

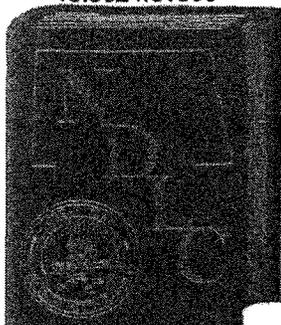
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North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

July 23, 2013

Honorable Dwight Cook
State Senator
1408 17th Street SE
Mandan, ND 58554-4895

Dear Senator Cook:

This letter is in response to your recent query regarding "county superintendents of schools."

The position of county superintendent of public schools can be traced back to territorial days. The Laws of the Territory of Dakota, as enacted in 1879, provided for the election of county superintendents, in the same manner as other county officers. The term of office was two years and the compensation was three dollars per day, for each day spent in the discharge of official duties, together with reimbursement in the sum of five cents per mile for each mile actually traveled in the discharge of such duties. Compensation could not, however, be issued if the county superintendent "neglected to make out and transmit to the territorial superintendent his annual statistical report in satisfactory form. . . ." [See, 1879 *Laws of the Legislative Assembly of the Territory of Dakota*, ch. 14, section 8.]

The county superintendent of public schools, at that time, had numerous duties. These included:

- Encouraging and aiding in the establishment of schools;
- Safely keeping records of all official acts;
- Administering oaths and examining witnesses under oath in cases of appeal;
- Administering teacher examinations and issuing certificates to successful candidates;
- Revoking the certificate of a teacher for cause;
- Declaring a district null and void for failing to hold school meetings and support a public school as required by law;
- Rearranging district boundaries when petitioned by five heads of families;
- Apportioning county school fund moneys to the districts within the county;
- Visiting each school in the county at least once per year in order to examine its condition, assess progress in learning, review its governance, review the attendance of students, and assess the teacher's ability and fitness for duty;
- Adopting plans for improving the schools; and
- Providing annual statistical and financial reports to the superintendent of public instruction.

In addition, the county superintendent of public schools was given statutory duties related to the creation of new school districts, and the restructuring of existing district boundaries.

Beginning in 1989, a county superintendent of schools was to be "selected" by the school board presidents of districts headquartered in the county and approved by the board of county commissioners. The county superintendent had administrative responsibility for all schools in the county, except those in districts that employed their own superintendent. Many of the assigned duties remained similar to those mentioned above. That same year, counties were given the statutory authority to engage in the joint employment of a county superintendent of schools and in 1995, it was provided that:

[A] board of county commissioners may by majority vote choose not to employ a county superintendent of schools and may assign to one or more qualified persons, all statutory duties of county superintendents of schools. The assignment of duties must be set forth in a written plan, and the plan must be approved by a majority of the presidents of school boards whose districts include land in the county and must be placed on file with the legislative council. [See, 1995 House Bill No. 1041.]

Current law, as reflected in North Dakota Century Code (NDCC) Section 15.1-11-02, states:

1. Notwithstanding any other provision of law, a board of county commissioners, by majority vote may choose not to employ a county superintendent of schools, provided the board of county commissioners:
 - a. Obtains from the superintendent of public instruction a form that lists all statutory duties to be otherwise performed by a county superintendent and provides for the assignment of all such statutory duties to, and the performance of such statutory duties by, one or more individuals;
 - b. Obtains the consent of a majority of the school board presidents representing school districts having their administrative headquarters in the county;
 - c. Submits the completed form to the superintendent of public instruction; and
 - d. Obtains written approval of the assignments from the superintendent of public instruction.

According to information obtained from the Department of Public Instruction, the following 33 counties have opted to designate the statutory duties of the county superintendent:

Adams	Cass	Emmons	Kidder	Ransom	Sioux	Walsh
Barnes	Cavalier	Foster	McLean	Renville	Stark	Wells
Bottineau	Dickey	Golden Valley	Mountrail	Richland	Steele	Williams
Burke	Divide	Grant	Oliver	Sargent	Stutsman	
Burleigh	Dunn	Griggs	Pembina	Sheridan	Traill	

If the office of the county superintendent were to be eliminated, the following statutes would need to be addressed:

NDCC Section	
11-10-10	References the salaries of several county officials, including the county superintendent
11-10-10.5	References the county superintendent as an officer of the county
11-10-20	Requires the board of county commissioners to provide office space for the county superintendent
11-14-13	Requires the county treasurer to keep a regular account with each school district in the county and transfer to the account all sums apportioned by the county superintendent
11-14-14	Requires the county treasurer to file with the county superintendent an itemized statement of all funds remitted by the treasurer during the preceding school year to the business manager of each school district in the county
15-06-02	Provides that the county superintendent, together with the chairman of the board of county commissioners and the county auditor, constitute the county board of appraisers
15-08-03	Provides traveling expenses for the county superintendent while the individual is serving as a member of the county board of appraisers
15-19-03	Requires the county superintendent or a school district superintendent or administrator to approve the enrollment of students under the age of 16 in distance education

NDCC Section	
15.1-01-03	Requires the state board of public school education to appoint members to the county committee, if the county superintendent fails to perform this duty
15.1-07-02	Provides that upon approval of a school district name change, the county superintendent, among others, must be notified
15.1-07-18	Provides that it is a Class A misdemeanor for any person to give or offer to a county superintendent, among others, a commission, fee, or other reward for the purchase of any textbooks, furniture, or school supplies
15.1-07-19	Provides that it is a Class B misdemeanor for a county superintendent, among others, to accept a commission, fee, or reward prohibited by Section 15.1-07-18
15.1-07-21	Requires a school district business manager to prepare and submit an annual report to the board and to the county superintendent
15.1-09-05	Requires a school district business manager to notify the county superintendent when a vacancy exists on the board of a school district
15.1-09-17	Requires a school district business manager to certify the individuals elected and their terms to the county superintendent within 10 days after the canvass by the board of the school district
15.1-09-35	Requires the board of a school district to annually prepare a report regarding the condition of all schools in the district and the educational progress of students enrolled in each school, and to forward the report to the county superintendent
15.1-10-01	Requires the county superintendent of schools, with the approval of the board of county commissioners, to appoint residents to serve as a county committee for purposes of school district annexations, dissolutions, and reorganizations
15.1-10-03	Provides that the county superintendent is the secretary of the county committee
15.1-11-01	Requires the employment of a county superintendent of schools, unless otherwise provided, and sets forth the qualifications of such an individual
15.1-11-02	Provides that a board of county commissioners may choose not to employ a county superintendent, provided the board assigns all statutory duties to other individuals
15.1-11-03	Provides that a county superintendent is entitled to receive a salary
15.1-11-04	Provides that the duties of a county superintendent include serving as the superintendent of all schools in a county except those in districts that employ a district superintendent; receiving and reviewing reports submitted to the superintendent of public instruction by school districts having their administrative headquarters in the county; compiling reports requested by the superintendent of public instruction; assisting in planning, coordinating, and providing education and related services, if requested by a school district; promoting coordination and cooperation among school districts and multidistrict special education units within the county; helping school districts to take advantage of incentive programs administered by the superintendent of public instruction; providing forms and information regarding annexations; and compiling and providing certain information regarding annexations, reorganizations, and dissolutions
15.1-11-05	Requires the county superintendent to preserve all property that is acquired in an official capacity and which has educational value and interest or which records official acts by the county superintendent
15.1-11-06	Requires the board of county commissioners to furnish the county superintendent with a suitable office, together with necessary equipment, furniture, and supplies
15.1-12-03	Requires that annexation petitions be filed with the county superintendent whose jurisdiction includes the administrative headquarters of the district
15.1-12-04	Provides that annexation petitions must be obtained from the county superintendent and upon completion, submitted to the county superintendent
15.1-12-05	Requires the county superintendent to schedule and publish notice of a public hearing regarding an annexation
15.1-12-09	Provides that if school districts are pursuing reorganization, the reorganization plan must be submitted to the county superintendent having jurisdiction over the major portion of property in each participating school district
15.1-12-10	Requires the county superintendent to schedule and publish notice of a public hearing regarding a reorganization
15.1-12-11	Provides that upon receiving notice from the state board, a county superintendent must call a special election for the acceptance or rejection of a reorganization plan
15.1-12-13	Addresses the county superintendent's role in the event a reorganization plan is rejected then later revised

NDCC Section	
15.1-12-14	Addresses the county superintendent's role in calling a special election for the purpose of electing the board of a newly reorganized district
15.1-12-21	Addresses the county superintendent's role in determining the population of a district for purposes of establishing the number of signatures necessary for various petitions to change a reorganization plan
15.1-12-26	Addresses the county superintendent's role in notifying the county committee of conditions necessary to initiate a dissolution proceeding
15.1-12-27	Requires the county superintendent to schedule and publish notice of a public hearing regarding a dissolution
15.1-13-27	Requires the Education Standards and Practices Board to notify each county superintendent in the state if an individual's teaching license is suspended or revoked
15.1-23-02	Provides that a statement of intent to home-educate a child must be filed with the county superintendent for the child's county of residence, if the child's school district of residence does not employ a superintendent
15.1-23-07	Requires home education monitoring reports to be filed with the county superintendent for the child's county of residence if the child's school district of residence does not employ a superintendent
15.1-23-11	Requires home education standardized test results to be filed with the county superintendent for the child's county of residence if the child's school district of residence does not employ a superintendent
15.1-23-18	Removes liability from a county superintendent, among others, for accepting as correct any information on a statement of intent to home-educate a child and for any damages resulting from a parent's failure to educate a child
15.1-29-05	Provides that tuition appeals may be filed with the county superintendent
15.1-29-06	Provides that in the case of a tuition appeal, the county superintendent must convene a three-member committee consisting of the county superintendent, the state's attorney, and one member appointed by the board of county commissioners
15.1-29-14	Provides that determinations regarding tuition in the case of a student voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, may be appealed to the county superintendent
44-11-02	Provides that if a certain official is to be removed from office, the number of signatures required on a petition for removal is determined, in certain circumstances, by the county superintendent
54-01-13.2	Provides that lands to be conveyed to the United States and any lands to be taken in exchange, under the provisions of Section 54-01-13.1, must be appraised by the county superintendent, the county auditor, and the chairman of the board of county commissioners
57-51-15	Provides that certain oil gross production tax revenues must be distributed to school districts in accordance with average daily attendance as certified by the county superintendent
57-60-15	Provides that certain coal conversion facility tax revenues must be distributed to school districts in accordance with average daily membership, as certified by the county superintendent
57-62-02	Provides that certain moneys deposited in the coal development fund must be distributed to school districts in accordance with average daily membership, as certified by the county superintendent

Sincerely,



L. Anita Thomas
Counsel

LAT/SA