

# VETOED MEASURES

## CHAPTER 567

### HOUSE BILL NO. 1016

(Appropriations Committee)  
(At the request of the Governor)

## DEPARTMENT OF CORRECTIONS AND REHABILITATION

AN ACT to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to the incarceration of female inmates in grade one correctional facilities; to provide a statement of legislative intent; to provide for a legislative council study; to provide an exemption to chapters 48-01.1 and 54-44.7 of the North Dakota Century Code, relating to public improvement contract bids and architect, engineer, and lands surveying services; to provide for a performance audit of the department of corrections and rehabilitation; to provide an expiration date; and to declare an emergency.

VETO

April 28, 2003

The Honorable Janet Wentz  
House Chambers  
Speaker of the House  
State Capitol  
Bismarck, ND 58505

RE: HOUSE BILL 1016, Department of Corrections and Rehabilitation Funding Bill

Dear Speaker Wentz,

North Dakota has real challenges with crime, such as the growing methamphetamine scourge and other drug related crimes. We must have adequate resources to house and treat this growing inmate population.

The Legislature has chosen to place inmates at a converted school in New England, and at county jails throughout the state. While this plan may create some liability issues, we will try to make it work. The immediate problem is that it does not adequately fund the Corrections Department.

The funds allocated for contracting with the counties do not take into account our projected inmate population. Furthermore, \$3 million was taken out of the prison budget, which will result in unacceptable reduction in corrections officers and rehabilitation services. The result of reduced treatment will be a larger prison population and more repeat offenders.

This is a basic public safety and fiscal management issue. I therefore veto the bill.

Sincerely,

John Hoeven  
Governor

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

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of corrections and rehabilitation for the purpose of defraying the expenses of the department of corrections and rehabilitation, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Field services	\$20,922,058
Prisons division	68,254,582
Juvenile community services	9,629,163
Youth correctional center	<u>11,577,679</u>
Total all funds	\$110,383,482
Less estimated income	<u>29,646,871</u>
Total general fund appropriation	\$80,736,611

**SECTION 2. APPROPRIATION - 2001-03 BIENNIUM.** There is appropriated from federal funds the sum of \$500,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation, in adult services of the field services division, for the purpose of defraying the expenses of the department's transition center, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 3. CRIME VICTIMS RESTITUTION AND GIFT FUND.** The sum of \$100,000, or so much of the sum as may be necessary, included in the field services line item in section 1 of this Act, is from the crime victims restitution and gift fund and shall be used by the department of corrections and rehabilitation for the purposes provided in section 54-23.4-05, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 4. STATE PENITENTIARY LAND FUND.** The sum of \$82,500, or so much of the sum as may be necessary, included in the youth correctional center line item in section 1 of this Act, is from the state penitentiary land fund and shall be used by the department of corrections and rehabilitation for capital projects at the youth correctional center, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 5. LEGISLATIVE INTENT - COUNTY CONTRACT HOUSING STATE FEMALE INMATES - REPORTS TO BUDGET SECTION.** It is the intent of the legislative assembly that the state contract with county facilities to house state female inmates during the 2003-05 biennium, with the continuation of the contracting subject to the results of the study in Section 6 of this Act. The department of corrections and rehabilitation and county jails contracting to house state female inmates shall report to the fall 2003 and summer 2004 meetings of the budget section on the implementation and procedures of contracting with counties to house state female inmates.

**SECTION 6. LEGISLATIVE COUNCIL STUDY - CONTRACT HOUSING - FEMALE INMATES.** The legislative council shall consider studying, during the 2003-04 interim, the long-term needs of all state inmates and if the department of corrections and rehabilitation should continue to contract to house state female inmates with county jails or if the state should expand the prison system. If selected, the study must include a review of the east cell block of the North Dakota state penitentiary and future needs for maximum security prisoners; the female population and related treatment, programming, and training needs; and the mental health services of the state hospital, including if the department of corrections and rehabilitation should continue to expand its facilities on the state hospital grounds and if patients at the state hospital with mental health needs should be served in other locations. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

**SECTION 7. TRANSFER OF LAND AND BUILDINGS - EXEMPTION FROM CHAPTERS 48-01.1 AND 54-44.7.** Ownership of the food service building, the dining facility and attached building 18A, the laundry building, and buildings eight and fifty on the grounds of the state hospital must be transferred to the department of corrections and rehabilitation. The department of corrections and rehabilitation is not subject to the provisions of chapters 48-01.1 and 54-44.7 relating to public improvement contract bids and architect, engineer, and land surveying services for construction and renovation relating to the nurses' building, food service building, the dining facility and attached building 18A, laundry building, and building eight.

**SECTION 8. DEPARTMENT OF CORRECTIONS AND REHABILITATION - PERFORMANCE AUDIT.** The state auditor shall consider conducting a performance audit of the department of corrections and rehabilitation during the period beginning July 1, 2003, and ending January 1, 2005. The results of the performance audit must be presented to the legislative audit and fiscal review committee and the appropriations committees during the department of corrections and rehabilitation's budget presentation during the fifty-ninth legislative assembly.

**SECTION 9.** A new section to chapter 12-44.1 of the North Dakota Century Code is created and enacted as follows:

**Female inmates in grade one correctional facilities.** Notwithstanding section 12-44.1-06, a grade one correctional facility that has a contract with the department of corrections and rehabilitation to confine female inmates who have been sentenced to the legal and physical custody of the department of corrections and rehabilitation may confine the female inmate for more than one year in accordance with the terms of the contract. A female inmate who has been sentenced to the legal and physical custody of the department of corrections and rehabilitation and who is confined in a grade one correctional facility under a contract with the department of corrections and rehabilitation has the same rights to sentence reduction for good and meritorious conduct and to pardon and parole as an inmate confined in a department of corrections and rehabilitation prisons division facility.

**SECTION 10. EXPIRATION DATE.** Section 9 of this Act is effective from July 1, 2003, through June 30, 2005, and after that date is ineffective.

**SECTION 11. EMERGENCY.** The sum of \$1,421,727 for capital construction projects included in the prisons division line item in section 1 of this Act and section 2 of this Act are declared to be an emergency measure.

Disapproved April 28, 2003

Filed April 28, 2003

**CHAPTER 568****HOUSE BILL NO. 1022**

(Appropriations Committee)  
(At the request of the Governor)

**INFORMATION TECHNOLOGY DEPARTMENT**

AN ACT to provide an appropriation for defraying the expenses of the information technology department, the judicial branch, and the legislative council; to authorize the industrial commission to issue and sell evidences of indebtedness for ConnectND; to provide for centralization of information technology equipment, software, and supplies purchasing; to provide for a technology critical needs pool; to provide for a legislative council study; to create and enact a new section to chapter 54-10, a new section to chapter 54-35, a new subsection to section 54-44.4-02, a new section to chapter 54-59, and two new subsections to section 54-59-05 of the North Dakota Century Code, relating to information technology responsibilities of the state auditor, information technology committee responsibilities, purchasing services, and information technology department powers and duties; to amend and reenact sections 54-59-02, 54-59-05, and 54-59-09 of the North Dakota Century Code, relating to responsibilities of the information technology department and information technology standards; and to repeal section 54-59-13 of the North Dakota Century Code, relating to information technology reviews.

**VETO**

April 28, 2003

The Honorable Janet Wentz  
House Chambers  
Speaker of the House  
State Capitol  
Bismarck, ND 58505

RE: HOUSE BILL 1022, Information Technology Department (ITD) Funding Bill

Dear Speaker Wentz,

North Dakota has developed one of the finest statewide high-speed data networks in the country. It is a cost effective public sector, private sector partnership that supports education and government, and creates opportunity for business.

At the heart of the system is ITD, the state's information technology department. This funding legislation for ITD creates a bureaucratic maze that will cost taxpayers more and will certainly slow down technology-based services throughout state government. It transfers funds back and forth between ITD and almost every other agency in state government, which will not work and which will leave ITD underfunded.

I can support the 5 percent reduction in each agency's technology budget, but this legislation for ITD will increase costs, and impede services to the people of North Dakota. I therefore veto it.

Sincerely,

John Hoeven  
Governor

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

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the information technology department for the purpose of defraying the expenses of the information technology department, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Salaries and wages	\$25,715,694
Operating expenses	33,120,860
Capital assets	5,323,000
Division of independent study	5,625,480
Educational technology council	793,818
EduTech	2,540,348
Wide area network	7,436,223
Enterprise resource planning system (ConnectND)	20,000,000
Geographic information system	678,343
Prairie public broadcasting	1,337,138
Criminal justice information sharing	4,741,200
Total all funds	\$107,312,104
Less estimated income	99,117,301
Total general fund appropriation	\$8,194,803

**SECTION 2. ESTIMATED INCOME - SPECIAL FUNDS TRANSFERS.** The estimated income line item in section 1 of this Act includes \$862,059 from the special funds of various state agencies resulting from information technology reductions, for the biennium beginning July 1, 2003, and ending June 30, 2005. Notwithstanding any other provisions of law, the office of management and budget shall transfer to the information technology department the following amounts available from the special funds of the agencies listed, for the biennium beginning July 1, 2003, and ending June 30, 2005.

AGENCY	AMOUNT
State department of health	\$11,108
Aeronautics commission	6,942
Veterans' home	6,046
Department of financial institutions	7,881
Highway patrol	9,450
Department of transportation	350,000
Industrial commission	4,034
Bank of North Dakota	300,000
Housing finance agency	24,080
Mill and elevator association	23,230
Department of corrections and rehabilitation	24,567
Office of administrative hearings	4,311
Secretary of state	19,550

Attorney general	12,929
State auditor's office	1,465
Department of agriculture	1,329
Insurance commissioner	37,368
Vision services - school for the blind	2,725
Seed department	10,050
Parks and recreation department	4,994
Total	\$862,059

**SECTION 3. APPROPRIATION AUTHORITY - REDUCTIONS.** The office of management and budget shall reduce the special funds appropriation authority for the aeronautics commission, the department of financial institutions, the insurance commissioner, and the seed department, for the biennium beginning July 1, 2003, and ending June 30, 2005, by the amounts listed in section 2 of this Act relating to information technology reductions. The amounts will be available in the special funds for transfer as provided in section 2 of this Act.

**SECTION 4. BOND ISSUANCE AUTHORIZATION - PURPOSES - APPROPRIATION.** The industrial commission, acting as the North Dakota building authority, shall arrange through the issuance of evidences of indebtedness under chapter 54-17.2 from the effective date of this Act and ending June 30, 2005, for the funding in an amount not to exceed \$20,000,000 to be loaned to the information technology department for the purchase or lease of computer hardware and software and for the costs of the implementation services for the enterprise resource planning system commonly known as the ConnectND project. ConnectND is declared to be in the public interest and is for the purpose of this Act, a project as that term is defined in chapter 54-17.2. The amount of the evidences of indebtedness may be reduced by any moneys made available from the higher education institutions. The proceeds of the evidences of indebtedness and other available funds, as appropriated in section 1 of this Act, may be used for ConnectND project costs, debt service repayment, and refunding of ConnectND interim borrowings. The industrial commission shall issue evidences of indebtedness under this section with the condition that repayment on the evidences of indebtedness need not begin until July 1, 2005. For purposes of this Act, loan or debt service repayments are equivalent to lease rental payments as that term is used in chapter 54-17.2. ConnectND student fee revenues and other available funds are appropriated to the North Dakota university system for the North Dakota university system's share of the ConnectND project costs, debt service repayment, refunding of ConnectND interim borrowings, and other costs incidental to ConnectND implementation.

The authority of the industrial commission to issue evidences of indebtedness under this section ends June 30, 2005, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and comply with any covenants entered into before that date.

The limitation provided in section 54-17.2-23 does not apply to repayments allocable to the evidences of indebtedness issued for the ConnectND project.

**SECTION 5. EVIDENCES OF INDEBTEDNESS ISSUANCE REPAYMENT RESPONSIBILITY.** Debt service on the evidences of indebtedness issued under section 2 of this Act must be available from charges made and collected by the information technology department from users of the system with twenty-nine percent of the debt service being the responsibility of state agencies and seventy-one percent of the debt service being the responsibility of higher education.

**SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$45,999, or so much of the sum as may be necessary, to the judicial branch for the purpose of defraying costs associated with information technology, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 7. INFORMATION TECHNOLOGY EQUIPMENT, SOFTWARE, AND SUPPLIES PURCHASING CENTRALIZATION - REPORTS TO THE INFORMATION TECHNOLOGY COMMITTEE.** No executive branch state agency, department, or institution, excluding institutions under control of the state board of higher education, may purchase any information technology equipment, software, or supply item with a cost greater than five hundred dollars without using the centralized purchasing services of the information technology department during the biennium beginning July 1, 2003, and ending June 30, 2005. The information technology department shall charge a ten percent purchasing fee on all purchases made under the centralized purchasing services program. The fee may only be paid with funds from the general fund or special funds derived from sources other than pension or federal funds. The first \$1,000,000 of the fee collections must be deposited in the information technology operating account, and the remaining fee collection must be deposited in an information technology critical needs pool established by the department for addressing critical information technology needs. The chief information officer may waive the purchasing fee to address unique situations. The information technology department shall provide periodic reports to the information technology committee regarding the bidding of information technology equipment, software, and supplies.

**SECTION 8. TECHNOLOGY CRITICAL NEEDS POOL - APPROPRIATION - BUDGET SECTION APPROVAL.** The funding in the information technology critical needs pool established in section 7 of this Act is appropriated to the information technology department for the biennium beginning July 1, 2003, and ending June 30, 2005, for addressing executive branch state agencies, departments, and institutions, excluding institutions under the control of the state board of higher education, critical information technology needs. Executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education, requesting critical needs funding shall submit a written request detailing the purpose and need for the funding to the chief information officer of the information technology department. Requests approved by the information technology department must be forwarded to the office of management and budget which shall transfer funding from the critical needs pool to agencies, departments, and institutions upon approval of the request by the budget section, which is hereby appropriated.

**SECTION 9. TRANSFER OF APPROPRIATION AUTHORITY BETWEEN LINE ITEMS.** Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items for state agencies, departments, and institutions as may be requested to accommodate information technology funding reductions made by the fifty-eighth legislative assembly. The office of management and budget shall report to the budget section regularly on transfers made pursuant to this section.

**SECTION 10. INFORMATION TECHNOLOGY LEGISLATIVE COUNCIL STUDY - APPROPRIATION - REPORTS TO THE BUDGET SECTION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the legislative council for the biennium beginning July 1, 2003, and ending June 30, 2005, for the purpose of contracting with consultants to conduct an



information technology organizational study and an information technology management study and to provide assistance with the preparation of the request for proposals and consultant oversight. The studies must be completed by October 1, 2003, and periodic progress reports on the status of the studies must be provided to the information technology committee. The information technology committee may extend the October 1, 2003, deadline as it deems appropriate. A final report must be presented to the budget section upon completion of the studies.

The information technology organizational study must include a review and identification of:

1. The cost and benefits of a centralized information technology structure and the cost and benefits of a decentralized information technology structure.
2. The cost of providing electronic mail administration, file and print server administration, seat management and desktop personal computer support, mainframe and distributed computing hosting services, consolidated storage management and disaster recovery, and software development.
3. The roles and responsibilities of agency personnel providing information technology services under a centralized information technology structure and a decentralized information technology structure.
4. The positions and competencies needed by the information technology department to provide the information technology services on a centralized basis, including the organizational changes required within the department to provide the centralized services.
5. The human resource management issues, including change management, training, and employee compensation, to be addressed for a successful centralization.
6. The adequacy and quality of the services as currently provided and proper performance measures.
7. The comparison of current costs to industry data and data from other states.
8. Information technology services appropriate to be performed by individual agencies.
9. A plan to either centralize or decentralize the services identified, including the reorganization tasks, personnel transfers, and the changes required for information technology budgeting and cost allocation processes.

The information technology management study must include a review of:

1. The technology management processes of other states and private industry with respect to prioritizing state agency information technology budget requests, establishing information technology standards and policies, and overseeing information technology expenditures.

2. The role of other states in providing information technology services to nonstate government entities.
3. The level of information technology outsourcing in other state governments and the private sector and the applicability to the state of North Dakota.
4. The trends that will impact technology deployment and spending in the next five to ten years.
5. The level of coordination in the management of enterprise initiatives, such as the state wide area network, the enterprise resource planning system initiative, the geographic information systems initiative, and the criminal justice information sharing initiative, compared to other states, including a recommendation regarding the appropriate governance structure to provide the maximum benefits to the state.
6. The potential changes to the organizational structure of the information technology department and other state government entities as related to information technology.

**SECTION 11.** A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

**Information technology responsibilities.** The state auditor shall:

1. Conduct information technology compliance reviews, as determined necessary by the information technology committee, by conducting individual agency audits of information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies and conducting statewide agency audits of compliance with specific information technology standards and policies.
2. Consult with the information technology department on audits of compliance with information technology plans and compliance with information technology standards and policies.
3. Participate in the information technology department's enterprise architecture process for developing information technology standards and policies.
4. Monitor major information technology projects for compliance with project management and information technology standards and policies.
5. Present results of information technology compliance reviews to the information technology committee and the information technology department's enterprise architecture committee.

**SECTION 12.** A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

**Information technology committee - Information technology reviews.** The information technology committee may request the state auditor to conduct an information technology compliance review. The review may consist of an audit of an agency's information technology management, information technology planning,

compliance with information technology plans, and compliance with information technology standards and policies or an audit of statewide compliance with specific information technology standards and policies.

**SECTION 13.** A new subsection to section 54-44.4-02 of the North Dakota Century Code is created and enacted as follows:

Information technology equipment, software, and supply items with a cost greater than five hundred dollars as provided in section 54-59-05.

**SECTION 14.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Department shall establish certain standards for agencies - Advisory committee - Exceptions.** The department shall appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches with respect to the purchase of computer software and computer systems. The chief information officer shall submit recommendations of the advisory committee regarding major software projects to the information technology committee for consideration by the committee and the drafting of appropriate legislation to implement the recommendations. The judicial and legislative branches shall annually notify the advisory committee on their major computer software projects and priorities. The chief information officer may exempt an agency from the policies, standards, and guidelines established by the committee to address situations unique to that agency. Before an executive branch state agency, department, or institution, excluding institutions under control of the state board of higher education, may purchase or contract for computer software or computer systems associated with electronic mail, file and print services hosting and support, desktop personal computers and desktop support services, mainframe and distributed computing hosting services, or services for disaster recovery of critical systems, the department shall review the proposed purchase and approve of the purchase.

**SECTION 15. AMENDMENT.** Section 54-59-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-02. Information technology department - Responsibility - Public policy.** The information technology department is established with the responsibility for all wide area network services planning, selection, and implementation for all state agencies, including institutions under the control of the board of higher education, counties, cities, and school districts in this state. With respect to a county, city, or school district, wide area network services are those services necessary to transmit voice, data, or video outside the county, city, or school district. In exercising its powers and duties, the department is responsible for computer support services, host software development, statewide communications services, standards for providing information to other state agencies and the public through the internet, technology planning, process redesign, and quality assurance. The department may not exercise its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications services to private, charitable, or nonprofit entities by privately or cooperatively owned telecommunications companies.

**SECTION 16.** Two new subsections to section 54-59-05 of the North Dakota Century Code are created and enacted as follows:

May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.

Shall purchase information technology equipment, software, and supply items with a cost greater than five hundred dollars on behalf of other state agencies, departments, and institutions, excluding institutions under control of the state board of higher education, and may charge a purchasing fee of ten percent for such purchases.

**SECTION 17. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-05. Powers and duties of department.** The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment or software or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of three years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council before executing a financing agreement. If the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed the

amount appropriated to the department during that biennium for equipment.

5. Each executive branch agency or institution, ~~except~~ excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
- ~~5.~~ 6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
- ~~6.~~ 7. ~~May~~ Shall request information on or review information technology, applications, system development projects, and application development projects of executive branch agencies.
- ~~7.~~ 8. Shall study emerging technology and evaluate its impact on the state's system of information technology.
- ~~8.~~ 9. Shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
- ~~9.~~ 10. Shall review the information technology management of executive branch agencies or institutions; ~~including institutions under the control of the board of higher education as provided in section 54-59-13.~~
- ~~10.~~ 11. Shall perform all other duties necessary to carry out this chapter.

**SECTION 18. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-09. Information technology standards.** Based on information from state agencies and institutions, the department shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be approved by the state information technology advisory committee. Unless an exemption is granted by the ~~department~~ chief information officer, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology, shall comply with the policies and standards developed by the department. Unless an exemption is granted by the ~~department~~ chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and

standards developed by the department with respect to access to or use of wide area network services.

**SECTION 19. REPEAL.** Section 54-59-13 of the North Dakota Century Code is repealed.

Disapproved April 28, 2003

Filed April 28, 2003

**CHAPTER 569****SENATE BILL NO. 2154**

(Education Committee)

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

**TEACHER COMPENSATION AND PER STUDENT  
PAYMENTS**

AN ACT to create and enact four new sections to chapter 15.1-07, a new section to chapter 15.1-12, and a new section to chapter 15.1-27 of the North Dakota Century Code, relating to school district plans, reorganizations, ending balances, and joint powers agreements; to amend and reenact subsection 5 of section 15.1-09-36, section 15.1-21-02, subsection 6 of section 15.1-27-01, sections 15.1-27-04, 15.1-27-05, 15.1-27-06, and 15.1-27-07, subsection 1 of section 15.1-27-10, section 15.1-27-11, subsection 4 of section 15.1-27-19, subsection 4 of section 15.1-27-21, sections 15.1-27-34, 15.1-27-37, 15.1-27-39, and 15.1-29-01, subsection 4 of section 15.1-29-06, sections 15.1-29-13 and 15.1-29-14, subsection 1 of section 15.1-30-01, section 15.1-30-05, subsection 2 of section 15.1-30-15, and sections 15.1-31-05, 15.1-31-06, and 15.1-32-16 of the North Dakota Century Code, relating to per student payments, weighting factors, transportation aid, teacher compensation, teacher compensation reimbursement, and high school units; to repeal sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code, relating to state transportation aid payments; to provide for the distribution of transportation grants; to provide for a legislative council study; to provide for data envelopment analysis completion; to provide for No Child Left Behind Act of 2001 cost estimates; to provide for teacher compensation efforts; to provide for contingent payments; to provide an appropriation; and to provide an effective date.

VEETO

April 28, 2003

The Honorable Jack Dalrymple  
Senate Chambers  
President of the Senate  
State Capitol  
Bismarck, ND 58505

RE: SENATE BILL 2154, the K-12 Education Funding Bill

Dear President Dalrymple,

Senate Bill 2154 does not commit any increase in education funding to teacher compensation in order to continue the progress that we initiated in the last legislative session. I offered increasing teacher compensation payments or earmarking state aid for education for compensation increases. There may be other ways to do it, but we must continue forward.

We have made progress over the past two years in our effort to lift North Dakota from 50th in the nation in teacher salaries. We cannot simply go back to the old way of doing things.

I therefore veto this bill.

Sincerely,

John Hoeven  
Governor

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

**SECTION 1.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**School district demographics - Long-term planning process.**

1. Between January first and June thirtieth of every even-numbered year, the board of each school district shall invite the public to participate in a planning process addressing the effects that demographics might have on the district in the ensuing three-year and five-year periods, and specifically addressing potential effects on:
  - a. Academic and extracurricular programs;
  - b. Instructional and administrative staffing;
  - c. Facility needs and utilization; and
  - d. District tax levies.
2. At the conclusion of the planning process, the board shall prepare a report, publish a notice in the official newspaper of the district indicating that the report is available, and make the report available upon request.

**SECTION 2.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**High school district - Change to elementary district - Prohibited.**

1. Beginning July 2, 2003, a high school district may not become an elementary district.
2. Subsection 1 does not apply to school districts participating in cooperative agreements approved by the superintendent of public instruction.

**SECTION 3.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**Joint powers agreement - Approval by superintendent of public instruction - Criteria.** If school districts participating in joint powers agreements under chapter 54-40.3 wish to receive reimbursement for expenses, as provided in section 19 of this Act, the school districts must request that the superintendent of public instruction approve their joint powers agreement. In order for the



superintendent of public instruction to approve a joint powers agreement, the superintendent shall determine and annually verify that:

1. a. The participating school districts are contiguous; and
  - b. (1) The total land mass of the participating school districts exceeds four thousand square miles [1035995 hectares];
  - (2) The total land mass of the participating school districts exceeds two thousand five hundred square miles [647497 hectares] and the participating school districts number at least six; or
  - (3) The total land mass of the participating school districts exceeds two thousand five hundred square miles [1035995 hectares] and the total number of students in average daily membership in the participating school districts exceeds two thousand five hundred.
2. The joint powers agreement provides that a school district contiguous to any school district already participating in the joint powers agreement may become a participant in the agreement at any time.
3. The joint powers agreement requires that the participating school districts agree to maintain a joint operating fund, agree to share administrative functions, or agree to implement various common requirements; provided that:
  - a. If the participating school districts agree to establish a joint operating fund, the joint powers agreement must require that during the first school year following approval, the participating school districts shall establish a joint operating fund equal to at least two percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval; during the second school year following approval, the participating school districts shall establish a joint operating fund equal to at least four percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval; and during the fifth school year following approval, the participating school districts shall establish a joint operating fund equal to at least six percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval;
  - b. If the participating school districts agree to share administrative functions, the joint powers agreement must require that during the first school year following approval, all of the participating districts shall share in the administration of at least three services; during the third school year following approval, all of the participating districts shall share in the administration of at least five services; and during the fifth school year following approval, all of the participating districts shall share in the administration of at least seven services; and that the list from which the participating districts must select the services to be shared consists of:
    - (1) Federal title program management;

- (2) Staff development;
- (3) Special education delivery;
- (4) Curriculum development or delivery;
- (5) Career and technical education delivery;
- (6) Student instructional support;
- (7) Media and technology;
- (8) Business management;
- (9) Distance learning;
- (10) Student counseling;
- (11) Food and nutrition;
- (12) Facility safety and health;
- (13) School accreditation and improvement; and
- (14) Transportation; and

c. If the participating school districts agree to implement various common requirements, the joint powers agreement must require that during the first school year following approval, all of the participating districts shall implement at least three requirements; during the third school year following approval, all of the participating districts shall implement at least six requirements; and during the fifth school year following approval, all of the participating districts shall implement at least eight requirements; and that the list from which the participating districts must select the requirements to be implemented consists of:

- (1) A common school calendar;
- (2) A common class schedule;
- (3) A common intranet communication system;
- (4) A common class registration process for grades seven through twelve;
- (5) A common curriculum for each grade level from kindergarten through six;
- (6) A common student data system;
- (7) A common school improvement and staff development process;
- (8) Common services, as set forth in a five-year plan;

- (9) A school facilities plan; and
  - (10) Joint funding of dual credit and advance placement courses.
4. The joint powers agreement provides for the employment and compensation of a chief administrator and other staff necessary to carry out the provisions of the agreement and the requirements of this section and section 15.1-27-37.

**SECTION 4.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**Ending fund balance - Amount.**

1. The board of a school district may carryover moneys to the ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the school district may be legally extended.
2. For taxable years beginning after December 31, 2003, and ending on December 31, 2007, the amount carried over by a school district may not exceed fifty percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus twenty thousand dollars.
3. For taxable years beginning after December 31, 2007, the amount carried over by a school district may not exceed forty-five percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus twenty thousand dollars.

**SECTION 5. AMENDMENT.** Subsection 5 of section 15.1-09-36 of the North Dakota Century Code is amended and reenacted as follows:

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~~ state aid payments to which the district is entitled for each student charged an unauthorized fee.

**SECTION 6.** A new section to chapter 15.1-12 of the North Dakota Century Code is created and enacted as follows:

**State board of public school education - Approval of elementary districts prohibited.** The state board of public school education may not approve any reorganization plan that would result in the creation of an elementary district.

**SECTION 7. AMENDMENT.** Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-02. High schools - Required units.**

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
  4. a. Four units of English- language arts;
  2. b. ~~Three~~ Four units of mathematics;

3. c. Four units of science;<sub>1</sub>
4. d. ~~Three~~ Four units of social studies, including one of world history and one of United States history, ~~both of which must emphasize geography;~~<sub>1</sub>
5. e. ~~One~~ One-half unit of health ~~and~~ during each school year;
- f. One-half unit of physical education: during each school year;
6. g. ~~One unit of~~ Two units of fine arts, at least one of which must be music;<sub>1</sub>
7. ~~Any six units selected from business education, economics and the free enterprise system, foreign language, American sign language, and vocational courses including family and consumer sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers. The vocational courses may be offered through cooperative arrangements approved by the state board for vocational and technical education.~~
  - h. Two units of the same foreign language; and
  - i. Two units of vocational education.
2. Each unit which must be made available under subsection 1 must meet or exceed the state content standards.
3. For purposes of this section, unless the context otherwise requires, "make available" means that:
  - a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least all the units provided in subsection 1;
  - b. If a student selects a unit from the list required by subsection 1, the public high school or the nonpublic high school shall provide the unit to the student; and
  - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.
4. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
5. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:

- a. Pay all costs of the student's attendance, except those fees that are permissible under section 15.1-09-36; and
  - b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.
6. The requirements of this section do not apply to alternative high schools or alternative high school education programs.

**SECTION 8. AMENDMENT.** Subsection 6 of section 15.1-27-01 of the North Dakota Century Code is amended and reenacted as follows:

6. If funds appropriated for distribution to districts as ~~per student and transportation~~ state aid become available after April first, the superintendent of public instruction shall distribute the newly available payments on or before June thirtieth.

**SECTION 9. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-04. Per student payment.** The per student payment to which each school district is entitled for the first year of the biennium is two thousand ~~two~~ five hundred ~~eighty-seven~~ nine dollars. The per student payment to which each school district is entitled for the second year of the biennium is two thousand ~~three~~ six hundred ~~forty-seven~~ twenty-three dollars. The per student amount is the basis for calculating state payments to school districts, as provided in sections 15.1-27-06 and 15.1-27-07.

**SECTION 10. AMENDMENT.** Section 15.1-27-05 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-05. (Effective through June 30, 2004) School district equalization factor.** To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~transportation aid,~~ and teacher compensation payments for which a school district is eligible and from that total subtract the following:

1. The product of ~~thirty-two~~ thirty-four mills times the ~~latest available not assessed and equalized~~ taxable valuation of property in the district; and
2. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of seventy-five percent of its actual expenditures plus twenty thousand dollars.

**(Effective after June 30, 2004) School district equalization factor.**

1. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~transportation aid,~~ and teacher compensation payments for which a school district is eligible and from that total subtract the following:

4. a. The product of ~~thirty-two~~ thirty-six mills times the ~~latest available not assessed and equalized~~ taxable valuation of property in the district;
2. b. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars; and
  - c. If the mills levied by the district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.
2. Beginning July 1, 2006, and each year thereafter, the number of mills used by the superintendent of public instruction in determining the product required by subdivision a of subsection 1 must be increased by two over the number of mills used in determining the product required by that subdivision the previous year.

**(Effective after June 30, 2008) School district equalization factor.**

1. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~transportation aid,~~ and teacher compensation payments for which a school district is eligible and from that total subtract the following:
  4. a. The product of ~~thirty-two~~ mills the number of mills prescribed in subsection 2 times the ~~latest available not assessed and equalized~~ taxable valuation of property in the district;
  2. b. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of ~~fifty~~ forty-five percent of its actual expenditures, plus twenty thousand dollars; and
    - c. If the mills levied by the district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.
2. The number of mills used by the superintendent of public instruction in determining the product required by subdivision a of subsection 1 must be increased by two over the number of mills used in determining the product required by that subdivision the previous year.

**SECTION 11. AMENDMENT.** Section 15.1-27-06 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-06. Per student payments - Weighting factors - High school students.** The superintendent of public instruction shall make payments each year, as provided for in this section, 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 15.1-27-21.

1. Each district having under seventy-five students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.625 adjusted by ~~seventy-five~~ eighty-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, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
2. Each district having at least seventy-five but fewer than one hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.335 adjusted by ~~seventy-five~~ eighty-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, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
3. Each district having at least one hundred fifty but fewer than five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.24 adjusted by ~~seventy-five~~ eighty-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, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
4. Each district having at least five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.14 adjusted by ~~seventy-five~~ eighty-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, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
5. Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:

- a. Subsection 1 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if fewer than seventy-five students in average daily membership are enrolled in the alternative education program.
  - b. Subsection 2 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least seventy-five but fewer than one hundred fifty students in average daily membership are enrolled in the alternative education program.
  - c. Subsection 3 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least one hundred fifty but fewer than five hundred fifty students in average daily membership are enrolled in the alternative education program.
  - d. Subsection 4 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least five hundred fifty students in average daily membership are enrolled in the alternative education program.
6. In order to be eligible for enumeration under this section, a student:
- a. Must have completed the work of the eighth grade;
  - b. Must not have completed the work of the twelfth grade; and
  - c. Must be a resident of this state or a nonresident attending a school in this state under the auspices of a foreign student exchange program.

**SECTION 12. AMENDMENT.** Section 15.1-27-07 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-07. Per student payments - Weighting factors - Elementary school students.** The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. a. Each district having only a one-room rural school is entitled to receive the amount of money that results from multiplying the factor 1.28 adjusted by ~~seventy-five~~ eighty-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, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment level provided for in this subdivision is applicable only to the first sixteen students.



- b. If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is located is entitled to receive ninety percent of the per student payment provided for in section 15.1-27-04 for each additional student. The district is not entitled to any payment for more than twenty students in average daily membership.
    - c. If a one-room rural school is located in a district having 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 this section.
    - d. If a 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.
2. Except as provided in subsection 1, each school district having fewer than one hundred students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor 1.09 adjusted by ~~seventy-five~~ eighty-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, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
3. Each school district having at least one hundred students but fewer than one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .905 adjusted by ~~seventy-five~~ eighty-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, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.
4. Each school district having at least one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .95 adjusted by ~~seventy-five~~ eighty-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, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is

that which represents the five-year average cost of the education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.

5. Each school district having students in grades seven and eight is entitled to receive the amount of money that results from multiplying the factor 1.01 adjusted by ~~seventy-five~~ eighty-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, by the number of students in average daily membership in grades seven and eight in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher. The payments provided for in this subsection are not available for students who attend a one-room rural school if that school is the only one in the district that offers educational services to students in grades seven and eight.
6. Each school district having a special education program approved by the director of special education is entitled to receive, for each student who is enrolled in the program and who is at least three years of age but less than the compulsory age for school attendance, the amount of money that results from multiplying the factor 1.01 adjusted by ~~seventy-five~~ eighty-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, by the number of special education students in average daily membership in the program who are at least three years of age but less than the compulsory age for school attendance, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
7.
  - a. Each school district operating a kindergarten as provided for in section 15.1-22-02 is entitled to receive the amount of money that results from multiplying the factor .50 adjusted by ~~seventy-five~~ eighty-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, by the number of kindergarten students in average daily membership in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
  - b. In order to receive the full per student payment available under this section, a district must operate a kindergarten program that

provides the equivalent of ninety full days of classroom instruction during a twelve-month period. A district is entitled to a prorated payment under this section if it operates a kindergarten program of shorter duration.

8. Each school district that educates students who are also enrolled in nonpublic schools is entitled to receive proportionate payments under this section.
9. Each school district is entitled to receive 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.
10. A school district is not entitled to any payments provided for by this chapter unless each teacher employed by the district:
  - a. Holds a teaching license issued by the education standards and practices board; or
  - b. Has been approved to teach by the education standards and practices board.

**SECTION 13. AMENDMENT.** Subsection 1 of section 15.1-27-10 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsection 2, each biennium the superintendent of public instruction shall distribute moneys appropriated by the legislative assembly for per student special education payments to each school district in the state on the basis of students in average daily membership. The superintendent of public instruction shall forward the payments, as calculated under section 15.1-27-05, to eligible school districts in the same manner and at the same time that the superintendent distributes ~~per student and transportation~~ state aid payments. For purposes of this section, "special education" means the provision of special services to students who have special needs, including students who are gifted and talented. Expenditures under this section may not conflict with nonsupplanting and maintenance of effort provisions under the Individuals With Disabilities Education Act, 20 United States Code 1400 et seq.

**SECTION 14. AMENDMENT.** Section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-11. High school districts - Supplemental payments.**

1. The superintendent of public instruction shall calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the sum of:
  - a. The district's latest available net assessed and equalized taxable valuation of property-; plus
  - b. All tuition payments and county and unrestricted federal revenue received by the district, divided by the total of the district's general

fund levy, high school transportation levy, and high school tuition levy.

2. If the quotient is less than the latest available statewide average taxable valuation per student and if the district's educational expenditure per student is below the most recent available statewide average cost of education per student, the superintendent of public instruction shall:
  4. a. Determine the difference between the latest available statewide average taxable valuation per student and the average taxable valuation per student in the high school district;
  2. b. Multiply the result determined under ~~subsection 4~~ subdivision a by the number of students in average daily membership in grades one through twelve in the high school district;
  3. c. Multiply the result determined under ~~subsection 2~~ subdivision b by the number of general fund mills levied by the district in excess of one hundred fifty, provided that any mills levied by the district which are in excess of two hundred ten may not be used in this calculation; and
  4. d. Multiply the result determined under ~~subsection 3~~ by thirty percent subdivision c by a factor calculated by the superintendent of public instruction to result in the expenditure, over the course of the biennium, of the full amount provided for the purpose of this section.
  - e. The result is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15.1-27.

**SECTION 15. AMENDMENT.** Subsection 4 of section 15.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

4. Proportionate payments made under this section during a biennium for summer school courses or programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for ~~per student and transportation~~ state aid payments 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 summer school courses at the high school level and no more than twenty-five percent of the amount made available under this subsection may be used to support remedial summer school programs at the elementary level.

**SECTION 16. AMENDMENT.** Subsection 4 of section 15.1-27-21 of the North Dakota Century Code is amended and reenacted as follows:

4. The superintendent of public instruction shall pay the amount due under this section within the limits of legislative appropriations for ~~per student state aid~~ state aid payments ~~and transportation aid.~~

**SECTION 17. AMENDMENT.** Section 15.1-27-34 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-34. Transfer of funds prohibited - Youth correctional center.** The superintendent of public instruction may not transfer any portion of the funds appropriated for ~~per student~~ state aid payments ~~and transportation aid~~ to the youth correctional center to support the provision of educational services by the youth correctional center.

**SECTION 18. AMENDMENT.** Section 15.1-27-37 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-37. Compensation of teachers - Claim for reimbursement - Rules.**

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15.1-16, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to ~~increase the~~ at least maintain the level of compensation of provided to teachers employed by the district during the 2002-03 school year.
2. The claim must include:
  - a. The number of full-time equivalent teachers employed by the district as of September fifteenth;
  - b. The number of full-time equivalent teachers ~~who will receive an increase in compensation over the amount paid during the previous~~ whose level of compensation will be at least equal to that provided during the 2002-03 school year; and
  - c. The total amount of ~~the increase in~~ any compensation increases provided to full-time equivalent teachers over the level of compensation provided during the 2002-03 school year.
3.
  - a. For the ~~2004-02~~ 2003-04 school year, the reimbursement provided for in this section may not exceed ~~one thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2004.~~
  - b. ~~Except as provided in subdivision c, for the 2002-03 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2002~~ 2003.
  - b. For the 2004-05 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2004.
  - c. For the ~~2002-03~~ 2003-04 school year, the reimbursement under this section for each individual employed as of September 15, ~~2002~~ 2003, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education

standards and practices board, may not exceed one thousand dollars.

- d. For the 2004-05 school year, the reimbursement under this section for each individual employed as of September 15, 2004, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.
4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area vocational and technology center to which the district belongs.
5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

**SECTION 19.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Approved joint powers agreement - Reimbursement by superintendent of public instruction.**

1. The individual employed as a chief administrator for the purpose of carrying out the provisions of a joint powers agreement and any requirements under section 3 of this Act shall submit to the superintendent of public instruction, at the time and in the manner designated by the superintendent, receipts for expenses incurred during a school year in delivering services and programs under section 3 of this Act.
2. The superintendent of public instruction, upon verifying the receipts, shall reimburse the chief administrator of the joint powers agreement for any expenses incurred in delivering services and programs under the auspices of the joint powers agreement as provided in section 3 of this Act. The reimbursement may not exceed the lesser of:

  - a. The total expenses incurred in delivering services and programs under section 3 of this Act; or
  - b. Fifty thousand dollars.
3. The chief administrator shall deposit any moneys received under subsection 2 in the participating districts' joint operating fund.
4. The superintendent of public instruction may not provide any reimbursement to a chief administrator under this section unless the joint powers agreement under which the services and programs are delivered has been approved by the superintendent.

**SECTION 20. AMENDMENT.** Section 15.1-27-39 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-39. Annual salary - Minimum amount.**

1. Beginning with the ~~2001-02~~ 2003-04 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a minimum salary level ~~of salary~~ for the contract period equal to at least ~~eighteen~~ twenty-one thousand ~~five hundred~~ dollars.
2. Beginning with the ~~2002-03~~ 2004-05 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a ~~base~~ minimum salary level for the contract period equal to at least ~~twenty~~ twenty-one thousand five hundred dollars.

**SECTION 21. AMENDMENT.** Section 15.1-29-01 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-29-01. Education of students in bordering states - Payment of tuition.**

1. Students may attend a school in a bordering state in accordance with section 15.1-29-02 under the following circumstances:
  - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school in a bordering state.
  - b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.
  - c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state.
2. If the school board of the district in which the student resides denies a request for a student's attendance in and payment of tuition to another state, the student's parent may appeal the decision to the three-member committee referenced in section 15.1-29-06.
  - a. If the three-member committee determines that the student meets the terms of subdivision b or c of subsection 1, the student may attend school in the bordering state and the board of the student's school district of residence shall pay the tuition.
  - b. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15.1-29-06.
  - c. Notwithstanding the provisions of this section, if a student's school district of residence does not provide for the education of kindergarten students, the district may not pay tuition for a kindergarten student to attend school in a bordering state.
  - d. Any decision by the three-member committee regarding the payment of tuition for high school, elementary, or kindergarten

students may be appealed by the school board or by the student's parent to the state board of public school education. A decision by the state board is final.

3. a. The superintendent of public instruction shall forward all ~~per student and transportation~~ state aid payments for a student attending an out-of-state school to the student's school district of residence.
  - b. The student's district of residence may reduce any tuition payment it must make to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school.
  - c. ~~Transportation payments for a student attending school in a bordering state must be determined as provided in section 15.1-27-27.~~
4. Nothing in this section requires that a school district of residence provide student transportation or payments in lieu of transportation for students attending out-of-state schools.

**SECTION 22. AMENDMENT.** Subsection 4 of section 15.1-29-06 of the North Dakota Century Code is amended and reenacted as follows:

4. A school district of residence may provide transportation to a student for whom tuition is paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district ~~and the admitting district is then entitled to state payments for the transportation of the student.~~

**SECTION 23. AMENDMENT.** Section 15.1-29-13 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-29-13. Tuition payments - Nonresident students.**

1. a. Except as provided in this subsection, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
  - b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
  - c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any ~~per student payment and transportation~~ state aid otherwise payable for the nonresident student.
2. a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection



of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.

- b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.
  - c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.
  - d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.
  - e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.
3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

**SECTION 24. AMENDMENT.** Section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-29-14. Student placement for noneducational purposes - Residency determination - Payment of tuition.**

1. For purposes of applying this chapter, a student's school district of residence is the district in which the student resides:
  - a. At the time that a state court, tribal court, juvenile supervisor, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;
  - b. At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;
  - c. At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or
  - d. At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility.
2. The student's school district of residence is obligated to pay:
  - a. All charges for tuition upon claim of the admitting district; and

- b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
  3.
    - a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.
    - b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for per student and transportation state aid to schools:
      - (1) If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency outside this state; or
      - (2) If a court orders a termination of parental rights with respect to the student's parents.
  4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.
  5. If the student's district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition payments are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition from per student payments and transportation state aid otherwise payable to the student's school district of residence until the tuition due has been fully paid.
  6. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for special education in the case of a student with disabilities or from funds appropriated for per student state aid payments and transportation aid to schools in all other cases.

7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until the special education services are concluded. If the student's custodial parent establishes residency outside this state, or if a court orders a termination of parental rights with respect to the student's parents, the state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for ~~per student and transportation~~ state aid to schools.
8.
  - a. The placing agency shall provide written notice regarding an initial placement and all subsequent placements of a student, by registered mail, to the superintendent of the student's school district of residence and to the superintendent of the admitting district:
    - (1) Within five working days after a placement is made under court order;
    - (2) Within five working days after an emergency placement is made; or
    - (3) At least ten working days prior to any other placement.
  - b. The written notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
  - c. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.
9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition by either the student's school district of residence or the superintendent of public instruction.
10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

**SECTION 25. AMENDMENT.** Subsection 1 of section 15.1-30-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of a school district may:
  - a. Provide for the transportation of a student to and from school; or
  - b. If acceptable to the student's parent, reimburse the parent for expenses incurred in providing meals and lodging to the student outside the student's home, ~~provided that the reimbursement may not exceed the amount permitted under subsection 4 of section 15.1-27-27.~~

**SECTION 26. AMENDMENT.** Section 15.1-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-30-05. Schoolbus transportation services - Optional fee.** The board of a school district that has not been reorganized may charge a fee for the provision of schoolbus transportation service to students. ~~If the service began before July 1, 1981, the total fees charged may not exceed an amount equal to the difference between the state transportation payment and the lesser of the state average cost for transportation or the district's cost during the preceding school year. If the service started on or after July 1, 1981, the total fees charged may not exceed an amount equal to the difference between the state transportation payment and the school district's cost of transportation during the preceding school year. A district that has not previously provided transportation to students shall base its fees on estimated costs during the first year transportation is provided.~~

**SECTION 27. AMENDMENT.** Subsection 2 of section 15.1-30-15 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The board of a school district that provides transportation to its students may contract with other local, state, or federal government entities for the joint provision and integration of transportation services to the public.
- b. A contract under this section must provide for the observation of all safety requirements otherwise imposed by law on schoolbuses, on school vehicles, and on schoolbus drivers when students are being transported.
- c. ~~Transportation services to students provided pursuant to this subsection qualify for state transportation aid under chapter 15.1-27. However, no payments may be made from state funds for any costs incurred as a result of a deviation from established schoolbus routes necessitated by a contract pursuant to this subsection.~~

**SECTION 28. AMENDMENT.** Section 15.1-31-05 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-31-05. Open enrollment - Transportation.** A school district of residence may provide transportation to a student participating in open enrollment. If a district of residence does not provide transportation to a student participating in open enrollment, transportation may be provided by the admitting district, ~~and the admitting district is then entitled to state payments for the transportation of that student.~~

**SECTION 29. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-31-06. Open enrollment - School boards - Standards.**

1. The board of each school district shall set standards for the acceptance and denial of applications for admittance under open enrollment as provided in section 15.1-31-01. The standards may address the capacity of a program, class, grade level, or school building. The standards may not address previous academic achievement,

participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.

2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered.
3.
  - a. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly exert influence on the student or the student's family, in order to encourage participation in the open enrollment program.
  - b. For purposes of this subsection, directly exerting influence means providing information about the school district to individuals who are not residents of that district unless the information is requested.
  - c. If the members of the board of a school district believe that another school district has violated this subsection, the board may file a complaint with the superintendent of public instruction. Upon receipt of a complaint alleging a violation of this subsection, the superintendent of public instruction shall hold a hearing and accept testimony and evidence regarding the complaint. If the superintendent finds that a school district has violated this subsection, the superintendent may withhold some or all of the ~~transportation~~ state aid payments to which the district would be otherwise entitled for a period of one year from the date of the finding. A decision by the superintendent under this subsection is appealable to the state board of public school education. A decision by the state board of public school education is final.

**SECTION 30. AMENDMENT.** Section 15.1-32-16 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-32-16. Transportation services - State reimbursement.** If a student's individualized education program or services plan requires the provision of transportation services, the student's school district of residence shall provide the services by any reasonably prudent means, including a regularly scheduled schoolbus, public transit, commercial transportation, chartered or other contracted transportation, and transportation provided by the student's parent or other responsible party. ~~The school district is entitled to state reimbursement for the provision of transportation services to the student. If transportation is provided by a student's parent, the superintendent may reimburse the school district only for mileage costs.~~

## **SECTION 31. TRANSPORTATION GRANTS - DISTRIBUTION.**

1. The superintendent of public instruction shall distribute from the grants - state school aid line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, to each school district in the state an amount equal to the state transportation aid payments received by the school district during the 2001-03 biennium.
2. If two or more school districts reorganize into a single district on or after July 1, 2003, the superintendent of public instruction shall forward to the newly reorganized district an amount equal to the transportation payments received by each of the districts participating in the reorganization during the 2001-03 biennium.

3. If a school district that received transportation payments during the 2001-03 biennium dissolves on or after July 1, 2003, the superintendent of public instruction shall forward a percentage of the amount equal to that which the dissolved district received for transportation aid payments during the 2001-03 biennium to each school district that enrolls students who attended the dissolved school district during its final year of operation. Each school district eligible for payment under this subsection is entitled to receive that percentage of the total amount payable which is the same as the percentage that the number of district's students who attended the dissolved school district during its final year of operation bears to the total number of students who attended the dissolved school district during its final year of operation.
4. During each year of the 2003-05 biennium, the superintendent of public instruction shall distribute one-half of the payments required by this section to school districts at the same time and in the same manner as required for state aid payments under section 15.1-27-01.

**SECTION 32. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying the manner in which elementary and secondary education is funded in this state and the feasibility and desirability of instituting alternative funding methods, including consideration of the amount of local contribution on a per resident basis. If the legislative council conducts this study, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

**SECTION 33. NO CHILD LEFT BEHIND - COST ESTIMATE.** The superintendent of public instruction shall confer with the United States secretary of education, the education commission of the states, and other public and nonpublic entities to determine the estimated costs that are likely to be incurred by this state during the ensuing eight years in order to meet the requirements of the No Child Left Behind Act of 2001. The superintendent of public instruction shall provide the information obtained to an interim committee designated by the legislative council.

**SECTION 34. DATA ENVELOPMENT ANALYSIS - COMPLETION DATE - REPORT.** The superintendent of public instruction shall complete the data envelopment analysis project, as set forth in Senate Bill No. 2032, as approved by the fifty-eighth legislative assembly, on or before September 1, 2004, and shall report any findings and conclusions to a committee designated by the legislative council, as soon after that date as practicable.

**SECTION 35. SUPPLEMENTAL PAYMENTS - DISTRIBUTION.** The superintendent of public instruction shall distribute from the grants - state school aid line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, an amount for supplemental payments under section 15.1-27-11 equal to the amount that payments to school districts have been reduced as a result of the application of subdivision c of subsection 1 of section 15.1-27-05, as it is in effect after June 30, 2004.

**SECTION 36. DISTRIBUTION OF DIFFERENCE IN PAYMENTS - HOLD HARMLESS PAYMENTS.**

1. If funds appropriated by the legislative assembly to the grants - teacher compensation line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, remain after completion of all statutory

obligations, to the extent of legislative appropriations, the superintendent of public instruction shall:

- a. Calculate the payment to which a school district is entitled during the 2003-05 biennium under this Act; and
  - b. Calculate the payment to which a school district would have been entitled during the 2003-05 biennium under this Act if the per student payments established in section 15.1-27-04 had included the total amount appropriated to the grants - teacher compensation payments line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, and further provided that no requirements for teacher compensation were placed on school districts by section 15.1-27-37.
2. If the amount to which a school district is entitled during the biennium under this Act is less than the amount to which a school district would have been entitled under the parameters of subdivision b of subsection 1, the superintendent of public instruction shall forward the difference between the amounts to the school district on or before June 30, 2005. If insufficient moneys exist to fully meet the requirements of this subsection, the superintendent of public instruction shall prorate the payments according to that percentage of the amount available to which a school district is entitled.
  3. If any moneys remain after the superintendent of public instruction completes the requirements of subsections 1 and 2, the superintendent of public instruction shall use the remaining moneys to provide additional per student payments on a prorated basis, according to the average daily membership of each school district during the 2004-05 school year.

**SECTION 37. CONTINGENT PAYMENTS - DISTRIBUTION.** If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in Senate Bill No. 2013 remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2003, and ending June 30, 2005, the superintendent of public instruction shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$250,000, or so much of that amount as is necessary, for the purpose of providing reimbursements to the chief administrators of joint powers agreements pursuant to section 19 of this Act.
2. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as is necessary, for the purpose of providing reorganization bonuses, pursuant to section 15.1-12-11.1, to school districts having reorganizations effective after July 1, 2003, and before July 1, 2005. If insufficient moneys exist to fully meet the requirements of this subsection, the superintendent of public instruction shall prorate the payments according to that percentage of the amount available to which a school district is entitled.
3. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis,

according to the average daily membership of each school district during the 2004-05 school year.

**SECTION 38. TEACHER COMPENSATION - CONTINUATION OF EFFORT.** The board of a school district shall consider continuing the efforts made in the 2001-03 biennium to increase teacher salaries throughout the state.

**SECTION 39. APPROPRIATION - REORGANIZATION BONUSES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing a reorganization bonus to any school district having a reorganization effective on July 1, 2003, pursuant to section 15.1-12-11.1, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 40. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, 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 under section 15.1-27-11, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 41. REPEAL.** Sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code are repealed.

**SECTION 42. EFFECTIVE DATE.** Section 7 of this Act becomes effective on July 1, 2005.

Disapproved April 28, 2003  
Filed April 28, 2003



**CHAPTER 570****HOUSE BILL NO. 1015**

(Appropriations Committee)  
(At the request of the Governor)

**OIL AND GAS AND GEOLOGICAL SURVEY  
VACANCIES**

AN ACT to provide an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission; to provide a continuing appropriation; to provide for an industrial commission review; to provide an exemption; and to authorize transfers.

**VETO**

May 2, 2003

The Honorable Janet Wentz  
Speaker of the House  
House Chambers  
State Capitol  
Bismarck, ND 58505

Re: Item Veto of HB 1015

Dear Madam Speaker:

Today I have signed HB 1015, but vetoed section 15 of the bill. The section provides that any vacancy, which occurs through retirement or resignation in the Oil and Gas Division or the Geological Survey, must remain vacant for the biennium. It provides no flexibility or management discretion to the Industrial Commission, which manages both agencies.

I recognize the Legislature's direction that the two agencies be consolidated during the biennium, and understand the desire to reduce employees. It is a goal that I can support, provided it is done in an appropriate manner, and will provide more efficient services to the people of North Dakota. We can accomplish the Legislature's goal administratively and in a much less disruptive manner. For these reasons, I have vetoed Section 15.

Sincerely,

John Hoeven  
Governor

Disapproved May 2, 2003  
Filed May 2, 2003

NOTE: For the full text of House Bill No. 1015, including section 15, see chapter 15.

## CHAPTER 571

### HOUSE BILL NO. 1421

(Representatives Belter, Svedjan, Timm)  
(Senators Holmberg, Nething)

## EMERGENCY COMMISSION PETITIONS AND MEMBERS

AN ACT to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to the presentation of emergency request petitions to the emergency commission; to amend and reenact subsection 1 of section 54-16-00.1 and sections 54-16-01, 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, and 54-16-11.1 of the North Dakota Century Code, relating to emergency commission members, procedures employed by the emergency commission, and approvals by the budget section; and to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds.

VETO

May 2, 2003

The Honorable Janet Wentz  
House Chambers  
Speaker of the House  
State Capitol  
Bismarck, ND 58505

Re: Veto of HB 1421

Dear Madam Speaker:

I am hereby vetoing HB 1421 relating to the Emergency Commission. Section 2 of the bill adds unnecessarily, additional members to the Emergency Commission and removes the duly elected Chairman of the Legislative Council.

Under current law, the Emergency Commission is comprised of the Governor, Secretary of State, the Chairman of the Legislative Council, and each Chairman of the Senate and House Appropriations Committees, giving the Legislature a majority of the members.

The Bill adds one additional legislative member, by placing both majority leaders on the Commission and removing the Chairman of Legislative Council and creates a super majority for Legislators, which is unnecessary. For these reasons, I have vetoed the bill.

Sincerely,

John Hoeven  
Governor

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 54-16-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Emergency" means either a calamity or an unforeseen happening subsequent to the time the appropriation was made and which was clearly not within the contemplation of the legislative assembly and the governor.

**SECTION 2. AMENDMENT.** Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.** The emergency commission consists of the governor, the ~~chairman of the legislative council~~ majority leaders of the senate and house of representatives, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ An assistant majority leader may serve as a member of the commission in the place of ~~the chairman of the legislative council~~ a majority leader at the request of the ~~chairman of the legislative council~~ majority leader if that individual is ~~serving on the commission in another capacity or is unable to attend a commission meeting.~~ Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman.

**SECTION 3. AMENDMENT.** Section 54-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-03. Unlawful to expend more than appropriated - May secure approval from commission for use of other funds - Deficit void.** A state officer may not expend, or agree or contract to expend, any amount in excess of the sum appropriated for that expenditure, and may not expend an amount appropriated for any specific purpose or fund or for any other purpose without prior approval in the form of a transfer approval or expenditure authorization as provided in this chapter. The office of management and budget shall provide information to the emergency commission with respect to all emergency requests. Any debt or deficit created by a state officer in violation of this section is void. ~~The emergency commission may not approve an expenditure of institutional income, other than gifts or grants, in excess of the institutional income appropriated to the institution by the legislative assembly.~~

**SECTION 4.** A new section to chapter 54-16 of the North Dakota Century Code is created and enacted as follows:

**Submission of petition to emergency commission.** When an emergency exists, a state officer may present to the emergency commission an itemized, verified petition requesting approval to transfer money and spending authority between funds or line items pursuant to section 54-16-04; accept and expend federal funds pursuant to section 54-16-04.1; accept and expend state contingency funds pursuant to section 54-16-09; or accept and expend other funds pursuant to section 54-16-04.2.

**SECTION 5. AMENDMENT.** Section 54-16-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-04. May order transfer of moneys between funds - Line item transfers - Order may draw from state treasury.** ~~A state officer may present to the emergency commission an itemized, verified petition requesting approval of a transfer of spending authority from the state contingencies appropriation, a transfer of money or spending authority between funds or line items, or expenditure of federal funds. The emergency commission shall request and receive information from, upon the director's advice of the office of management and budget regarding the petition. If the emergency commission finds that an emergency exists, the emergency commission may order money or spending authority transferred from one fund or line item to another fund or line item belonging to or appropriated for the same institution or board or the same state enterprise, may order a transfer of spending authority from the state contingencies appropriation, may authorize expenditure of federal funds, or, in an extremity, may authorize money to be drawn from the state treasury to meet the emergency until the legislative assembly can make an appropriation available. The following transfers may not be, if authorized by the emergency commission without, require the approval by of the budget section of the legislative council:~~

1. A transfer of moneys or spending authority which would eliminate or make impossible the accomplishment of a program or objective funded by the legislative assembly.
2. A transfer exceeding fifty thousand dollars from one fund or line item to another fund or line item, unless the transfer is necessary to comply with a court order or to avoid:
  - a. An imminent threat to the safety of people or property due to a natural disaster or war crisis; or
  - b. An imminent financial loss to the state.

**SECTION 6. AMENDMENT.** Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.1. May authorize acceptance and disbursement of federal funds.** The emergency commission ~~with, upon~~ the advice and counsel of the ~~executive~~ office of the management and budget, may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize passthrough federal funds from one state agency to another state agency. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative council is not required for the acceptance of federal funds if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions. The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly. A state officer may not expend funds received

from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.

**SECTION 7. AMENDMENT.** Section 54-16-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.2. Commission may authorize acceptance and expenditure of moneys.** ~~The~~ Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative council is not required for the acceptance of moneys under this section if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions.

**SECTION 8. AMENDMENT.** Section 54-16-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-09. Transfer of spending authority from state contingencies appropriation.** ~~If the~~ The emergency commission orders, upon the advice of the office of management and budget, may order a transfer of spending authority from the state contingencies appropriation, the amount ordered which must be deducted from the state contingencies line item in the appropriation to the office of management and budget and added to the appropriate line item in the appropriation of the state officer who requested the transfer. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, shall certify, by an approved motion recorded in its minutes, that the material, services, or purposes for which the authority was transferred are necessary and proper expenditures and, if an appropriation for that purpose was made by the legislative assembly, that the appropriation for that purpose is insufficient. The office of management and budget and the emergency commission shall file the certificate as authority for a transfer under this section. Approval by the budget section of the legislative council is not required if the transfer is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state.

**SECTION 9. AMENDMENT.** Section 54-16-11.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-11.1. Emergency commission may increase revenues and appropriation authority for intergovernmental service fund agencies.** Upon presentation of ~~the~~ a verified petition under section 54-16-10 establishing that an emergency exists and the necessity for increased appropriation authority, the emergency commission shall meet to determine if additional demand from state agencies requires an increase in appropriation authority and revenue receipts for the

information technology department, central duplicating, surplus property, or roughrider industries division of the department of corrections and rehabilitation.

**SECTION 10. REPEAL.** Sections 54-16-10 and 54-16-11 of the North Dakota Century Code are repealed.

Disapproved May 2, 2003

Filed May 2, 2003

## CHAPTER 572

### SENATE BILL NO. 2015

(Appropriations Committee)

(At the request of the Governor)

## ALLOTMENTS, INFORMATION TECHNOLOGY RESTRUCTURING, BUDGETING, AND EMPLOYEE REDUCTIONS

AN ACT to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide for various transfers and financial transactions; to provide exemptions from section 54-44.1-11 of the North Dakota Century Code; to create and enact a new section to chapter 15-10, a new subsection to section 53-06.2-04, and a new section to chapter 54-59 of the North Dakota Century Code, relating to contracts for the provision of meals by institutions of higher education, the duties of the racing commission, and required information technology services from the information technology department; to create and enact section 18 of House Bill No. 1414, section 9 of House Bill No. 1012, section 16 of House Bill No. 1015, and section 2 of Senate Bill No. 2176 as approved by the fifty-eighth legislative assembly, relating to reporting disease outbreaks and quarantine of individuals and declaring that Act an emergency measure, to the speed limit on paved two-lane county and township highways and declaring that Act an emergency measure, to the partnership in assisting community expansion fund, the agriculture partnership in assisting community expansion fund, and the beginning farmer loan fund and declaring that Act an emergency measure, and to participation by retired political subdivision employees in the uniform group insurance program and declaring that Act an emergency measure; to amend and reenact sections 15-52-03, 15.1-31-07, 26.1-21-09, 34-06-04.1, 54-35-18, 54-35-18.1, and 54-35-18.2, subsection 2 of section 54-44.1-06, section 54-44.1-12, the new section to chapter 55-02 as created by section 2 of Senate Bill No. 2249 as approved by the fifty-eighth legislative assembly, and section 57-51.1-07.2 of the North Dakota Century Code, relating to tuition apportionment payments, the membership of the medical center advisory council, the reserve amount in the bonding fund, overtime or work-period claims, the expiration date and membership of the electric industry competition committee, preparation of budget data, budget allotments, the powers of the state historical board, and payments into the permanent oil tax trust fund; to provide statements of legislative intent; to require reports to the legislative assembly; to provide an exception to section 54-44.1-06 of the North Dakota Century Code, relating to the preparation of certain appropriation bills; to provide for reports to the budget section; to provide for a legislative council study; to provide for additional lodging reimbursement for members of the legislative assembly; to provide for state employee reductions and compensation pools; to provide for the transfer of state agency information technology positions; to provide an appropriation; to provide for a tax amnesty program; to provide an expiration date; and to declare an emergency.

## VETO

May 2, 2003

The Honorable Jack Dalrymple  
President of the Senate  
Senate Chambers  
State Capitol  
Bismarck, ND 58505

Re: Item Veto of SB 2015

Dear Lt. Gov. Dalrymple:

Today I have signed SB 2015, but vetoed the following sections of the bill for reasons expressed below. These item vetoes have been carefully considered. I have discussed the basic concerns with the Legislative leadership and believe that some of these issues will be addressed during the upcoming Special Session.

**Section 23:** The Section requires that any allotment under 54-44.1-12 must be made to address any projected deficiency. The section does not represent sound budget management policy. It would allow a deficiency to be written into a biennial budget that would have to be paid for by the rest of state government if an allotment was required rather than properly budgeting for the deficiency at the outset. Likewise, an unforeseen deficiency during the budget cycle could force unwarranted cuts and jeopardize basic services because the allotment would have to include the deficiency. Budget flexibility and soundness are key principals of state government and of this administration. Section 23 does not comport with those principals and so I must veto it.

**Sections 24, 28 and 29:** These sections are all a part of a complex restructuring of the Informational Technology Department and IT functions within state government, that seek to achieve savings and efficiencies. I will support any system, legislation or other means that clearly demonstrates savings to the taxpayers, and more efficient delivery of service. Sections 24, 28 and 29 have not been shown to provide these results. They mandate some, but not all of state government must obtain IT services from ITD. They mandate by November 1, 2003, the transfer of 25 FTEs performing IT services in some agencies, to ITD. I favor efficiencies, cost savings, competition and compatibility in the State's information technology systems. I will work with the Legislature to those ends, but sections 24, 28 and 29 appear to create a maze of bureaucratic maneuverings that will lead us to different end. Therefore I must veto them.

**Section 35:** This section ventures into executive budget functions, a similar provision of which I vetoed in the 2001 Legislative Session. It mandates that four agencies submit hold even budgets for the 2005-2007 biennium. Those agencies are Department of Public Instruction, Department of Corrections and Rehabilitation, Treasurer, and Secretary of State. The executive branch should be free to prepare and submit a fiscally sound budget for each agency following the usual rigorous review and examination of the executive budget building process. That process will yield sound budgets that are subject to further review and examination during the following legislative session. Mandating four agencies to submit hold even budgets does not allow for sound planning into the coming budget cycle to consider changing



circumstances and needs. It does not represent sound budgeting policy, so I must veto it.

**Sections 36, 37, 38 and 39:** These sections all relate to reductions in full time equivalents and a potential salary adjustment for public employees. I support the Legislature's intent of reducing pressure upon the budget by finding permanent cost reductions. All of North Dakota will benefit from such a goal, including the taxpayers, and public employees. I will work with the Legislature to achieve that goal and in re-writing these provisions. But, I cannot support them as written as they are rigid and provide little flexibility or incentive for managers and employees to embrace the goal and seek its achievement. Some agencies will be able to provide no contribution to the reductions, while others may do their part while sharing cost savings with the rest of state government. The system must have management flexibility so that administrators can make decisions that will best serve the public interest and meet the goal. We should take stock in time honored management lessons and allow flexibility and discretion in meeting goals, and hold managers accountable for meeting them. These sections fall short of that direction so I must veto them as well.

In issuing these vetoes, I have discussed these issues with legislative leaders and hope to resolve many of them in the coming days of the special session. I welcome the effort and look forward to fashioning concluding bills that answer these concerns in a manner that more fully meets the needs of our state.

Sincerely,

John Hoeven  
Governor

Disapproved May 2, 2003  
Filed May 2, 2003

NOTE: For the full text of Senate Bill No. 2015, including sections 23, 24, 28, 29, 35, 36, 37, 38, and 39, see chapter 36.