

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 146

HOUSE BILL NO. 1293

(Representatives K. Koppelman, Heilman, Karls, Nathe,
Rohr, Ruby, Sanford, Thoreson, Hunskor)
(Senators Luick, Schaible, Nelson)

AN ACT to amend and reenact sections 15.1-04.1-01, 15.1-04.1-02, 15.1-04.1-03, 15.1-04.1-04, 15.1-06-01, 15.1-21-02.1, 15.1-29-13, and 37-03-16 of the North Dakota Century Code, relating to the compact on educational opportunity for military children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-04.1-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-01. (~~Effective through July 31, 2013~~) Compact on educational opportunity for military children.

The compact on educational opportunity for military children is entered with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I - PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;

6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and
8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II - DEFINITIONS

As used in this compact, unless the context otherwise requires:

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.

11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III - APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

- b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
2. This compact only applies to school districts as defined in this compact.
 3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV - EDUCATIONAL RECORDS AND ENROLLMENT

1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the

receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V - PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or guardian.

ARTICLE VI - ELIGIBILITY

1. Eligibility for enrollment:
 - a. A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
 - b. A school district may not charge tuition to a transitioning military child placed in the care of a noncustodial parent or other individual standing in loco parentis who lives in a school district other than that of the custodial parent.
 - c. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school district other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.
2. The superintendent of public instruction, school districts, and the North Dakota high school activities association shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII - GRADUATION

To facilitate the on-time graduation of children of military families, the superintendent of public instruction and school district administrators shall incorporate the following procedures:

1. School district administrators shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the receiving school district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
2. States must accept exit or end-of-course examinations required for graduation from the sending state, national norm-referenced achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state. If these alternatives cannot be accommodated by the receiving state for a student transferring in the student's senior year, then subsection 3 applies.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII - STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies,

school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX - INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission,

- the governor or state council may delegate voting authority to another person from the state for a specified meeting.
- d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
 6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
 7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.
 8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
 9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;
 - c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;

- e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
 11. The commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
 12. The commission shall create a process that permits military officials, education officials, and parents to inform the commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X - POWERS AND DUTIES OF THE COMMISSION

The commission may:

1. Provide for dispute resolution among member states;
2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
5. Establish and maintain offices within one or more of the member states;
6. Purchase and maintain insurance and bonds;

7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI - ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;

- b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
 3. a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
 - b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred,

or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII - RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds

that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII - OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1. a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by

the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.

6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV - FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI - WITHDRAWAL AND DISSOLUTION

1. a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII - SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact are severable and if any phrase, clause, sentence, or provision is determined unenforceable, the remaining provisions of the compact are enforceable.
2. This compact must be liberally construed to effectuate its purposes.
3. Nothing in this compact prohibits the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII - BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.
2.
 - a. All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.
 - b. All agreements between the commission and the member states are binding in accordance with their terms.
 - c. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 2. AMENDMENT. Section 15.1-04.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-02. (~~Effective through July 31, 2013~~) Compact on educational opportunity for military children - State council - Appointment.

The state council on educational opportunity for military children consists of:

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
 - a. The compact commissioner appointed under section 15.1-04.1-03; and

- b. The military family education liaison, appointed under section 15.1-04.1-04.

SECTION 3. AMENDMENT. Section 15.1-04.1-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-03. (~~Effective through July 31, 2013~~) Compact commissioner - Appointment - Duties.

The governor shall appoint a compact commissioner who shall be responsible for the administration and management of the state's participation in the compact on educational opportunity for military children.

SECTION 4. AMENDMENT. Section 15.1-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-04. (~~Effective through July 31, 2013~~) Military family education liaison - Appointment - Duties.

The state council on educational opportunity for military children shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of the compact on educational opportunity for military children.

SECTION 5. AMENDMENT. Section 15.1-06-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-01. (~~Effective through July 31, 2013~~) Schools free and accessible - School ages.

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

instruction and administered by the school district, can demonstrate superior academic talents or abilities and social and emotional readiness.

4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

(Effective after July 31, 2013) Schools free and accessible--School ages.

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

SECTION 6. AMENDMENT. Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. (Effective through July 31, 2013) High school diploma - Minimum units.

Except as provided in section 15.1-21-02.3 or as otherwise agreed to in the compact on educational opportunity for military children, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed:

1. The twenty-two units of high school coursework set forth in section 15.1-21-25; and

2. Any additional units of high school coursework required by the issuing entity, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.

(Effective after July 31, 2013) High school diploma – Minimum units.

Except as provided in section 15.1-21-02.3, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed:

1. ~~The twenty-two units of high school coursework set forth in section 15.1-21-25; and~~
2. ~~Any additional units of high school coursework required by the issuing entity, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.~~

SECTION 7. AMENDMENT. Section 15.1-29-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-13. (Effective through July 31, 2013) Tuition payments - Nonresident students.

1. a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, 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 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.

(Effective after July 31, 2013) 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 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 8. AMENDMENT. Section 37-03-16 of the North Dakota Century Code is amended and reenacted as follows:

37-03-16. ~~(Effective through July 31, 2013)~~ Adjutant general - Provision of funding - Source.

The adjutant general shall pay all expenses incurred by the state to participate in the compact on educational opportunity for military children, including the reimbursement of actual and necessary expenses incurred by members of the state council, from the operating expenses line item in the appropriation bill for the adjutant general, as approved by the legislative assembly.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 147

SENATE BILL NO. 2216

(Senators Schaible, Luick, Marcellais)
(Representatives Brandenburg, Rust, Sanford)

AN ACT to amend and reenact section 15.1-09-05 of the North Dakota Century Code, relating to causes of vacancy for school board positions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The business manager of a school district shall notify the county superintendent that a vacancy exists on the school board.
2. The board of a school district shall fill by appointment or special election any vacant seat on the board. The term of an individual selected by appointment or special election to fill a vacancy extends until a successor is elected and qualified at the next annual election. If a school board fails to fill a vacancy by appointment or fails to call a special election to fill a vacancy within sixty days from the time the vacancy occurred, the county superintendent shall call a special election to fill the vacancy. The election must be conducted in the same manner as the annual school district election.
3. If a vacancy reduces the membership of a school board to less than a quorum, the state board of public school education shall appoint to the school board as many individuals as necessary to achieve a quorum. The school board then shall fill the remaining vacancies. After the vacancies have been filled, any individual appointed by the state board shall resign and the school board shall fill the vacancy in accordance with this section. After resigning, the individual who had been appointed by the state board may be reappointed by the school board to fill the vacancy.
4. ~~The causes for which a~~ vacancy may be declared ~~include a member's death, refusal to serve, failure to qualify for the office, resignation, removal from office by a court of competent jurisdiction, and relocation to a residence outside the school district~~ for any reason set forth in section 44-02-01.
5. The business manager shall certify any appointment made under this section to the county superintendent of schools.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 148

HOUSE BILL NO. 1401

(Representatives Looyesen, Dockter)

AN ACT to amend and reenact sections 15.1-09-14, 15.1-09-15, 15.1-09-16, 15.1-09-17, and 16.1-15-17 of the North Dakota Century Code, relating to the date for the canvass of an election.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-14. School district election - Vote tally.

Upon the closing of the polls, the judges shall count and canvass the votes for each office. ~~Within forty-eight hours after the closing of the polls~~ At the conclusion of the canvass of votes on election night, the judges and clerks of the election shall sign the returns and file them with the business manager of the school district. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement.

SECTION 2. AMENDMENT. Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-15. School district election - Declaration of winner.

~~The~~ On the sixth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election within three days of the election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

SECTION 3. AMENDMENT. Section 15.1-09-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-16. School district election - Tie breaker.

If the election results in a tie, the business manager of the district shall notify, in writing, the candidates between whom the tie exists. Within three days after the canvass of the election by the school board, at a time agreed upon by the candidates, the election must be decided in the presence of the judges and clerks of the election, by a drawing of names. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office

when a vacancy exists. The school district business manager shall make and keep a record of the proceedings.

SECTION 4. AMENDMENT. Section 15.1-09-17 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-17. Notification of elected individuals - Notice to county superintendent of schools.

Within ~~five~~three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. Within ten days after the ~~election~~canvass by the school board, the business manager shall certify the individuals elected and their terms to the county superintendent of schools.

SECTION 5. AMENDMENT. Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.

~~Not earlier than the third~~On the sixth day following each election, ~~but not later than six days after each election~~, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 149

HOUSE BILL NO. 1429

(Representatives Heilman, Hawken, D. Johnson, N. Johnson, J. Nelson)
(Senators Berry, J. Lee, Murphy, Nelson, Poolman, Sorvaag)

AN ACT to amend and reenact section 15.1-09-58 of the North Dakota Century Code, relating to early childhood education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁰ **SECTION 1. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-58. ~~Prekindergarten — program~~ Early childhood education - Authorization - Support.

The board of a school district may establish a ~~prekindergarten~~ early childhood education program and, provided the program is approved by the superintendent of public instruction in accordance with chapter 15.1-37, ~~may receive and expend any state support that program with:~~

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program, ~~any federal;~~
3. Federal funds specifically appropriated or approved for the program, ~~and any gifts; and~~
4. Gifts, grants, and donations specifically given for the program.

Approved April 18, 2013
Filed April 18, 2013

⁵⁰ Section 15.1-09-58 was also amended by section 1 of Senate Bill No. 2229, chapter 150.

CHAPTER 150

SENATE BILL NO. 2229

(Senators Poolman, J. Lee, Murphy)
(Representatives Hawken, N. Johnson, Hogan)

AN ACT to amend and reenact section 15.1-09-58 of the North Dakota Century Code, relating to early childhood education; and to provide for a superintendent of public instruction study of early childhood care and early childhood education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵¹ **SECTION 1. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-58. ~~Prekindergarten~~ ~~program~~ Early childhood education - Authorization - Support.

The board of a school district may establish a ~~prekindergarten~~ early childhood education program and may ~~receive and expend any state~~ support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program, ~~any federal;~~
3. Federal funds specifically appropriated or approved for the program, ~~and any gifts; and~~
4. Gifts, grants, and donations specifically given for the program.

SECTION 2. EARLY CHILDHOOD CARE AND EARLY CHILDHOOD EDUCATION - STUDY BY SUPERINTENDENT OF PUBLIC INSTRUCTION - REPORT TO LEGISLATIVE MANAGEMENT.

1. The superintendent of public instruction shall study the development, delivery, and administration of comprehensive early childhood care and early childhood education in this state. The study must include an examination of the availability, quality, and cost of services offered by existing public and private sector providers, the projected need for services during the coming ten to twenty years, and the ability of public and private sector providers to address the expansion of facilities or the creation of additional facilities.
2. The superintendent of public instruction may appoint a committee, work groups, task forces, and subcommittees, as necessary, to provide or obtain information required in conjunction with this study.

⁵¹ Section 15.1-09-58 was also amended by section 1 of House Bill No. 1429, chapter 149.

3. Before June 1, 2014, the superintendent of public instruction shall provide a final report, together with recommendations, to the legislative management.

Approved April 15, 2013

Filed April 16, 2013

CHAPTER 151

HOUSE BILL NO. 1146

(Representatives Rust, Sanford)

AN ACT to amend and reenact sections 15.1-01-01, 15.1-12-05, 15.1-12-09.1, 15.1-12-10, and 15.1-12-27 of the North Dakota Century Code, relating to the state board of public school education and school district annexation, reorganization, and dissolution proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The state board of public school education consists of the superintendent of public instruction and:
 - a. An individual representing Barnes, Cass, Grand Forks, Griggs, Nelson, Steele, and Traill Counties;
 - b. An individual representing Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh Counties;
 - c. An individual representing Dickey, Emmons, LaMoure, Logan, McIntosh, Ransom, Richland, and Sargent Counties;
 - d. An individual representing Burleigh, Eddy, Foster, Kidder, McLean, Sheridan, Stutsman, and Wells Counties;
 - e. An individual representing Burke, Divide, McKenzie, Mountrail, Ward, and Williams Counties; and
 - f. An individual representing Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, and Stark Counties.
2. All board members other than the superintendent of public instruction must be qualified electors and must reside in one of the counties they represent.
3. The governor shall appoint new board members from a list of three names submitted by a committee consisting of the president of the North Dakota education association, the president of the North Dakota council of educational leaders, and the president of the North Dakota school boards association. Two of the state board members must be members of the North Dakota school boards association.
4. Appointees serve for six-year terms, staggered so that the terms of two members expire on June thirtieth of each even-numbered year.

5. If a vacancy occurs, the governor shall appoint an individual to serve for the duration of the unexpired term.
- 4-6. ~~Board members are~~Each member of the board is entitled to receive, from the biennial appropriation for the superintendent of public instruction, compensation at the rate~~in the amount~~ of sixty-two dollars and fifty cents per day and reimbursement for expenses, from the biennial appropriation for the superintendent of public instruction, as provided by law for state officers, if ~~they are~~the member is attending board meetings or performing duties directed by the board. ~~No~~The compensation may be paid under~~provided for~~ in this section may not be paid to any member who receives compensation or a salary as a state employee or official~~a salary or other compensation as an employee or official of this state if the individual is serving on the board by virtue of the individual's state office or state employment.~~
- 5-7. The superintendent of public instruction shall serve as the executive director and secretary of the board. The superintendent shall call meetings as necessary, carry out the policies of the board, and employ personnel necessary to perform the board's duties.
8. The board shall annually elect one member to serve as the chairman.

SECTION 2. AMENDMENT. Section 15.1-12-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Upon receiving a petition for the annexation of property to a school district, the county superintendent shall schedule and give notice of a public hearing regarding the annexation.
2. The county superintendent shall publish notice of the public hearing in the official newspaper of the county in which the major portion of each affected school district's real property is situated, at least fourteen days before the date of the hearing. If no newspaper is published in the county, the county superintendent shall publish the notice in a newspaper in an adjoining county in this state.
3. Before the hearing, the county committee shall:
 - a. Determine the number of qualified electors residing on the property to be annexed;
 - b. Ensure that two-thirds of such qualified electors have signed the petition; and
 - c. Ensure that all other statutory requirements regarding the petition have been met.
4. At the hearing, the county committee shall accept testimony and documentary evidence regarding:
 - a. The value and amount of property held by each affected school district;
 - b. The amount of all outstanding bonded and other indebtedness of each affected district;

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- c. The levies for bonded indebtedness to which the property will be subjected or from which the property will be exempted, as provided for in section 15.1-12-08;
 - d. The taxable valuation of each affected district and the taxable valuation under the proposed annexation;
 - e. The size, geographical features, and boundaries of each affected district;
 - f. The number of students enrolled in each affected district;
 - g. ~~The general population of each affected district;~~
 - h. Each school in the district, including its name, location, condition, the grade levels it offers, and the distance that students living in the petitioned area would have to travel to attend school;
 - i-h. The location and condition of roads, highways, and natural barriers in each affected district;
 - j-i. Conditions affecting the welfare of students residing on the property to be annexed;
 - k-j. The boundaries of other governmental entities;
 - l-k. The educational needs of communities in each affected district;
 - m-l. Potential savings in school district transportation and administrative services;
 - n-m. The potential for a reduction in per student valuation disparity between the affected districts;
 - o-n. The potential to equalize or increase the educational opportunities for students in each affected district; and
 - p-o. All other relevant factors.
5. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall make specific findings of fact and approve or deny the annexation. If the annexation is approved, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding and the county committee's decision to the state board for final approval of the annexation.
 6.
 - a. Except as provided in this subsection, the state board shall conduct a hearing after publication of a notice in the manner required in subsection 2, accept and consider testimony and documentary evidence regarding the proposed annexation, make specific findings, and approve or deny the annexation.
 - b. If no opposition is presented to the county committee at the hearing and the county committee approves the annexation, the state board may review the record of the county committee and give final approval to the annexation without holding its own hearing.

7. If the school districts involved in a proposed annexation include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the annexation petition.
8. If the school districts involved in a proposed annexation are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the annexation petition. The county committees shall vote separately on whether to approve the annexation.
9. If the state board denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months after the state board's denial. A petition involving any of the same property cited in the original petition may not be considered by the state board more than twice in a twelve-month period.
10. Regardless of how many county committees consider the annexation, the decision may be appealed to the state board.
11. Each annexation must receive final approval from the state board.
12. The county superintendent with whom the petition has been filed shall forward all minutes, records, documentary evidence, and other information regarding the annexation, and the county committee's decision to the state board for final approval or for consideration of an appeal.
13. A decision of the state board with respect to an annexation petition may be appealed to the district court of the judicial district in which the property to be annexed is located.

SECTION 3. AMENDMENT. Section 15.1-12-09.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-09.1. Reorganization plan - ~~Interim fund balance~~General fund mill levy.

~~1. The reorganization plan must specify whether the balance in the interim fund of each district participating in the reorganization is to be wholly or partially allocated to the general fund of the newly reorganized district.~~

~~2. If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be wholly allocated to the general fund of the newly reorganized district, the~~ A reorganization plan may also provide that the general fund mill levy applicable to property in those participating districts having a general fund mill levy that is lower than the proposed general fund mill levy for the reorganized district may be raised incrementally, over a period of ~~not to exceed~~ five years, to the level proposed for the reorganized district.

3. a. ~~If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be partially allocated to the general fund of the newly reorganized district, then each participating district shall divide the amount of its interim fund balance on the day preceding the effective date of the reorganization by the number of~~

students in average daily membership in the district during the school year concluding on the day preceding the effective date of the reorganization.

- ~~b. The participating district having the lowest per student interim fund balance must contribute the total amount of its interim fund balance to the general fund of the newly reorganized district.~~
- ~~c. Each of the other participating districts shall multiply the lowest district's per student interim fund amount by the number of students in average daily membership in their respective districts during the school year concluding on the day preceding the effective date of the reorganization. Each of the other participating districts must contribute the lesser of the amount arrived at under this subdivision or the total amount in its interim fund to the general fund of the newly reorganized district.~~
- ~~d. If after complying with the requirements of subdivision c, a participating district has a balance available in its interim fund, the reorganization plan must allow that balance to be used by or on behalf of property owners residing within the boundaries of that participating district, as a proportionate credit against any property taxes owed by the property owners. The reorganization plan must determine the manner in which the proportionate credit must be used. The credit may be used either in its entirety on a single occasion or applied to several taxable years. The credit may not be used beyond the fifth taxable year.~~

SECTION 4. AMENDMENT. Section 15.1-12-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-10. School district reorganization - Contents of plan - Public hearing - Testimony and evidence.

1. The reorganization plan required by section 15.1-12-09 must:
 - a. Include a map showing the boundaries of each participating district and of the proposed new district;
 - ~~b. Include the demographic characteristics of each participating district, including the population per age group;~~
 - e. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
 - ~~d.c.~~ Include projected student enrollments for the ensuing ten years;
 - ~~e.d.~~ Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
 - ~~f.e.~~ Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
 - ~~g.f.~~ Address planned course offerings by the new district;
 - ~~h.g.~~ Include the planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district;

- i-h. Include the planned number of members who will constitute the board of the new district and the manner in which the members are to be elected;
 - j-i. Address plans regarding student transportation;
 - k-j. Identify other governmental entities, including multidistrict special education units and area career and technology centers, which may provide services to the new district;
 - l-k. Include the taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district;
 - m-l. Include the amount of all bonded and other indebtedness incurred by each participating district;
 - n-m. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
 - o-n. Include a proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law;
 - p-o. Include the official name of the new district, which must include the phrase "school district" or "public school district" and which may include no more than two additional words; and
 - p. Include the number of the new district, as assigned by the superintendent of public instruction; and
 - q. Include any other information that the participating school districts wish to have considered by the county committee or the state board.
2. Upon receiving a reorganization plan, the county superintendent shall schedule and give notice of a public hearing regarding the plan. If the school districts involved in a reorganization plan include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the reorganization plan. If the school districts involved in a reorganization plan are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the reorganization plan.
 3. The county superintendent shall publish the notice in the official newspaper of the county at least fourteen days before the date of the hearing.
 4. If no newspaper is published in the county, the county superintendent shall publish the notice in the official newspaper of an adjoining county in this state.
 5. Before the hearing, the county committee shall review the reorganization plan and ensure that all statutory requirements have been met.

6. At the hearing, the county committee shall accept testimony and documentary evidence regarding the reorganization plan.
7. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall approve or deny the reorganization plan.
8. If the plan is approved by at least one county committee, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding, and the county committee's decision, to the state board for final approval. The state board shall publish notice of its meeting at which it will consider the reorganization plan in the official newspaper of the county at least fourteen days before the date of the meeting. If no newspaper is published in the county, the state board shall publish the notice in the official newspaper of an adjoining county in this state.
9. To become effective, a reorganization plan must meet all statutory requirements and must receive approval by both the state board and a majority of electors residing within each school district.

SECTION 5. AMENDMENT. Section 15.1-12-27 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other high school districts. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a high school district adjacent to the dissolving district, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each high school district adjacent to the dissolving district.
2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution.
3. The county committee shall consider testimony and documentary evidence regarding:
 - a. The value and amount of property held by the dissolving school district;
 - b. The amount of all outstanding bonded and other indebtedness;
 - c. The distribution of property and assets among the high school districts to which the dissolved district is attached;
 - d. The taxable valuation of the dissolving district and adjacent high school districts and the taxable valuation of adjacent high school districts under the proposed manner of dissolution;
 - e. The size, geographical features, and boundaries of the dissolving district and of adjacent high school districts;

- f. The number of students enrolled in the dissolving district and in adjacent high school districts;
 - ~~g. The general population of the dissolving district and adjacent high school districts;~~
 - h. Each school in the dissolving district and in adjacent high school districts, including its name, location, condition, accessibility, and the grade levels it offers;
 - ~~i-h.~~ The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent high school districts;
 - ~~j-i.~~ Conditions affecting the welfare of students in the dissolving district and in adjacent high school districts;
 - ~~k-j.~~ The boundaries of other governmental entities;
 - ~~l-k.~~ The educational needs of communities in the dissolving district and in adjacent high school districts;
 - ~~m-l.~~ Potential savings in school district transportation and administrative services;
 - ~~n-m.~~ The anticipated future use of the dissolving districts' buildings, sites, and playfields;
 - ~~o-n.~~ The potential for a reduction in per student valuation disparities between the high school districts to which the dissolved district is attached;
 - ~~p-o.~~ The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent high school districts; and
 - ~~q-p.~~ All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property attached to one or more contiguous, operating high school districts.
 5. Any property ordered attached under this section must have at least one minor residing within its boundaries.
 6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.
 7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.

8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent high school districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.
9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.
10. The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 152

HOUSE BILL NO. 1296

(Representatives K. Koppelman, Hatlestad,
Karls, Nathe, Rohr, Sanford, Wall, Hunskor)
(Senators Andrist, Schaible, Nelson)

AN ACT to amend and reenact section 15.1-13-20 of the North Dakota Century Code, relating to teachers licensed in other states.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-13-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-20. Applicants licensed in other states.

1. The board shall grant a teaching license to an applicant who holds a regular teaching license or certificate from another state, provided:
 - a. The applicant's licensure or certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in early childhood education, elementary education, middle level education, or a content area taught at a public high school;
 - b. The applicant's licensure or certification is based upon the completion of a professional education sequence from a state-approved teacher education program and includes supervised student teaching;
 - c. The applicant submits the required fee and a criminal history record check, as required of initial applicants by this chapter; and
 - d. The criminal history record check reveals nothing for which a North Dakota applicant would be denied initial licensure.
2.
 - a. A license granted under this section is valid for two years if the applicant has not been licensed in another state for at least eighteen months.
 - b. Notwithstanding subdivision a, if the individual received a teaching license or certificate from another state on or after January 1, 2002, and if the issuing state did not require that the individual pass a state test as a condition of licensure or certification, the board shall require that the individual, within two years from the date of licensure, pass all state licensure tests normally required of applicants from this state.
 - c. In all other cases, a license granted under this section is valid for five years and is renewable if the licenseholder meets the reeducation requirements established for all five-year license renewals.
3. A license granted under this section must include all of the applicant's endorsements issued or recognized by the applicant's other state of licensure.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 153

HOUSE BILL NO. 1028

(Legislative Management)
(Education Funding and Taxation Committee)

AN ACT to amend and reenact section 15.1-18.2-04 of the North Dakota Century Code, relating to concussion management program requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-18.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18.2-04. Student athletics - Concussion management program - Requirements.

1. Each school district and nonpublic school that sponsors or sanctions any athletic activity in this state and requires a participating student to regularly practice or train, and compete, is subject to the terms of a concussion management program.
2. The concussion management program must set forth in clear and readily comprehensible language the signs and symptoms of a concussion.
3. a. ~~The concussion management program must require that an official remove a student from competition and that a student's coach or a student's athletic trainer remove the~~ student be removed from practice, training, or competition if:
 - a. (1) The student reports any sign or symptom of a concussion, as set forth in accordance with this section;
 - b. (2) The official, ~~coach, or athletic trainer determines that the student exhibits any sign or symptom of a concussion, as set forth in accordance with this section; or~~
 - c. (3) ~~The official, coach, or athletic trainer is notified that the student has reported or exhibited any sign or symptom of a concussion by a~~ licensed, registered, or certified health care provider whose scope of practice includes the recognition of concussion signs and symptoms determines, after observing the student, that the student may have a concussion.
- b. The duty to remove a student under the conditions set forth in this subsection extends to:
 - (1) Each official;
 - (2) The coach of a student; and

- (3) Any other individual designated by the school district or nonpublic school as having direct responsibility for the student during practice, training, or competition.
4. The concussion management program must require that any student who is removed in accordance with subsection 3 must be ~~examined~~evaluated as soon as practicable by a licensed, registered, or certified health care provider ~~whose who is acting within the provider's scope of practice includes and trained in the diagnosis and treatment~~evaluation and management of concussion, ~~as determined by the provider's licensing board.~~
5. a. A student who is ~~removed~~evaluated in accordance with subsection ~~34~~ and believed to have suffered a concussion may not be allowed to return to practice, training, or competition until the student or the student's parent obtains written authorization from a licensed, registered, or certified health care provider ~~whose scope of practice includes the diagnosis and treatment of concussion and provides that authorization to the student's coach or athletic trainer~~student's return is authorized by a licensed health care provider who meets the criteria set forth in subsection 4.
- b. The authorization required by this subsection must be:
- (1) In writing;
- (2) Presented or forwarded to the individual designated by the student's school district or nonpublic school for receipt of such authorizations; and
- (3) Retained by the student's school district or school for a period of seven years after conclusion of the student's enrollment.
- c. Any health care provider who signs an authorization in accordance with this section is acknowledging that the provider is acting within the provider's scope of practice and is trained in the evaluation and management of concussion, as determined by the provider's licensing board.
6. The concussion management program must require that each official, coach, and athletic trainer ~~individual designated by the school district or nonpublic school as having direct responsibility for the student during practice, training, or competition~~ receive biennial training regarding the nature and risk of concussion.
7. The student's school district or nonpublic school shall ensure that before a student is allowed to participate in the athletic activity described in subsection 1, the student and the student's parent shall document that they have viewed information regarding concussions incurred by students participating in athletic activities. The required information must be provided by the student's school district or nonpublic school and must be made available in printed form or in a verifiable electronic format.
8. This section does not create any liability for, or create a cause of action against:
- a. A school district, its officers, or its employees; or

- b. A nonpublic school, its officers, or its employees; or
 - c. An official.
9. A school district or a nonpublic school may contract for and accept gifts, grants, and donations from any public or nonpublic source, in order to meet the requirements of this section.
 10. For the purposes of this section, "official" means an umpire, a referee, a judge, or any other individual formally officiating at an athletic event.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 154

HOUSE BILL NO. 1276

(Representatives Porter, Rohr, Toman)
(Senators Berry, Poolman)

AN ACT to create and enact sections 15.1-19-23 and 23-44-03 and a new subdivision to subsection 9 of section 43-12.1-04 of the North Dakota Century Code, relating to medication administration in primary or secondary schools, exemptions from the Nurse Practices Act, and the exemption of medication administration in primary or secondary schools from the nurse aide registry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15.1-19-23 of the North Dakota Century Code is created and enacted as follows:

15.1-19-23. Medication program - Establishment - Opt-out - Liability - Immunity from liability.

1. The board of a school district or the governing body of a nonpublic school may establish a program for providing medication to students that includes authorizing individuals to provide medication to a student if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.
2. A teacher or classified staff member, who is not employed as a licensed health care provider to provide medication, may choose to not provide medication under the program established under subsection 1.
3. An individual authorized to provide medication under subsection 1, or a school district, the board of a school district, or the governing body of a nonpublic school that establishes a program for providing medication to students is not civilly or criminally liable for any act or omission of that individual when acting in good faith while providing medication to a student, except when the conduct amounts to gross negligence.

SECTION 2. Section 23-44-03 of the North Dakota Century Code is created and enacted as follows:

23-44-03. Exemption.

Medication administration by an individual within a primary or secondary school under a program established under section 15.1-19-23 is exempt from the requirements of this chapter, if the individual has received education and training in medication administration and has received written consent of the student's parents or guardian.

⁵² **SECTION 3.** A new subdivision to subsection 9 of section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.

Approved April 10, 2013
Filed April 10, 2013

⁵² Section 43-12.1-04 was also amended by section 1 of Senate Bill No. 2069, chapter 226.

CHAPTER 155**SENATE BILL NO. 2306**

(Senators Heckaman, Axness, Flakoll, Marcellais, Triplett)
(Representative Wieland)

AN ACT to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to youth suicide prevention.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Youth suicide prevention - Training.

1. Once every two years, each school district shall provide to middle school and high school teachers and administrators at least two hours of professional development relating to youth suicide risk indicators, appropriate staff responses, and referral sources.
2. The superintendent of public instruction shall collaborate with the state department of health to obtain and disseminate to school districts and nonpublic schools, free of charge, information and training materials, including those available through the Jason foundation.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 156

HOUSE BILL NO. 1291

(Representatives K. Koppelman, Karls, Kasper, B. Koppelman, Rohr, Thoreson)
(Senators Larsen, Schaible, Sitte)

AN ACT to amend and reenact sections 15.1-21-02.4, 15.1-21-02.5, and 15.1-21-02.6 of the North Dakota Century Code, relating to the provision of North Dakota scholarships to students who receive home education; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-02.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.4. North Dakota career and technical education scholarship.

Any resident student who graduates from a high school during or after the 2010-11 school year and any resident student who completes a program of home education supervised in accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a North Dakota career and technical education scholarship provided the student:

1. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
2. Completed three units of mathematics, including:
 - a. One unit of algebra II, as defined by the superintendent of public instruction; and
 - b. Two units of any other mathematics;
3. Completed three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Completed three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and

- c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5. a. Completed one unit of physical education; or
- b. One-half unit of physical education and one-half unit of health;
6. Completed:
 - a. One unit selected from:
 - (1) Foreign languages;
 - (2) Native American languages;
 - (3) American sign language;
 - (4) Fine arts; or
 - (5) Career and technical education courses; and
 - b. Two units of a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction;
7. Completed any five additional units, two of which must be in the area of career and technical education;
8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based on all high school units in which the student was enrolled; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit; or
- b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based only on the units required by subsections 1 through 7; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit; and
9. Received:
 - a. A composite score of at least twenty-four on an ACT; or
 - b. A score of at least five on each of three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction.

⁵³ **SECTION 2. AMENDMENT.** Section 15.1-21-02.5 of the North Dakota Century Code is amended and reenacted as follows:

⁵³ Section 15.1-21-02.5 was also amended by section 1 of House Bill No. 1258, chapter 157.

15.1-21-02.5. North Dakota academic scholarship.

Any resident student who graduates from a high school during or after the 2010-11 school year and any resident student who completes a program of home education supervised in accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a North Dakota academic scholarship provided the student:

1. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
2. Completed three units of mathematics, including:
 - a. One unit of algebra II, as defined by the superintendent of public instruction; and
 - b. One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite;
3. Completed three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Completed three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. Completed one unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6.
 - a. Completed:
 - (1) Two units of the same foreign or native American language; or
 - (2) Two units of American sign language; and
 - b. One unit selected from:
 - (1) Foreign languages;
 - (2) Native American languages;
 - (3) American sign language;

- (4) Fine arts; or
- (5) Career and technical education;
- 7. Completed any five additional units, one of which must be in the area of fine arts or career and technical education;
- 8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based on all high school units in which the student was enrolled; and
 - (2) Obtained a grade of at least "C" in each unit or one-half unit; or
- b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based only on the units required by subsections 1 through 7; and
 - (2) Obtained a grade of at least "C" in each unit or one-half unit;
- 9. Received a composite score of at least twenty-four on an ACT; and
- 10. a. Fulfilled any one unit requirement set forth in subsections 1 through 7 by means of an advanced placement course and examination; or
- b. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

⁵⁴ **SECTION 3. AMENDMENT.** Section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.6. North Dakota scholarship - Amount - Applicability.

- 1. a. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education scholarship in the amount of seven hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a cumulative grade point average of 2.75.
- b. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education scholarship in the amount of five hundred dollars for each quarter during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a cumulative grade point average of 2.75.
- 2. The state board shall monitor each scholarship recipient to ensure that the student meets the academic and other requirements of this section. Upon determining that a recipient student has failed to meet the requirements of this section, the board shall provide notification to the student within ten days.

⁵⁴ Section 15.1-21-02.6 was also amended by section 2 of House Bill No. 1258, chapter 157.

3. A student is not entitled to receive more than six thousand dollars under this section.
4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
5. a. (1) This section does not require a student to be enrolled in consecutive semesters.
(2) This section does not require a student to be enrolled in consecutive quarters.
b. However, a scholarship under this section is valid only for six academic years after the student's graduation from high school and may not be applied to graduate programs.
6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.4 or 15.1-21-02.5 and who ~~graduates from~~:
 - a. A Graduates from a high school in this state;
 - b. A Graduates from a high school in a bordering state under chapter 15.1-29; ~~or~~
 - c. A Graduates from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - d. Completes a program of home education supervised in accordance with chapter 15.1-23.
7. For purposes of North Dakota scholarship eligibility under this section, "full-time" means enrollment in at least twelve credits during a student's first two semesters and enrollment in at least fifteen credits during each semester thereafter or enrollment in the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 157

HOUSE BILL NO. 1258

(Representatives Thoreson, Dosch, J. Kelsh, Skarphol)
(Senators Hogue, Robinson, Wardner)

AN ACT to amend and reenact section 15.1-21-02.5 and subsection 7 of section 15.1-21-02.6 of the North Dakota Century Code, relating to eligibility requirements for the North Dakota academic scholarship.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁵ **SECTION 1. AMENDMENT.** Section 15.1-21-02.5 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.5. North Dakota academic scholarship.

Any resident student who graduates from a high school during or after the 2010-11 school year is eligible to receive a North Dakota academic scholarship provided the student:

1. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
2. Completed three units of mathematics, including:
 - a. One unit of algebra II, as defined by the superintendent of public instruction; and
 - b. One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite;
3. Completed three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Completed three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or

⁵⁵ Section 15.1-21-02.5 was also amended by section 2 of House Bill No. 1291, chapter 156.

- (2) One unit of problems of democracy; and
- c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5. a. Completed one unit of physical education; or
- b. One-half unit of physical education and one-half unit of health;
6. a. Completed two units of:
- (1) ~~Two units of the~~The same foreign or native American language;
- (2) The same native American language;
- (3) American sign language; or
- (4) Career and technical education from a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction; and
- b. One unit selected from:
- (1) Foreign languages;
- (2) Native American languages;
- (3) American sign language;
- (4) Fine arts; or
- (5) Career and technical education;
7. Completed any five additional units, ~~one of which must be in the area of fine arts or career and technical education;~~
8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based on all high school units in which the student was enrolled; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit; or
- b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based only on the units required by subsections 1 through 7; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit;
9. Received a composite score of at least twenty-four on an ACT; and
10. a. Fulfilled any one unit requirement set forth in subsections 1 through 7 by means of an advanced placement course and examination; or

- b. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

⁵⁶ **SECTION 2. AMENDMENT.** Subsection 7 of section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

7. a. For purposes of North Dakota scholarship eligibility under this section, "full-time" means enrollment in at least twelve credits during a student's first two semesters and enrollment in at least fifteen credits during each semester thereafter or enrollment in the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - b. (1) If a student requires fewer than fifteen credits to graduate, the student may retain scholarship eligibility by enrolling in fewer than fifteen but at least twelve credits during the semester, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - (2) Students who graduated from high school during the 2009-10 or the 2010-11 school year and who have completed six semesters may retain scholarship eligibility by enrolling in only twelve credits during each of the student's final two semesters, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - (3) The requirement that a student be enrolled in at least fifteen credits, as set forth in subdivision a, does not apply in the case of a student participating in a clinical, practicum, internship, cooperative program, or similar external experience, provided the external experience is equivalent to at least twelve units, or such similar amount as determined by the state board of higher education, with respect to students in a quarter system, and considered to be a "full time" placement for purposes of meeting graduation requirements.

Approved May 3, 2013
Filed May 7, 2013

⁵⁶ Section 15.1-21-02.6 was also amended by section 3 of House Bill No. 1291, chapter 156.

CHAPTER 158

SENATE BILL NO. 2102

(Education Committee)

(At the request of the Department of Public Instruction)

AN ACT to amend and reenact section 15.1-21-08 of the North Dakota Century Code, relating to the annual administration of state academic achievement tests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-08. Reading, mathematics, and science - Administration of test.

1. The superintendent of public instruction shall administer to public school students a test that is aligned to the state content and achievement standards in reading and mathematics. This test must be administered annually to all public school students in grades three, four, five, six, seven, eight, and in at least one grade level selected from nine through eleven.
2. The superintendent of public instruction shall administer a test that is aligned to the state content and achievement standards in science. This test must be administered to all public school students in at least one grade level selected from three through five; ~~in at least one grade level selected from six through nine;~~ and in at least one grade level selected from ten and eleven. ~~The superintendent of public instruction may not administer the grade eleven test after December first of each school year.~~

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 159

HOUSE BILL NO. 1268

(Representatives Mock, Beadle, Heilman, Monson)
(Senators Murphy, Sinner)

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to the driver education curriculum.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Driver education curriculum - Content - Anatomical gift.

1. Beginning July 1, 2014, each school district shall ensure that its curriculum for driver education includes information regarding the manner in which a student obtaining a driver's license may make an anatomical gift, as provided for in section 23-06.6-04.
2. The school district shall provide notification of the curricular requirement set forth in subsection 1 to the parent of each student enrolled in driver education. The notification may be provided electronically or in written form.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 160

SENATE BILL NO. 2329

(Senators Unruh, Larsen, Miller)
(Representatives Grande, B. Koppelman, Thoreson)

AN ACT to amend and reenact section 15.1-23-09 of the North Dakota Century Code, relating to home education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-23-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-09. Home education - Standardized achievement test - Exemption.

1. a. While in grades four, six, eight, and ten, each child receiving home education shall take a:
 - (1) A standardized achievement test used by the school district in which the child resides; or, if requested by the parent, shall take a
 - (2) A nationally normed standardized achievement test if requested by the child's parent.
- b. The child shall take the test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.
2. a. The requirement of subsection 1 does not apply if the parent notifies the school district in which the child resides that the parent has a philosophical, moral, or religious objection to the use of standardized achievement tests and the parent:
 - (1) Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
 - (2) Holds a baccalaureate degree; or
 - (3) Has met or exceeded the cutoff score of a national teacher examination given in this state or in any other state if this state does not offer such an examination.
- b. The parent shall file the notification and necessary documentation required by this subsection with the school district at the same time that the parent files the statement of intent to supervise home education required by section 15.1-23-02.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 161

SENATE BILL NO. 2214

(Senators Heckaman, Erbele, Klein)
(Representatives Brandenburg, Kretschmar, Hunsakor)

AN ACT to create and enact a new section to chapter 15.1-27 of the North Dakota Century Code, relating to transition payments for isolated school districts; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Isolated school districts - Transition payments.

If during the 2010-11 school year, a school district received payments as a result of section 15.1-27-15, as the section existed on June 30, 2011, and if that district is not eligible for the factor established under subdivision j of subsection 1 of section 15.1-27-03.1, the district is entitled to the following transition payments:

1. For the 2013-14 school year, an amount equal to that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011;
2. For the 2014-15 school year, an amount equal to seventy-five percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011;
3. For the 2015-16 school year, an amount equal to fifty percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011; and
4. For the 2016-17 school year, an amount equal to twenty-five percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011.

SECTION 2. EFFECTIVE DATE. This Act is effective on July 1, 2013.

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

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 162

HOUSE BILL NO. 1095

(Finance and Taxation Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact section 15.1-27-24 of the North Dakota Century Code, relating to the distribution of certain federal funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-27-24 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-24. Taylor Grazing Act funds - Disposition.

The state treasurer shall apportion payments from the federal government to this state under the provisions of 43 United States Code 315i (the Taylor Grazing Act) among the counties in the state in the proportion that the number of acres [hectares] of Taylor Grazing Act land in each county bears to the total amount of Taylor Grazing Act land in the state. The state treasurer shall ~~calculate each county's apportioned payment and~~ provide the payment to the county treasurer of each county receiving payments as directed by the United States bureau of land management. Each county treasurer receiving payments shall distribute the funds to school districts in that county on the basis of average daily membership of all students residing within the county.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 163

HOUSE BILL NO. 1301

(Representatives D. Johnson, Hofstad, Pollert)
(Senators Wanzek, Heckaman)

AN ACT to amend and reenact sections 15.1-29-14 and 15.1-32-19 of the North Dakota Century Code, relating to the reimbursement of school districts for boarding care costs; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-14. (~~Effective through June 30, 2013~~) Student placement for noneducational purposes - Residency determination - Payment of tuition and tutoring charges.

1. a. Except as provided in subdivision b, for purposes of applying this chapter, a student's school district of residence is the district in which the student's custodial parent or legal guardian resides:
 - (1) At the time that a state court, tribal court, director of juvenile court, 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;
 - (2) 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;
 - (3) 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
 - (4) At the time the student is placed voluntarily, by a parent or legal guardian, in a state-operated institution or in a state-licensed child care home, facility, or program, located either within or outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1.
- b. A determination regarding the student's school district of residence made under subdivision a is valid until the September fifteenth following the determination. On that date and each September fifteenth thereafter, the placing agency or the entity funding the student's placement shall determine the district in which the student's custodial parent or legal guardian resides and shall notify the district that it is deemed to be the student's district of residence for purposes of this chapter. If, however, the student is placed in accordance with paragraph 4 of subdivision a and the placement is privately funded, the administrator of the facility or program in

which the student is placed shall determine the student's school district of residence and provide the notification required by this subdivision.

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. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools if, on the September fifteenth after a student placement is made as provided for under subsection 1:
 - a. The student's custodial parent or legal guardian establishes residency outside this state;
 - b. A court orders a termination of parental rights with respect to the student's parents;
 - c. The student no longer has a custodial parent; or
 - d. The superintendent of public instruction has determined that all reasonable efforts to locate a parent or legal guardian have been unsuccessful.
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 and tutoring charges, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition and tutoring charges are due and unpaid, the superintendent shall withhold all state aid otherwise payable to the student's school district of residence until the total amount due has been fully paid.
6.
 - a. 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.
 - b. 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 the payment of

special education contract charges in the case of a student with disabilities or from state aid payments to schools in all other cases. For purposes of this subdivision, "actual costs" includes the cost of a summer program if the program is a condition of placement at a residential facility that has been determined by a placing agency or entity to be an appropriate placement for a student.

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. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.
8. a. The placing agency or entity funding the student's placement shall provide written or electronic notice regarding an initial placement and all subsequent placements of a student 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. If, however, the student's parent or legal guardian voluntarily places the student in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1, and if the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this section.
- c. The notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
- d. 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 and tutoring charges 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.

~~(Effective after June 30, 2013) Student placement for noneducational purposes – Residency determination – Payment of tuition and tutoring charges.~~

1. ~~a. Except as provided in subdivision b, for purposes of applying this chapter, a student's school district of residence is the district in which the student's custodial parent or legal guardian resides:

 - ~~(1) At the time that a state court, tribal court, director of juvenile court, 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;~~
 - ~~(2) 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;~~
 - ~~(3) 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~~
 - ~~(4) At the time the student is placed voluntarily, by a parent or legal guardian, in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1.~~~~
- ~~b. A determination regarding the student's school district of residence made under subdivision a is valid until the September fifteenth following the determination. On that date and each September fifteenth thereafter, the placing agency or the entity funding the student's placement shall determine the district in which the student's custodial parent or legal guardian resides and shall notify the district that it is deemed to be the student's district of residence for purposes of this chapter. If, however, the student is placed in accordance with paragraph 4 of subdivision a and the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this subdivision.~~
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. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools if, on the September fifteenth after a student placement is made as provided for under subsection 1:
 - a. The student's custodial parent or legal guardian establishes residency outside this state;

- ~~b. A court orders a termination of parental rights with respect to the student's parents;~~
 - ~~c. The student no longer has a custodial parent; or~~
 - ~~d. The superintendent of public instruction has determined that all reasonable efforts to locate a parent or legal guardian have been unsuccessful.~~
- ~~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 and tutoring charges, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition and tutoring charges are due and unpaid, the superintendent shall withhold all state aid otherwise payable to the student's school district of residence until the total amount due has been fully paid.~~
- ~~6. a. 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.~~
 - ~~b. 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 the payment of special education contract charges in the case of a student with disabilities or from state aid payments to schools in all other cases. For purposes of this subdivision, "actual costs" includes the cost of a summer program if the program is a condition of placement at a residential facility that has been determined by a placing agency or entity to be an appropriate placement for a student.~~
- ~~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. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.~~
- ~~8. a. The placing agency or entity funding the student's placement shall provide written or electronic notice regarding an initial placement and all subsequent placements of a student 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. ~~If, however, the student's parent or legal guardian voluntarily places the student in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1, and if the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this section.~~
 - e. ~~The notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.~~
 - d. ~~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 and tutoring charges 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 2. AMENDMENT. Section 15.1-32-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-19. ~~(Effective through June 30, 2013) Boarding care costs - Reimbursement of school district.~~

The superintendent of public instruction shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid by the district for a student with disabilities who is placed in a facility that is located either within or outside of the student's school district of residence in order to receive special education services. The student's school district of residence is liable for any room and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of human services.

~~(Effective after June 30, 2013) Boarding care costs - Reimbursement of school district.~~ The superintendent of public instruction, within the limits of legislative appropriation, shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid for a student with disabilities who is placed in a facility located outside of the student's school district of residence in order to receive special education services not available within the student's school district of residence. The student's school district of residence is liable for any room

~~and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of human services.~~

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 2013.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2013

Filed April 8, 2013