

EDUCATION POLICY COMMITTEE - PROVISIONS OF THE NORTH DAKOTA CENTURY CODE WHICH RELATE TO THE PROVISION OF ELEMENTARY AND SECONDARY EDUCATION - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3011 (2019) directs the Legislative Management to study provisions of the North Dakota Century Code which relate to the provision of elementary and secondary education to recommend changes to any laws found to be irrelevant, duplicative, inconsistent, or unclear.

BACKGROUND Study Directive

House Concurrent Resolution No. 3011 was passed as introduced. Representatives of the North Dakota Council of Educational Leaders, the Department of Public Instruction (DPI), North Dakota Small Organized Schools, and the North Dakota School Boards Association testified in support of the study. The testimony noted the last legislative study and statutory rewrite relating to the provision of elementary and secondary education occurred in the late 1990s and was completed in 2001. According to the testimony, hundreds of bills have been introduced and passed since 2001 which amended Title 15.1, the title created was as a result of the last rewrite. Testimony indicated Title 15.1 needs to be reviewed and amended to ensure clarity and consistency throughout the title.

Legislative History

Section 11 of Senate Bill No. 2013 (1995) directed the State Auditor to conduct a performance audit of DPI. The audit was reviewed by the 1995-96 interim Education Finance Committee. The committee found issues highlighted within the audit were indicative of a pressing need to review all provisions of Title 15, which related to elementary and secondary education, as certain sections within the title were found to be duplicative, inconsistent, or unclear in their intent and requirements. Senate Concurrent Resolution No. 4002 (1997) and House Concurrent Resolution No. 3007 (1999) directed the Legislative Management to study provisions of Title 15, which related to elementary and secondary education. The purpose of the study was to recommend changes to laws that were found to be irrelevant, duplicative, illogically arranged, or unclear in their intent and direction. The study was assigned to the interim Education Services Committee during the 1997-98 and 1999-2000 interims. The committee determined chapters not relating directly to K-12 education should remain in Title 15, while those relating directly to K-12 education should become a part of a new Title 15.1. The committee recommended House Bill No. 1034 (1999) and House Bill No. 1045 (2001). The bills arranged chapters in a newly created Title 15.1 in a conceptually appropriate manner that accurately reflected the manner in which business was conducted at the school level, the school district level, and within DPI. The rewrite included certain substantive changes to various provisions of law, and the omission of other provisions as being unnecessary or duplicative. The rewrite was completed upon the conclusion of the 2001 legislative session.

Statutory Changes to Title 15.1 Since 2001

The following is the number of bills enacted during each legislative session after 2001 which primarily affected Title 15.1 and a brief summary of significant legislation enacted during that legislative year:

2003 - 32 bills, including:

- House Bill No. 1033, which required a student to complete at least 21 units of high school coursework before being issued a high school diploma.
- House Bill No. 1383, which created a weighted method by which appropriations for English language learner programs are to be distributed.
- House Bill No. 1489, which authorized the Education Standards and Practices Board to issue major equivalency endorsements and set forth the qualifications for teachers from prekindergarten through high school.
- Senate Bill No. 2065, which required beginning in the 2005-06 school year, students in grades 3 through 8 and 11 must be given state reading and mathematics tests, and beginning in the 2007-08 school year, students be given a state science test at least once from grades 3 through 5, 6 through 9, and in grade 11.

2005 - 37 bills, including:

- House Bill No. 1076, which provided as a condition of school approval, each classroom teacher must teach only in those course areas or fields for which the teacher is licensed. The bill also provided an exception by which teachers who are not licensed to teach in a particular course area or field may become so licensed.

- House Bill No. 1154, which set per-pupil payments, established minimum teacher salary levels, required 2 days of professional development in the school calendar, required school boards consist of at least five members, and provided land from dissolved school districts may be attached only to high school districts.
- House Bill No. 1374, which required each school district to provide a program of instruction for students who are English language learners.
- Senate Bill No. 2084, which repealed the statutory provision that allowed school districts to be nonoperating districts for up to 3 years before reorganization or dissolution.

2007 - 35 bills, including:

- House Bill No. 1081, which provided to transport students or other passengers in a schoolbus or other school vehicle, the individual must hold the appropriate class of North Dakota driver's license, together with any special endorsement otherwise required by law.
- House Bill No. 1248, which established criteria for the State Board of Public School Education to use in reviewing school construction projects that were appealed to the board following denial by the Superintendent of Public Instruction.
- Senate Bill No. 2200, which created a new formula for funding elementary and secondary education in the state.
- Senate Bill No. 2314, which provided that eminent domain proceedings undertaken by the board of a school district must be conducted in accordance with Chapter 32-15.

2009 - 17 bills, including:

- House Bill No. 1378, which required, beginning with the 2010-11 school year, children must have reached the age of 5 for admission to kindergarten and the age of 6 for admission to the first grade by August 1, rather than September 1, of the year of enrollment.
- Senate Bill No. 2289, which prohibited a school from defining what constitutes corporal punishment in a broader fashion than set forth in Century Code, and the bill required each school board to ensure its policies, procedures, and guidelines are identical for all similarly graded schools in the district.
- Senate Bill No. 2357, which provided if a teacher, a principal, or an assistant or associate superintendent is to be discharged, an administrative law judge must preside over the discharge hearing. At the conclusion of the hearing, the school board is to make a determination regarding the discharge. A determination by the board is appealable to the district court.

2011 - 30 bills, including:

- House Bill No. 1029, which established a certification system for the approval of public and nonpublic schools. The bill authorized the Superintendent of Public Instruction to withhold state aid from public schools that are not in compliance. If a nonpublic school is not in compliance, the Superintendent is directed to notify students' parents that they may be in violation of the compulsory attendance requirements.
- House Bill No. 1030, which provided if a public school or school district remains closed or provides less than a full day of instruction because of severe weather or other emergency conditions, the Governor may waive the rescheduling in whole or in part. While the Governor may not grant a waiver for less than a full day of instruction, a school or school district may add together the hours during which it is closed to determine the number of additional full days of instruction that may be waived by the Governor.
- House Bill No. 1066, which increased the threshold for school construction approval from \$40,000 to \$100,000. Whereas prior law prohibited the Superintendent of Public Instruction from approving a school construction project unless the district could demonstrate, among other things, it had the ability to sustain a stable or increasing student enrollment for the usable life of the project, the bill required in the case of new construction or a renovation affecting more than 50 percent of an existing structure's square footage, there be a demonstration that circumstances within the district are likely to result in a stable or increasing student population.
- House Bill No. 1154, which made the North Dakota academic scholarships and the North Dakota career and technical education scholarships available to resident students who attend a nonpublic high school in a bordering state while residing with a custodial parent in this state.

- House Bill No. 1270, which directed the Education Standards and Practices Board to provide a teaching license to an applicant who holds a teaching license or certificate from another state if the applicant has a baccalaureate 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; the applicant has completed a state-approved teacher education program that includes supervised student teaching; the applicant submits all required fees; and the applicant's background check reveals nothing that would cause a denial of licensure in this state.
- House Bill No. 1465, which required each school district to adopt a policy prohibiting bullying and to provide bullying prevention programs to all K-12 students.

2013 - 25 bills, including:

- House Bill No. 1291, which made North Dakota academic scholarships and career and technical education scholarships available to students who complete a program of home education.
- House Bill No. 1296, which provided if the Education Standards and Practices Board grants a teaching license to an applicant who holds a regular teaching license or certificate from another state, the license must include all of an applicant's endorsements issued or recognized by the applicant's other state of licensure.
- House Bill No. 1429, which authorized school districts to use local tax revenues for the establishment and support of early childhood education programs.
- Senate Bill No. 2102, which provided for the administration of state assessments in reading and mathematics in grades 3 through 8, as well as one time during grades 9 through 11. The bill also provided for the administration of state assessments in science at least one time in grades 3 through 5, one time in grades 6 through 9, and one time in grade 10 or 11.
- Senate Bill No. 2306, which required school districts to provide teachers and administrators with professional development relating to youth suicide risk indicators, appropriate staff responses, and referral sources.

2015 - 25 bills, including:

- House Bill No. 1251, which reduced the time within which certain school district personnel must accept or reject a contract renewal, established the time period within which good faith contract negotiations must begin, and authorized executive sessions within which a school board or an authorized subcommittee of the board may discuss negotiation strategies.
- House Bill No. 1426, which increased, from \$100,000 to \$150,000, the threshold expenditure for school construction projects requiring approval by the Superintendent of Public Instruction.
- Senate Bill No. 2039, which required a school district seeking construction approval from the Superintendent of Public Instruction to demonstrate the district's student population has been stable or has increased during the preceding 5 school years and is expected to be stable or to increase during the ensuing 5 school years. In the alternative, a school district may demonstrate by clear and convincing evidence, despite a declining student population, there are no feasible alternatives to the proposed construction project.
- Senate Bill No. 2048, which required each school district to provide at least 8 hours of staff training biennially regarding youth mental health. The bill also required the Education Standards and Practices Board to ensure applicants for teacher licensure demonstrate competency in youth mental health.
- Senate Bill No. 2089, which provided at least one unit from among various courses required for a North Dakota academic scholarship must be obtained through an early entrance program at an accredited institution of higher education in this state.
- Senate Bill No. 2326, which required the board of each school district to adopt a policy regarding the protection of student data. The bill also articulated the policies and rules that must be adopted by the Statewide Longitudinal Data System Committee to ensure appropriate protections for student data.

2017 - 25 bills, including:

- House Bill No. 1052, which changed the requirement on administration of the reading and mathematics assessment test from at least once from grades 9 through 11 to at least once from grades 9 through 12. The bill changed the requirement on the administration of the science test from at least once from grades 10 and 11 to at least once from grades 10 through 12.

- House Bill No. 1098, which allowed an individual to be eligible to teach kindergarten or prekindergarten if licensed by the Educational Standards and Practices Board and the individual has a minor in early childhood education. The bill repealed the sections in which the requirements were located, and combined the qualification requirements for teachers in elementary, middle school, and high school into a single section of Century Code.
- House Bill No. 1253, which allowed the boards of two school districts to initiate a voluntary transfer of property between the districts if certain conditions, notice, and hearing requirements are met.
- House Bill No. 1254, which allowed a parent of a student who wished to attend a school district other than the school district of residence to petition the board of the school district of residence and request the board to pay the tuition for the student to attend another school district or sign a tuition waiver contract with the school district that admits the student. The bill allowed the board to pay the tuition, sign a tuition waiver contract, or refuse to do either.
- House Bill No. 1283, which required eligible students to maintain progress toward degree completion to remain eligible for the North Dakota academic and career and technical education scholarships on a continuing basis. The bill defined "progress toward degree completion" and indicated the minimum number of credits a student must earn each semester or quarter to maintain progress toward degree completion and remain eligible.
- Senate Bill No. 2186, which specified the chapters from which a school or school district may apply to the Superintendent of Public Instruction for a waiver. The bill required a waiver request to improve the delivery of education, improve the administration of education, provide increased educational opportunities for students, or improve the academic success of students. The bill required the Superintendent to file a report with the Legislative Management if a waiver was approved. The bill created an innovative education pilot program in which the Superintendent may accept proposals from public and nonpublic schools to participate in a program. The bill required a proposal to specify educational innovations to be pursued by the school and to meet certain criteria.
- Senate Bill No. 2249, which required the board of a school district to prohibit a student from participating in extracurricular activities if the student has pled guilty or been convicted of certain criminal offenses; has an order prohibiting contact, a disorderly conduct restraining order, or a protection order issued against them; or if the principal obtains information that the student has an offense or order. The bill allowed the juvenile court system to notify the principal of a school if records exist in the court system regarding a student of a school which are open to inspection.

2019 - 31 bills, including:

- House Bill No. 1287, amended the criteria for teacher licensure to allow individuals to receive a teaching license if the individual successfully completes an alternative teacher certification program and meets other required criteria. The bill also established criteria for approved alternative teacher certification programs, and provided for renewal of teacher licenses under the program if certain requirements are met.
- House Bill No. 1429, which required the Superintendent of Public Instruction to administer a teacher loan forgiveness program for individuals teaching in areas of critical need or shortage. The bill also set forth the criteria and qualifications for the program.
- House Bill No. 1434, which amended provisions relating to the dissolution of a school district to require dissolving school district property be attached to another operating high school district in the same county or to a non-high school district in the same county if there are no other high school districts in the county.
- Senate Bill No. 2181, which amended the definition of "bullying" to include conduct received or sent through electronic devices if certain criteria are met. The bill required school districts to adopt a bullying policy that requires law enforcement be notified if school district personnel have reasonable suspicion a crime may have occurred on or off school district property.
- Senate Bill No. 2230, which prohibited eligibility for public school board membership in a school district located on tribal land from being less restrictive than eligibility qualifications prescribed by tribal law or resolution for public office. The bill defined "tribal land."

Current State of Title 15.1

Title 15.1 consists of 42 chapters, one of which has been repealed. The active chapters and the chapter names are as follows:

- 15.1-01 (State Board of Public School Education)
- 15.1-02 (Superintendent of Public Instruction)
- 15.1-03 (Department of Public Instruction)
- 15.1-04 (Compact for Education)
- 15.1-04.1 (Compact on Educational Opportunity for Military Children)
- 15.1-06 (Schools)
- 15.1-07 (School Districts)
- 15.1-08 (School Districts for Military Installations)
- 15.1-09 (School Boards)
- 15.1-09.1 (Regional Education Associations)
- 15.1-10 (County Committee)
- 15.1-11 (County Superintendent of Schools)
- 15.1-12 (Annexation, Reorganization, and Dissolution)
- 15.1-13 (Teacher Licensing)
- 15.1-14 (Administrators)
- 15.1-15 (Contracts of Teachers and Administrators)
- 15.1-16 (Teacher Representation and Negotiation)
- 15.1-17 (Teacher Personnel Files)
- 15.1-18 (Teacher Qualifications)
- 15.1-18.1 (Teacher Certification)
- 15.1-18.2 (Professional Development Plans)
- 15.1-19 (Students and Safety)
- 15.1-20 (School Attendance)
- 15.1-21 (Curriculum and Testing)
- 15.1-22 (Kindergarten)
- 15.1-23 (Home Education)
- 15.1-24 (Chemical Abuse Prevention)
- 15.1-25 (Postsecondary Enrollment)
- 15.1-26 (Adult Education)
- 15.1-27 (State Aid)
- 15.1-28 (State Tuition Fund)
- 15.1-29 (Nonresident Tuition and Reciprocity)
- 15.1-30 (Transportation of Students)
- 15.1-31 (Open Enrollment)
- 15.1-32 (Special Education)
- 15.1-33 (Multidistrict Special Education)
- 15.1-34 (Students with Disabilities Boarding Home Care)
- 15.1-35 (Child Nutrition and Food Distribution Programs)
- 15.1-36 (School Construction)
- 15.1-37 (Early Childhood Education Program)
- 15.1-38 (English Language Learners Instruction)

STUDY APPROACH

In conducting this study, the committee may wish to receive testimony from the various state agencies and stakeholder groups that potentially would be affected by a rewrite of Title 15.1 to define any perceived issues and provisions that need to be addressed through a rewrite. The committee may consider receiving information regarding best practices in other states regarding the provision of elementary and secondary education and may seek additional information from organizations such as the National Conference of State Legislatures and the Education Commission of the States.

Additional Considerations

Additional provisions in Century Code not located within Title 15.1, such as school district tax levies under Chapter 57-15, affect elementary and secondary education. Additionally, Section 23 of Senate Bill No. 2265 (2019) directs the Legislative Management to study the K-12 education funding formula, including the components, adjustments, and weighting factors of the formula. Members appointed to the committee must have a secure knowledge of the current K-12 funding formula. The study of the education funding formula was assigned to the interim Education Funding Formula Review Committee. Because the education funding formula is codified in Chapter 15.1-27, the committee may wish to coordinate with the interim Education Funding Formula Review Committee on any potential rewrite of provisions related to the education funding formula.