fewer than five hundred students or a school district superintendent employed by the board of a school district having an enrollment of fewer than five hundred students.

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

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

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

1. Promote the use of technology and the development of technology systems to enhance educational opportunities within the state.
2. Cooperate with state agencies and other organizations to develop statewide educational technology systems.
3. Adopt bylaws for the conduct of its affairs.
4. Publish the informational material it deems necessary.
5. Conduct a continuing study to assess the needs, resources, and facilities that are available or which may be required to establish educational technology systems throughout the state.

6. Solicit and receive moneys from public and private sources and expend the moneys for educational technology projects; provided that the council may also require that a school district provide up to fifty percent in matching funds.

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

<sup>159</sup> **SECTION 6.** Chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

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

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

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

1. Schools may not be in session on the following holidays:
  - a. Any Sunday.
  - b. New Year's Day, the first day of January.

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<sup>159</sup> Section 15.1-06-04 was amended by section 3 of House Bill No. 1490, chapter 182, and section 2 of Senate Bill No. 2344, chapter 187. Section 15.1-06-07 was amended by section 49 of House Bill No. 1188, chapter 49.

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

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

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

1. During each school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
  - a. One hundred seventy-three full days of instruction;
  - b. Three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
  - c. Two days for the attendance of teachers at the North Dakota education association instructional conference; and
  - d. Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours.
2. A full day of instruction consists of:

- a. At least five and one-half hours of instruction time for elementary students; and
- b. At least six hours of instruction time for high school students.

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

1. The superintendent may approve an application for a pilot program if:
  - a. It allows the district to evaluate the modifications in the traditional school calendar from the perspective of increased school facility use; and
  - b. In the opinion of the superintendent, the program offers educational opportunities equivalent to those available in a one-hundred-eighty-day school calendar.
2. A district submitting an application under this section shall specify:
  - a. The minimum number of days students will attend school; and
  - b. The comparable instructional time.
3. If the superintendent approves a district's application under this section, the district is eligible to receive the per student payments provided under chapter 15.1-28.
4. A district that operates an approved pilot program under this section for a period of three years may apply to the superintendent for permanent approval of the program.
5. The superintendent shall adopt rules governing the submission of applications, the evaluation of proposals, and any other matters necessary for the administration of pilot programs under this section.
6. A pilot program approved by the superintendent under this section satisfies the requirements for school operation and instructional time required by law.
7. A pilot program approved by the superintendent under this section does not affect the accrual of teachers' benefits provided by law.

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

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

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

1. The school meets all statutory requirements regarding the subjects to be taught, the length of the school year, and health, fire, and safety standards;
2. If the school uses telecommunications or other electronic means to deliver curricular programs, the programs are prepared by individuals holding at least baccalaureate degrees and delivered in the presence of an individual who holds a North Dakota secondary teaching certificate or who meets or exceeds the average cutoff scores of states that have normed the national teacher's examination;
3. The school employs at least one state certificated high school teacher to serve in a supervisory capacity for each twenty-five students;
4. The average composite scholastic achievement test scores of students enrolled in the school or the students' scores achieved on comparable standardized tests meet or exceed the national average test scores; and
5. The school and its employees are governed by a board of directors that includes parental representation.

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

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

1. The state fire marshal or the state fire marshal's designee shall inspect each public school in this state at least once every three years, prepare an inspection report, and provide copies of the report to the superintendent of the school district and the superintendent of public instruction.
2.
  - a. If a deficiency is noted, the superintendent of the school district shall submit a plan of correction to the state fire marshal or the state fire marshal's designee and shall remedy the deficiency within a time period acceptable to the state fire marshal or the state fire marshal's designee and the school board affected by the deficiency, but not later than the next budget period.
  - b. If the report discloses an imminent fire hazard, the state fire marshal or the state fire marshal's designee shall immediately notify the school board, the school district superintendent, and the superintendent of public instruction. Upon a recommendation of immediate closure by the superintendent of public instruction, the

school board and the school district superintendent may immediately close some or all of the school until the fire hazard is eliminated. In the case of a closure, the school district superintendent shall cooperate with the superintendent of public instruction to make adequate arrangements for the interim education of all affected students.

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

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

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

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

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

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

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

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

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

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

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

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

1. Annually, each public school principal shall complete a school report on forms provided by the superintendent of public instruction and submit the report to the school district superintendent.
2. The school district superintendent shall collect the completed reports and forward them to the superintendent of public instruction, who shall submit the reports to the governor.
3. Upon receiving the completed reports, the governor shall convene an ad hoc committee to review the information and to make any necessary changes in the information-gathering format.
4. The governor or a designee of the governor shall serve as the chairman of the ad hoc committee.
5. The membership of the ad hoc committee must include:
  - a. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota council of educational leaders.

- b. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota education association.
- c. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota school boards association.
- d. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota parent-teachers association.
- e. Two parents of school-age children selected by the governor.
- f. Two high school students selected by the governor.
- g. The superintendent of public instruction or a designee of the superintendent.

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

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

1. Each school district in this state is a public school district governed by the provisions of this title. Each school district is a body corporate. Each school district may sue and be sued, contract, and convey any real and personal property that comes into its possession.
2. The board of education of the city of Fargo is a body corporate. It has the power to sue and be sued and to contract with others. It possesses all the powers usual and incidental to a body corporate.

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

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

1. The board of a school district may by resolution place on the ballot of any regular or special election the question of increasing the district's limit of indebtedness, beyond that fixed by the constitution, by five percent of the assessed valuation of all taxable property in the district.
2. The board of a school district shall place on the ballot of the next regular or special election the question of increasing the district's limit of indebtedness, beyond that fixed by the constitution, by five percent of the assessed valuation of all taxable property in the district, if the board receives a petition requesting the increase and signed by at least one-third of the district's qualified electors.

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

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

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

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

**15.1-07-08. School district funds - Transfers.** At the time of preparing the annual budget, a school board, by resolution, may transfer from the general fund of the district the amount of money, in whole or in part, by which the balance in the general fund exceeds the amount that would be required for the general reserve fund in the ensuing fiscal year, into any sinking funds of the district established and held for the payment of outstanding bonds.

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

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

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

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

**15.1-07-13. Negotiable instruments - Cancellation - Description in minutes.**

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

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

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

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

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

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

1. A school board member or other school officer who has a conflict of interest in any contract requiring the expenditure of school funds shall disclose the conflict to the board and may not participate in any discussions or votes regarding that contract without the consent of all other board members.
2. For purposes of this section, a conflict of interest means the personal, professional, or pecuniary interest of an individual, the individual's spouse or relative, or the individual's business or professional associate.
3. After the disclosure required by subsection 1 has been made, a board may engage in future contracts with the individual for the purchase of

goods and services, provided that the amount of a contract does not exceed eight thousand dollars.

4. Any person who violates this section is guilty of a class A misdemeanor.

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

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

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

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

**15.1-07-21. School district business manager - Duties.** The business manager of a school district shall:

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

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

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

**15.1-07-24. School district business manager - Funds - Accounting.** Unless otherwise provided by law, the business manager of a school district is responsible for the safekeeping of all school district funds. The business manager shall keep a general account of the district's receipts and expenditures and itemized accounts for

each class of receipts and expenditures, unless otherwise directed by the superintendent of public instruction.

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

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

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

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

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

**15.1-08-02. Military installation - School board members - Terms of office - Qualifications - Vacancies.** The board of a school district formed under this chapter consists of five members. The superintendent of public instruction shall adopt rules providing appointment procedures. The superintendent, after consultation with the base commander and with the approval of the state board of public school education, shall appoint board members in April of each year. The board members must reside on the military installation. The school board members shall serve three-year terms except that the superintendent of public instruction shall designate two of the members initially appointed to serve two-year terms and two of the members initially appointed to serve one-year terms. If a vacancy occurs, the school board shall appoint an individual to serve for the remainder of the unexpired term.

**15.1-08-03. Military installation - Organization of school board - Meetings.** A majority of the military installation school board constitutes a quorum. The assent of a majority of the members present is necessary for the transaction of any business. The annual meeting of the school board must be held during the month of July following the appointment to the board, on a date called by the president and convenient to the rest of the members. At the annual meeting in July, the board members shall elect one member to serve as president for a one-year term. Notice of any regular or special meeting must be given, in writing, to each member of the

board; provided that the attendance at any meeting, without objection, by any board member constitutes a waiver of the notice required to be given to the member. The board must hold regular meetings for transacting business. Special meetings may be called by the president or by any two members of the board.

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

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

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

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

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

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

1. This chapter does not affect any agreement entered before March 28, 1989, between the Emerado elementary public school district and the Grand Forks public school district. Any agreement entered between those school districts continues under the terms provided in the agreement or for as long as both school districts continue to operate and

the Grand Forks air force base contracts for full educational services from the Grand Forks public school district.

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

<sup>160</sup> **SECTION 9.** Chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

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

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

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<sup>160</sup> Section 15.1-09-34 was amended by section 2 of Senate Bill No. 2066, chapter 186.

2. The size of any school district board may be increased to either five, seven, or nine members or decreased to seven or five members if a petition is signed by at least one-third of the qualified electors of the district and the change is approved by a majority of the qualified electors of the district voting on the question at a special election called for that purpose.
3. If a majority of the qualified voters in a district elect to increase the size of the school board, the additional members must be elected to the board at the next annual district election in the same manner as other board members.
  - a. If the total number of board members after approval of the increase is five, the terms of two members extend until the first annual election, the terms of two members extend until the second annual election, and the term of the remaining member extends until the third annual election.
  - b. If the total number of board members after approval of the increase is seven, the terms of three members extend until the first annual election, the terms of two members extend until the second annual election, and the terms of the remaining two members extend until the third annual election.
  - c. If the total number of board members after approval of the increase is nine, the terms of three members extend until the first annual election, the terms of three members extend until the second annual election, and the terms of the remaining three members extend until the third annual election.
  - d. The length of the terms specified in this section must be determined by lot.
  - e. All board members shall serve for the terms specified in this section and until their successors are elected and qualified.
  - f. The length of any term in existence before the increase in board membership and held by a board member who is duly qualified may not be modified.
  - g. Terms subsequent to the first term are for the normal period of three years and extend until a successor is elected and qualified.
4. The voters of a school district shall elect school board members at large. If, however, the district has been reorganized, board members may be elected at large, by geographical area, or at large by geographical area.
5. An election on a reorganization proposal takes the place of the petition and election requirements of this section. Approval of the reorganization proposal has the same effect as if the approval were by the election provided for in this section.
6. If the qualified electors of a district approve a reduction in the size of the school board, the excess number of members will serve out existing terms until the number approved by the electors has been reached.

7. If the board of a school district has elected to convert its members' terms to four years and has also increased the number of its board members, the board by lot or by some other random selection method shall provide for a combination of initial terms of office not to exceed four years for the new members. The combination must equalize to the greatest extent possible the number and length of terms for old board members and for new members to be elected during the next three election years. The members' terms must be staggered and must expire in even-numbered years.
8. Notwithstanding the provisions of this section, the board of education of the city of Fargo consists of nine members.

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

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

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

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

1. a. At least two members of a school board must be rural members if a district contains six or more sections of land, has a city within its boundaries, and a district population of two thousand or fewer.

- b. At least one member of a school board must be a rural member if a district contains six or more sections of land, has within its boundaries a city of more than two thousand but fewer than fifteen thousand, and has at least twenty-five families residing on farms outside the corporate limits of the city but within the district and sending children to school in the district.
    - c. If the taxable valuation of agricultural property in the rural area of a district containing a city is greater than the taxable valuation of the urban area, the majority of the members of the school board must be rural members.
    - d. If the variance in population between the geographic voting areas of a school district is greater than ten percent, all qualified voters in the district may vote for each school board candidate.
  2. For purposes of this section, a rural school board member is one who resides on a farm outside the corporate limits of a city or one who resides within a city that according to the latest federal census has a population of two hundred or fewer and is located within a district that has four or more incorporated cities.
  3. For purposes of this section:
    - a. "Agricultural property" means property located outside the limits of an incorporated city and zoned agricultural.
    - b. "Rural" means outside the limits of an incorporated city.

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

1. The business manager of a school district shall notify the county superintendent that a vacancy exists on the school board.
2. The board of a school district shall fill by appointment or special election any vacant seat on the board. The term of an individual selected by appointment or special election to fill a vacancy extends until a successor is elected and qualified at the next annual election. If a school board fails to fill a vacancy by appointment or fails to call a special election to fill a vacancy within sixty days from the time the vacancy occurred, the county superintendent shall call a special election to fill the vacancy. The election must be conducted in the same manner as the annual school district election.
3. If a vacancy reduces the membership of a school board to less than a quorum, the state board of public school education shall appoint to the school board as many individuals as necessary to achieve a quorum. The school board then shall fill the remaining vacancies. After the vacancies have been filled, any individual appointed by the state board shall resign and the school board shall fill the vacancy in accordance with this section. After resigning, the individual who had been appointed by the state board may be reappointed by the school board to fill the vacancy.

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

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

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

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

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

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

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

1. At least twenty days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provisions of section 15.1-09-08. The business manager shall determine by lot, in the presence of the candidates or their representatives, the arrangement of the candidates' names upon the ballot.
2. The ballot must be nonpartisan in form and include:

- a. The words "official ballot" at the top;
  - b. The name of the school district;
  - c. The date of the election;
  - d. The number of persons to be elected to each office; and
  - e. Below the list of candidates for each office, blank spaces in which names not printed on the ballot may be written.
3. An individual who wishes to be a candidate for election, is qualified to hold office, and has failed to meet the filing requirements of section 15.1-09-08 may provide stickers to be attached to the official ballot by the electors. A sticker must have the name and address of the individual printed on it. The sticker may not be more than one-half inch [12.7 millimeters] in height.

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

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

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible. No precinct may have a population in excess of six thousand residents, as shown by the last federal decennial census.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for the election. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain the polling place for a precinct until it is changed by subsequent action of the board.
3. The board shall appoint two election judges and two election clerks for each precinct. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.

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

**15.1-09-15. School district election - Declaration of winner.** The school board shall canvass all election returns and shall declare the result of an election within three days of the election and, in the case of a tie, within three days from the

determination of a winner. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

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

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

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

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

**15.1-09-19. Duties of election officials - Other applicable statutes.** Sections 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, 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 sections 15.1-09-09 and 15.1-09-11.

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

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

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

1. The board of a school district shall hold an election each year between April first and June thirtieth to fill all vacancies, including those caused by the expiration of terms of office.
2. Upon resolution of the school board, the annual election may be held in conjunction with the regular election of a city, as required by state law or by the home rule powers of the city, provided the city is located

wholly or partially within the school district. The school board may agree with the governing body of the city to share election costs and responsibilities, including those associated with election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books.

3. If a school board holds its election in conjunction with a city, references in this chapter to the date of a school board election mean the date of the applicable city election.
4. If a school board holds its election in conjunction with a city and only one set of poll books is used, the set must reference the voter's eligibility to vote in the city election, in the school district election, or both.

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

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

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

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

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

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

**15.1-09-29. School board - Quorum - Majority vote.** The board of a school district consists of the members elected according to the provisions of this chapter. A majority of the board constitutes a quorum. The agreement of a majority of those members present is necessary for the transaction of any business.

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

1. Each school board shall hold an initial meeting during the month of July following the annual election, except that the initial meeting for the board of education of the city of Fargo must take place at the time of

the first regular monthly meeting after its annual election. The president of the school board shall select a meeting date that is convenient to the other board members and shall provide board members with written notice of the meeting.

2. Once during each month thereafter, a board shall hold a regular meeting for the transaction of business. The board of any school district having only one-room and two-room schools may meet as often as the board deems necessary, but not less than four times in each year.
3. Special meetings may be called by the president or by any two members of a board. Written notice of a special meeting must be given to each member of a board.
4. The attendance of a board member at any meeting, without objection, constitutes a waiver of the notice requirement for that member.
5. A board of a school district operating under an academic cooperative agreement approved by the superintendent of public instruction may participate in multiboard meetings in addition to, instead of, or in conjunction with the regular board meetings required by this section. Multiboard meetings must be for the purpose of pursuing joint academic or cooperative activities and must be held at the times and locations agreed to by the presidents of the participating boards. In addition to any other requirements set forth in section 44-04-20, the presidents of each school board shall ensure that notice of each multiboard meeting in which the school board will participate is published in the local newspapers of general circulation at least one week before the meeting date.

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

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

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

1. Establish a system of free public schools for all children of legal school age residing within the district.
2. Organize, establish, operate, and maintain elementary, middle, and high schools.

3. Have custody and control of all school district property and, in the case of the board of education of the city of Fargo, to have custody and control of all public school property in the city and to manage and control all school matters.
4. Acquire real property and construct school buildings and other facilities.
5. Relocate or discontinue schools and liquidate the assets of the district as required by law; provided no site may be acquired or building constructed, or no school may be organized, established, operated, maintained, discontinued, or changed in location without the approval of the state board of public school education if outside the boundary of the district.
6. Purchase, sell, exchange, and improve real property.
7. Lease real property for a maximum of one year except in the case of a vocational education facility constructed in whole or in part with financing acquired under chapter 40-57, which may be leased for up to twenty years.
8. Exercise the power of eminent domain to acquire real property for school purposes.
9. Purchase, sell, exchange, and if appropriate, improve school equipment, furniture, supplies, and textbooks.
10. Recruit or contract with others to recruit homes and facilities which provide boarding care for special education students.
11. Provide dormitories for the boarding care of special education students.
12. Insure school district property.
13. Independently or jointly with other school districts, purchase telecommunications equipment or lease a telecommunications system or network.
14. Provide for the education of students by another school district.
15. Contract with federal officials for the education of students in a federal school.
16. Prescribe courses of study in addition to those prescribed by the superintendent of public instruction or by law.
17. Adopt rules regarding the instruction of students, including their admission, transfer, organization, grading, and government.
18. Join the North Dakota high school activities association and pay membership fees.
19. Adopt alternative curricula for high school seniors who require fewer than four academic units.
20. Contract with, employ, and compensate school district personnel.

21. Contract with and provide reimbursement for the provision of teaching services by an individual certified as an instructor in the areas of North Dakota American Indian languages and culture by the education standards and practices board.
22. Suspend school district personnel.
23. Dismiss school district personnel for cause.
24. Participate in group insurance plans and pay all or part of the insurance premiums.
25. Contract for the services of a district superintendent, provided that the contract, which may be renewed, does not exceed a period of three years.
26. Contract for the services of a principal.
27. Employ a school district business manager.
28. Suspend or dismiss a school district business manager for cause without prior notice.
29. Suspend or dismiss a school district business manager without cause with thirty days' written notice.
30. Defray the necessary and contingent expenses of the board.
31. Levy a tax upon property in the district for school purposes.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay membership dues to county and state associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

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

1. Except as provided in this section, the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than eight thousand dollars unless the board has given ten days' notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. This section does not apply to contracts for:
  - a. The personal services of district employees.
  - b. Textbooks and reference books.
  - c. Articles not sold on the open market.
  - d. Patented, copyrighted, or exclusively sold devices or features required to match articles already in use.

- e. Patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
  - f. Building contracts under chapters 48-01.1 and 48-02.
  - g. School transportation services.
  - h. Vehicle fuel.
  - i. Heating fuel.
2. A board member who participates in a violation of this section is guilty of a class B misdemeanor.

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

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

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

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

- i. Require that a student pay a fee for goods, including textbooks, and services provided in connection with any postsecondary level program or any program established outside regular elementary, middle school, or secondary school programs, including vocational and technical programs, and adult or continuing education programs.
  - j. Require that a student pay any other fees and charges permitted by statute.
2. A board may waive any fee if a student or the student's parent or guardian is unable to pay the fee.
3. A board may not deny or abridge a student's rights or privileges, including the receipt of grades and diplomas, because of the nonpayment of fees. A board, however, may withhold a student's diploma for failure to pay for costs incurred by the student's own negligence or choice, including fines for damaged textbooks and school equipment, library fines, and materials purchased from the school at the option of the student.
4. This section does not preclude the operation of a school store where students may purchase school supplies and materials.
5. If a board charges fees not authorized by law and refuses to discontinue the charges when directed to do so by the superintendent of public instruction, the superintendent shall withhold the per student and transportation aid payments to which the district is entitled for each student charged an unauthorized fee.

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

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

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

1. Notwithstanding any other provision of law, the board of a school district in this state may contract with the board of a school district in another state for the joint operation and maintenance of school facilities and for joint activities, if the districts are contiguous. To be valid, the contract must be approved by the superintendent of public instruction and by a majority of the qualified electors residing in the district.
2. In assessing the contract, the superintendent shall consider the district's enrollment, its valuation, and its longevity.

3. If the superintendent approves the contract, the board shall submit the contract to the electorate of the district, for approval, at an annual or a special election.
4. The board shall publish notice of the election in the official newspaper of the district at least fourteen days before the election. The notice must include a statement regarding the purpose of the election and the terms of the contract.
5. On the ballot, the board shall seek the voters' permission to execute the proposed contract, as approved by the superintendent of public instruction.
6. If the voters approve the execution of the contract, the board may levy and collect taxes to carry out the contract pursuant to law.
7. If a district that is a party to a contract under this section dissolves, any district to which the land of the dissolved district is attached shall assume the contractual responsibilities.

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

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

**15.1-09-42. Educational meetings - Attendance by school district personnel.** The board of a school district shall allow each district superintendent, principal, and teacher to attend the North Dakota education association's annual instructional conference or the North Dakota council of educational leaders' annual conference without loss of pay.

**15.1-09-43. Purchase of schoolbus - Payment period.** The board of a school district may purchase a bus body, a chassis, or a complete bus, provided the body, chassis, or complete bus meets standards provided by section 39-21-27.1. A board may use money in its general fund to purchase a bus body, a chassis, or a complete bus on an installment plan, provided the plan does not extend beyond six years.

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

**15.1-09-45. Storage facilities for schoolbuses.** The board of a school district may lease for purchase, purchase, or construct a storage facility for schoolbuses

upon advertised bids as provided in section 15.1-09-34. For these purposes, the board may use money in the district's general fund or building fund provided the money is not otherwise obligated.

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

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

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

**15.1-09-48. Board of education of city of Fargo - Tax collection.** The board of education of the city of Fargo has the power to levy taxes and to cause such taxes to be collected in the same manner as other city taxes. The board of education shall cause the rate for each purpose to be certified by the business manager to the city

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

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

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

1. To organize, establish, and maintain schools in the city and to change and discontinue the schools; and to liquidate the assets of discontinued schools outside the district boundaries, as authorized by the state board of public school education.
2. To lease houses or rooms for school purposes, lease lots or sites for schools, and fence real property.
3. To build, enlarge, alter, improve, and repair schools and appurtenances upon lots or sites now owned or leased for school purposes.
4. To provide, sell, exchange, improve, and repair school apparatus, books for indigent students, and appendages.
5. To provide fuel and other supplies for the schools.
6. To have the custody and safekeeping of the schools, books, furniture, and appurtenances and to see that local ordinances regarding schools are observed.
7. To compensate teachers out of the money appropriated and provided by law for the support of the public schools in the city so far as the same is sufficient, and to pay any remainder due from the money raised as authorized by this chapter.
8. To have the control and management of the public schools of the city and from time to time adopt rules for their good order, prosperity, and utility.
9. To prepare and report to the mayor and the city council ordinances and regulations necessary for the protection, safekeeping, and care of the schools, lots, sites, and appurtenances and all the property belonging to

the city, connected with and appertaining to the schools, and to suggest proper penalties for the violation of ordinances and regulations.

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

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

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

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

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

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

1. The county superintendent of schools, with the approval of the board of county commissioners, shall appoint residents, equal in number to the board of county commissioners, to serve as a county committee for purposes of school district annexations, dissolutions, and reorganizations.
2. The term of office for county committee members is three years, staggered so that one term expires each year.
3. If a vacancy occurs, the county superintendent, with the approval of the board of county commissioners, shall appoint an individual to serve for the unexpired portion of the term. If a county committee member fails, refuses, or is unable to perform the required duties, the county superintendent, upon being petitioned by a majority of the school board presidents representing districts having territory wholly or partially within the county, shall declare the position of the member vacant and shall appoint a new member to the committee.

4. Each member is entitled to compensation at the rate of sixty-two dollars and fifty cents per day and to reimbursement for expenses from the biennial appropriation for the superintendent of public instruction, as provided by law for state officers, if they are attending committee meetings or performing duties directed by the committee.

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

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

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

<sup>161</sup> **SECTION 11.** Chapter 15.1-11 of the North Dakota Century Code is created and enacted as follows:

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

1. Except as provided in section 15.1-11-02, each board of county commissioners shall employ a county superintendent of schools on a full-time or a part-time basis. An individual hired under this section:
  - a. Must hold a baccalaureate degree from a regional or nationally accredited institution of higher education approved for teacher education.
  - b. Must hold a valid North Dakota teacher's certificate.
  - c. Must have experience teaching at an approved elementary, middle, or secondary school.
  - d. Must be approved by a majority of the school board presidents representing school districts having their administrative headquarters in the county.
  - e. Serves until the individual resigns or is discharged by the board of county commissioners at the direction of a majority of the school board presidents referenced in subdivision d.

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<sup>161</sup> Section 15.1-11-01 was amended by section 50 of House Bill No. 1188, chapter 162.

2. The presidents of the school boards referenced in subsection 1 shall perform the duties of school boards with respect to the evaluation, renewal, and discharge of an individual hired under this section.

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

1. Notwithstanding any other provision of law, a board of county commissioners, by majority vote may choose not to employ a county superintendent of schools, provided the board of county commissioners:
  - a. Obtains from the superintendent of public instruction a form that lists all statutory duties to be otherwise performed by a county superintendent and provides for the assignment of all such statutory duties to, and the performance of such statutory duties by, one or more individuals;
  - b. Obtains the consent of a majority of the school board presidents representing school districts having their administrative headquarters in the county;
  - c. Submits the completed form to the superintendent of public instruction; and
  - d. Obtains written approval of the assignments from the superintendent of public instruction.
2. a. The superintendent of public instruction may waive the requirements of subsection 1 with respect to any board of county commissioners which, on or before June 30, 1999, assigned to qualified persons the duties of the county superintendent of schools, provided:
  - (1) The assignment of duties was set forth in a written plan;
  - (2) The written plan was filed with the legislative council; and
  - (3) The superintendent of public instruction determines that the written plan substantially complies with the requirements of subsection 1.
- b. The determination of the superintendent regarding the waiver is final.

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

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

1. Serve as the superintendent of all schools in a county except those schools in districts that employ a district superintendent of schools.
2. Receive copies of and review, in a timely manner, all reports submitted to the superintendent of public instruction by school districts having their administrative headquarters in the county.

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

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

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

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

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

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

**15.1-12-02. Annexation of property to school district - Exchange - Petition - Requirements.** An individual may petition to have property in one school district annexed to another school district by an exchange of property with property in a contiguous school district. In order to be approved:

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

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

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

4. The annexation petition is filed with the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district;
5. A public hearing is held by the county committee or the county committees, as required in section 15.1-12-05; and
6. The annexation petition is approved by the state board.

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

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

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

1. Upon receiving a petition for the annexation of property to a school district, the county superintendent shall schedule and give notice of a public hearing regarding the annexation.
2. The county superintendent shall publish notice of the public hearing in the official newspaper of the county in which the major portion of each affected school district's real property is situated, at least fourteen days before the date of the hearing. If no newspaper is published in the county, the county superintendent shall publish the notice in a newspaper in an adjoining county in this state.
3. Before the hearing, the county committee shall:
  - a. Determine the number of qualified electors residing on the property to be annexed;
  - b. Ensure that two-thirds of such qualified electors have signed the petition; and

- c. Ensure that all other statutory requirements regarding the petition have been met.
4. At the hearing, the county committee shall accept testimony and documentary evidence regarding:
  - a. The value and amount of property held by each affected school district;
  - b. The amount of all outstanding bonded and other indebtedness of each affected district;
  - c. The levies for bonded indebtedness to which the property will be subjected or from which the property will be exempted, as provided for in section 15.1-12-08;
  - d. The taxable valuation of each affected district and the taxable valuation under the proposed annexation;
  - e. The size, geographical features, and boundaries of each affected district;
  - f. The number of students in each affected district;
  - g. The general population of each affected district;
  - h. Each school in the district, including its name, location, condition, the grade levels it offers, and the distance that students living in the petitioned area would have to travel to attend school;
  - i. The location and condition of roads, highways, and natural barriers in each affected district;
  - j. Conditions affecting the welfare of students residing on the property to be annexed;
  - k. The boundaries of other governmental entities;
  - l. The educational needs of communities in each affected district;
  - m. Potential savings in school district transportation and administrative services;
  - n. The potential for a reduction in per student valuation disparity between the affected districts;
  - o. The potential to equalize or increase the educational opportunities for students in each affected district; and
  - p. All other relevant factors.
5. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall make specific findings of fact and approve or deny the annexation. If the annexation is approved, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding

and the county committee's decision to the state board for final approval of the annexation.

6. a. Except as provided in this subsection, the state board shall conduct a hearing, accept and consider testimony and documentary evidence regarding the proposed annexation, make specific findings, and approve or deny the annexation.
    - b. If no opposition is presented to the county committee at the hearing and the county committee approves the annexation, the state board may review the record of the county committee and give final approval to the annexation without holding its own hearing.
  7. If the school districts involved in a proposed annexation include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the annexation petition.
  8. If the school districts involved in a proposed annexation are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the annexation petition.
  9. If a county committee denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months from the date on which the original petition was filed with the county superintendent. A petition involving any of the same property cited in the original petition may not be considered by a county committee more than twice in a twelve-month period.
  10. If the state board denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months after the state board's denial. A petition involving any of the same property cited in the original petition may not be considered by the state board more than twice in a twelve-month period.
  11. a. If an annexation petition is considered by a single county committee, the decision of the county committee may be appealed to the state board.
  - b. If an annexation petition is considered by more than one county committee and at least one county committee approves the annexation, the decision may be appealed to the state board.
  - c. If an annexation petition is considered by more than one county committee and denied by each county committee, the decision may not be appealed to the state board.
12. Each annexation must receive final approval from the state board.
  13. The county superintendent with whom the petition has been filed shall forward all minutes, records, documentary evidence, and other information regarding the annexation, and the county committee's

decision to the state board for final approval or for consideration of an appeal.

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

**15.1-12-06. Annexation of property to school district - Effective date.**

Annexations under this chapter become effective on July first following final approval by the state board.

**15.1-12-07. Transfer of real property upon annexation, reorganization, or dissolution.** The legal title to all real property owned by a school district and annexed to another school district, included in a reorganized district, or subjected to dissolution, vests in the board of the reorganized school district or of the district to which the property is annexed or attached on the effective date of the reorganization, annexation, or dissolution. If the reorganized district or district to which the property is annexed or attached includes less than the whole of the former district, legal title to the real property of the former district vests in the board of the school district in which the property is situated on the effective date of the reorganization, annexation, or dissolution. A certificate prepared by a licensed attorney, citing the legal description of the property and stating that the property has become annexed, attached, or reorganized with another school district, must be recorded in the office of the register of deeds of the county in which the property is located.

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

1. Property annexed or attached to the receiving school district is subject to all of the receiving school district's levies, except those to retire bonded debt existing before the effective date of the annexation or dissolution. The county committee and the state board in approving the annexation or dissolution, however, may require that the property be subject to the receiving school district's levies that are required to retire bonded debt existing before the effective date of the annexation or dissolution.
2. Property annexed to a receiving school district is not subject to any levies of the school district from which it was detached, except those to retire bonded debt existing before the effective date of the annexation. The county committee and the state board in approving the annexation, however, may exempt the property from the levies of the school district from which the property was detached which are required to retire bonded debt existing before the effective date of the annexation.

**15.1-12-09. School district reorganization - Initiation of a reorganization plan.**

In order for two or more contiguous school districts or contiguous portions of two or more school districts to initiate a reorganization process, the board of each participating school district must:

1. Vote to pursue the reorganization;
2. Prepare a reorganization plan;
3. Approve the reorganization plan; and
4. Submit the plan to the county superintendent having jurisdiction over the major portion of property in each participating school district.

**15.1-12-10. School district reorganization - Contents of plan - Public hearing - Testimony and evidence.**

1. The reorganization plan required by section 15.1-12-09 must:
  - a. Include a map showing the boundaries of each participating district and of the proposed new district;
  - b. Include the demographic characteristics of each participating district, including the population per age group;
  - c. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
  - d. Include projected student enrollments for the ensuing ten years;
  - e. Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
  - f. Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
  - g. Address planned course offerings by the new district;
  - h. Include the planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district;
  - i. Include the planned number of members who will constitute the board of the new district and the manner in which the members are to be elected;
  - j. Address plans regarding student transportation;
  - k. Identify other governmental entities, including multidistrict special education units and area vocational and technology centers, which may provide services to the new district;
  - l. Include the taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district;
  - m. Include the amount of all bonded and other indebtedness incurred by each participating district;
  - n. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
  - o. Include a proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a

reorganization plan are not subject to mill levy limitations otherwise provided by law; and

- p. Include any other information that the participating school districts wish to have considered by the county committee or the state board.
2. Upon receiving a reorganization plan, the county superintendent shall schedule and give notice of a public hearing regarding the plan.
3. The county superintendent shall publish the notice in the official newspaper of the county at least fourteen days before the date of the hearing.
4. If no newspaper is published in the county, the county superintendent shall publish the notice in the official newspaper of an adjoining county in this state.
5. Before the hearing, the county committee shall review the reorganization plan and ensure that all statutory requirements have been met.
6. At the hearing, the county committee shall accept testimony and documentary evidence regarding the reorganization plan.
7. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall approve or deny the reorganization plan.
8. If the plan is approved by at least one county committee, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding, and the county committee's decision, to the state board for final approval.
9. To become effective, a reorganization plan must meet all statutory requirements and must receive approval by both the state board and a majority of electors residing within the boundaries of the proposed new district.

**15.1-12-11. School district reorganization - Approved plan - Special election - Formation of new district.**

1. If the state board approves a reorganization plan, the state board shall notify each county superintendent of schools having jurisdiction over real property in the proposed new district. A county superintendent receiving notice under this section shall call a special election in order that the electors residing within the boundaries of the proposed new district may approve or reject the reorganization plan. The election must be held between July first and December thirty-first of the year in which the plan is approved by the state board. If there are insufficient days left in the year to meet the notice requirements of this section, the election must be held the following year.
2. The county superintendent shall give notice of the election by publishing the time, date, and place of the election in the official newspaper of the county, at least fourteen days before the date of the election.
3. The election notice must:

- a. State that the election has been called for the purpose of approving or rejecting a plan to form a new school district;
  - b. Describe the boundaries of the proposed new district; and
  - c. Include a statement describing the adjustment of property, debts, and liabilities proposed in the plan, together with the proposed tax levy.
4. The county superintendent shall appoint judges and clerks of the election. The election must be conducted in the same manner and the polls must open and close at the same time as specified for school district elections.
  5. The result of the elections must be certified by the participating school boards and delivered to the county superintendent within three days after the closing of the polls.
  6. If a majority of electors residing within each school district vote to approve the reorganization plan, the county superintendent shall make the necessary adjustments of property, debts, and liabilities and perform all duties required by law in order to establish and organize the new school district.

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

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

**15.1-12-13. School district reorganization - Proposal rejection - Revision - New election.**

1. If the electors reject the reorganization plan, the county committee, after a period of three months from the date of the special election, may hold a public hearing as provided for in section 15.1-12-10 to consider a revised reorganization plan proposed by the participating school districts. If the county committee approves a revised plan, the county superintendent shall submit the revised plan to the state board for approval.
2. If the state board approves the revised plan, it shall notify the county superintendent of schools. A county superintendent receiving notice under this section shall follow the procedures set forth in this chapter for

calling a special election to approve or reject the revised plan. If a majority of the electors residing within each school district vote to approve the revised reorganization plan, the county superintendent shall make the necessary adjustments of property, debts, and liabilities and perform all duties required by law in order to establish and organize the new school district.

**15.1-12-14. School district reorganization - School boards - Assumption of duties.**

1. Upon approval of a reorganization plan by the electors, in accordance with section 15.1-12-11, a school board for the reorganized district must be elected at the next regular school district election or at a special election called by the county superintendent of schools for that purpose. The first school board election in a newly reorganized district is governed by chapter 15.1-09.
2. Members of newly formed school boards representing reorganized districts may not enter upon the duties of office until the time specified in section 15.1-12-18, except as provided in sections 15.1-12-15 and 15.1-12-16. Before the completion of a reorganization, the board of an existing district may not contract or obligate the district, except with the approval of the county committee.

**15.1-12-15. School district reorganization - School board - Duties.**

1. The board of a reorganized school district established under this chapter shall negotiate with the district's teachers and may contract with the teachers' representative organization prior to the effective date of the reorganization. If by five p.m. on July first of the year the reorganized district begins operations, a negotiated agreement has not been entered between the board and the teachers pursuant to statute, no teacher employed by the board may receive less in salary and benefits than that teacher received for the preceding school year. For purposes of this section, "salary and benefits" means salary, insurance benefits, teachers' fund for retirement contributions, personal leave, sick leave, accumulated sick leave, extracurricular salary, reduction-in-force policy, grievance procedures, and recall procedures.
2. On or before February first of the year in which the reorganization becomes effective, the board of the reorganized school district shall hold a public hearing to present the curriculum, course offerings, and staff positions to be available during the coming school year. The board shall publish notice of the hearing in the official newspaper of each county having land in the reorganized district, at least fourteen days before the date of the hearing.
3. By five p.m. on April fifteenth of the year in which the reorganization becomes effective, the board of the reorganized school district shall notify in writing each teacher employed by the districts being reorganized, whether or not the teacher will be offered a contract of employment with the reorganized district.

**15.1-12-16. School district reorganization - Issuance of bonds - Procedure.**

Before a reorganization is effective, the board of a reorganized school district established under this chapter may proceed in accordance with chapter 21-03 to

issue bonds for purposes specified in that chapter if the bond issuance is provided for by the approved reorganization plan.

**15.1-12-17. School district reorganization - Elementary schools.** An elementary school in existence at the time a reorganization becomes effective may be closed upon approval of the board. Unless otherwise directed by the superintendent of public instruction, a school closed under this section may be reopened only upon resolution of the school board and only at the beginning of a school year that follows by at least ninety days the date of the school board's closure vote.

**15.1-12-18. School district reorganization - Approval of plan - Effective date - Transfer of all property.** A reorganization plan takes effect on the first day of July following its approval by the voters. Within thirty days from the effective date of the reorganization, personnel from school districts incorporated in whole or in part into a reorganized district shall turn over to the board of the reorganized district all property and assets as required by the approved reorganization plan. Unless otherwise provided, debts, obligations, and liabilities of the districts or parts of districts incorporated into the reorganized district become the debts, obligations, and liabilities of the reorganized district.

**15.1-12-19. School district reorganization - Sale or removal of school buildings.** The board of a reorganized district may sell or move a school building located in the district. If a petition calling for the sale of a school building is signed by a majority of the qualified electors residing within the boundaries of a former school district now wholly located within the boundaries of the reorganized district, and is submitted to the board, the board shall sell the building. If the petition calls for the board to move the building, the board shall move the building to the location designated in the petition. The board shall deposit proceeds of the sale in either the district's general fund or the building fund. If the purchaser or recipient of the building is a political subdivision of this state, the board, upon a unanimous vote, may sell the building for less than its fair market value.

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

**15.1-12-21. School district reorganization - Changes in plan.**

1. All provisions of a reorganization plan, except those relating to boundaries and geographic voting areas, may be changed upon the concurrence of a majority of the qualified electors voting on the question. The question may be placed before the voters at a regular or special election upon a motion of the school board and shall be placed before the voters upon receipt by the board of a petition signed by at least:
  - a. Twenty-five percent of the qualified electors residing in the district, if the population of the district, as determined by the county superintendent, is less than twenty-five qualified electors;

- b. Twenty percent of the qualified electors residing in the district, if the population of the district is at least twenty-five but not more than four thousand; or
  - c. Fifteen percent of the qualified electors residing in the district, if the population of the district is greater than four thousand.
2. Notwithstanding the provisions of subsection 1, if a school district has been reorganized for at least ten years, the boundaries of geographic voting areas may be changed upon the concurrence of a majority of qualified electors voting on the question.
  3. By resolution, the board in a reorganized district may change to at large voting for school board members if there is a variance of more than ten percent in the population between any of the district's established geographic areas with resident candidates.

**15.1-12-22. School district reorganization - Board - Powers after five years - Exceptions.**

1. Beginning five years after the effective date of the reorganization, the board of a reorganized district may exercise all powers granted to a school board by law, regardless of limitations contained in the district's reorganization proposal.
2. Notwithstanding subsection 1, the board of a reorganized district may change geographic voting areas only in accordance with section 15.1-12-23.

**15.1-12-23. School district reorganization - Proportionate tax rate on agricultural property.** A school district that for school purposes imposed on agricultural property a proportionate tax rate different from the school district levy on other taxable property, as permitted by repealed sections 15-53.1-37 and 15-53.1-38 on December 31, 1984, shall continue to levy the proportionate tax rate unless the school board is directed, by a majority of the district's qualified electors voting on the question, to discontinue the proportionate tax rate. No other school board may impose a proportionate tax rate on different classes of property within the district.

**15.1-12-24. Nonoperating school district - Reorganization or dissolution.** A school district that ceases to provide educational services within the district must become, within one year, through a process of reorganization or dissolution, part of a district operating an approved school. If a school district affected by this section has not become part of a district operating an approved school within the prescribed time limit, the school district must be dissolved. This section does not apply to military installation school districts.

**15.1-12-25. Nonoperating school district - Transportation.** The school board of the district to which a nonoperating district is attached shall provide transportation to students residing within the boundaries of the attached land in the same manner that transportation is provided to all other students in the district.

**15.1-12-26. Dissolution of school district - Grounds.**

1. A county committee shall initiate proceedings to dissolve a school district and attach the property to other operating school districts when it is

notified in writing by the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district that:

- a. The district is financially unable to effectively and efficiently educate its students;
  - b. The district has not operated a school as required by section 15.1-12-24; or
  - c. A school board has determined that dissolution is in the best interest of its students.
2. Except as provided in subsection 3, a county committee shall initiate proceedings under section 15.1-12-27 to attach real property to an operating school district when it is notified in writing by the county superintendent that:
- a. Real property has been severed from its school district by the expansion of a city and the severed portion is not contiguous with its district; or
  - b. There exists real property that does not belong to a school district.
3. If a school district reorganization plan which does not include all real property in a district is approved by the electors, the county committee shall, within forty-five days after the election, hold a hearing under section 15.1-12-29 to attach the remaining property to one or more operating districts.
4. Receipt of notice by a county committee under this section:
- a. Renders an annexation petition involving any real property in the district void, unless the annexation has already been approved by the state board; and
  - b. Prohibits the acceptance of a new annexation petition involving any real property in the district until all dissolution proceedings have been completed.
5. One or more annexation petitions may not be used to annex all of the real property in a school district to surrounding school districts.

**15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.**

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other districts. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a district adjacent to the dissolving district, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each school district adjacent to the dissolving district.

2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution.
3. The county committee shall consider testimony and documentary evidence regarding:
  - a. The value and amount of property held by the dissolving school district;
  - b. The amount of all outstanding bonded and other indebtedness;
  - c. The distribution of property and assets among the districts to which the dissolved district is attached;
  - d. The taxable valuation of the dissolving district and adjacent districts and the taxable valuation of adjacent districts under the proposed manner of dissolution;
  - e. The size, geographical features, and boundaries of the dissolving district and of adjacent districts;
  - f. The number of students in the dissolving district and in adjacent districts;
  - g. The general population of the dissolving district and adjacent districts;
  - h. Each school in the dissolving district and in adjacent districts, including its name, location, condition, accessibility, and the grade levels it offers;
  - i. The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent districts;
  - j. Conditions affecting the welfare of students in the dissolving district and in adjacent districts;
  - k. The boundaries of other governmental entities;
  - l. The educational needs of communities in the dissolving district and in adjacent districts;
  - m. Potential savings in school district transportation and administrative services;
  - n. The anticipated future use of the dissolving districts' buildings, sites, and playfields;
  - o. The potential for a reduction in per student valuation disparities between the districts to which the dissolved district is attached;
  - p. The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent districts; and
  - q. All other relevant factors.

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

**15.1-12-28. Dissolution of school district - Unobligated cash balance - Distribution.** Any unobligated cash balance not exceeding ten thousand dollars must be held in a separate fund by the auditor of the county having the greatest share of the dissolved school district's land. The county auditor shall hold the fund for one year after the effective date of the dissolution. During that year, the county auditor shall accept assets and pay unresolved debts attributable to the dissolved school district. After one year the county auditor shall distribute the remaining cash balance among the school districts to which the real property of the dissolved district was attached. Unless otherwise directed by the order of dissolution, the distribution to each shall be the same percentage as the taxable valuation at the time of the attachment order.

**15.1-12-29. Dissolution of school district - Unobligated cash balance - Tax credits or refunds.**

1. Any unobligated cash balance in excess of ten thousand dollars is a credit for real property owners within the boundaries of the dissolved school district against taxes levied by the district in which their property is now situated. The county auditor shall base the credit on the five-year average of the total mills levied for education by the dissolved district. If property from the dissolved district is attached to more than one school district, the credit that eligible real property owners receive must be the same percentage of the unobligated cash balance as the taxable

valuation of the individual's property bears to the total taxable valuation of the dissolved district's property at the time of the attachment order.

2. Upon approval of the board of county commissioners, any school district required to provide a tax credit under subsection 1 may provide a cash refund in lieu of the tax credit. At the request of the county auditor, the school district holding the unobligated cash balance shall pay to the county treasurer the amount to be paid to those who own real property within the dissolved district. The treasurer shall issue the refund to the owner of the property as shown on the county's assessment list at the time of payment. If there is a lien for unpaid taxes against the property, the treasurer shall first apply the property owner's tax credit toward any outstanding balance. Any amount remaining may then be paid to the property owner. The cash refunds must be calculated proportionately to the total taxable value of the dissolved district during the last year taxes were levied.

<sup>162</sup> **SECTION 13.** Chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

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

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

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.
2. This section does not prohibit a school district employee from using the degree of force necessary:
  - a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
  - b. To quell a verbal disturbance;
  - c. For self-defense;
  - d. For the preservation of order; or
  - e. To obtain possession of a weapon or other dangerous object within the control of a student.
3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic

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<sup>162</sup> Section 15.1-19-11 was amended by section 2 of House Bill No. 1349, chapter 189.

competition or other recreational activities voluntarily engaged in by a student is not corporal punishment.

4. The board of each school district shall develop policies setting forth standards for student behavior and procedures to be followed if the standards are not met.

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

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

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

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

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

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

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

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

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

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

1. The board of each school district shall adopt a policy governing the possession of weapons on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The weapons policy must prohibit the possession of a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion for at least one year. The policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board, within ten days of the student's suspension, shall provide the student with a hearing before the school board at which time the school board shall take testimony and consider evidence, including the existence of mitigating circumstances.
3. If a board expels a student under this section, the board may authorize the provision of educational services to the student in an alternative setting.
4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.

6. For purposes of this section:
  - a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].
  - b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

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

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

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

**15.1-24-01. Chemical abuse prevention program - Rules.**

1. The superintendent of public instruction shall adopt rules regarding the implementation of chemical abuse prevention programs in this state's schools. The rules may include:
  - a. Community involvement through a citizens' advisory committee.
  - b. An assessment of services and resources available locally.
  - c. An assessment of student and staff needs.
  - d. The coordination of activities with public and private entities.
  - e. The development of an implementation plan.
  - f. An evaluation mechanism.
  - g. The development of a budget to fund the program.
2. If funds are appropriated or otherwise become available, the superintendent shall call for and review school district applications for

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

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

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

1. Develop rules, in consultation with other private and public entities.
2. Disseminate rules developed under this chapter.
3. Provide communities, through their schools, with technical assistance in the planning and implementation of a chemical abuse and prevention program.
4. Collect data for reporting and program evaluation purposes.
5. Facilitate coordination of this program with prevention and educational programs conducted by other state agencies.
6. Provide the superintendent of public instruction with a written program evaluation.
7. Serve as a resource specialist to schools regarding the development and implementation of chemical abuse prevention programs.

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

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

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

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

1. A law enforcement agency shall notify a school principal in writing if the agency has probable cause to believe that a student enrolled in the school has violated section 5-01-08, 19-03.1-23, 39-08-01, or 39-08-18. The law enforcement agency shall provide the notice within two weeks of an incident.

2. The principal shall forward the notice to the school's chemical abuse preassessment team or support team referenced in section 15.1-25-03.
3. Subsection 1 does not apply if, in the opinion of the law enforcement agency, providing the notice would jeopardize the conclusion of a criminal investigation.

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

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

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

**15.1-25-02. Permission to enroll - Notification - Credits.** Before enrolling in a course for credit under this chapter, the student must obtain written permission from the student's school district superintendent. The student's school district superintendent shall determine the number of credits for which the student is eligible and shall include the number of credits on the document granting permission required by this section. For purposes of determining credit, a three-semester-hour course offered by a postsecondary institution is equivalent to a full semester high school course. Upon the student's successful completion of the course, the postsecondary institution shall notify the student's school district superintendent of that fact.

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

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

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

**15.1-25-06. Courses - Statutory and regulatory exemption.** The courses for which dual high school and postsecondary credit are available under this chapter are

postsecondary courses and are exempt from any statutory or regulatory provisions otherwise applicable to high school courses and to the individuals by whom high school courses are taught.

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

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

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

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

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

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

**15.1-26-05. General equivalency diplomas - Copies.** The superintendent of public instruction may charge up to three dollars for each general equivalency diploma issued, up to ten dollars for each copy of a general equivalency diploma, and up to two dollars for each copy of a transcript belonging to an individual pursuing a general equivalency diploma. The superintendent shall forward any money generated under this section to the state treasurer for deposit in the revolving printing fund in the state treasury and may expend the money to cover costs associated with the administration of the general equivalency diploma program.

**15.1-26-06. General educational development test results - Confidentiality.** The results of general educational development tests maintained by the superintendent of public instruction are confidential and are not open for public

inspection. This section does not prohibit the superintendent of public instruction from making an individual's test results available at the written request of the individual.

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

**SECTION 17. REPEAL.** Chapters 15-21, 15-21.2, 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, 15-41.1, 15-46, 15-48, 15-49, 15-51, 15-64, 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, 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, 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, 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, 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, 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, 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, 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, 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, 15-47-41, 15-47-43, 15-47-47, 15-47-48, 15-47-49, and 15-47-50 of the North Dakota Century Code and sections 15-21.1-03, 15-21.1-04, 15-29-02, 15-29-05, 15-29-08, 15-29-08.4, 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, 15-47-39, 15-47-44.1, 15-47-44.2, and 15-47-51 of the 1997 Supplement to the North Dakota Century Code are repealed.

Approved April 14, 1999  
Filed April 15, 1999

## CHAPTER 197

### SENATE BILL NO. 2235

(Senators Freborg, W. Stenehjem)  
(Representatives Aarsvold, Monson)

## SCHOOL DISTRICT HEALTH PLANS

AN ACT to create and enact a new section to chapter 15-29 of the North Dakota Century Code, or in the alternative to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to school district employees' group health plans; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** If House Bill No. 1034 does not become effective, a new section to chapter 15-29 of the North Dakota Century Code is created and enacted as follows:

**School district employees' group health plans.** In contracting for a school district employees' group health plan, the board of a school district shall meet the bidding requirements of section 15-47-15. No contract for a school district employees' health plan may be of a duration greater than six years.

**SECTION 2.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**School district employees' group health plans.** In contracting for a school district employees' group health plan, the board of a school district shall meet the bidding requirements of section 15.1-09-34. No contract for a school district employees' health plan may be of a duration greater than six years.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 29, 1999

Filed March 29, 1999

## CHAPTER 198

### SENATE BILL NO. 2068

(Senators Wardner, Robinson)  
(Representatives Devlin, Haas, Metcalf)

## SCHOOL DISTRICT TECHNOLOGY CONSORTIA BORROWING

AN ACT to create and enact a new section to chapter 15-29 of the North Dakota Century Code, and in the alternative to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to the borrowing of money by school district technology consortia; to provide for a contingent expiration date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 15-29 of the North Dakota Century Code is created and enacted as follows:

#### **School district technology consortium - Authority to borrow money.**

1. A school district technology consortium formed under chapter 54-40.3 may borrow money for instructional technology acquisition provided:
  - a. The outstanding principal borrowed by a consortium under this section does not exceed one hundred seventy-five thousand dollars;
  - b. The loan repayment period does not exceed ten years;
  - c. The loan is approved in writing by the board of each school district participating in the consortium;
  - d. The loan is:
    - (1) Approved by a majority of the eligible electors residing in each school district participating in the consortium, as evidenced by their signatures on a petition clearly stating the purpose of the loan, the amount of the loan, and its terms of repayment, and filed with the superintendent of public instruction; or
    - (2) Approved by a majority of each participating school district's electors voting on the question at a regular school district election or at a special election called by the board; and
  - e. The loan is approved by the superintendent of public instruction.
2. The superintendent of public instruction shall adopt rules setting forth the criteria for loan approval. The superintendent of public instruction may not approve a loan under this section if the superintendent determines that the instructional technology acquisition is not compatible with the statewide information technology plan.

**SECTION 2.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**School district technology consortium - Authority to borrow money.**

1. A school district technology consortium formed under chapter 54-40.3 may borrow money for instructional technology acquisition provided:
  - a. The outstanding principal borrowed by a consortium under this section does not exceed one hundred seventy-five thousand dollars;
  - b. The loan repayment period does not exceed ten years;
  - c. The loan is approved in writing by the board of each school district participating in the consortium;
  - d. The loan is:
    - (1) Approved by a majority of the eligible electors residing in each school district participating in the consortium, as evidenced by their signatures on a petition clearly stating the purpose of the loan, the amount of the loan, and its terms of repayment, and filed with the superintendent of public instruction; or
    - (2) Approved by a majority of each participating school district's electors voting on the question at a regular school district election or at a special election called by the board; and
  - e. The loan is approved by the superintendent of public instruction.
2. The superintendent of public instruction shall adopt rules setting forth the criteria for loan approval. The superintendent of public instruction may not approve a loan under this section if the superintendent determines that the instructional technology acquisition is not compatible with the statewide information technology plan.

**SECTION 3. CONTINGENT EXPIRATION DATE.** Section 1 of this Act is effective through the date on which House Bill No. 1034 as approved by the fifty-sixth legislative assembly becomes effective, and after that date is ineffective.

**SECTION 4. EMERGENCY.** Section 1 of this Act is declared to be an emergency measure.

Approved April 9, 1999  
Filed April 9, 1999

## CHAPTER 199

### SENATE BILL NO. 2441

(Senator Freborg)

(Approved by the Delayed Bills Committee)

## SCHOOL DISTRICT REORGANIZATION BONUSES

AN ACT to provide for school district reorganization bonuses.

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

### **SECTION 1. Reorganization bonus - Eligibility - Distribution.**

1. If a school district reorganizes with one or more contiguous school districts or portions of districts, the newly reorganized district is entitled to receive a reorganization bonus, provided at least one of the reorganizing districts is a high school district and that the newly reorganized district consists of at least eight hundred square miles.
2. The total reorganization bonus to which a newly reorganized district is eligible consists of:
  - a. Fifty thousand dollars per one hundred square mile block, or a major portion thereof, included within the reorganized district and calculated by determining the lesser of the total square mileage of the reorganized district or one thousand four hundred square miles, and subtracting from that amount the square mileage of the largest district or portion of a district involved in the reorganization;
  - b. One thousand dollars per student calculated by determining the lesser of the total fall enrollment of the newly reorganized district or seven hundred fifty and subtracting from that amount the fall enrollment in the district or portion of the district that had the largest student population of those districts or portions of districts participating in the reorganization during the school year immediately preceding the effective date of the reorganization; and
  - c. Fifty thousand dollars for each whole school district that formed the reorganized district.
3. The superintendent of public instruction shall distribute the reorganization bonus to each eligible reorganized district during the month of December, following the effective date of the district's reorganization.

**SECTION 2. Reorganization bonus - Distribution - Limitation.** For purposes of distributing reorganization bonuses, the superintendent of public instruction shall determine the eligibility of reorganized districts chronologically, according to the date on which each district's reorganization plan was approved by the state board of public school education. After all other statutory obligations have been met within the limits of legislative appropriations, the superintendent of public instruction shall make the distribution of reorganization bonuses from funds made available in the grants - foundation aid and transportation line item in Senate Bill No. 2013, as approved by the fifty-sixth legislative assembly, for the 1999-2001 biennium, provided the superintendent may not expend more than two million dollars during the 1999-2001 biennium for the purpose of this Act. No reorganization bonus payable under this Act may exceed five hundred thousand dollars. A reorganized district that receives a reorganization bonus under this Act is not eligible to receive additional reorganization bonuses based on future reorganization efforts for a period of ten years.

Approved April 19, 1999  
Filed April 19, 1999