

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1177  
(Representatives Wald, Haas, Herbel, Klein)  
(Senators G. Lee, Wardner)

AN ACT to create and enact a new section to chapter 15.1-16 of the North Dakota Century Code, relating to salary increases for unfillable positions.

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

**SECTION 1.** A new section to chapter 15.1-16 of the North Dakota Century Code is created and enacted as follows:

**Salary increase - Unfillable position.**

1.
  - a. If, after the conclusion of a school calendar, the board of a school district has a teaching position vacant and if the board, having done all things necessary and proper, is unable to fill that position by the forty-fifth day prior to the start of the district's school calendar with an individual who is highly qualified and who meets reasonable criteria established by the board, the board shall notify the superintendent of public instruction that:
    - (1) A teaching position is vacant;
    - (2) The board has done all things necessary and proper after learning of the vacancy to find a suitable and highly qualified candidate; and
    - (3) The board will be unable to meet the statutory requirements for school approval if the position remains unfilled.
  - b. Unless the superintendent of public instruction has reason to believe that the information contained in the notice as provided in subdivision a is not accurate, the superintendent shall authorize the board, notwithstanding the terms of any agreement negotiated under this chapter, to increase the compensation offered for that position to the extent deemed necessary by the board in order to attract a suitable and highly qualified individual. The compensation paid to a successful applicant under this section may not be reduced in future years.
2.
  - a. If a teaching position becomes vacant during a school calendar or less than forty-five days prior to the start of the school calendar, the board of a school district shall do all things necessary and proper to ensure that the vacancy causes only minimal disruption to the instruction of students and that the position becomes filled as quickly as possible by a highly qualified individual who meets the reasonable criteria established by the board. The board shall notify the superintendent of public instruction that the vacancy exists and that the board will be unable to meet the requirements for school approval if the position remains unfilled.
  - b. Upon receipt of the notice as provided in subdivision a, the superintendent of public instruction shall contact the several education associations in this state and ask that they assist the board of the school district in any way possible to locate and employ an individual under the terms of the district's existing negotiated agreement. Only when the superintendent determines that all reasonable efforts have been unsuccessful may the superintendent authorize the board, notwithstanding the terms of any agreement negotiated under this chapter, to offer the level of compensation it

deems necessary in order to attract a suitable and highly qualified individual for the duration of the school calendar.

3. If an individual resigns from a teaching position with a district, the individual may be rehired by the board of that district to fill a vacancy, but the individual is not eligible to receive a level of compensation greater than that provided for in the district's negotiated agreement.
4. If an individual has taught in this state during the preceding twelve months, the individual is not eligible to receive a level of compensation greater than that provided for in the district's negotiated agreement.
5. This section is applicable to contracts that are negotiated under this chapter and which take effect after July 31, 2007.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1177.

House Vote:      Yeas    73      Nays    17      Absent    4

Senate Vote:    Yeas    27      Nays    19      Absent    1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State